

REPORT OF THE EXECUTIVE DIRECTOR OF ECONOMY AND PLACE

REGULATORY COMMITTEE – 27 NOVEMBER 2017

DRAFT POLICY ON STREET TRADING CONSENT

1.0 Purpose of the Report

- 1.1 To request that the Committee considers the adoption of a policy in relation to street trading consent for those areas within the City designated under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the “Act”).

2.0 Description of Decision (Recommendation)

- 2.1 The Committee is recommended to give consideration to the adoption of a policy on street trading consent. A copy of the draft policy is attached as Appendix 1.

3.0 Background

- 3.1 Since the enactment of the Local Government (Miscellaneous Provisions) Act 1982 the Council has designated a number of areas as places where the consent of the Council is required to trade in the street. The adoption of these streets was undertaken by the Council on different occasions over several years.
- 3.2 Officers have delegated authority, in the absence of objections, to grant consents for street trading for periods up to one month and to grant renewals for consents that have been approved previously by the Committee. Applications for new consents for periods greater than one month or which attract objections are referred to the Committee.
- 3.3 The Committee may grant or refuse consent “as they see fit”. The Committee does not presently have a policy framework in respect of which they consider applications. The Committee agreed, previously, that the Licensing Section should consult potentially interested parties upon the content of a draft policy relating to street trading.
- 3.4 In collaboration with the Council’s Business Investment Team, the Licensing Section has developed a draft policy on street trading which is intended to provide the Committee with a number of factors that they may wish to take into consideration when assessing whether to grant or refuse an application. A number of interested parties, including the Business Improvement District and the City Centre Traders’ Association, were consulted at various stages with regard to the draft policy.

4.0 Current Position

- 4.1 A response to the consultation exercise was received from the Sunderland City Centre Traders’ Association. The Association made a number of comments with regard to the draft policy and raised a number of queries.

- 4.2 The draft policy (as attached) has been modified in response to the comments made by the Traders' Association. The comments received and the commensurate modifications to the draft policy are summarised below.
- 4.3 Firstly, for completeness, the policy lists the statutory exemptions from the requirement to obtain street trading consent as in these circumstances the Committee will have no decisions to make. The Traders' Association wanted the policy to elaborate on these exemptions. However, it is considered inappropriate that the policy should seek to explain this aspect of the law as it is complex and irrelevant in the context of the aim of the policy, i.e. to indicate how the Committee may exercise its discretion when it has the opportunity to do so. The policy has therefore been modified to indicate that it is preferable that any queries about exemptions to the law should be dealt with on an individual basis as opposed to more information in this regard being outlined in the draft policy.
- 4.4 The Traders' Association queried whether the Council consultees identified by the policy will have sufficient information available to allow them to advise upon the various criteria for decision-making set out in the document. The policy has therefore been modified to indicate that our Business Investment Team are in regular contact with businesses in the City and will take soundings from key partners such as the Business Improvement District and the City Centre Traders' Association with regard to applications and so will be able to comment with authority upon local market conditions.
- 4.5 The Traders' Association sought clarification as to the Council's understanding of various terms used to describe markets previously held in the City e.g. "farmers' market" and "international market" reflecting concerns that at times previously the content of such themed markets has not necessarily aligned closely with the identified theme or been of the suggested quality. The policy was therefore modified to indicate that the Committee would consider the specific nature of the goods proposed to be on sale as opposed to any generic description of the goods.
- 4.6 Finally, the Traders' Association queried how the Council will ensure that actual street trading activity is in accordance with the information given at the time of application. This concern has been addressed by the inclusion in the draft policy of a new section dealing with assurance which outlines post-grant inspection activity.

5.0 Reasons for the Decision

- 5.1 To provide assistance to the Regulatory Committee when considering applications for Street Trading Consent.

6.0 Alternative Options

- 6.1 None submitted.

7.0 Relevant Considerations/Consultation

- 7.1 There are no other relevant considerations.

