

LICENSING COMMITTEE

Date: Tuesday 19 March 2024

Time: 5.30 pm

Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Sharon Sissons, Democratic Services Officer (Committees) on 01392 265115 or email sharon.sissons@exeter.gov.uk

Entry to the Civic Centre can be gained through the rear entrance, located at the back of the Customer Service Centre, Paris Street.

Membership -

Councillors Asvachin (Chair), Warwick (Deputy Chair), Begley, Bennett, Fullam, Foale, Holland, Parkhouse, Patrick, Rees, Sheridan, Snow, Vizard and Wood

Agenda

Part I: Items suggested for discussion with the press and public present

1 **Apologies**

To receive apologies from Committee members.

2 **Minutes**

To approve and sign the minutes of the meeting held on 30 January 2024.

(Pages 3 -
4)

3 **Declarations of Interest**

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

It is not considered that the Committee would be likely to exclude the press and public during the consideration of any of the items on this agenda but, if it should wish to do so, then the following resolution should be passed: -

RECOMMENDED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for particular item(s) on the

grounds that it (they) involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part I of Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

5 Revised Street Trading Policy

To consider the report of the Service Lead - Environmental Health & Community Safety. (Pages 5 - 54)

Individual reports on this agenda can be produced in large print on request to Democratic Services (Committees) on 01392 265115.

LICENSING COMMITTEE

30 January 2024

Present:

Councillor Marina Asvachin (Chair)

Councillors Warwick, Begley, Bennett, Fullam, Foale, Holland, Parkhouse, Patrick, Rees, Sheridan, Snow and Vizard

Apologies:

Councillor Wood

Also present:

Service Lead - Environmental Health & Community Safety, Legal Advisor, Democratic Services Officer (PMD) and Apprentice Solicitor (MM)

1 **Minutes**

The minutes of the meeting held on 12 September 2023 were taken as read, approved and signed by the Chair as correct.

2 **Declarations of Interest**

No declarations of interest were made by Members.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

3 **Licensing Fees and Charges for 2024/25**

The Licensing Committee received the annual report for the proposed licensing fees and charges for 2024/25. The Committee had a statutory responsibility to set fees for the year which related to the cost of performing the various Licensing functions. Members were referred to appendices attached to the report, which listed all the fees levied by the Licensing Authority. The Service Lead - Environmental Health & Community Safety explained that Appendix A summarised the Council's powers to set its fees in respect of licensing applications, and any limitations on those powers, and Appendix B listed all the fees levied by the Licensing Authority as of last year and the proposed fees for 2024/26. He highlighted:-

- Exeter City Council's (ECC) administrative duty to set fees;
- how the fees relating to the Licensing Act and the Gambling Act were prescribed in law;
- how fees could only be collected from a cost-recovery perspective as opposed to as a money-making enterprise;
- the proposed change for street trading licences to a Part A / Part B system.

Responding to queries from Members, the Service Lead - Environmental Health & Community Safety explained that:-

- with regard to the Part A / Part B approach for street trading, there was – presently - no exact comparison possible with other local authorities;
- the Part A / Part B system was long established in e.g. animal licensing;
- it was impossible to foresee potential rushes on certain types of licences;
- whilst increased fees were never welcomed by those that had to pay them, they did reflect the costs in delivering the respective licensing regimes.

RESOLVED that the proposed Fees and Charges for the period from 1 April 2024 to 31 March 2025 be approved, as set out in Appendix B of the report.

The meeting commenced at 5.30 pm and closed at 5.56 pm

Chair

DRAFT

REPORT TO LICENSING COMMITTEE

Date of Meeting: 19 March 2024

Report of: Service Lead – Environmental Health and Community Safety

Title: Consultation on the revision of the Street Trading Policy

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1 A working group of the Licensing Committee made up of Councillors and Officers has been conducting a review of the Street Trading Policy. The purpose of the group was to reflect upon street trading in Exeter, how it is and what it should be like, and relate it to how it impacts upon the safety, vibrancy and choice within the city.
- 1.2 This report presents the work of the group and is seeking permission to go out to public consultation before being considered for adoption.

2. Recommendations:

- 2.1 The Licensing Committee agree to a consultation of the revised street trading policy which will run from 22 March 2024 until 31 May 2024.

3. Reasons for the recommendation:

- 3.1 The street trading policy sets out the council's position in how it will administer applications for street trading consents in order to protect residents, customers and road users' safety whilst permitting well run businesses to provide services that are in demand and contribute to the local economy.
- 3.2 It aims to ensure that only those persons entitled to work and run a business are granted the consents to trade and that there is no detriment to the amenity of city and business locations, or residential areas created by the businesses being granted consents.
- 3.3 There have been no changes in the legislation since the updated policy was last approved in 2015.
- 3.4 This draft policy has been produced following the Licensing Committee setting up a member led working group to revise the policy in line with the Council's current corporate objectives and best practice from other authorities.

4. What are the resource implications including non financial resources

- 4.1 There are no direct financial implications within this report.

- 4.2 Any costs associated with street trading are recovered through the fees set for the Street Trading Consents application and determination process.

5. Section 151 Officer comments:

- 5.1 There are no financial implications for Council to consider. All costs incurred should be recovered through appropriately set fees.

6. What are the legal aspects?

- 6.1 On 15th March 1983 the Council resolved to adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, "The Act", for the whole of its area.
- 6.2 The Act, allows for the council to adopt 'streets' in which trading requires the consent of the council. This is the means of regulating street trading within the council's area.
- 6.3 To this effect on the 15th February 2011 the Council resolved to designate all streets in the Exeter City Council jurisdiction as 'Consent Streets' with the exception of a number of streets that are classified as either 'Licensed' or 'Prohibited'.
- 6.4 Schedule 4 of the Act sets out the legal definition of street which includes any road, footway, beach or other area to which the public have access without payment.
- 6.5 The Act also defines Street Trading in Schedule 4 paragraph 1 (1) as the selling, or exposing or offering for sale, of any article (including a living thing) in a street.
- 6.6 The powers set out in Paragraph 7 of Schedule 4 of the Act provides for the Council to have a broad discretion as to whether to grant a consent and if so on what terms.

7. Monitoring Officer's comments:

The revised street trading policy is well thought through and generally appropriated.

8. Report details:

- 8.1 The Licensing Committee set up a working group to reflect upon street trading in Exeter, how it is and what it should be like, and relate it to how it impacts upon the safety, vibrancy and choice within the city.
- 8.2 The Licensing Committee agreed that the review should focus on the following:
- To review the existing Street Trading Policy to determine what is or is not working well within the Street Trading Policy;
 - Where could the Street Trading Policy be altered to increase vibrancy and choice;
 - What good practice is there from other authorities and what lessons can be applied to develop Exeter's Street Trading Policy;
 - How does Exeter's Street Trading Policy fit in with the Council's Strategic Plan.
- 8.3 The working group met on several occasions over the last 18 months, speaking to a number of expert witnesses regarding street trading in areas such as the city centre

and in Public and Green Spaces. The group also carefully considered the difference between the Street Trading Policy and the City's Market Charter.

