

Policy and Resources Committee	
Meeting Date	20 th March 2024
Report Title	Swale BC Street Trading Policy 2024 - 2027
EMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Charlotte Hudson, Head of Housing and Community Services
Lead Officer	Christina Hills, Licensing Team Leader
Classification	Open
Recommendations	1. Members are asked, following a recent consultation and consideration by the Licensing Committee, to adopt the Swale Street Trading Policy 2024 - 2027 attached as Appendix I, in order that it can be published and come into effect on 1 st April 2024

1 Purpose of Report and Executive Summary

- 1.1 To apprise Members of the steps taken in reviewing the current Swale Street Trading Policy 2021-2024.
- 1.2 A review of the existing Swale Street Trading Policy 2021-2024 and a new draft policy was presented to Licensing Committee at its meeting of 19th February 2023 where it was approved for public consultation.
- 1.3 Following the public consultation a further report was presented to Licensing Committee on 13th February 2024 <https://services.swale.gov.uk/meetings/documents/s27536/Street%20Trading%20Draft%20report%20v0.3.pdf> where the draft policy was approved for formal adoption by Policy and Resources Committee.
- 1.4 Members are requested to endorse the revised draft Street Trading Policy under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) attached as **Appendix I** so that it can be published and can come into effect on 1st April 2024.

2 Background

- 2.1 Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, a local authority may regulate street trading in their area. Swale BC has adopted

these provisions for the whole of its area and on 23rd July 2010 designated all streets in the area as 'consent streets'.

- 2.2 The effect of this designation is that any street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council. Swale BC has had a policy in place since 2013. There is no statutory requirement for a local authority to have a formal Street Trading policy; however, a Council can choose to adopt such a policy.
- 2.3 The adoption of a Policy benefits customers as well as reassuring the general public and other public bodies. It also reinforces effective practices and ensures proportionate, consistent and targeted regulator activity, whilst also developing a transparent and effective dialogue and understanding between regulators and those we regulate.
- 2.4 The current edition of the Swale BC Street Trading Policy was firstly adopted by full Council on 31st March 2021. This was then subject to some amendments which were approved by Licensing Committee on 15th February 2023 <https://services.swale.gov.uk/meetings/documents/s25130/Street%20Trading%20Report.pdf> and adopted by full Council on 5th April 2023. The amended policy is available to view at <https://swale.gov.uk/news-and-your-council/strategies-and-policies/street-trading-policy>
- 2.5 As the policy is subject to renewal at three yearly intervals it is now time for the policy to be reviewed to run for a period from 1st April 2024 – 1st April 2027.

3 Proposals

- 3.1 As the current policy has been subject to scrutiny and amendment and is now working well, there are no proposed changes except for the following:
 - New paragraph 7.17 to explain procedure for 'one-off' consents
 - Appendix I – 'documents to provide on application' where the following has been inserted:
 - Public Liability Insurance to the value of £5,000,000
 - Copy of food hygiene certificate where applicable

It is confirmed that these documents have always been included as requirements on the application form and have always been requested but were not included within the policy.

- 3.2 A consultation took place as described at paragraph 5 below. Despite the wide-ranging nature of the consultation, only one response was received. This is likely to be because the current Street Trading Policy had been subject to review and amendment and is now working well, and to the benefit of all applicants.

- 3.3 A grid showing the comment and the recommendation as to whether to amend the draft Street Trading Policy is attached at **Appendix II**.
- 3.4 Members of the Licensing Committee considered draft Street Trading Policy as well as the recommended amendment. Their decision was:

Recommendations:

- (1) That the draft Street Trading Policy, as set out in Appendix I of the report, including the addition as set out in Appendix II of the report, following the 8-week consultation be approved.***
- (2) That the draft Street Trading Policy be approved and published.***

- 3.5 The draft policy for 2024 - 2027 is shown attached as **Appendix I**.

4 Alternative Options Considered and Rejected

- 4.1 Members could choose not to have a Street Trading Policy, however, to do so would be contrary to best practice and may lead to a lack of clarity on the application of the legislation.

5 Consultation Undertaken or Proposed

- 5.1 An eight-week consultation ran between 1st November 2023 – 29th December 2023. Methods of consultation were by advertising of the Council's website, in local newspapers and where appropriate by emails and post.

- 5.2 Consultees were:

- Ward, Parish and Town Councillors
- Existing licence holders
- Event organisers for larger events such as Faversham Hop Festival and town Christmas Lights events
- The general public
- Kent Police
- KCC Highways
- Swale Safety Advisory Group (which includes various departments of the Council such as Environmental Health, Planning, Property Services, Economy and Regeneration, Green Spaces teams)

6 Implications

Issue	Implications
Corporate Plan	<p>The service is an important regulatory function undertaken to ensure the safety of the public consumers</p> <p>There are indirect links to:</p> <p>Priority 3:</p> <p>3.4 Ensure that the council plays a proactive role in reducing crime and antisocial behaviour.....</p> <p>3.5 Promote wellbeing and enjoyment of life by signposting and encouraging a wide range of sporting, cultural, leisure and development activities appropriate and accessible to each age group.</p>
Financial, Resource and Property	<p>There are no direct financial implications for Swale Borough Council concerning this draft Policy as the consultation is being carried out by officers. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.</p>
Legal, Statutory and Procurement	<p>The relevant legislation in relation to street trading is contained within Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).</p>
Crime and Disorder	<p>It is a criminal offence to trade in the street without an appropriate consent. The policy provides a framework for consistent decision-making.</p>
Environment and Climate/Ecological Emergency	<p>No implications</p>
Health and Wellbeing	<p>No implications</p>
Safeguarding of Children, Young People and Vulnerable Adults	<p>Licensing regimes are largely designed to protect public safety. DBS checks for Street Trading Consents are deemed to be necessary in some circumstances but not all to check that applicants are suitable to trade.</p>
Risk Management and Health and Safety	<p>It is important that Swale BC has a robust and accountable regulatory regime in relation to street trading in order to ensure fair trading, prevent crime and to protect consumers</p>
Equality and Diversity	<p>The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.</p>

	When considering street trading consent applications, only issues provided for in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and provided for in the Street Trading policy for Swale BC 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.
Privacy and Data Protection	Normal data protection and privacy rules will apply.

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Draft revision of the current Swale BC Street Trading Policy 2024 – 2027
 - Appendix II: Consultation Evaluation Grid

8 Background Papers

Local Government (Miscellaneous Provisions) Act 1982 – Schedule 4