

TITLE OF REPORT: Street Trading and Markets Policy and Guidance

REPORT OF: Paul Dowling, Strategic Director, Communities and Environment

Purpose of the Report

1. The purpose of this report is for Cabinet to approve and recommend to Council a revised Street Trading and Markets Policy and Guidance document, and the consolidation of the existing market rights in the Borough by the adoption of Part III of the Food Act 1984 (as amended).

Background

2. The Council has regulated street trading in the borough since 2007 through the adoption of Schedule 4 of the Local Government Miscellaneous Provisions Act 1982.
3. Since 2007 many changes have taken place in the borough including the transformation of the town centre and the adoption of a rural economy strategy. There has also been a renewed interest in the provision of markets. A revised policy was drafted to reflect these changes and was consulted on widely in the summer of 2015.
4. A Policy Advisory Group considered the draft policy and the consultation responses on 16 October 2015 and suggested amendments were incorporated into the final draft documents. A summary of the Group's Advice is attached at appendix 2.
5. A summary of the Policy and Guidance is attached at appendix 3 and the full Policy and Guidance is attached at appendix 4.

Proposal

6. It is proposed that the Council exercises its power under Part III of the Food Act 1984 (as amended) to become a Market Authority and to formally establish markets under the Act.
7. It is proposed that the amended Street Trading and Markets Policy and Guidance is endorsed by Cabinet and recommended to Council for approval.

Recommendations

8. Cabinet is asked to recommend the Council that:
 - (i) it exercises its power under Part III of the Food Act (as amended) to become a Market Authority;

- (ii) the Constitution be amended so that the Service Director of Development & Public Protection (Communities & Environment) has delegated power to formally establish markets under the Act as follows –
 - (a) To insert the words “market and” prior to the words “street trading” at Paragraph 1(h) of Part 1 of Schedule 2; and
 - (b) To insert the following words after Paragraph 27 of Part 1 of Schedule 2 –
 - “(28) (Subject to the requirement that no market may be established without prior planning permission or Certificate of Lawfulness of Existing Use or Development) to establish markets in the Borough under Part III of the Food Act 1984 upon such days, times and locations as may be appointed; at such frequency as may be appointed; and subject to such restriction on the number of stalls, type of stalls and nature of goods for sale as may be appointed”; and
- (iii) the attached Street Trading and Markets Policy and Guidance at appendix 4 be adopted and published.

For the following reasons:

- (i) To formally set out the Council’s framework for the management of street trading and markets in the borough.
- (ii) To regularise and consolidate the legal basis for holding markets in the borough.

APPENDIX 1

Policy Context

1. The Street Trading and Markets Policy contributes to Gateshead's Sustainable Community Strategy Vision 2030, which sets out an ambitious and aspirational vision for Gateshead. Vision 2030 aims to improve the wellbeing and equality of opportunity for everyone in Gateshead so that all residents and businesses can fulfil their potential. It focuses on people and place through 6 Big Ideas the aims of which are reflected in the vision and objectives of the policy.
2. The vision of the Street Trading and Markets Policy is to create a dynamic street trading and market experience that is diverse and vibrant adding to the economic, social and cultural fabric of Gateshead. The objectives for achieving this vision are:
 - preserving or enhancing the character of the area
 - promoting health and wellbeing
 - promoting economic prosperity
 - animating streets and spaces
 - promotion of public safety
 - prevention of public nuisance
 - promoting compliance with relevant legislation

Background

3. The Council first began to regulate street trading in the borough in February 2007 through the adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 meaning that it is unlawful to street trade in the borough at all in defined geographical areas and outside of these areas without first obtaining Consent.
4. Consent is granted subject to a range of consultees being satisfied and subject to compliance with conditions of operation. There are currently approximately 40 consents issued across the borough.
5. Since 2007 there have been many significant changes in Gateshead including the transformation of the town centre and the development of the rural economy across the borough and the original policy needs to be updated to reflect these changes.
6. More recently there has been renewed interest in the provision of markets in many localities and the revised policy aims to incorporate a formal approach to regulating market trading, and thereby enable greater diversity of opportunity for trading in the borough.
7. In order that market trading may be regulated on a similar basis to individual street trading activities, it is proposed to regularise the rights to hold markets that are and may be held in the borough. The main ways in which the right to establish and hold a market can arise are:

- By historic grant (which may have been made by either the Crown or the Palatinate)
 - By local Act of Parliament (which would usually incorporate provisions of the Markets and Fairs Clauses Act 1847) or
 - Under the Food Act 1984 (as amended).
8. The benefits to having a market right established under one of these methods is that:
- it protects the market from rival markets being established which would interfere with the pre-existing market, within a distance of 6 2/3rds miles, including into neighbouring areas; and
 - it enables the Council to control the manner in which the markets are carried on and to charge traders so that the cost of administering and enforcing the regulatory framework is borne by those who seek to be regulated under it.
9. By exercising its power under Part III of the Food Act 1984 (as amended) to become a Market Authority and to formally establish markets under that Act, the Council will take into account the most up to date legislative framework with which to regulate market activity in the borough.
10. There would remain the requirement for those markets to comply with other regulatory regimes including planning and highways. The proposed delegated power to establish each market would only enable this to happen where each individual market had already obtained the necessary certificates and consents in this respect.