- 8.4 Following extensive research from Councillors and Officers, the revised policy presented with the report for consultation have focused on ten areas where the working group felt the policy either needed to be strengthened or required an update since the policy was last updated. These are: -
- a. **Mandatory requirement for basic DBS Checks on applicants and staff** – in line with other Council's, the working group felt strongly that DBS checks should be introduced to enhance the Council's role in maintaining public safety.
 - b. **An assessment framework for officers to completed as part of the application process** – Birmingham City Council had an effective scoring matrix to be able to assess all applications in a consistent and transparent manner. This assessment would then be presented as an appendix to the reports pack, to aid the Licensing Sub Committee in determining all initial applications.
 - c. **Enhanced health and safety requirements** – the working group were keen to see an enhanced focus on all aspects of health and safety, but in particular with respect to gas and electrical safety. Therefore, a number of mandatory requirements have been proposed to ensure that safety checks are being conducted.
 - d. **Schools and Educational Establishments** – the working group were keen that the policy should provide greater clarity with respect to trading around schools and educational establishments. The proposed policy seeks to prohibit any trading within a 250m radius of a school between Monday to Fridays 08:00 and 16:00 hrs during term times.
 - e. **Emissions Standards** – the Council has a clear aspiration to be Net Zero by 2030. As part of this aspiration, it is seeking that its policies are also seeking to meet the same commitment. Therefore, the policy sets out a proposal for all Street Traders to be zero emissions by 2030.
 - f. **Enhancement of Green Spaces** – the policy seeks to remove key green spaces from the Policy so that the operational team can seek to enhance the vibrancy and safety of these locations.
 - g. **Power Sources** – Exeter City Council has committed to the principles of Net Zero 2030. Therefore, preference will be given to applications that are able to demonstrate using renewable energy sources and reducing carbon emissions, particularly whilst idling.
 - h. **Greater diversity in food offering** – The proposed policy will see a preference given to those applicants offering locally sourced food, include plant-based food in their menus and diverse food offering for customers.

- i. **Waste Management** – the revised policy seeks to ensure that correct waste management arrangements are in place and litter resulting from the street trading consent is cleared away. The revised policy is seeking applicants to demonstrate recycling of waste wherever possible.
- j. **Clear guidance regarding horns and chimes** – to reduce annoyance on communities, clear guidance has been drawn up regarding horns and chimes used by mobile traders.

8.5 The proposed consultation will run from 22 March 2024 until 31 May 2024 (10 weeks). All those with a current consent to street trade as well as several identified statutory partners and other stakeholders that have been identified. Detailed information will be published on a dedicated webpage under the Council's consultation pages and a public notice placed in the local newspaper. A consultation plan is attached as Appendix A.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 The policy recognises the importance of street trading to the city and that it can add to the vibrancy and vitality contributing positively to the Council's corporate plan of a prosperous local economy, healthy and active city, building great neighbourhoods and communities and a net zero carbon city.

10. What risks are there and how can they be reduced?

10.1 The main risk is not to have an open and transparent consultation process where those persons affected by the proposed policy have an opportunity to have an input into it.

10.2 To minimise this risk a Consultation Plan is set out at Appendix A and the consultation results will be presented to the Licensing Committee on 9 July 2024.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must consider the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and

new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal, positive impacts have been identified with respect to those with disabilities and those in vulnerable age groups.

12. Carbon Footprint (Environmental) Implications:

12.1 Important to complete this section in light of the Council declaring a Climate Emergency. Consider whether the recommendations you are making in the report will help, hinder or have no direct impact on delivering our carbon reduction target (carbon neutral by 2030).

12.2 You should think about things like:-

- Travel (and, if travel is unavoidable, whether lower carbon options will be pursued e.g. walking, public transport, electric car);
- Infrastructure (e.g. LED lighting, energy efficient heating/hot water, solar panels, electric car charging points);
- Waste (e.g. recycling, composting, reducing non-recyclable waste); and
- Any other specific carbon reduction initiatives.

12.3 The policy review seeks to have positive carbon/environmental impacts arising from the revised policy.

13. Are there any other options?

13.1 An option that the Council could take is un-adopting the relevant legislation so there is no control over street trading within the city. Whilst this would remove regulation it would also remove any control of standards and would allow any trader to trade on land where the prior permission of the landowner is not required, or they have the consent of the landowner.

13.2 Excluding some streets that are currently consented. To achieve this would require the council to go through the requisite legal process. This would mean that unless designated as prohibited anyone could trade in these areas. For areas where the prior consent of the landowner is required this could be potentially regulated through robust booking procedures but would mean anyone could trade on streets where permission is not required

13.3 In the main the de-regulation options will mean the Council has less ability to protect public safety and prevent adverse impacts on premises-based businesses and residents in the City.

Director: David Bartram

Author: Simon Lane, Service Lead – Environmental Health and Community Safety

Nigel Marston, Principal Licensing Officer

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

- Local Government (Miscellaneous Provisions) Act 1982

Contact for enquires:
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Street Trading Policy

Date: January 2024

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1 Introduction

1.1 Purpose

- 1.1.1 Exeter City Council (the Council) street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice, and seeks to enhance the character, and ambience of local environments.
- 1.1.2 The policy recognises the importance of street trading to the city and that it can add to the vibrancy and vitality whilst not necessarily adding to environmental impact, nuisance and crime and disorder.
- 1.1.3 This policy sets out the criteria and guidance that Exeter City Council will use as the regulatory framework for street trading. This policy also clarifies the requirements around special events and occasional markets. It gives prospective traders an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them.

2 What is Street Trading

2.1 Definition

- 2.1.1 Street trading means selling, exposing or offering for sale any article in a street.
- 2.1.2 The term 'street' includes any road, footway, beach or other area to which the public have access without payment. In this regard, 'other area' will include a retail car park to which the public have access to without payment.

2.2 Area Covered

- 2.2.1 On 15th March 1983 the Council resolved to adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and on the 15th February 2011 resolved to designate all streets in the area as 'consent streets' for street trading purposes, with the exception of a number of streets in the City Centre, which are designated 'licence streets or prohibited streets' as set out in Section 16 below.
- 2.2.2 The effect of this designation is that street trading in any street is forbidden, subject to legal exemptions, without first obtaining a street trading consent or licence from the Council.

2.2.3 This includes all streets, car parks, most parks and all adjacent paved, grassed and ornamental areas to which the public have access without payment or unfettered access.

2.3 Prohibited streets

2.3.1 If a street is designated as a prohibited street then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example the street may not be wide enough to facilitate a trader or the council may wish to restrict trading in a particular location.

2.4 Licensed streets

2.4.1 A licensed street designation is considered appropriate for the more formalised market type of trading in a street where the strict control of a limited amount of space is required.

2.5 Consent Streets

2.5.1 Designating a street a consent street enables trading to take place upon it, subject to the trader receiving a consent to trade from the Council.

2.5.2 All streets within Exeter are designated as consent streets with the exception of the prohibited streets and the parks and open spaces listed in Section 16.

3 Exemptions from the need to obtain a consent or Licence

3.1 Some types of trade are legally exempt from the need to obtain a street trading consent or licence. These include:

- a person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871, and which the trading activity is one of peddling;
- a trade carried out by roundsmen e.g. a milkmen serving registered customers;
- a trade carried on at a petrol filling station;
- a market created by statute or grant;
- trading as a news vendor (selling newspapers or periodicals);

- trading in premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- authorised charity collections.

