



LICENSING COMMITTEE REPORT

Report Title	Street Trading Fees & Consents.
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	11 th December 2012
Policy Document:	Street Trading
Directorate:	Customers and Communities

1. Purpose

1.1 This report will provide the Licensing Committee an update in relation to the current Street Trading position, the proposed increase in fees and the proposed amendments to the Street Trading consent locations.

2. Recommendations

2.1 That with immediate effect consultation can be undertaken to:-

- (i) Approve the proposed increases in Street Trading fees for inclusion in the draft consultation budget and in accordance with Appendix A.
- (ii) Approve consultation on the proposed amendments to include Street Trading pitches located within the town centre and parks and in accordance with Appendix A.
- (iii) Approve consultation for the proposed three tier structure of the fees, to include a Standard, Premium and Town Centre category and in accordance with Appendix A.

3. Issues and Choices

3.1 Report Background

Street Trading consents are regulated under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA) and authorise the selling, or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment.

This includes all hot and cold food vendors for example:

All vendors of Burgers, Kebabs, Doughnuts, Ice cream sellers etc.

It also includes:

All vendors of non-food products who trade on static pitches from any vehicle, stall, barrow, trailer, or any other moveable construction.

The granting of Street Trading consent is a matter within the general discretion of the local authority.

All streets within Northampton Borough are prohibited streets, with specified pitches granted a street trading consent. There are currently 24 street trading pitches within the Borough of Northampton, as detailed in appendix B. At present 21 locations are occupied, with 3 pending occupation.

No street trading pitches exist within the immediate vicinity of the town centre.

Each street trading pitch is currently charged the same fees regardless of the location, calculated at a rate of £100.00 per annum for each day of trading. For example a trader operating for 5 days per week would be calculated at $5 \times £100 = £500$ per annum.

Street Traders are billed annually around September/October in time for the annual renewal on the 1st November, with a small percentage opting to pay by two instalments, half due in September/October with the balance payable in April/May, incurring a supplement of £25 on each instalment.

The current annual income calculations are made up as follows:-

Trading Days Per Week	Annual Fee £	Number of Pitches	Calculation	Annual Total Income £
1 x 100	100	1	100 x 1	100
5 x 100	500	15	500 x 15	7,500
6 x 100	600	2	600 x 2	1,200
7 x 100	700	3	700 x 3	2,100
Total Income				10,900

Street Trading fees have not seen an increase since regulation commenced in 2003.

It has been identified that it is within the scope of Schedule 4 of the LGMPA that the Council could consider setting a different fee for premium areas, this being the fee structure adopted by many other towns and cities as indicated in the benchmarking exercise detailed at Appendix C.

Therefore in addition to increasing the current standard fees, it is proposed to adopt three different fee areas, creating a higher fee for pitches located within areas that have a higher footfall. The different fee areas are defined by the following categories:-

Standard Fees

Applicable to those pitches trading outside of the town centre premium area and falling within 15 metres of the public highway.

Premium Fees

To include any public park maintained by the local authority and any other street, road or highway or area falling within 15 metres of that street, road or highway located in the borough of Northampton and deemed to be a premium pitch.

Town Centre Premium Fees

Suggested town centre pitches will be at specified locations on Abington Street, Mercers Row, George Row, Bridge Street, Gold Street, St Giles Street, Derngate, Wood Hill, and The Drapery.

It is within the scope of Schedule 4 of the LGMPA for the Council to specify the exact location and period during which the street trading consent may have effect and further analysis will be undertaken to determine suitable specified locations for the town centre pitches; this is intended to be ad-hoc seasonal units, for example at Christmas, Easter, Bank Holidays etc. and to cover one-off seasonal events, it is not intended to create any permanent markets.

It is proposed to increase the street trading fees in the next financial year by 100%, with a further phased increase over the following two years and to introduce two new premium rates as detailed in the table below.

Annual Fee for each day of trading	2012/13 £	2013/14 £	2014/15 £	2015/16 £
Standard area	100	200	225	250
Premium Park Location	N/A	300	400	500

Daily Fee	12/13 £	13/14 £	14/15 £	15/16 £
Premium Town Centre Location	N/A	30	35	40

The projected fees based on the new fee structure would bring in an annual revenue income for the next 3 years as detailed in the tables below, assuming the number of traders and the amount of trading days remains the same.

