



LICENSING COMMITTEE REPORT

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

Committee Meeting Date:	11 February 2013
Policy Document:	Street Trading
Directorate:	Customers and Communities

1. Purpose

- 1.1 This report updates Committee on the consultation regarding the proposed increase in street trading fees and amendments to the street trading consent locations.
- 1.2 Committee is required to consider the two objections received in respect of these proposals.

2. Recommendations

- 2.1 Subject to due consideration of the objections detailed in Appendix A, to approve the following:-
- 2.2 Approve the three tier structure of the fees, to include a Standard, Premium and Town Centre category, in accordance with paragraph 3.1.17.
- 2.3 Approve the proposed increases in street trading fees for inclusion in the draft consultation budget, in accordance with paragraph 3.1.17.

3. Issues and Choices

3.1 Report Background

- 3.1.1 At its meeting of 11 December 2012, Licensing Committee agreed to consult on proposed increases in street trading fees and setting a new three tier structure.

- 3.1.2 All street traders were notified in writing with regard to the proposed increases and the statutory advertisement was placed in the local press and on the council website setting out the proposed increases and new fee structure.
- 3.1.3 Committee also agreed to consult on proposals to adopt street trading pitches within the town centre; this is still pending further analysis to determine suitable locations and periods of trading, etc. This will be presented to Committee, once analysis and consultation has been completed. However, the proposed fee for a town centre premium pitch can be adopted now.
- 3.1.4 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, of any article in a street. The term 'street' includes any road, footway or other area to which the public has access without payment.

This includes all hot and cold food vendors, for example:

All vendors of burgers, kebabs, doughnuts, ice cream, 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.

- 3.1.5 The granting of street trading consent is a matter within the general discretion of the local authority.
- 3.1.6 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, as detailed in Appendix B. At present 21 locations are occupied, with 3 pending occupation.
- 3.1.7 No street trading pitches exist within the immediate vicinity of the town centre.
- 3.1.8 Each street trading pitch is currently charged the same fee regardless of the location, calculated at a rate of £100 per annum for each day of the week of trading. For example a trader operating for 5 days per week would be calculated at $5 \times £100 = £500$ per annum.
- 3.1.9 Street traders are billed annually around September/October in time for renewal on the 1 November, with a small percentage opting to pay by two instalments, part due in September/October with the balance payable in April/May, incurring a supplement of £25 on each instalment.
- 3.1.10 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

3.1.11 Street trading fees have not been increased since regulation commenced in 2003.

3.1.12 It has been identified that under Schedule 4 of the LGMPA 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 at Appendix C.

3.1.13 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:-

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

3.1.15 **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.

3.1.16 **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.

3.1.17 It is proposed to increase 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 for each day of trading	2012/13 £	2013/14 £	2014/15 £	2015/16 £
Premium Town Centre Location	N/A	30	35	40

3.1.18 The projected fees based on the new fee structure would bring in an annual revenue income for the next three 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	3,500 x 2	7,000
Premium Town Centre Location		TBC	TBC	TBC
Total Income				33,400

- 3.1.18 **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.
- 3.1.19 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 higher footfall.
- 3.1.20 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.
- 3.1.21 Example 2 - South Northamptonshire has stalls mostly in lay-bys or on industrial estates.
- 3.1.22 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.
- 3.1.23 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 Department, for similar type of vendors currently operating in park locations.
- 3.1.24 A summary of the benchmarking findings is detailed in Appendix C.
- 3.1.25 A recent income/expenditure analysis carried out with the finance department is attached at Appendix D.
- 3.1.26 Implementation is planned for 1 April 2013 and it is proposed that increases will first apply to those traders who usually pay twice yearly on their next invoice around April/May 2013 and those traders who pay annually will see the increase in their invoices due around September/October of 2013.

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 increase in fees and a different fee structure for the premium areas.

- 3.3.2 Agree the increase in fees for standard areas to apply across the town, regardless of location and not adopt a different fee for premium areas.
- 3.3.3 Agree an increase in fees different to that proposed.
- 3.3.4 Take no action and leave the fees at current rates.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 There would be no change to the existing street trading policy regarding the prohibited streets and consent locations. There will be a change to the existing fee structure. The fee structure has not been increased since Street Trading Consents were introduced in 2003.

4.2 Resources and Risk

- 4.2.1 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 impact in the estimated income detailed above.
- 4.2.2 Not increasing 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.
- 4.2.3 Not Increasing the current fees would retain the burden on the council tax payer at this time amounting to £17000.00. An increased income from £10900.00 to £15266.00 could be achieved in the current financial year from those traders electing to pay by instalment. (Appendix D)

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 resulting from these proposals.

4.5 Consultees (Internal and External)

4.5.1 Street Traders, Finance, Legal

4.6 Other Implications

4.6.1 N/A

5. Background Papers

5.1 Local Government (Miscellaneous Provisions) Act 1982

5.2 Northampton Borough Council Street Trading Policy

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