4 Street Trading Consents for which fees are not payable

4.1 The Council may remit the payment or part of the payment of fees for the following street trading activities:

- fetes, carnivals or similar community-based and run events;
- non-commercial or charitable events;
- farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people) as these are subject to Street Licence authorisation;
- sales of articles by householders on land contiguous with their homes (e.g. a garage sale).

5 Making an application

5.1.1 All applications must be made on the Council's prescribed application form. The application must be completed in full, with all the required information, before it will be considered.

5.1.2 The application form must be submitted along with the following:

- A non-refundable application fee (based on the cost of administering the application)
- A basic DBS certificate not more than 3 months old for the applicant and all staff involved in the operation being applied for.
- A passport style photograph of the applicant and all staff involved in the operation being applied for.
- Photographic identification (e.g. passport, photo card driving licence)
- A site plan of the proposed trading area or list of proposed streets
- Photographs of the trailer, stall, or vehicle proposed for use
- The make and model of any generator to be used (if applicable)

- Gas certificate (if applicable)
- Copy of the business trade waste transfer note
- Public Liability Insurance certificate cover for £5,000,000
- Current MOT and V5 certificate (if using a vehicle)
- Appropriate current business use motor insurance (if using a vehicle)
- Proof that the applicant and any assistants are entitled to work in the UK.

6 Key considerations when assessing an application

6.1 Public safety

- 6.1.1 The proposed location of the activity should not present a risk to the public in terms of highway safety and obstruction.
- 6.1.2 All locations will require an assessment before a proceeding to a sub-committee for consideration.
- 6.1.3 Applications in respect of sites that have previously been the subject of refusal due to the unsuitability of the location are unlikely to be accepted.

6.2 Prevention of crime, disorder and nuisance

- 6.2.1 The proposed activity should not present a risk of crime and disorder.
- 6.2.2 Activities at the pitch must not cause a nuisance, annoyance or disturbance to neighbouring properties, this includes businesses. Controls must be in place to ensure that nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and odours does not occur.
- 6.2.3 If at any time the City Council receives complaints a nuisance, annoyance or disturbance is occurring, the Council is duty bound to investigate and, if complaints are found to be justified, may decide to take enforcement action, including withdrawal of the consent or licence.

6.3 Suitability of the applicant

- 6.3.1 Exeter City Council will consider any unspent convictions the applicant may have and this information will be requested in the application form.
- 6.3.2 When determining whether an applicant is suitable, the Council will consider the reliability of the applicant in paying fees and charges based on previous history.

- 6.3.3 An applicant's history of street trading will also be taken into consideration e.g. whether previous street trading consents have been used appropriately and whether the Council's requirements have been met, including deadlines.

6.4 Suitability of the trading unit

- 6.4.1 The vehicle, trailer or unit to be used including size, build, be harmonious with the character of the locality, add to the quality of the street scene and comply with the legal requirements for the activity proposed.
- 6.4.2 The unit shall be of a high-quality design, with robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.
- 6.4.3 The unit will be inspected by an officer from Exeter City Council prior to consent being issued. Goods, ancillary equipment and stock must be contained within the unit.
- 6.4.4 All trading motorised trading units will be required to have a satisfactory MOT history.
- 6.4.5 In line with Exeter City Council's commitment to Net Zero 2030, preference will be given to vehicles that meet the zero emissions criteria. Where this is not possible, the Council expects traders to meet the Euro 6 emissions standard for diesel vehicles and ULEV for petrol vehicles.

6.5 Power

- 6.5.1 Exeter City Council has committed to the principles of Net Zero 2030. Therefore, preference will be given to applications the demonstrate using renewable energy sources.
- 6.5.2 City centre units will not generally be permitted if powered by a generator.
- 6.5.3 Diesel generators will be permissible outside the city centre only when no other power source is available. They shall be positioned to reduce the length of cabling required to an absolute minimum and to minimise disturbance to local residents or businesses from noise or fumes. Where required, silenced generators or acoustically insulated generators shall be sourced.

6.6 Advertising

- 6.6.1 Advertising must only relate to goods offered for sale on that pitch.
- 6.6.2 Third party advertisements are prohibited.
- 6.6.3 It is not permitted to illuminate any advertisement on the outside of the unit without express consent of the Council.
- 6.6.4 The use of 'A' boards or any other display board/structures are prohibited.

6.7 Barriers

- 6.7.1 Barriers for safety purposes will only be allowed on a consent pitch where they have been specifically included within the unit's consent approval.
- 6.7.2 Any barriers proposed shall not constitute a nuisance or danger under the Highways Act 1980, must not impede the free flow of pedestrians or traffic and must not restrict the pavement.

6.8 Hours of trading

- 6.8.1 Trading hours will be set on the basis of promoting the following purposes:
1. Preventing crime, disorder and antisocial behaviour.
 2. Avoiding disturbance due to noise, smell or any other matter the Council considers appropriate.
 3. Protecting public safety.
 4. Preventing obstruction of the highway.
 5. Having regard to location and operating hours of business activity.

6.9 Cumulative Impact

- 6.9.1 The Council will not normally grant consent for a street trading unit within 30 metres of another street trading unit. Street Trading in relation to Castle Street, football match days and other sporting events may allow trading to be more densely located than 30 metres apart.

6.10 Selling the right goods

- 6.10.1 The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent. The quality of goods and innovative approach will be considered.
- 6.10.2 Quality of goods refers to traders making the proper (and legal) checks to ensure their goods are safe for use or consumption. In addition, the use of recyclable materials in the product or packaging or the reduced use of packaging to minimise plastic or other waste will be improving quality. The use of single use plastics will be prohibited under all consents and licences issued.
- 6.10.3 Innovative products refers to goods that are not readily available within the High Street marketplace.
- 6.10.4 Anyone applying for a stall must clearly state the nature of the proposed goods.
- 6.10.5 In meeting it's target of Net Zero 2030, Exeter City Council will give preference to those applications that source local produce and products. With regard to

applications for food traders, preference will be given to those applications that seek to offer plant based food and cater for groups with other dietary needs.

6.10.6 The goods must not:

- Cause a nuisance, disturbance or annoyance to nearby properties/ people, including cooking smells, smoke, noise, litter and additional cleansing requirements for the Council.
- Cause or contribute to crime and disorder – including the selling of fake or counterfeit goods.
- Have a negative public health impact e.g. vaping products, locality of fast food units near schools, etc.

6.11 Site assessment

6.11.1 In determining whether street trading in a particular area is appropriate the council will have regard to:

- Any potential obstruction of pedestrian, vehicular or disabled access.
- Any obstruction to the safe passage of pedestrians and wheelchair users.
- Any nuisance/interruption to pedestrian flow or maintenance of appropriate social distancing.
- The safe access and egress of customers and staff from the pitch and immediate vicinity.
- Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises.
- In terms of any land that is not Highway Maintained at Public Expense (HMPE) permission needs to be obtained from the landowner and submitted with the application e.g. private land or Exeter City Council park or open spaces (that are not part of the excluded parks and open spaces).

6.12 Other criteria

- The consent holder will at no time have the exclusive right to trade from the street or any part of it.
- Street trading can only take place in the area outlined in the consent and on days and hours detailed in the consent.
- The consent holder may only trade in goods that are outlined on the consent.
- A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the Police.
- Auction sales shall not be permitted as part of the consent.

