

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF REGULATION AND  
ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**15 JANUARY 2020**  
**ALL WARDS**

**DRAFT STREET TRADING POLICY CONSULTATION REPORT**

1. **Summary**

- 1.1 Birmingham City Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 This legislation allows the Council to set a Policy, conditions and fees for the grant, variation, renewal and revocation of street trading consents or licences.
- 1.3 Birmingham adopted street trading provisions in 1984, which state all public roads are classified as 'consent streets' for the purposes of street trading. No formal Street Trading Policy has ever been adopted.
- 1.4 A draft Street Trading Policy 2020 (appendix 1a, 1,2,3,4,5 and 6) has been produced and formal consultation commenced on 16 December 2019 and is scheduled to close on 23 February 2020.
- 1.5 The purpose of this report is to consult with and invite comment from members of the Licensing and Public Protection Committee which will then be considered when producing the final version of the policy.

2. **Recommendation**

- 2.1 That Officers record any comments/responses made by members of the Licensing and Public Protection Committee as responses to the formal consultation.
- 2.2 That these comments/responses are considered along with all other responses as part of the formal consultation process.

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### 3. Background

- 3.1 The legislation that applies to street trading is contained in the Local Government (Miscellaneous Provisions) Act 1982 and the Pedlars Act 1871. Some exceptions are contained in the Police, Factories etcetera (Miscellaneous Provisions) Act 1916 relating to charitable street collections
- 3.2 The 1982 Act allows local authorities to adopt provisions to control street trading as follows:-
- Prohibited Streets- where no street trading is allowed;
  - Consent Streets- where trading is allowed when a consent is issued;
  - Licensed Streets- whereby trading is allowed from a designated pitch- this is often used for street markets.
- 3.3 There is no appeal against the refusal to issue a consent, but there is an appeal in the event there is a refusal to issue a licence. If the local authority does not apply a designation for street trading there are the legislative controls are minimal and generally only cover pedlars and charity issues.
- 3.4 Birmingham adopted street trading provisions in 1984, which state all public roads are classified as 'consent streets' for the purposes of street trading. No formal street trading policy has ever been implemented
- 3.5 The adoption of a proposed street trading policy is an Authority function, but the implementation of the policy is a non-executive function carried out by the Licensing and Public Protection Committee.

The Leader has approved the policy direction (subject to consultation) that is reflected in the draft Street Trading Policy 2020.

### 4. Key Drivers for Policy Direction

- 4.1 The city of Birmingham has undergone and will continue to undergo significant changes in years ahead. These changes (listed below) are the key drivers in influencing the policy direction outlined in section 5 of this report.
- Changing infrastructure throughout Birmingham
  - Introduction of red routes, tramways, public squares and pedestrianised areas and hostile vehicle mitigation
  - City Centre Public Realm Revitalisation
  - Big City Plan
  - 2022 Commonwealth Games
  - Business Improvement Districts
  - Supporting businesses and consumer needs
  - Frankfurt Christmas Market

## 5. Key Policy Issues within the Draft Policy

- 5.1 The introduction of prohibited streets (Red Routes and Metro Routes). All other streets will be consent streets
- 5.2 The introduction of annual, occasional and mobile (ice cream vans) consents.
- 5.3 Introduction of design brief for trading units for annual consents over 12 weeks. The design brief was prepared by planning and includes a maximum size 2.2m (width) 4.8m (length) 2.5m (height) and the stipulation of no trading outside the unit or from canopies.
- 5.4 All street trading to be at least 30m apart except for match day traders.
- 5.5 Public safety, the prevention of crime, disorder and public nuisance, and an enhanced retail offer is at the heart of the considerations to approve, revoke, vary a consent.
- 5.6 The factors that will be considered at application are so extensive they will prevent obstruction of the highway, retail business visibility and will enable Birmingham City Council to direct the location, size and product offer in any area.
- 5.7 The process will enable revocation if consent conditions are not adhered to or for any other reason. There is no statutory appeal against revocation, variation, non-renewal or refusing the application
- 5.8 Following resolution of the policy it is proposed that a 6 week window should be opened to enable all interested traders to apply for a consent and that those applications should be considered at the same time against the aim of the policy and the consent considerations.
- 5.9 Full implementation is likely to be 1 September 2019 when all new street trading consents have been issued and the traders are in position trading.

## 6. Consultation

- 6.1 The formal consultation was launched on 16 December 2019 on BeHeard and is until 23 February 2019. A link has been placed from Birmingham City council's website to the BeHeard page. This enables all stakeholders to comment on the consultation.
- 6.2 All current street trading consent holders and BID Managers have been written to informing them of the consultation and how to comment. Communication of the consultation has also been made to West Midlands Police, West Midlands Fire Service, Transport for West Midlands and internal Birmingham City Council divisions.

- 6.3 This report is an additional method to ensure suggestions or proposals put forward by the Committee will, where appropriate, be included within the revised document(s).
- 6.4 All LPPC members and other elected members can submit feedback via the BeHeard link <https://www.birminghambeheard.org.uk/place/street-trading-policy-2020>
- 6.5 All consultees are requested to make any suggestions for amendments before 23 February 2020 in order that they may be considered when producing the revised documents.
- 6.6 A proposed timetable is attached at appendix 7 which outlines the expected progression of this matter. This timetable may be subject to change, dependent upon the results of the consultation.
- 6.7 Responses to the consultation will be used to inform revisions to be made to the draft Policy and associated conditions. It is envisaged that a final version of the policy will be brought before Full Council on 7 April 2020 that takes account of the comments from the consultation, as far as is practicable.
7. Implications for Resources
- 7.1 The cost of administration and compliance activity for street trading consent met through the consent fees. This includes the cost of devising and reviewing Policies.
8. Implications for Policy Priorities
- 8.1 The issues addressed in this report relate to the City Council priorities of: Birmingham is an entrepreneurial city to learn, work and invest in, and Birmingham is a great city to live in.
9. Public Sector Equality Duty
- 9.1 The benefit of an agreed Policy is to ensure a consistent approach.
- 9.2 Consultation will be carried out with other interested parties, as detailed in Section 6 of this report.

## **INTERIM ASSISTANT DIRECTOR OF REGULATION AND ENFORCEMENT**