2013/14

Trading Days Per Week	Annual Fee £	Number of Pitches	Calculation	Total Income £
1 X 200	200	1	200 x 1	200
5 X 200	1000	15	1,000 x 15	15,000
6 X 200	1,200	2	1,200 x 2	2,400
7 X 200	1,400	1	1,400 x 1	1,400
Premium Park Location 7 X 300	2,100	2	2,100 x 2	4,200
Premium Town Centre Location		TBC	TBC	TBC
Total Income				23,200

2014/15

Trading Days Per Week	Annual Fee £	Number of Pitches	Calculation	Total Income £
1 x 225	225	1	225 x 1	225
5 x 225	1,125	15	1,125 x 15	16,875
6 x 225	1,350	2	1,350 x 2	2,700
7 x 225	1,575	1	1,575 x 1	1,575
Premium Park Location 7 x 400	2,800	2	2,800 x 2	5,600
Premium Town Centre Location		TBC	TBC	TBC
Total Income				26,975

2015/16

Trading Days Per Week	Annual Fee £	Number of Pitches	Calculation	2015/16 Annual Total £
1 x 250	250	1	250 x 1	250
5 x 250	1,250	15	1,250 x 15	18,750
6 x 250	1,500	2	3,000 x 2	6,000
7 x 250	1,750	1	1,400 x 1	1,400
Premium Park Location 7 x 500	3,500	2	2,800 x 2	5,600
Premium Town Centre Location		TBC	TBC	TBC
Total Income				32,000

Benchmarking

The fee structure and regulation of trading varies considerably across authorities. This may be due to the different characteristics of the town or city centre.

The fees identified as higher than Northampton are primarily due to the location of street trading pitches, with higher fees being reflected in those towns or cities that have town centre pitches, or locations with a high footfall, as identified in the Deloitte report.

Example 1 - Norwich has defined street trading areas within the town centre, alongside the permanent market stalls. These are charged at a premium fee, with the fee for some pitches including the use of the stall and electricity. A lower fee is charged for those traders who operate typically on industrial estates.

Example 2 – South Northamptonshire have stalls mostly in lay-by's or on industrial estates.

Example 3 – Bristol has a variety of street trading consents within the town centre location, defined by wards that are charged a premium of £20 per day. Burger vans and similar types of street trading on the city outskirts are charged at £10 per day. Bristol also allows mobile ice cream sellers in the city centre at a flat fee of £415 per annum; these are allowed in certain consent streets and with the permission of any land owners, etc.

The proposed premium street trading fees around the parks are comparable to the lease fees currently charged in the region of £3,000 by Northampton Borough Council's Asset Management, for similar type of vendors currently operating in park locations.

A summary of the benchmarking findings are detailed in Appendix C.

Implementation

Implementation is planned for the 1st April 2013, it is recommended that the consultation period commences as soon as is practicable and runs for a period of 28 days, to be presented at the next available full Licensing Committee.

3.2 Issues

There are two existing traders located on Park Avenue South, who will fall into the premium fee category and who will face a higher increase than other existing traders. This might result in a legal challenge and negative publicity.

3.3 Choices (Options)

- 3.3.1 Agree the proposals and allow consultation to be undertaken to amend the fee structure, location of pitches and increase the fees.
- 3.3.2 Agree the proposals and allow consultation for the standard fee increase, but not implement a different fee structure, or the new location of pitches.
- 3.3.3 Agree the proposals and allow the consultation for the different fee structure, location of new pitches, but with the fees increasing by less.
- 3.3.4 Take no action and leave the fees at present rates.

4. Implications (including financial implications)

4.1 Policy

4.1.1 There would be no change to the existing policy.

4.2 Resources and Risk

4.2.1 Costs of advertising as follows:

Initial notices approximately - £400

Two consecutive weeks notices if any resolution where appropriate
approximately - £500

This will be met from the Licensing Department's advertising/legal budget.

4.2.2 In the current economic climate and with some traders already deciding to reduce the number of days trading, it is a high possibility that the increase in fees will result in a decrease in the number of financially viable locations. This could result in a shortfall in the expected income detailed above.

4.2.3 The proposals for town centre pitches may have an impact on Market Traders

4.2.4 Not increasing the fees now may result in Northampton Borough Council falling lower in future comparable reports, creating a bigger differential in the future to bring fees in line with other authorities.