- 6.12.1 All street trading units will be equipped with safe and adequate lighting for operation during the hours of darkness.
- 6.12.2 Evidence of a commercial waste contract must be provided before the consent is issued and on request by a Council officer. Failure to comply with any of these requirements may result in refusal to issue or renew consents or revocation of an existing consent.

6.13 Determination

- 6.13.1 In determining whether to permit street trading at a selected site, the Council will have regard to:
- Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving;
 - any loss of amenity caused by noise, traffic, smell or other nuisance;
 - existing Traffic Orders e.g. waiting restrictions, parking, etc;
 - any potential obstruction of pedestrian or vehicular access;
 - any obstruction to the safe passage of pedestrians;
 - the safe access and egress of customers and staff from the pitch and immediate vicinity; and
 - the impact on the character of the area.
 - The environmental impact of the business including power source, use of single use plastics and use of plant based products.

6.14 Itinerant Street Trading

- 6.14.1 With regard to itinerant street trading (e.g. an ice-cream van or fish & chip van), where due to the nature of the business there is a genuine need to ply trade in many locations, a general consent will be issued.
- 6.14.2 For all itinerant street traders, trading will not be permitted within 250 metres of any school or educational institution that has under 18's from Monday to Friday 08:00 until 16:00 hrs during term times.

7 Consultation for Consents

- 7.1.1 Before a new pitch is authorised by the Council for the purposes of street trading (non market) we will, where reasonably practicable, seek representations from:
- the relevant ward councillors
 - Police

- Highways (Devon County Council)
- Estates Department of Exeter City Council
- Business Improvement District (InExeter) for applications in the BID area.
- Existing holders of street trading consents in the immediate vicinity

7.1.2 Where practicable, fourteen days will be given for representations to be received. If no representations are received, the application will be referred to the next available Licensing Sub-Committee of the Council and may be granted in the terms applied for, and standard conditions will be considered and may be attached to the consent.

7.1.3 All relevant representations relating to the grant of a consent will be referred to the Licensing Sub-Committee for consideration as part of the determination.

7.1.4 Subsequent renewal of consents to street trade submitted on the same terms as previously granted and for the same site, where there have been no relevant objections to the trading, will be dealt with by the Service Lead – Environmental Health and Community Safety.

7.1.5 There is no right of appeal to the Magistrates' Court against refusal to issue a consent, or against any condition applied.

7.1.6 Any payments made in relation to the application fee are non-refundable.

8 Issue of Street Trading Consents / Licences

8.1 Consideration of an application

8.1.1 Once the application is complete and has been accepted, the council will either:

- Refer the matter to a Licensing Sub-Committee for determination (applies for new applications) or where there are concerns from officers (in the case of renewal applications).
- In the case of renewal applications where there are no concerns, determine to grant the consent as applied for and attach conditions.
- Refer the matter to the Service Lead - Environmental Health and Community Safety in consultation with the Chair of Licensing Committee.

An example of the procedure to be followed by the sub-committee to determine applications is set out in Section 19 Licensing Sub-Committee Procedure. Changes to this procedure will be notified in advance to the applicant.

8.2 Length of Consent / Licence

- 8.2.1 Street trading consents will normally be issued for a period of one year, but new consents may be issued for a three-month trial period to determine if necessary the viability and impact of trading. Consents for shorter periods may be issued on request but subject to the payment of the appropriate fee determined by the Council.
- 8.2.2 Consents will be issued for seven days per week unless there are limiting factors on the use of a pitch on particular days. The permissions granted will identify the permitted days and times of trade.

8.3 Fees

- 8.3.1 Fees for consents must be paid in full in advance. In the case of renewals, payments must be at the time of renewal.
- 8.3.2 Failure to provide payments as above will result in the permission not being renewed or being revoked. This does not apply when a direct debit arrangement has been agreed between the Council and the consent holder.

8.4 Reallocation of Pitches

- 8.4.1 Where a consent has expired or has been revoked the pitch will awarded to the first applicant that applies to trade on that pitch, no waiting lists will be maintained.

8.5 Age

- 8.5.1 A consent cannot be issued to a person under the age of 18 years. An application may be refused if the applicant is unsuitable to hold the consent/licence by reason of having been convicted of an offence or for any other reason.

8.6 Castle Street

- 8.6.1 Castle Street has a limited number of pitches for street trading and if more than one application is received by the Council for one pitch the procedure set out in Section 19 relating to multiple applications shall apply.

8.7 Variations

- 8.7.1 Where a Consent holder wishes to vary an existing Consent a new application for consent will be required. Minor variations to street trading consents may be considered and approved by the Principal Licensing Officer in consultation with the Chair of Licensing Committee. *An example of a minor variation would be for example a change to the menu of a food trader.*

9 Planning Permission

- 9.1 If a consent is applied for, the onus is on the applicant to obtain both planning permission and permission to trade from the landowner when necessary, prior to making an application for street trading consent. It is not the responsibility of the Council to investigate and obtain this information.

10 Licensing Act 2003

- 10.1 In addition to the requirement of having a street trading permission, applicants who sell hot food or hot drinks between 23.00 pm and 05.00 will need a premises licence under the Licensing Act 2003. The Licensing Section is able to provide advice as to the application process.
- 10.2 For premises that seek to trade only between the hours of 23.00 and 05.00 consent will still be required in addition to the Licensing Act licence.

11 Fee Structure

- 11.1 The Service Lead – Environmental Health and Community Safety will arrange for the setting of street trading fees through the Council and will annually review the fee structure.

12 Applicants and Assistants

- 12.1 The Council will issue an identity badge to the person applying for the consent and will require the applicant to identify any person that is to work under his permission.
- 12.2 The applicant will provide passport size and quality photographs of themselves following the grant of the consent.
- 12.3 All applicants will ensure that the full names addresses and dates of birth plus photographs of any and every person that will or may be used under the authority of the consent is submitted following the grant of the consent.
- 12.4 No person will be permitted to work under the permission of the consent without holding an identity badge issued by this Council at all times they are working.

When submitting an application, the applicant will need to pay the appropriate sum in full. These are set out in the list of fees and charges and can be found

on the Council website. The fees will be reviewed annually and updated accordingly as of the first week in April each year.

13 Conditions and Enforcement

- 13.1 Standard conditions may be attached to each street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.
- 13.2 The Service Lead – Environmental Health and Community Safety may review the conditions set out in Section 15 and may add to, delete or amend the conditions as necessary.
- 13.3 The Service Lead – Environmental Health and Community Safety may in consultation with the Chair of Licensing revoke a street trading consent at any time.
- 13.4 Specific conditions may also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.
- 13.5 Failure to comply with conditions, non-payment of fees or non-attendance at the site without good reason may lead to revocation or non-renewal of a consent.
- 13.6 Persons trading without a street trading permission and who are not exempt (see 3.1 above for examples) will be the subject of enforcement action. This will include any person who holds a certificate granted under the Pedlar's Act 1871, but who fails to operate in accordance with the Act.
- 13.7 The issue of absent traders will be addressed by conditions upon the licence or the consent, for example conditions which:
- require personal attendance of the holder without the option for someone else to run the business on his behalf;
 - require the holder to provide notification of his nominated assistant;
 - require the holder to provide notice of non-attendance to the Service Lead – Environmental Health and Community Safety (not required for periods of less than 20 working days for Annual leave);
 - allow the Service Lead – Environmental Health and Community Safety to revoke the consent after 20 working days non-attendance where no notification of absence has been submitted.

