

## COMMUNITY SERVICES AND LICENSING COMMITTEE

25 JUNE 2020

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| <b>Report Title</b>              | <b>ADOPTION OF NEW STREET TRADING RESOLUTION AND REVISED POLICY</b>   |
| <b>Purpose of Report</b>         | Final adoption of a new Street Trading Resolution following statutory public notice of intention to adopt. Also adoption of a revised street trading policy.  |
| <b>Decision(s)</b>               | <p><b>The Committee RESOLVES to:</b></p> <ul style="list-style-type: none"> <li><b>a. Adopt the new street trading resolution as set out in Appendix A; and</b></li> <li><b>b. Adopt the revised street trading policy as set out in Appendix B; and</b></li> <li><b>c. Adopt the additional fees as set out in paragraph 4.2 of the report; and</b></li> <li><b>d. Authorise Licensing Officers to make statutory public notices that a new resolution has been adopted and to implement the new resolution, policy and fees from 1<sup>st</sup> August 2020.</b></li> </ul>   |
| <b>Consultation and Feedback</b> | There was full consultation on the proposed new resolution and policy during November and December 2019. There was positive support of the proposal. In accordance with legal requirements public notice was made in February 2020 stating the Council's intention to adopt a new resolution.   |
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| <b>Options</b>                   | <ul style="list-style-type: none"> <li>a. Make no change to the Council's street trading policy or resolution. Legal advice is that some aspects of the current policy are no longer considered legitimate so this option puts the Council at the risk of legal challenge.</li> <li>b. Make changes to the street trading policy to take account of legal advice but not change the resolution. We consulted on this option in summer 2019 and the response from Town and Parish councils was that it would have a detrimental impact on community and charitable events.</li> <li>c. Make the changes to the Council's street trading resolution and policy as proposed in this report.</li> </ul> |
| <b>Background Papers</b>         | The Committee Report of 23 January 2020 and the responses from the consultations in 2019 are available on this link. <a href="https://www.stroud.gov.uk/council-and-democracy/meetings/community-services-and-licensing-committee/community-services-and-licensing-committee-23-january-2020">https://www.stroud.gov.uk/council-and-democracy/meetings/community-services-and-licensing-committee/community-services-and-licensing-committee-23-january-2020</a>  |

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| <b>Appendices</b>  | Appendix A – New Street Trading Resolution<br>Appendix B – Revised Street Trading Policy |       |          |               |
| <b>Implications<br/>(further details at the<br/>end of the report)</b> | Financial  | Legal | Equality | Environmental |
|  | Yes  | Yes   | No       | No            |

## 1. INTRODUCTION / BACKGROUND

- 1.1. This report is deferred from the Community Services and Licensing Committee planned for 26<sup>th</sup> March 2020 which was cancelled due to the Coronavirus outbreak.
- 1.2. This report follows on from the report considered by Community Services and Licensing Committee on 23 January 2020. At that meeting Committee agreed an ‘intention to adopt’ a new street trading resolution and policy. In accordance with the statutory requirements for adopting a new street trading resolution, a notice of ‘intention’ was then placed in local newspapers in February 2020 giving 28 days for public comment. The final statutory requirement is that the resolution and policy must now be formally adopted by Committee and further ‘notice of adoption’ placed in local newspapers.
- 1.3. The 23 January 2020 report explained the following:
- In 2019 the Licensing Section had been given legal advice that the exemption for community and charitable events, and the waiver for markets, in the Council’s current street trading policy, are no longer permissible under the legislation and cannot continue.
  - Removing the current exemption and waiver from the policy would mean that all events with stalls selling goods, either on the street or on land that the public have free access to, would need street trading consent. This could include village fetes and community markets.
  - A revised policy was consulted on in summer 2019. Town and Parish Council’s told the Council that these changes would be detrimental to the community.
  - A proposed new street trading resolution and revised street trading policy, which should reduce the impact of the changes on community and charitable events, was consulted on in November and December 2019.

## 2. INTENDED NEW STREET TRADING RESOLUTION

- 2.1. A street trading resolution designates the 'streets' in a local authority’s district where street trading is prohibited unless the trader holds street trading consent. In the legislation 'street' is a broad term and includes streets, pavements, laybys and any land, including private land, that the public have access to without payment (free access).
- 2.2. Stroud District Council's current resolution designates the whole district. This means any person selling goods in any location in the district, within the above definition of ‘street’, will need street trading consent.
- 2.3. The intended new resolution designates all of the district, including public highways, but excluding 'streets' owned and managed by public authorities and registered charities.