4.2.5 Introducing a more complex fee structure and more locations will create additional administration work.

4.3 Legal

4.3.1 The designation of streets / roads as consented streets is lawful within the meaning of the LGMPA Schedule 4 Section 2 (1) (c)

4.3.2 The legislation under Schedule 4 of the LGMPA clearly states that the levying of fees must be reasonable and therefore in order to justify these increases and to minimise the legal challenge, a detailed rationale must be undertaken with finance to corroborate the basis of the increase, which is to optimise recovery of direct and indirect costs in delivering the street trading function.

4.3.3 It will be the Council's duty to consider any representations and take account of these when making the final decision, this decision must be reasonable/rational within the Wednesbury reasonableness principle;

"It applies to a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it"

4.4 Equality

4.4.1 There are no known equality and diversity issues in this report.

4.5 Consultees (Internal and External)

4.5.1 Customer & Cultural Services, Customer & Communities, Town Centre Manager, Finance, Legal

4.6 Other Implications

4.6.1 N/A

5. Background Papers

5.1 Local Government (Miscellaneous Provisions) Act 1982

5.2 Deloitte Draft Report

5.3 Northampton Borough Council Street Trading Policy

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APPENDIX A

Variation of fees

That with immediate effect the committee agree to:-

- (iv) Give notice of the proposed charges to licence holders
- (v) Publish a notice of the proposed changes in a local newspaper circulating in the area with a 28 day period within which representations should be made to the Council regarding the variation
- (vi) That any such representations made within the specified period be considered by the Council when finally making the decision

Designation of Street as Consent Street

The designation of a street as a consent street must be by resolution:

It is recommended that the Council advertise a notice of intention to pass a resolution in a local newspaper circulating in the area and to serve a copy of the notice on:-

- The chief officer of police for the area in which the street to be designated by the resolution is situated; and
- On any highway authority responsible for that street and
- obtained the necessary consents where the resolution relates to a street which is owned or maintainable by a relevant corporation and
- Where a resolution designates as a licence street any street maintained by a highway authority

The notice referred to above—

(a) shall contain a draft of the resolution; and

(b) shall state that representations relating to it may be made in writing to the council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.

(7) As soon as practicable after the expiry of the period specified above, the council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.

(8) After the council have considered those representations, they may, if they think fit, pass such a resolution relating to the street as is mentioned above.

(9) The council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area.

(10) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

APPENDIX B 1 - Location of Existing Street Trading Pitches

1		Tweed Road
2		Rhossili Road
3	*	Abington Park, Park Avenue South
4		Rhossili Road
5		Tyne Road
6		Lodge Way, Lodge Farm Ind Estate
7		Stone Circle Rd, Round Spinney
8		Deer Park Road
9		Lower Farm Road, Lodge Farm
10		St Gregory's Road
11		St James Mill Road
12		Quarry Park Close
13	**	Lilliput Road, Brackmills
14		Salthouse Road, Brackmills
15		Fairground Way
16	*	Park Avenue South
17		Lodge Way
18		Gambrel Road
19		Gowerton Road, Brackmills
20		Crow Lane/Ravens Way
21	**	Bunting Road
22		Heathfield Way Gladstone Road
23		Bedford Rd Near Gt Houghton Turn
24	**	A45 Sandy Lane Upton

*Yellow = Existing Trading Locations falling into Premium Fees

**Grey = Pending New Trader Occupation

APPENDIX C - Benchmarking

Town/City	Charges Levied Per Day £	Charges Levied Per Annum £	Town Centre Fees Per Annum £	Out of Town Centre Fees Per Annum £	Additional Comments
Northampton	N/A	700.00	N/A	700.00	
Peterborough	8.80 – 15.80 Day 70.00 Night	Average 6,000	N/K	N/K	mobile ice cream traders £655.00 per annum
Norwich	10.00 – 15.00	Average 1,500	Average 5,500	Average 1,500	some pitches include cost of staff and electricity
North West Leicestershire	N/A	375.00	N/A	N/A	
Nuneaton	Average 40.00	N/A	£4,000	N/A	
Bristol	10.00 – 20.00	N/A	Average 7 days trading 7,300	Average 3 days trading 1,400	allow mobile ice cream sellers, for example on tricycles in town centre locations at flat fee of £415
South Northants DC	N/A	900.00	900.00	900.00	
Corby	25.00	1,000	£1,000	1,000	