14 General

- 14.1 This policy will be the subject of periodic monitoring and review and will be applied in a manner which is consistent with the Council's equalities and diversity policies.

15 Pool of conditions that may be imposed upon a consent to street trade

15.1 Definitions

- 15.1.1 "The Council" means Exeter City Council.
- 15.1.2 "You" means the holder of the consent to trade.
- 15.1.3 "Your Assistant" means any person or persons who assist the holder of a consent to trade whilst trading under that consent and who has been notified to and has been issued with an identity badge by the Council.
- 15.1.4 "New Psychoactive Substances" means Psychoactive drugs which are not prohibited by the United Nations Drug Conventions but which may pose a public health threat comparable to that posed by substances listed in these conventions.

15.2 Legal Note attached to all Consents

- 15.2.1 PLEASE NOTE: Failure to comply with these conditions may result in enforcement action, leading to this street trading consent being revoked or an application to renew being refused.
- 15.2.2 The council reserve the right to amend these standard conditions at any time.
- 15.2.3 The Council may attach any further reasonable conditions to this consent which it appears appropriate to meet particular circumstances.
- 15.2.4 This consent and any associated documents must be surrendered to the Council if the consent holder wishes to cease trading. Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent.
- 15.2.5 In addition to these conditions, the Council may also impose conditions which are specific to individual consents to trade.

15.3 General Conditions

- 15.3.1 The consent relates to the trader named and is not transferable.
- 15.3.2 A copy of the consent must be displayed prominently on the unit at the street trading site and the trader or his employees shall produce it whenever required by any Police Officer, Licensing Officer or other person authorised by the Council.

- 15.3.3 Where a consent holder is operating under both consent and provisions of the Licensing Act 2003, they will ensure both Authorisations are displayed.
- 15.3.4 The consent holder shall not trade outside the time and days permitted by the consent and trading shall only take place from the agreed specified trading unit.
- 15.3.5 Unless a “city wide” consent is applied for and granted, the consent holder may only site the permitted structure at the approved location.
- 15.3.6 The consent holder shall trade in compliance with the consent and must not digress e.g. affixing barriers or advertising etc. that has not been specified in the consent.
- 15.3.7 The goods, articles or things, the sale of which is authorised by this consent, are strictly limited to those specified, unless written approval to amend has been given by Exeter City Council.
- 15.3.8 The trading unit must be of the size and design approved by the Council and/or specified in the consent.
- 15.3.9 Written approval to change the specified sales unit must be obtained from Exeter City Council.
- 15.3.10 The consent holder shall not at any time lend, or purport to transfer or assign this licence to, or permit it to be used, by any other person except that he/she may employ any other approved person to assist him/her in trading without a further consent being required.
- 15.3.11 Exeter City Council must be notified of all employees/persons authorised to assist prior to them working.
- 15.3.12 All consent holders and their employees shall register their names and current addresses with Exeter City Council’s Licensing Team in accordance with the requirements outlined in this policy and give written notice to the Council immediately of any changes in such details.
- 15.3.13 All consent holders shall ensure that all their employees comply fully with the Conditions.
- 15.3.14 Consent holders are under a duty to bring the Conditions to the attention of their employees.
- 15.3.15 The consent holder may employ another person to ‘assist’ with trading but shall be expected to be in attendance at the site regularly in order to remain in control of trading for the majority of trading hours.
- 15.3.16 The consent may be revoked by the council at any time for non-compliance with conditions or any other reasonable cause or surrendered by the consent holder at any time.
- 15.3.17 Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.

- 15.3.18 The consent holder shall always maintain a valid third-party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.
- 15.3.19 The consent holder and any employees must notify the Council in writing within five working days of any change of address, any changes, police investigations and/or convictions or cautions which arise during the terms of the consent.
- 15.3.20 The Council reserves the right to suspend a consent with immediate effect pending a review of the consent by the Service Lead – Environmental Health and Community Safety or another senior authorised officer should any criminal matter serious enough that there are concerns for public safety.
- 15.3.21 The fees for the consent must be paid on or before the due date for payment as specified by the Council and by one of the methods stipulated by the Council on the invoice.
- 15.3.22 Should the trader wish to surrender their consent, they must do so formally in writing, returning their consent. Failure to do so will result in consent fees remaining payable.

15.4 General Conduct

- 15.4.1 The consent holder must not sell or leave any articles/goods outside of the agreed trading dimensions of the trading unit. No goods shall be hung from canopies or be placed on the ground.
- 15.4.2 The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any highway or public place.
- 15.4.3 The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.
- 15.4.4 The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.
- 15.4.5 The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity.
- 15.4.6 The consent holder shall be clean in his person and shall not exhibit insobriety, incivility, improper language or other misconduct.
- 15.4.7 Serious misconduct will result in an immediate suspension of the consent to enable a review to take place by the Service Lead – Environmental Health and Community Safety or other senior authorised officer potentially leading to revocation.
- 15.4.8 The consent holder shall comply with the reasonable requests of a duly authorised officer of the Council or a police officer to take such action as is considered necessary to abate any nuisance or obstruction.
- 15.4.9 Where more than one mobile ice cream trader has been granted a mobile street trading consent to trade in the same street, then any such ice cream trader on

entering a street where an ice cream trader is already trading shall immediately leave that street without trading in it.

15.4.10 No animal shall be present on any stall or vehicle.

15.5 Protection of Young People

15.5.1 Trading will not be permitted within 250 metres of any school or educational institution that has under 18's from Monday to Friday 08:00 until 16:00 hrs during term times. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).

15.5.2 No person under the age of 18 years shall engage or be employed in street trading.

15.6 Noise Nuisance

15.6.1 The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract vendors to the stall/vehicle/trailer by sound.

15.6.2 Horns, chimes or instruments of a similar description shall not be sounded:-

- For longer than 12 seconds at a time
- More than once every 2 minutes
- More than once when the vehicle is stationary at a selling point
- Except on approach to or at a selling point
- When in sight of another vehicle which is trading
- When within 250 metre of schools, hospitals and places of worship
- More than once every 2 hours in the same length of street
- Before 09:00 hrs and after 19:00 hrs

15.6.3 Any vehicle/unit/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of the Council and as stipulated by the consent and design brief. A high standard of presentation and appearance will be expected to be maintained.

15.6.4 Any replacement or new units must be approved by the Council prior to being purchased or its building being commissioned.

15.6.5 The unit will comply in all respects with any legal requirements relating to the activity proposed.

15.6.6 The unit shall be of a high-quality design, with robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.

- 15.6.7 The quality and appearance of the unit must be maintained at the standard approved in the original consent.
- 15.6.8 The unit will be of a mobile type and must be removed daily after trading has ceased unless authorised by the Division. It must not cause damage to the street or endanger persons using the street.

15.7 Health & Safety

- 15.7.1 The consent holder and their employees shall comply with all statutory requirements and statutory instruments including without limitation the Control of Substances Hazardous to Health Regulations 2002 and the Health and Safety at Work Act 1974 in relation to the sale of goods or provision of services from their unit.
- 15.7.2 The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.
- 15.7.3 Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.
- 15.7.4 Electrical safety and gas safety checks should be in date at all times and certification provided to an authorised officer upon request.
- 15.7.5 The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.
- 15.7.6 The consent holder shall be responsible for any damage to the highway resulting from the trading activity.
- 15.7.7 The consent holder shall not keep or store explosive materials and inflammable liquids on their trading units, other than gas cylinders in compliance with current legislation.
- 15.7.8 The consent holder shall comply with all Traffic Regulation Orders and ensure that vehicles used in respect of their stalls are moved from the trading site immediately they are unloaded or at the request of any authorised Officer.

