

Prosperous Communities EAP 24TH January 2024

Street Trading in North Northamptonshire

The Council's Policy

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**North
Northamptonshire
Council**

Street Trading in North Northamptonshire

- Legislation
- History of street trading controls in North Northamptonshire
- Considerations
- Next Steps



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Legislation

- Local Government (Miscellaneous Provisions) Act 1982
- A district council may resolve that Schedule 4 to this Act shall apply to their district and, if a council so resolve, that Schedule shall come into force in their district on such day as may be specified in the resolution.
- Process to follow for resolution;
 - The Licensing and Appeals Committee will be asked to consider a Resolution regarding the proposed Street Trading Designations
 - Proposed street trading Designations will be advertised for public comment and will undergo consultation
 - The Licensing and Appeals Committee will consider any responses received
 - Once the resolution has been passed, an advertisement must be placed specifying that the resolution has been made

Legislation (continued)

- Types of trading streets:
 - Prohibited street – a street in which street trading is prohibited.
 - Consent street – a street in which street trading is prohibited without the consent of the council.
 - Licence street - a street in which street trading is prohibited without a licence granted by the council.



Legislation (continued)

Key advantages/disadvantages of a **licence** regime :

Advantages	Disadvantages
Can recover costs for refuse and cleansing (If advertised)	Obligation to grant a licence
If revoked or surrendered the council has discretion over return of fee	Can only revoke on statutory grounds
Can prosecute for trading different times / days or articles	Right to be heard before any revocation
	Statutory grounds to appeal
	Highways consent required for licensed streets
	Licence regime is more prescriptive than a consent regime

Legislation (continued)

Key advantages / disadvantages of a **consent** regime:

Advantages	Disadvantages
No duty to grant (local authority discretion – ‘may grant’)	No charge for cleaning or refuse
No formal notice required to consent holders if any terms are to vary	Can’t prosecute for trading different times / days or articles (but can remove consent)
No appeal against any refusal to grant or revocation of consent	No appeal
Consent may be withdrawn at any time	Duty to return whole or part fee if surrendered
Highways consent not required	
No statutory limitations on refusal or revocation etc	
Consent regime is more flexible and less prescriptive than a licence regime	



Legislation (continued)

- There is a need to ensure that any permissions do not conflict with other legislation, especially Highways, and a piece of work will be undertaken to clarify where trading cannot take place. These will be recommended as prohibited streets.
- The definition of “street” for street trading is determined to be “any road, footway, beach or other area to which the public have access without payment and also includes any part of a street” bringing into play areas such as parks, open spaces, retail parks and industrial estate car parks, etc. This captures all land that the public have access to, including land not in the ownership of the council such as retail parks and car parks to private businesses.



Legislation (continued)

- There are exemptions from street trading legislations which include:
 - a person acting as a pedlar under the authority of a pedlar's certificate;
 - anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order;
 - trading as a news vendor;
 - trading which is carried on at premises used as a petrol filling station;
 - is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
 - selling things, or offering or exposing them for sale, as a roundsman. (Note, a roundsman is someone who has a round of specific addresses rather than the generic routes of businesses such as ice cream sellers.)
- Officers will consider applications received and will grant where they comply with policy requirements. Where applications do not comply with policy requirements they will be determined by a Licensing and Appeals sub-committee. Appeals will be considered by the magistrates courts.

History of street trading controls

- The 4 previous authorities had all adopted Schedule 4 and had Street Trading controls in place.
- Corby, Kettering and Wellingborough all had consent street arrangements in place. East Northamptonshire had prohibited streets and licensed streets in the form of a number of laybys on major roads within the district



Issues for Member Consideration

- Does the Authority wish to continue to control street trading within the area and in what form?
 - It is recommended that street trading is controlled to ensure regulatory compliance, ensure consistency across the council area and maintain incomes streams.
- Is there a desire to include the whole district to promote and encourage trade within the area and allow for flexibility, or is there a desire to only allow trading in certain designated areas to reduce impact upon local traders and the surrounding community?
 - It is recommended that council-wide consent is introduced, since this would allow new pitches to be designated upon demand by legitimate businesses, supports new businesses to be set up and allows for ongoing change. This would make enforcement straightforward, as traders not holding consent would be committing an offence
- Should street trading be prohibited in certain streets?
 - It is recommended that street trading is prohibited on any road with a speed limit above 30mph. Applications meeting this requirement can be considered on a case by case basis

Issues for Member Consideration (continued)

- Is trading to be prohibited for certain items in certain areas e.g. “fast foods” around schools?
 - It is recommended that Public Health colleagues be consulted on this issue to identify what data they could provide to justify any prohibition.
- Are street trading controls to be used to ensure consistency at events where the event meets the definition of street trading?
 - If trading meets the definition of ‘street trading’ there are no known legal routes to exempt them from application, however event organisers are expected to have control over the event, so risks should be reduced and there is a risk of complaints of over-regulation.
 - It is recommended that events which include stalls offering products for sale, are processed as an ‘event organiser consent’ to prevent each stallholder having to individually apply. This would allow the council to promote events and encourage traders to attend, whilst maintaining some form of regulation.

Issues for Member Consideration (continued)

- Should there be restrictions on times/types of trading subject to location and activity, or should each application be individually assessed on its own merits?
 - It is recommended that applications be considered on their own merits to promote trade.
- Is the policy to include the prohibition of the sale of certain products such as age-related products e.g. weapons, tobacco, alcohol, and prohibiting the use of single use plastics, expanded polystyrene and all products made of oxo-degradable plastic. Should this be more generic or specific?
 - It is recommended that the policy as a minimum should prohibit the sale of products which may create enforcement difficulties such as weapons, tobacco, vapes and alcohol. Although sale of alcohol could be permitted at events.

Issues for Member Consideration (continued)

- Does the Authority wish to see a clear set of principles that would be included within the street trading policy dealing with public safety, food safety, nuisance, appearance and size of units, location/numbers, environmental sustainability and contributions to the area, which would provide guidance to all as to what is acceptable?
 - It is recommended that the policy as a minimum stipulates food safety, nuisance and appearance requirements, to protect public health and promote consistency

Next Steps

- Feedback received on the above considerations will be used by officers to formulate a new NNC Street Trading Policy. Officers will aim to have produced a draft policy within the next two months.
- Once a draft policy has been produced, this will be subject to a 6 week consultation process, which includes current licence/consent holders and members of the public
- Following consultation, the policy will be taken to the Licensing and Appeals Committee for recommendation and then to full Council for approval (dates not yet set, but presume second meeting of the Licensing and Appeals committee in 2024 will be around July).