Consultation

11. A draft policy and guidance document was circulated for public consultation between 27 July and 18 September 2015 and specifically to all existing Consent holders, to partner agencies and organisations and to all those with an interest in street trading and market provision in the borough.
12. Three responses to the consultation were received, and a Policy Advisory Group considered these on 16 October 2015. The Group gave advice for amendment to the draft policy and guidance to incorporate some of the feedback received from the consultees. The advice given by the Policy Advisory Group is attached in appendix 2.
13. The draft policy and guidance has been revised in accordance with the advice of the Policy Advisory Group.
14. The Cabinet Members for Environment and Economy have been consulted.

Alternative Options

15. No alternative options are considered appropriate as the existing Street Trading Policy does not reflect the structural, cultural and economic changes in the borough since it was originally approved.

Implications of Recommended Options

16. **Resources:**
 - a) **Financial Implications** – The Strategic Director, Corporate Resources, confirms that there are no additional financial implications arising from this report.
 - b) **Human Resources Implications** – There are no human resources implications from the recommended options.
 - c) **Property Implications** - There are no property implications from the recommended options
17. **Risk Management Implications** - There are no risk management implications from the recommended options.
18. **Equality and Diversity Implications** - An Equality Impact and Needs Assessment of the policy has indicated a neutral impact.
19. **Crime and Disorder Implications** – There are no crime and disorder implications from the recommended options.
20. **Health Implications** - One of the objectives of the revised policy is the promotion of health and wellbeing requiring that those engaged in street trading and the provision of markets should ensure that the health and wellbeing of residents and visitors is considered including the provision of quality products.
21. **Sustainability Implications** - There are no sustainability implications from the recommended options
22. **Human Rights Implications** - There are no human rights implications from the recommended options
23. **Area and Ward Implications** - This report affects all wards equally.

Background Information

24. These documents that have been considered in preparation of the report:
 - Local Government (Miscellaneous Provisions) Act 1982
 - Food Act 1984
 - Street Trading Policy (2007)

Policy Advisory Group – 16 October 2015

Report to Cabinet

Purpose of the Meeting

The purpose of the meeting was to consider the responses to the recent public consultation on the draft Street Trading and Markets Policy and guidance and how the draft policy and guidance should be amended before returning to Cabinet with a final policy and guidance document for approval by Council.

Elaine Rudman, Environmental Health, Licensing & Enforcement Manager outlined the background to when the Council first began to regulate street trading. She also informed of the significant changes within the borough which need to be reflected within Council policy.

Summary of Advice

- It was felt that the current pricing structure for street trading Consents within the borough is reasonable but that there should be a review of the current level / structure of fees.
- It was agreed that where Part 3 of the policy currently sets out certain activities that are not 'street trading', this be moved to section Part 5 which sets out when a Consent is not required.
- It was agreed that psychoactive substances / legal highs be included in the list of items where permission will not normally be granted for sale.
- It was agreed to change the wording of the sections relating to community and charitable events setting out situations where a Consent would not normally be required, to:

'community run and/or charitable events where they are supported by Ward Councillor(s), where the Licensing Team is notified in writing in advance of the event of the nature of the event and the intended street trading, and the number of intended traders'
- It was agreed that the policy be amended to reflect the unique nature of managed locations such as Trinity Square by allowing the location manager to apply for a Block Consent which will authorise street and market trading within the managed location in accordance with the conditions imposed by the Council.

- It was felt that where a response was received from Mr T Pickering, Centre Manager, Trinity Square - in relation to recognising the controls he would have in place for Trinity Square is addressed – this would be covered by the amendment to the policy for Block Consents (detailed above)
- It was agreed that the standard condition relating to the use of loud speakers, horns, flashing lights etc to minimise the noise and other disturbance from street traders be amended.

The Advisory Group also agreed that that a handbook for Councillors in relation to 'community events' would be useful.

Chair: Councillor B Clelland

Members Present: Councillors M Brain, S Dickie, F Hindle, M Hood, J McElroy and J Wallace

Officers Present: Elaine Rudman – Communities and Environment
Karen Robson - Corporate Services and Governance

Executive Summary

The Street Trading and Market Policy and Guidance aims to create a dynamic street trading and market experience that is diverse and vibrant adding to the economic, social and cultural fabric of Gateshead.

In order to achieve this vision the policy sets out the Council's framework for the management of street trading and markets, only permitting street trading and markets where the following objectives are promoted:

- Preservation or enhancement of the character of the area
- Promotion of health and wellbeing
- Promotion of economic prosperity
- Animation of streets and spaces
- Promotion of public safety
- Prevention of public nuisance
- Compliance with relevant legislation

The application and assessment process is laid out in detail together with specific provisions relating to trading at Council run events, the establishment of markets and the provision of street trading services and markets through Council contracts.

The policy defines geographical areas where street trading is prohibited, proposed fees for Street Trading and Market Consents and a number of Standard Conditions to be applied to Consents.