15.8 Advertisements / Signage

- 15.8.1 Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards. 46. Advertising should only relate to goods offered for sale on that pitch.
- 15.8.2 Illumination of advertisements on the outside of the unit not permitted.
- 15.8.3 The use of 'A' boards and any other display board/structures are prohibited.

15.9 Waste Management

- 15.9.1 Public highways shall be maintained in a clean condition during each day's trading and all rubbish and waste paper accumulated throughout the daily operation of this consent shall be removed at the end of each day's trading.
- 15.9.2 Suitable refuse facilities shall be provided to encourage customers to dispose of rubbish and waste paper so as to avoid causing a nuisance by the littering of the highway and private land bordering the approved location. All litter generated by the trading and discarded by customers of the trading up to 100 metres of the stall, shall be cleared by you at regular intervals throughout the day.
- 15.9.3 The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.
- 15.9.4 The consent holder shall have in place a trade waste contract and valid trade waste transfer note, which should be available for inspection by an authorised Council or Police Office upon request.

15.10 Additional Requirements for Food Operations

- 15.10.1 The consent holder shall ensure full compliance with relevant food safety and health and safety legislation. Compliance with food safety legislation will be indicated by a food hygiene rating of 3, 4 or 5 as issued by Environmental Health.
- 15.10.2 The hygiene rating must be displayed prominently on the stall, trailer, or vehicle.
- 15.10.3 The consent holder must ensure that staff who prepare open high risk foods, or handle food and have a supervisory role, have training to the level equivalent to the Chartered Institute of Environmental Health (CIEH) Level 2 Award in Food Safety in Catering within three months of the consent being issued.

16 Prohibited and Licensed Streets

16.1 Prohibited Streets

16.1.1 Trading is not allowed on prohibited streets at any time.

- Alphington Road
- Bailey Street
- Bampfylde Lane
- Bampfylde Street
- Barnfield Road (from junction with Southernhay East to junction with Western Way)
- Bartholomew Street
- Bedford Street
- Belgrave Road
- Blue Boy Lane
- Blue Boy Square
- Broadgate
- Bude Street
- Castle Street (northern part between Bailey Street and the castle)
- Cathedral Yard and Cathedral Close
- Catherine Square
- Catherine Street
- Chapel Street
- Cheeke Street
- Commercial Road
- Cricklepit Street
- Dix's Field
- Eastgate
- Egypt Lane
- Ewings Lane
- Fore Street (part only)
- Fore Street Arcade
- Gandy Street

- George Street
- Goldsmith Street
- Guinea Street
- Heavitree Road
- High Street
- Kestrel Way
- Little Queen Street
- Longbrook Street
- Lower Combe Street
- Magdalen Street
- Martins Lane
- Mary Archers Street
- Matford Park Road
- Moor Lane
- Musgrave Row
- New Bridge Street
- New North Road
- North Street
- Northernhay Place (between Bailey Street and High Street)
- Okehampton Street
- Okehampton Place
- Palace Gate
- Paris Street
- Paul Street
- Pinhoe Road
- Princesshay Arcade
- Princesshay Lane
- Princesshay Square
- Red Lion Lane
- Roman Walk
- Quay Hill
- Quay Lane
- Queen Street
- Sidwell Street (part only)

- South Street (part only)
- Southernhay East
- Southernhay West
- Stephens Bow
- Swan Yard
- Tabernacle Court
- Topsham Road
- Verney Street
- Waterbeer Street
- West Street
- Western Way

16.2 Licensed Streets

16.2.1 You will not be allowed to trade on a Licence Street without a licence granted by Exeter City Council Markets and Halls Department. Please call 01392 665480 or email markets@exeter.gov.uk for further information.

- Fore Street (part only on southern side between South Street and Market Street)
- South Street (part only)
- Sidwell Street (part only on southern side between Paris Street and Cheeke Street)

17 List of licenced Parks and Open Spaces

17.1.1 You will not be allowed to trade on a Licence park without a licence granted by Exeter City Council Public and Greens Spaces Team.

- Notherhay Park (Area in front of bandstand only)
- Bury Meadow Park
- Heavitree Pleasure Ground

18 Appendix – Assessment Framework

- 18.1.1 The assessment criteria within this assessment framework are described more fully in the Policy and the Policy will be used in conjunction with the information below to guide the consideration of specific criteria.
- 18.1.2 This assessment framework will be used for both applications and renewals except for a renewal occurring within 12 months of the grant of the original application. In this case renewal will normally occur for one further 12-month period if the original terms of the consent have been adhered to and there are no other circumstances that make the original application no longer appropriate e.g. changes in road layout. This will occur without the need for a renewal form to be completed.
- 18.1.3 A scale of 0 to 5 will be used with 0 being poor evidence and 5 being excellent evidence of meeting the assessment criteria. The final score will be made by the Licensing Team after analysing the information put forward by the consultees.

18.1.4 Assessment Framework Matrix

Assessment criteria	Specific factors linked to criteria	Score	Comments (Additional guidance in italics)
1. Public Safety	Adverse comment made by Highway Authority or any other relevant consultee in terms of location		<p><i>Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving.</i></p> <p><i>Any loss of amenity caused by noise, traffic, smell etc. Existing traffic orders e.g. waiting restrictions</i></p>
2. Prevention of crime and disorder	Adverse comment made by Police or any other relevant consultee in terms of increased risk		
3. Prevention of nuisance	Consideration of proposed activity and how that may impact on neighbouring residences and businesses		

4. Suitability of applicant	<p>Any adverse unspent convictions</p> <p>Previous history of reliable payment of fees</p> <p>Previous history of compliance with any street trading consent</p>		<p><i>A poor payment history or a history of noncompliance for any consent previously held with Exeter City Council is likely result in a low score.</i></p> <p><i>If the applicant is in debt in relation to a street trading consent with Exeter City Council at the time of renewal/new application, then it is likely that the renewal/application will not be granted.</i></p>
5. Suitability of trading unit	<p>Compliance with design brief (applicable for consent over 12 weeks in any financial year)</p> <p>Appropriate size for proposed location</p> <p>High quality design</p> <p>Agreed removal of unit after trading</p> <p>All goods, ancillary equipment and stock kept within unit</p> <p>Emissions criteria of vehicle</p> <p>MOT history</p>		<p><i>Where the unit does not comply with the design brief the application is likely to be refused unless the application is for a food unit where some modifications may be considered for technical operation.</i></p> <p><i>The design brief does not apply to occasional consents or annual consent for a duration less than 12 weeks but should still be used as guidance.</i></p>

6. Power / Fuel source	<p>All units to be compatible with being powered by electricity</p> <p>If generator is proposed for use outside city centre evidence must be provided that no alternative power supply is available and cannot be made available</p> <p>Electrical and gas safety certification in date</p>		
7. Advertising	<p>Advertising only relates to goods on sale</p> <p>Advertising is not illuminated and is contained in unit</p> <p>No "A" Boards etc.</p>		<p><i>Any barriers proposed should not constitute a nuisance or danger under the Highways Act 1980, would not impede the free flow of pedestrians or traffic and would not restrict the pavement so as to inhibit social distancing</i></p>
8. Barriers	<p>These are necessary and appropriate</p>		

