

## **LICENSING COMMITTEE**

**DATE OF MEETING: 6 June 2023**

**TITLE OF REPORT: Draft Street Trading Policy**

**Report of: Executive Director - Place**

**Cabinet Portfolio: Regulatory**

**Key Decision: No**

**Confidentiality: Non-Exempt**

### **PURPOSE OF REPORT**

1. To consider the draft Shared Licensing Service Street Traders Policy and approve it for consultation.

### **RECOMMENDATION**

Licensing Committee are recommended to:

- approve the draft Shared Licensing Service Street Trading Policy for consultation, and
- authorise the Executive Director – Place, in consultation with the Portfolio Holder, to make minor alterations and typographical corrections to the policy prior to consultation.

### **BACKGROUND**

2. The Licensing Committee in February 2019 approved the Street Trading Policy for Hart district. The policy would normally be reviewed every 5 years, so there is no need to review Hart's Street Trading Policy until next year.
3. The Basingstoke & Deane Street Trading Policy is due to expire this summer, and therefore needs to be reviewed.
4. To streamline the Shared Licensing Service and to ensure the consistency, efficiency and effectiveness both Councils have sought to align the various licensing policies into one shared policy when it is appropriate to do so.
5. It is therefore considered appropriate for the Hart Street Trading Policy to be reviewed a year early, alongside the Basingstoke & Deane Policy, to enable it to become a joint Shared Licensing Service Street Trading Policy.

### **MAIN ISSUES**

6. The Policy sets out the detailed policy on the Council's approach to the administration of the Street Trading Consent function under the Local Government (Miscellaneous Provisions) Act 1982.
7. The draft Shared Licensing Service Street Trading Policy provides clear advice and information to all persons involved in the consent process. The policy sets out the Councils' expectation of the street traders in the districts and provides a clear understanding of what the Councils will consider when administering applications, dealing with issues and undertaking any enforcement activities.
8. It will support Licensing Officers in their day-to-day role in ensuring the Councils' licensing aims within this policy are met and ensuring good minimum standards are met and maintained.

9. The main change to current approved Street Trading Policy for Hart district is that this is now a shared policy document covering both Hart and Basingstoke & Deane. The policy itself was considered to be up to date and fit for purpose.
10. Before formally approving the new shared policy for any five-year period, the Council must consult the persons listed below:
  - a. the responsible authorities, and
  - b. the current licence holders.
11. The views of all consultees should be given appropriate weight when the policy is determined. Beyond the statutory requirements, it is for the Council to decide the full extent of its consultation. Whilst it is clearly good practice to consult widely, this may not always be necessary or appropriate.
12. It is proposed that the consultation will take place via email and on the Council's website from Monday 19 June 2023 to Monday 11<sup>th</sup> September 2023.

### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

13. By not approving a new policy potential difficulties and inconsistencies in decision making may occur. The application process will also remain less efficient and transparent for all parties.

### **CORPORATE GOVERNANCE CONSIDERATIONS**

#### **Relevance to The Hart Vision 2040**

14. Theme two states, "Empowering people to help themselves whilst ensuring there is support for the most vulnerable. Working closely with our partners to enable people to live safely and independently and help our most vulnerable residents can get the support they need, when they need it".

#### **Service Plan**

- Is the proposal identified in the Service Plan? No
- Is the proposal being funded from current budgets? Yes
- Have staffing resources already been identified and set aside for this proposal? Yes, existing provision.

#### **Legal and Constitutional Issues**

15. The Council is required to regularly review this Policy. This Policy has been added to the 5-year review cycle.
16. Street trading in Hart is regulated under part III and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. This allows the Council to grant a consent upon receipt of a valid application and anyone trading in a consent street without authority commits an offence.
17. There is no formal right of appeal against refusal or revocation of a Street Trading consent, however an informal appeal in writing will be considered by the Regulatory Services Manager.
18. All decisions taken by or on behalf of the Council must,
  - a) be within the legal powers of the Council;
  - b) comply with any procedural requirement imposed by law;

- c) be within the powers of the body or person exercising powers on behalf of the Council;
- d) be undertaken in accordance with the procedural requirements imposed by the Council e.g. standing orders and financial regulations;
- e) be fully and properly informed;
- f) be properly motivated;
- g) be taken having regard to the Council's fiduciary duty to its taxpayers;  
and
- h) be reasonable and proper in all the circumstances.

### **Financial and Resource Implications**

- 19. There are no financial implications identified within this report. The Council recovers the costs associated with any application and has an agreed approach to determining the application fees.

### **Risk Management**

- 20. To comply with legislative requirements
- 21. To ensure openness and transparency in the Council's decision making
- 22. To ensure that those persons affected by the policy have the opportunity to have an input into it
- 23. To reduce the risk of successful challenges to decisions made by the Council if a robust policy were not in place.

### **Equalities**

- 24. When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.

### **Climate Change Implications**

- 25. There are no direct carbon/environmental impacts arising from the recommendations.

### **ACTION**

- 26. The licensing authority recommend to approve the draft Shared Licensing Service Street Trader Policy for consultation.
- 27. The draft Shared Licensing Service Street Trader Policy will be brought back to Licensing Committee following consultation for approval.

**Contact Details:** Emma Coles – Shared Licensing Team Leader -  
emma.coles@basingstoke.gov.uk

### **APPENDICES**

#### **Appendix A – Draft Shared Licensing Service Street Trader Policy**