8.0 Glossary

8.1 None.

9.0 List of Appendices

9.1 Appendix 1 - draft policy on Street Trading Consent

10.0 Background Papers

10.1 None.

APPENDIX 1

DRAFT Sunderland City Council Policy on Street Trading Consent

1. Introduction

The fundamental purpose of this policy is to encourage the economic vitality of the City. To that end, the policy provides guidance for the consideration of applications for street trading consents within the City. Street trading and other activities organised in the City's streets have a valuable role to play in attracting visitors to the City; increasing footfall and the amount of time people spend in the City, and providing opportunities for businesses to thrive and grow. This policy seeks to maximise the benefits to residents, visitors and businesses that may result from successful use of the City's streets for trading opportunities, and seeks to support the City's on-going regeneration and economic development.

2. Background

Local Authorities have a legal discretion to regulate street trading in their areas. The Council has previously acted to control street trading in certain parts of the City, including the City Centre, the seafront area and the area in the vicinity of the Stadium of Light. Some streets in these areas have been legally designated by the Council as "consent" streets for the purposes of street trading. Street trading in these areas without consent is a criminal offence. The Council is entitled to grant or refuse an application for street trading consent as it sees fit. The Council is also entitled to attach such conditions to any consent as it considers reasonably necessary. The Council has also designated a street in the City as a "prohibited" street where street trading may not occur. The status of designated streets is kept under review and may change in accordance with the relevant statutory procedure.

3. Locations of consent areas

The areas in which street trading is regulated are located throughout the City. A map showing the regulated part of the City Centre is shown in the Appendix to this policy. "Consent" streets are located in the hatched area and the "prohibited" street is shown as a solid line. Details of other regulated areas within the City are available from the Licensing Section on request.

4. Exemptions

Legally, street trading consent is not required for trading undertaken by a pedlar trading under the authority of a pedlar's certificate or in a street adjoining a shop where the trading is carried on as part of the business of the shop. The law relating to these matters is complex and, so therefore, this policy does not set out to explain its interpretation here. However, should interested parties have queries with regard to such matters, Licensing Officers would seek to assist.

5. Other necessary consents

As well as street trading consent, a separate permission from the Council may be needed for the placing of objects such as chairs or tables upon a highway (which includes footways). These permissions are sometimes known as Pavement or Street Café Licences.

6. Economic development context

Sunderland City Council works closely with partners, including through the City's Economic Leadership Board, to create conditions which support economic growth, and attract investment and job creation. Together with partners across the City, the City Council adopted an Economic Master Plan in 2010 which set out key priorities for supporting the economic development of the City over the fifteen year period to 2025. This included the identification of a series of priority sectors, as well as placing a focus on developing the City Centre as a key economic asset. The City Council recognises the valuable contributions made to the City's economy by both large companies, often nationally or internationally- owned, and by smaller, independently-owned businesses. Through delivery of its own responsibilities, and through its community leadership role, the Council seeks, wherever appropriate, to maximise the City's economic growth. The Council will therefore seek to facilitate, where possible, the growth of businesses currently operating in the City as well as the establishment of new businesses.

7. Consultation

Following receipt of an application for street trading consent the Council's Licensing Section will normally consult with Northumbria Police and various Council departments including those shown below:

- a) Infrastructure and Transportation;
- b) Place Management;
- c) Planning and Regeneration;
- d) Environmental Health; and the
- e) Business Investment Team.

Consultation will only occur with representatives of statutory agencies as these bodies can be seen to be able to form impartial views on applications without any potential for conflict of interest. However, officers of the Business Investment Team are in regular contact with representatives of the various trade sectors in the City and, by those as well as other means, are able to take an informed view of applications in the light of their knowledge of local market conditions.

Any application attracting an objection from a consultee will be referred to the Council's Regulatory Committee for decision. The Committee will normally refuse an application where a consultee has raised unresolved concerns about the safety of the location of the planned street trading or about the suitability of a person associated with the application. The consultees may, however, express concerns on grounds other than safety and which may relate to the Committee's guidelines for decision- making set out below. This may include the reporting of any concerns shared with consultees by partners or the local business community.

8. Guidelines for decision-making

8.1 Relevant factors

In deciding upon applications for street trading consent the Committee will give consideration to any factor(s) they consider relevant. These will usually, but not exclusively, include the factors set out below. In order to assist the Committee applicants will be required to complete an application form indicating details of goods proposed for

sale and to attach photographs or drawings of their proposed stalls or other trading equipment.