9. Hours of Trading	Trading hours promote: <ul style="list-style-type: none">• Preventing crime, disorder and antisocial behaviour.• Avoiding disturbance due to noise, smell or other matter.• Protecting public safety.• Preventing obstruction of the highway.• Having regard to location and operating hours of business activity.		
10. Cumulative Impact	Except for Castle Street the trading unit is situated 30m distant from any other trading unit		

11. Goods for sale	<ul style="list-style-type: none"> • Quality of goods • Innovative products • No single use plastics • Plant based and other dietary options • Goods do not cause nuisance • Goods do not contribute to crime and disorder • Goods do not have a negative health impact 		
12. Site Assessment	<ul style="list-style-type: none"> • Any potential obstruction of pedestrian, vehicular or disabled access. • Any obstruction to the safe passage of pedestrians and wheelchair users. • Any nuisance/interruption to pedestrian flow or social distancing • The safe access and egress of customers and staff from the pitch and immediate vicinity. • Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises. • Is permission of landowner is required. 		

13. Additional Information

19 Licensing Sub-Committee Procedure

- 19.1 The Licensing Sub-Committee is made up of 2 to 3 elected City Councillors that sit on the Licensing Committee. A Licensing Officer, Legal Advisor and Democratic Services Officer shall also attend the hearing.
- 19.2 An example of procedure followed by the Licensing Sub-Committee is set out below;

Single Application Procedure

1. Introduction - all the parties attending the meeting are introduced giving their name a reason for attending.
2. The procedure for the sub-committee is explained together with any relevant law and policy considerations.
3. The Licensing Officer reads out the report.
4. Questions of clarification in respect of the report may be asked of the Licensing Officer.
5. The Applicant makes submissions in support of the application.
6. Questions of the applicant from Cllrs and Officers.
7. The Applicant and Licensing Officers leave the room to enable the sub-committee to determine the application. The Applicant may be called back into the room in during the deliberation process to answer additional questions if they arise.
8. A decision is given verbally to the Applicant.

Multiple Applications Procedure

Where more than one application is made for a street trading consent at the same site the following procedure is followed.

With all applicants in the room.

1. Introduction - all the parties attending the meeting are introduced giving their name a reason for attending.
2. The procedure for the sub-committee is explained together with any relevant law and policy consideration.
3. Each application is then considered individually in turn by the sub-committee in private.
 - a. The licensing officer reads out the report to the licensing sub-committee.
 - b. Questions of clarification in respect of the report may be asked of the Licensing Officer.
 - c. The Applicant makes submissions in support of the application.
 - d. Questions of the applicant from Cllrs and Officers.
 - e. The Applicant shall leave the room and the next application shall be considered.

4. Once all the applications have been considered, the licensing sub-committee will determine which application if any will be granted consent. Applicant(s) may be called in during the deliberation process to answer additional questions if they arise.
5. Applicants will then be called in individually for the decision to be given verbally by the Licensing Sub-Committee.

Consultation Plan

To be completed for all consultations in line with the council's Consultation Charter
For sign off by service lead and Corporate Manager (Executive Support)

1. Title of consultation	
Consultation on the revision of the Street Trading Policy	
2. Responsible officers	
Director	David Bartram
Service lead	Simon Lane
Consultation lead officer	Nigel Marston
3. Purpose of the consultation	
<p><i>The Licensing Committee set up a working group to review the Council's Street Trading Policy which was last reviewed in 2015.</i></p> <p><i>Follow the work of the group, a revised Street Trading Policy has been drafted and the Licensing Committee is now seeking the views of current consent holders, statutory bodies, business organisations, residents and businesses regarding the revised policy.</i></p>	
4. Timing, duration and key milestones	
<p>The consultation will formally commence on 22 March 2024 and finish on 31 May 2024 (10 weeks).</p> <p>The initial report seeking permission to go to consultation will be presented to the Licensing Committee on 19 March 2024.</p> <p>It is proposed that the consultation results will be taken back to the Licensing Committee on 9 July 2024.</p>	
5. Equality Impact Assessment	
<p><i>An Equalities Impact Assessment has been completed and presented with the committee report seeking permission to go out to consultation on 19 March 2024.</i></p>	
6. Consultees and how they will be consulted (survey, public meeting, exhibition, focus group)	
Consultee	Method
<i>Those most affected by the proposal (state who)</i>	Current holders of a Consent to Street Trade will be written to individually with details of the proposed change in policy and how they can engage.
<i>Exeter residents</i>	Details will be posted online under the Council's consultation pages and a public notice will be placed in the paper.
<i>General public</i>	Details will be posted online under the Council's consultation pages and a public notice will be placed in the paper.
<i>Members (ECC and DCC)</i>	Via Licensing Committee Report
<i>Partners and other statutory stakeholders</i>	<p>The following partners will be formally written to regarding the consultation.</p> <ul style="list-style-type: none"> • Devon County Council Highways • Devon and Cornwall Police

	<ul style="list-style-type: none"> • InExeter • Planning Authority • The Fire and Rescue Authority. • Persons/bodies representative of Street Trading Licence Holders • Environmental Health
<i>Other stakeholders</i>	

7. Public Sector Equality Duty

Set out any special provisions that are required to ensure that people with protected characteristics are able to partake in the consultation.

Characteristic	Special provision
<i>Age</i>	
<i>Disability(includes mobility, sensory, learning and mental health)</i>	
<i>Race/ethnicity(includes Gypsies and Travellers),</i>	
<i>Sex and gender</i>	
<i>Gender identity</i>	
<i>Religion and belief</i>	
<i>Sexual orientation</i>	
<i>Pregnant women, new and breastfeeding mothers,</i>	
<i>Marriage and civil partnership</i>	

8. Supporting information

What background information will be provided for consultees and in what format?

A copy of the draft policy will be included on the consultation page with a summary of the key changes contained within the draft policy.

9. Publicity

How will consultees be made aware of the consultation and the results?

A report will be presented to the Licensing Committee on 9 July 2024 with detailed information about the responses received in the consultation. Those who partake in the consultation will be made aware of where to access the report when it is published.

10. Accessibility

How will you ensure that consultation material meets accessibility and readability standards? (See intranet)

11. Demographics

What demographic data, if any, will be collected on consultees?

None

12. GDPR

If personal data is being collected, confirm that this has been agreed with the Data Protection Officer and that an appropriate privacy statement is included in any surveys.

In accordance with the Freedom of Information Act 2000, we will publish your response to this consultation, but will not include any personal information. If you have requested your response to be kept confidential, we may still be required to provide a summary of it.

13. Resource implications

The majority of resources will be met from the Licensing Team in sending correspondence to those identified regarding the consultation, responding to enquiries received and analysing the responses made so that they can be included in the report to be presented to committee.

Resource will be needed to assist with the web page needed and ensuring that the policy document is in an accessible format.

14. Carbon Footprint (Environmental) Implications:

There are no carbon / environmental impacts arising from the consultation.

