

Cheltenham Borough Council

Cabinet Member for Development & Safety

Review of Street Trading Policy

Accountable member	Councillor Andrew McKinlay - Cabinet Member for Development & Safety
Accountable officer	Mike Redman – Director of Environment
Ward(s) affected	All
Key/Significant Decision	No
Executive summary	The Council's current street trading policy was adopted on 12 February 2016. In accordance with the Council's triennial policy review cycle, the street trading policy has been reviewed and permission is now sought to consult on the revised trading policy.
Recommendations	<p>The Cabinet Member for Development & Safety is recommended to:</p> <ol style="list-style-type: none"> 1. Approve the draft revised policy document at Appendix 2 for formal consultation.

Financial implications	<p>There are no direct financial implications arising from this report.</p> <p>Contact officer: Andrew Knott, andrew.knott@cheltenham.gov.uk, 01242 264121</p>
Legal implications	<p>Legal implications are contained within the body of the report</p> <p>The failure of the Council to consult on this draft policy, to consider and where necessary, take on board any comments received in proposing and adopting a final policy may result in a Judicial Review being brought against the Council.</p> <p>Contact officer: Vikki.fennell@teWKesbury.gov.uk, 01684 272015</p>
HR implications (including learning and organisational development)	<p>There no HR implications to be considered.</p> <p>Contact officer: Clare Jones, Clare.Jones@publicagroup.uk 01242 264364</p>
Key risks	As outlined in Appendix 1
Corporate and community plan Implications	<p>Continuing the revitalisation and improvement of our vibrant town centre and public spaces</p> <p>Achieving a cleaner and greener sustainable environment for residents and visitors</p>

Environmental and climate change implications	The draft revised policy includes measures to help address environmental and climate change implications associated with street trading activity. These are outlined in paragraph 2.4.2 and 2.4.5, 2.5.1 and 2.5.2 of this report.
Property/Asset Implications	N/A

1. Background

- 1.1 The council's current street trading policy was adopted on 12 February 2016. In accordance with the council's triennial policy review cycle, a review of the current policy has been undertaken.
- 1.2 This report seeks permission to proceed to consultation on the revised policy document.

2. Revised Policy

- 2.1 The Council's current policy prescribes a number of permitted trading locations and goods that can be sold at these locations. Whilst this approach was the right one in 2016, the public realm has changed as has the Council's approach to managing it.
- 2.2 Accordingly, the revised policy seeks to adopt a more flexible approach to the current one. The draft revised policy will still allocate permitted trading locations (called "zones") but, instead of also prescribing goods to be sold there, it provides flexibility for traders to approach the Council with proposals.
- 2.3 Street licensing "zones" provide a number of advantages over the existing policy:
 - They cover a wider footprint than the previous plots, and therefore can accommodate more street trading. This also provides back-up options to those traders who miss out on a particular area if it is already booked.
 - They open up areas that are currently used for street trading, but aren't actually a plot. This may encourage new street traders to make applications in these areas.
 - They cluster street traders closer together. This gives them presence, rather than isolation, and may encourage greater footfall.
 - They provide applicants with more flexibility in choosing a particular area within a zone.
 - They are high profile locations within the town centre.
 - Zones help to reimagine particular areas of public realm. Within zones, there is an opportunity to move street furniture items to accommodate street trading – particularly for market events.
- 2.4 These applications will then be determined against the revised assessment criteria:
 - 2.4.1 **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other established retailers within vicinity. This criterion permits the Council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The Council does however recognise that the surrounding retail offer is subject to change therefore it will apply this criterion to applications for new or renewal applications.
 - 2.4.2 **Public Nuisance** – Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public or properties in the vicinity from noise, misbehaviour, emissions, smells etc.
 - 2.4.3 **Public Safety** – Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.
 - 2.4.4 **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of appropriate

materials. They should also be designed to be fully accessible for all customers and advertising material must be limited to the name of the stall, the type of product sold and a simple price list and be professionally designed and printed. The Council will generally not permit trading units where the unit fully or substantially blocks lines of sight to established retailers in the vicinity.

- 2.4.5 Environmental Credentials** - The impact of the proposed operation on the local environment including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers.

The Council will actively discourage the use of single use plastics associated with street trading activities. The Council will encourage the use of sustainable products and will consider the trader's environmental credentials in respect of this when considering applications.

- 2.5** The Council will also be seeking views on a number of additional measures through this policy review:

- 2.5.1 Real fur** – The Council will consider views on whether it should adopt policy measures to ban the sale of real fur for any activity it has jurisdiction over in respect of street trading regulation.

- 2.5.2 Single use plastics** - The Council will consider views on whether it should adopt a policy that will address the issue of single use plastics in conjunction street trading activities.

- 2.5.3 Consultation** - The Council will consider views on whether it should extend consultation periods for trading applications.

- 2.6** A copy of the draft revised policy is attached at **Appendix 2** for reference. Note that whilst, the tracked changes have been retained for reference, these will be removed in the consultation copy of the draft policy.

3. Reasons for recommendations

- 3.1** To ensure the Council's regulation of street trading activities remains relevant and continues to support the changing nature of public realm improvements around town.

4. Alternative options considered

- 4.1** The Cabinet Member for Development & Safety can decide not to approve the revised policy document. However, this is likely to result in an outdated policy document and regulatory environment.
- 4.2** Alternatively the Cabinet Member for Development & Safety can decide to make changes prior to approving the revised policy document.

5. Consultation and feedback

- 5.1** The draft policy document has been reviewed with input from the Public Realm Design team and the Licensing Committee.

- 6.** Consultation will be undertaken with:

- Existing consent holders
- The Licensing Committee
- Members of Cheltenham Borough Council
- Parish Councils

- Director of Environment
- Gloucestershire Highways
- Head of Planning
- Public Space Design Team
- Conservation & Heritage Manager
- Cheltenham Business Improvement District
- Chief Officer of Police
- The residents of Cheltenham

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Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Draft Revised policy
Background information	<ol style="list-style-type: none"> 1. Street Trading Licensing Policy approved on 12 February 2016

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the Cabinet Member for Development & Safety does not approve the proposed changes, it will result in an outdated policy document and regulatory environment for street trading.	Director of Environment	May 2019	2	4	8	Reduce	Approve draft policy for consultation			
	If the Cabinet Member for Development & Safety does not approve consultation on the proposed policy changes, the council could face legal challenges to its policy adoption and regulation.	Director of Environment	May 2019	2	3	6	Reduce	Approve draft policy for consultation			
Explanatory notes Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical) Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability) Control - Either: Reduce / Accept / Transfer to 3rd party / Close											