8.2 Types of goods (non-food) to be sold

It is important that any non-food goods sold in the City's streets enhance the attractiveness of the City as a whole as a shopping destination. Goods which are readily available in shop premises elsewhere in the City are unlikely to attract increased footfall to any great extent.

The Regulatory Committee will, therefore, be more likely to grant consent to proposed street trading in non-food goods if the goods proposed to be sold are distinctive or not commonly available in the City.

Officers of the Business Investment Team will, as described at Section 7 above, be able to assist the Committee with information in this regard.

8.3 Food not for immediate consumption

The sale of fresh food such as fruit and vegetables can bring attractive colour to the City's streets and, also, promote healthy eating. The sale of non-mass market food such as specialist cheeses, organic or locally sourced food can provide shoppers with attractive alternatives to food on sale elsewhere and add to the City's offer. The Regulatory Committee will, therefore, be more likely to grant consent to proposed street trading in food not for immediate consumption if the food proposed to be sold is fresh, distinctive or not commonly available in the City. Again, officers of the Business Investment Team will be able to assist the Committee in this regard.

8.4 Food for immediate consumption

Trading in a street of food for immediate consumption can present environmental problems, e.g. odour, noise from generators or litter from food wrappers. However, hot food outlets can add to the economic viability of an event such as a market or street entertainment that would benefit the City through its potential to increase footfall. Additionally, sales of certain food for immediate consumption can also add to the overall attractiveness of an area and to the quality of experience for visitors e.g. the sale of hot chestnuts at Christmas. Problems involving odour and noise are unlikely to be significant where any trading is on a short-term basis and at a busy event and any litter problems associated with the relevant stall or vehicle could be addressed via the event organiser's or trader's clean-up plan.

The Regulatory Committee will, therefore, be more likely to grant consent to proposed street trading in food for immediate consumption if it is on a short term basis and arranged by the promoters of a specific event or if it involves food which is distinctive or not commonly available in the City.

8.5 Events

Quality events, whether delivered or commissioned by the Council or developed independently, have the potential to contribute to the economic vitality of the City and increase footfall. This includes large scale events such as the Sunderland International Air Show, as well as smaller events such as speciality markets. Separately to licensing

considerations, the Council will seek to encourage event organisers to engage with City businesses and partners wherever appropriate in order to enhance events and the quality of experience for visitors and residents. The Regulatory Committee may, therefore, be more likely to grant consent to a proposed street trading activity where the application is associated with a specific event than where it is intended to be a standalone activity. This policy does not set what the Committee would expect of an event associated with particular descriptions such as “continental market” or “farmers’ market” as such matters are not defined in law and may be viewed in different ways by different people. Rather, the Committee will base its decisions, among other factors, upon the details of the goods indicated to be on sale.

8.6 Appearance of trading outlets

The design and state of maintenance of any stall(s) or trailer(s) to be used for street trading must be of good quality and present a positive image of the City to residents and visitors. The Regulatory Committee will, therefore, be unlikely to grant consent to proposed street trading if they consider that any stall(s) or trailer(s) proposed to be used are not of attractive design or not maintained in good order. The photographs and/or drawings of trading outlets required with applications will assist the Committee with such decisions.

9. Suspension of consents

It may be necessary, from time to time, to temporarily suspend a consent previously granted. Reasons could include road works, events or safety concerns.

10. Assurance

Subsequent to an application being granted officers of the Council’s Licensing Section will seek to inspect trading locations in order that the Council may be assured that consent holders are trading in accordance with the details specified in their application forms and associated photographs etc. Non-compliance may lead to the relevant consent being revoked by the Regulatory Committee and will be taken into consideration when the Committee is called upon to decide any applications made in the future by the consent holder.