15. Approval

<i>Service Lead</i>		<i>Corporate Manager (Executive Support)</i>	
Name		Name	
Signature		Signature	
Date		Date	

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Consultation on the draft Street Trading Policy

Description:

Exeter City Council is carrying out a consultation on the draft Street Trading Policy and we would appreciate your views to shape the new proposed policy.

The draft policy is seeking to replace the current regulations which the Council adopted in 2015.

The main aim of the proposed policy is to provide a framework for the Council to administer and regulate street trading ensuring a consistent approach is taken. The policy will serve as a reference for licence holders, enforcement officers, other responsible authorities and the Licensing Committee, as to the Council's intended vision and approach to street trading activities in the City. It will also strengthen the decision-making process for applications and support the Council's position should issues arise.

The draft policy recognises the importance of street trading to the city and that it can add to the vibrancy and vitality contributing positively to the Council's corporate plan of a prosperous local economy, healthy and active city, building great neighbourhoods and communities and a net zero carbon city.

In summary, the main changes to the draft policy are:

- a. **Mandatory requirement for basic DBS Checks on applicants and staff** – in line with other Council's, the working group felt strongly that DBS checks should be introduced to enhance the Council's role in maintaining public safety.
- b. **An assessment framework for officers to completed as part of the application process** – Birmingham City Council had an effective scoring matrix to be able to assess all applications in a consistent and transparent manner. This assessment would then be presented as an appendix to the reports pack, to aid the Licensing Sub Committee in determining all initial applications.
- c. **Enhanced health and safety requirements** – the working group were keen to see an enhanced focus on all aspects of health and safety, but in particular with respect to gas and electrical safety. Therefore, a number of mandatory requirements have been proposed to ensure that safety checks are being conducted.
- d. **Schools and Educational Establishments** – the working group were keen that the policy should provide greater clarity with respect to trading around schools and educational establishments. The proposed policy seeks to prohibit any trading within a 250m radius of a school between Monday to Fridays 08:00 and 16:00 hrs during term times.
- e. **Emissions Standards** – the Council has a clear aspiration to be Net Zero by 2030. As part of this aspiration, it is seeking that it's policies are also seeking to meet the same

commitment. Therefore, the policy sets out a proposal for all Street Traders to be zero emissions by 2030.

- f. **Enhancement of Green Spaces** – the policy seeks to remove key green spaces from the Policy so that the operational team can seek to enhance the vibrancy and safety of these locations.
- g. **Power Sources** – Exeter City Council has committed to the principles of Net Zero 2030. Therefore, preference will be given to applications that are able to demonstrate using renewable energy sources and reducing carbon emissions, particularly whilst idling.
- h. **Greater diversity in food offering** – The proposed policy will see a preference given to those applicants offering locally sourced food, include plant-based food in their menus and diverse food offering for customers.
- i. **Waste Management** – the revised policy seeks to ensure that correct waste management arrangements are in place and litter resulting from the street trading consent is cleared away. The revised policy is seeking applicants to demonstrate recycling of waste wherever possible.
- j. **Clear guidance regarding horns and chimes** – in order to reduce annoyance on communities, clear guidance has been drawn up regarding horns and chimes used by mobile traders.

For more details, please see the draft street trading policy.

How to have your say

Please can you tell us:

1. whether you broadly agree with the draft policy as a whole
2. if there are any alterations that you would like to see be made and your reason for this
3. if you would like new areas to be considered within the policy

Email responses to licensing.team@exeter.gov.uk using the subject line 'Draft Street Trading Policy Consultation', or comments by post to Licensing Team, Exeter City Council, Civic Centre, Paris Street, Exeter EX1 1RQ.

In accordance with the Freedom of Information Act 2000, we will publish your response to this consultation, but will not include any personal information. If you have requested your response to be kept confidential, we may still be required to provide a summary of it.

The closing date for submitting consultation responses is 31 May 2024

Equality Impact Assessment: *Consultation on a revised Street Trading Policy*

The Equality Act 2010 includes a general duty which requires public authorities, in the exercise of their functions, to have due regard to the need to:

- **Eliminate discrimination**, harassment and victimisation and any other conduct that is prohibited by or under the Act.
- **Advance equality of opportunity** between people who share a relevant protected characteristic and people who do not share it.
- **Foster good relations** between people who share a relevant protected characteristic and those who do not

In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

Authorities which fail to carry out equality impact assessments risk making poor and unfair decisions which may discriminate against particular groups and worsen inequality.

Committee name and date:	Report Title	Decisions being recommended:	People with protected characteristics potentially impacted by the decisions to be made:
Licensing Committee - 19 March 2024	Consultation on the revision of the Street Trading Policy	Launch of the consultation	Consent holders, resident, businesses and consumers.

Factors to consider in the assessment: For each of the groups below, an assessment has been made on whether the proposed decision will have a **positive, negative or neutral impact**. This is must be noted in the table below alongside brief details of why this conclusion has been reached and notes of any mitigation proposed. Where the impact is negative, a **high, medium or low**

assessment is given. The assessment rates the impact of the policy based on the current situation (i.e. disregarding any actions planned to be carried out in future).

High impact – a significant potential impact, risk of exposure, history of complaints, no mitigating measures in place etc.

Medium impact –some potential impact exists, some mitigating measures are in place, poor evidence

Low impact – almost no relevancy to the process, e.g. an area that is very much legislation led and where the Council has very little discretion

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
Race and ethnicity (including Gypsies and Travellers; migrant workers; asylum seekers).			It is not considered that the policy will have the potential for impact on this protected group(s)
Disability: as defined by the Equality Act – a person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse impact on their ability to carry out normal day-to-day activities.	Positive	Low	<p>This draft policy has a positive impact as it introduces a DBS checking system for applicants and staff and a higher emissions standard which can affected people in vulnerable age groups who are immune compromised.</p> <p>It is recognised that any obstructions on the highway have the potential to impact on accessibility, and that at times parts of the city are already crowded by both people and street furniture. All applications require approval of location and layout of associated furniture. This is considered by Highways where necessary and this consultation and approval is specifically designed to prevent any adverse impacts of accessibility.</p>
Sex/Gender			It is not considered that the policy will have the potential for impact on this protected group(s)
Gender reassignment			It is not considered that the policy will have the potential for impact on this protected group(s)
Religion and belief (includes no belief, some philosophical beliefs such as Buddhism and sects within religions).			It is not considered that the policy will have the potential for impact on this protected group(s)

Protected characteristic/ area of interest	Positive or Negative Impact	High, Medium or Low Impact	Reason
Sexual orientation (including heterosexual, lesbian, gay, bisexual).			It is not considered that the policy will have the potential for impact on this protected group(s)
Age (children and young people aged 0-24; adults aged 25-50; younger older people aged 51-75/80; older people 81+; frail older people; people living with age related conditions. The age categories are for illustration only as overriding consideration should be given to needs).	Positive	Low	This draft policy has a positive impact as it affords extra protections around schools, introduces a DBS checking system for applicants and staff and a higher emissions standard which can affected people in vulnerable age groups who are immune compromised.
Pregnancy and maternity including new and breast feeding mothers			It is not considered that the policy will have the potential for impact on this protected group(s)
Marriage and civil partnership status			It is not considered that the policy will have the potential for impact on this protected group(s)

Actions identified that will mitigate any negative impacts and/or promote inclusion

Officer: Simon Lane

Date: 12 February 2024

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