



Licensing Committee

12th July 2020

Title	Proposed adoption of the Street Trading Licence Policy
Report of	Director of Assurance
Wards	All
Status	Public
Urgent	No
Key	Yes
Enclosures	Appendix 1 – Proposed Draft Policy Appendix 2 – Summary of responses to the Consultation
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Summary

This report relates to the outcome of the recent consultation in relation to a new policy for Street Trading Licences which will take effect on 20th October 2021.

Officer Recommendations

1. For the proposed policy in Appendix 1 to be approved by the Committee

1. WHY THIS REPORT IS NEEDED

- 1.1 The London Local Authorities Act 1990 is the main legislation for street trading.
- 1.2 The London Borough of Barnet currently issues a number of licences for street trading:
- Pavement licence (Pursuant to the Business and Planning Act 2020)
 - Temporary Street trading licences
 - Permanent street trading licence
 - Street market
 - Advertising board licence
- 1.3 The current street trading licence policy was adopted in 2015. Therefore, a refresh of the policy is needed to reflect recent changes in policy and decision making. There are no set time scales for how long a policy may last however the London Borough of Barnet aims to undertake an annual informal review and a formal review every 5 years. This should have been undertaken in 2020 but has been delayed due to Coronavirus.
- 1.4 The policy has been changed to remove casual trader licences, which are no longer required in Barnet. All street markets are run by an independent market organiser. The organiser undertakes checks as part of their operation making the issue of this type of licence by the licensing authority a duplication of work.
- 1.5 The policy has also been amended to include provision for advertising boards, pavement licences and fast track temporary licences. These were previously dealt with under different policies, which will be withdrawn if this policy is approved.
- 1.6 A consultation was undertaken on whether to adopt the Council's draft street trading licensing policy this took place between 21st May 2021 and concludes 2nd July 2021. The most up to date Information on this consultation can be found in paragraph 5.9.
- 1.7 Currently, one response has been received, however, should more be submitted an updated report will be provided.

2 REASONS FOR RECOMMENDATIONS

- 2.1 It is best practice to have policies for each different licensing regime to ensure consistency of approach. This ensures clarity for traders and other interested parties in both the application and enforcement processes.
- 2.2 It is important to regularly review and refresh policies to be in line with legislative changes and best practice.

3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 **Do nothing** – However the London Borough of Barnet should ensure that its policies are kept under regular review and remain up to date with current law, guidance and best practice.

Not implementing a policy for this kind of licensing could lead to an inconsistent approach or decision making, susceptible to legal challenge.

4 POST DECISION IMPLEMENTATION

- 4.1 The Committee are being asked to recommend that the Policy be adopted at the next meeting of the full Council to come into effect in 20th October 2021.

5 IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 The approach taken by the Licensing Authority in relation to applications fully supports objectives contained within the corporate plan. It promotes delivering “quality services and striving to continually improve the standard of services” “

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 Administration and enforcement are carried out by the Commercial Premises Licensing team in Re, together with support from HB Public Law and from Governance Services, when arranging and co-ordinating arrangements for hearings.

5.3 Legal and Constitutional References

- 5.3.1 A good policy ensures that fair and equitable decisions are taken by the London Borough of Barnet.
- 5.3.2 Article 7 – Committees, Forums, Working Groups and Partnerships, of the Council’s Constitution states that the Licensing Committee is responsible for, “*all policy matters relating to licensing with licencing hearings concerning all licencing matters delegated to sub-committees.*”

5.4 Insight

- 5.4.1 Not relevant to this report.

5.5 Social Value

- 5.5.1 Not relevant to this report

5.6 Risk Management

5.6.1 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to all Licensing. It needs to ensure that the risk of non-compliance and the regulatory burdens on both the Local authority and to the trade is minimised.

5.7 Equalities and Diversity

5.7.1 The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

5.7.2 When considering applications, only issues provided for in the relevant legislation, in addition to the authority's policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

5.7.3 This report is for information only and therefore unlikely to result in any equalities implications.

5.7.4 An equalities impact assessment has been completed.

5.8 Corporate Parenting

5.8.1 Not relevant to this report.

5.9 Consultation and Engagement

5.9.1 The consultation document was sent to all relevant parties and all ward Councillors. The consultation was also published on the Council's online website.

5.9.2 The 6-week consultation process started on 21st May 2021 when the draft policy and committee papers were sent to all relevant parties including Ward Councillors and Responsible Authorities.

5.9.3 The consultation period for this policy will conclude on 2nd July 2021. This report and the corresponding policy will be published on 2nd July 2021 in advance of the Licensing Committee on 12th July 2021.

5.9.4 Two responses were received prior to this document's publication. Details of this response and its reply are shown in Appendix 2.

5.9.5 Should any further responses be received between the time of publication on the 2nd July 2021 and the conclusion of the consultation on the same day, a further update to this report and the policy will be provided in writing to all necessary parties.

5.9.6. The Licensing department do not anticipate any further comments being received between the publishing of this report and the close of the consultation period.

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6 BACKGROUND PAPERS

6.1 None

Appendix 1 Proposed Licensing Policy

Appendix 2 Consultation responses

The consultation process started on 21st May 2021 and will conclude on 2nd July 2021. As a result, the below responses were those that were received at the point that this report was written and cleared by all necessary parties. A further update to this report will be provided at the end of the consultation period confirming any further responses that were received.