11. Exemptions to this Policy

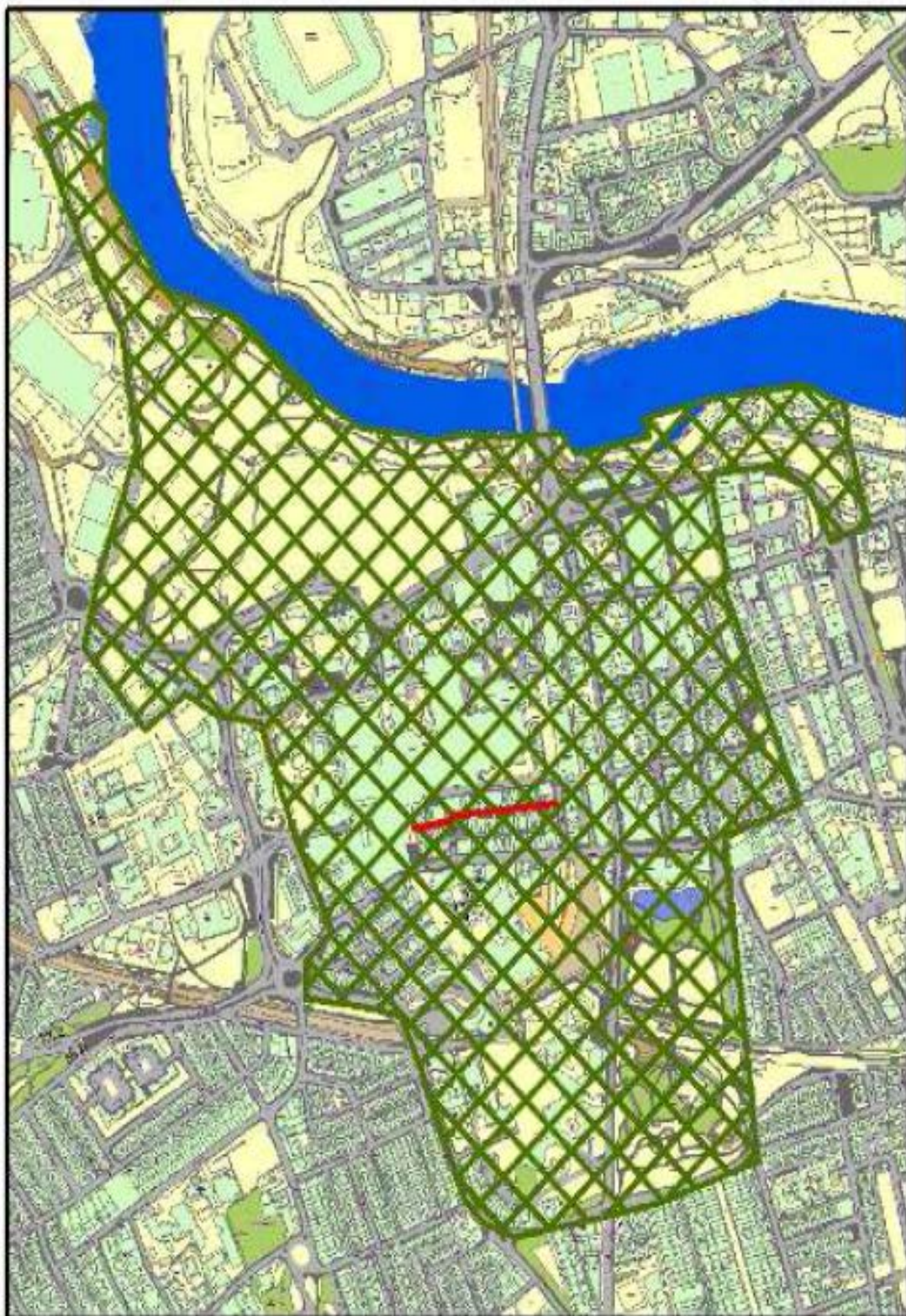
Certain street traders currently hold consents in the City Centre and in the vicinity of the Stadium of Light. This policy does not apply to these existing consent holders. However, the policy will apply in the event of a new applicant seeking to trade at a location currently subject to consent.

12. Adoption of this Policy

This policy was adopted by the Regulatory Committee on DATE

APPENDIX

Consent and Prohibited Streets in Sunderland City Centre



This map is based upon the Ordnance Survey material with the permission of the Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office & Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence No. 100010000. Date 2010