- 2.4 This means that streets or land owned by local council's or registered charities, such as trusts, will be outside of the street trading policy and anyone selling goods on these streets or land will not need street trading consent.
- 2.5. Under the intended new resolution community and charitable events and markets, held on town or parish council land or trust owned land, will not need street trading consent.
- 2.6 Selling of goods on the public highway, or on private land that the public have free access to, will continue to need street trading consent.

### **3. STROUD DISTRICT COUNCIL'S STREET TRADING POLICY**

- 3.1. Stroud District Council's Street Trading Policy outlines the Council's approach to licensing of street trading in Stroud district.
- 3.2. The policy has been revised to reflect the legal advice and the intended new resolution. Other amendments have been made following comments made during the two consultations in 2019.

### **4. MARKET CONSENT AND 'LIGHT TOUCH EVENT' FEES**

- 4.1. The revised policy introduces two new consent types. A market consent and a 'light touch' event consent for events held on the highway or on private land the public have free access to. The policy has provision to waive the fee for the 'light touch' consent for community and charitable events.
- 4.2. The Council's current schedule of street trading application fees does not include fees for the two new consent types. A costing exercise has been undertaken and it is proposed to add the following new fees to Stroud District Council's schedule of street trading fees for 2020:
  - Market Consent - Per Annum for 1 day per week      £1000
  - Community Event Short Term Consent                      £15
- 4.3. There is only one existing market which will incur the Market Consent fee. This is Stroud Farmers Market which will need a market consent to cover the stalls located in the street. Other existing markets in the district will not need street trading consent as they are either on land which has a charter, or is owned by a council or a charitable trust. If there is a new application for street trading consent for a market operating less frequently than once a week, the fee will be reduced pro-rata.
- 4.4 There are unlikely to be many community and charity events that will incur a fee. This is because in most cases, if they need consent, they will fit the criteria in the policy for the fee to be waived.

### **5. FINAL ADOPTION**

- 5.1. In accordance with street trading legislation the Council had a statutory duty to give public notice of the intention to adopt the new resolution and to provide a 28-day period for representations. A public notice was placed in Stroud News and Journal on 5 February 2020 and in Dursley Gazette on 6 February 2020. The notice was also placed in the reception of the Council Offices, on the Council's website and sent to Gloucestershire Highways and the Police. Additionally, a link to the Council's webpage was sent to all the

Town and Parish Councils, local market organisers and current consent holders giving them opportunity to make any final comment. [www.stroud.gov.uk/street-trading-resolution-2020](http://www.stroud.gov.uk/street-trading-resolution-2020)

- 5.2. The statutory public consultation period ended on 4 March 2020. There were no objections to the intended resolution or the revised policy.
- 5.3. In order for the Council to be able to implement the new resolution and policy the Committee must now formally adopt the resolution and policy. The resolution is Appendix A and the policy is Appendix B.
- 5.4. Following formal adoption of a new resolution there is a statutory duty, prior to it being implemented, to give further public notice in a newspaper for two consecutive weeks. There must be 28 days between the first notice of adoption and implementation.
- 5.5. In order to allow time for the statutory public notice, the implementation date is proposed for 1<sup>st</sup> August 2020

## **6 CONCLUSION**

- 6.1 Following two in depth consultations in 2019, this Committee agreed an intention to adopt a new street trading resolution on 23 January 2020. The new resolution will mean that any person selling goods on public authority owned land (with the exception of Public Highways) or on registered charity owned land, will not need street trading consent.
- 6.2 There is a statutory process for adopting a new a new resolution. Notices have already been put in a newspaper giving public notice of the Council's intention to adopt a new resolution.
- 6.3 Committee must now formally adopt the new resolution which must be followed by further public notices of the adoption for two consecutive weeks in a newspaper with an implementation date of 1<sup>st</sup> August 2020.
- 6.4 The Council's street trading policy has been revised to reflect the new resolution and should also be adopted along with additional fees for the new consent types.

## **7. IMPLICATIONS**

### **7.1. Financial Implications**

There are financial implications within this report. A small amount of additional income may be realised through additional fees for the new consent types (P4.2 & 4.3). At the present time there is only one existing market that will attract this fee.

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### **7.2. Legal Implications**

The report above sets out details of the legal considerations in adopting a new street trading resolution. As no representations were received within the statutory notice period (see para 5.4) the Council is in a position to agree the proposed resolutions

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**7.3. Equality Implications**

There are not any specific changes to service delivery proposed within this decision.

**7.4. Environmental Implications**

There are no significant implications within this category.