Consultee	Comments	Response
<p>Cllr Zinkin</p>	<p>The policy matters included in paragraphs 2.5-2.11 do not seem to be reflected in the rest of the document. In particular the basis of consultation section 4 and how it relates to these paragraphs is unclear. 2.11 seems particularly arbitrary despite the comment on consistency which is then contradicted by the next sentence.</p>	<p>2.5 The policy was last reviewed in 2015</p> <p>2.6 The London Borough of Barnet’s Growth & Corporate Services are actively promoting markets in the borough to help recovery of trade in town centres and community’s.</p> <p>2.7 Conditions are in place within the Street Trading Policy to ensure that the appearance of street trading does not impact negatively on the community or its environment. Please see appendix 2 of the policy which outlines issues concerning the appearance of street trading premises.</p> <p>2.8 please refer to section 4 in relation to consultations.</p> <p>2.9 SADIQ KHAN, Mayor of London has published a report on the benefits of markets etc. In relation to the recovery of businesses after COVID-19.</p> <p>2.10 Please see our response to section 2.7 above.</p> <p>2.11 – there will be consistency in the decision-making process and apply a fair and consistent approach. However, we recognise that there may be occasions where it is in resident's best interests to consider an alternative</p>

		approach when it is reasonable and proportionate to do so.
Cllr Zinkin	Consultation with ward members is very limited and should be put back into paragraphs 4.4 and 4.7	Consultation with local ward Cllrs will take place for new designation applications. However, individual licences should only be subject to the person being fit and proper to hold such authorisation. Therefore, consultation only takes place with enforcement bodies which may hold information relevant to the determination of this test.
Cllr Zinkin	There is again no indication as to where advice can be sought	Contact information for the licensing team can be found on our website.
Cllr Zinkin	should trading hours 2.15 not also be consistent with the policy objectives. If a restaurant with longer licensing hours why a 2300 cut off?	The hours are in place to ensure that noise emanating from the patrons of the licensed premises does not cause a nuisance to the residents of Barnet. Hours between 23:00 and 07:00 are identified as being 'sleeping hours'.
Cllr Zinkin	although authorised officer is defined I have no idea who such officers are.	Contact information for the licensing team can be found on our website.
Cllr Zinkin	as we encourage electronic applications don't we mean using web forms why are they in brackets and subsidiary.	Banet do not have webforms for Street Trading Applications at present. We are currently reviewing our online systems and will be looking to modernise the online application systems in due course.
Cllr Zinkin	3.7 Why? This just seems particularly unhelpful and only for the benefit of those administering the	This is to ensure that a street trading licence maintains its renewal date and a licensee is

	system not residents. I think completely back to front.	not affected by a timely diseconomy in relation to the duration of their licence.
Cllr Zinkin	Licensing committee members should also be able to ask for items to come to committee.	All but the most complex and contentious cases are dealt with in the same manner to ensure efficiency and consistency. Cases selected to be dealt with or referred to committee could result in inconsistent outcomes and create boundaries to accessing the marketplace. Committee acts as a quasi-judicial environ for escalation and allowing non contentious cases to progress without due cause would dilute its status.
Cllr Zinkin	Should not 6.5 have regards to 2.5-2.11	These sections do have relevance to one another in the overall representation of this policy.
Cllr Zinkin	How and who makes the determination in 8.4	An authorised officer visits the site to ensure sufficient and safe passage is in place.
Cllr Zinkin	Who determines the date of the event in 9.5 and how is it notified etc	Information provided by: <ul style="list-style-type: none"> • Death certificate • Notification of retirement by the licence holder
Cllr Zinkin	How does the consultation in 11.2 work. Are these fees approved by committee if so which committee?	These fees are approved by committee.
Cllr Zinkin	How does 10.6 and 10.7 work with 13.1. Are these alternatives or sequential. It is not clear	13.1 relates to the next stage of the process.

Cllr Zinkin	no idea what 14.2 means and if it means pitches will be in some way marked out this does not happen at the moment and is not enforced. It took more than 5 years to get studs in the ground at Ashley's on Cricklewood Broadway and often still not enforced.	14.2 This refers to the highways department arranging for the instillation of the demarcation studs into the public highway.
Cllr Zinkin	14.3 The cost will be published., what does this mean?	The pricing of the studs can be found on the councils published fees and charges list.
Cllr Zinkin	17.3 and if they don't move it what happens?	The Licensing team will trace the owner, take proportionate onsite enforcement action and prosecution for unlicensed street trading where appropriate.
Cllr Zinkin	Details will be provide to all members and all responsible authorities. This different to the policy in 4.2, 4.4 and 4.7	It is unclear as to what section is being referred to
Cllr Zinkin	who is going to monitor all this Receptacles 6.1/6.5	This is dealt with by the licensing team
Cllr Zinkin	8.1 Do we know that such public liability policies to £5,000,000 are available and affordable to such traders. Do all the existing licensees have such policies.	This was an error in the original documentation and has now been amended to £2m.
Cllr Zinkin	11.2 and if they do?	This would be a breach of the licence and enforced by the licensing team.
Cllr Zinkin	14.3 why restaurants use such heaters?	Some restaurants have historically placed heaters on the public highway to enable the

		use of their outside space during colder weather.
Clair Green	Do we need to add something into the policy along the lines of covid recovery exception for time limited etc	Information in relation to this will be included within the introduction of the Policy document.