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| Report to: | Licensing Committee |
| Date: | 13 August 2020 |
| Title: | Street Trading Guidance Review |
| Report of: | Tim Whelan - Director of Service Delivery |
| Ward(s): | All |
| Purpose of report: | <ol style="list-style-type: none"> 1. Report back the findings of the consultation on the proposed reviewed Street Trading Guidance. 2. To agree a final Guidance document to be adopted on a date to be agreed. |
| Officer recommendation(s): | <ol style="list-style-type: none"> 1) That the Committee considers the consultation responses received in Appendix 1. 2) That the Committee considers the changes to the Guidance following the responses and agrees new Guidance in Appendix 2. 3) That the Committee delegates the Senior Specialist Advisor to take the necessary steps to produce a final Street Trading Guidance and publish the new Guidance on a date to be agreed. |
| Reasons for recommendations: | The Council have committed to review the Street Trading Guidance every 5 years. The use of Lewes pedestrian precinct has intensified since the Guidance was last reviewed. |
| Contact Officer(s): | Name: Ed Hele Post title: Functional Lead Quality Environment E-mail: ed.hele@lewes-eastbourne.gov.uk Telephone number: 01273 085014 |

- 1 Introduction**
- 1.1 The Committee previously agreed the Street Trading Guidance together with an application process and conditions for Lewes District Council in May 2014. The Guidance was then reviewed in March 2015.
- 1.2 The Council have committed to reviewing the Guidance when required and at a minimum once every 5 years.

- 1.3 There has been an increase in the use of the Lewes pedestrian precinct by individual stalls and markets which has caused friction with existing business premises. Feedback has been received regarding the use of the precinct including concern about the intensification in the use of the precinct and the appearance of stalls and seating.
- 1.4 The Committee considered a draft Street Trading Guidance on 14th February 2019 and agreed for this document to go out for consultation.

2 Consultation Process

- 2.1 A wide ranging consultation took place from 22nd March 2019 for a period of 6 weeks. A press release was issued and all existing traders were written to make them aware of the proposed changes. It is also apparent that existing traders made their customers aware. A large number of responses were received with a total of 184 responses and these are attached as Appendix 1. It was intended to bring this back to Committee in the Spring but this has been delayed due the current coronavirus situation.
- 2.2 The majority of responses were extremely supportive of existing street traders and markets with negative comments being in the minority. Comments received highlighted the value for money, sustainability of plastic free packaging and protecting the size of existing stalls on the precinct. Comments were received from businesses, existing traders and members of the public.

3 Consultation Responses and Recommendations

- 3.1 The responses have been carefully considered and the following points aim to respond to the points raised. Each one is referenced by page number and shaded grey in the Guidance document which can be found at Appendix 2. The Committee are asked to consider each point in turn below in paragraphs 3.2 – 3.17 so that Guidance can be finalised.
- 3.2 It was apparent that the Guidance was not clear in parts so a number of explanations/clarity has been provided on pg.'s 3, 4, 5, 6, 7 & 8
- 3.3 Paragraphs regarding markets have been moved for clarity to pg. 8
- 3.4 In response to advice from the planning team a paragraph regarding planning permission has been added, on pg. 9
- 3.5 The setting up period has been increased from 90 to 120 minutes to allow a longer period of time for setting up, pg 18 condition 20.
- 3.6 To address the response from Highways an additional condition is included with regards to discharge of waste or waste water on pg. 21
- 3.7 Feedback from the consultation has suggested that plastic bags should not be used. A new condition is proposed, condition 21, to not allow plastic bags unless for raw meat products on pg. 21

- 3.8 Clarity has been provided on the wording of condition 15 on pg. 24
- 3.9 The inclusion of a condition allowing a distance of 2.5 m of shop fronts and 3m breaks after every 6m run of stalls. Condition 16 on pg 25. This is in relation to response No. 2 in Appendix 1.
- 3.10 In response to sustainability concerns it is proposed to not permit generators either petrol or diesel. Appendix H on pgs 27/28
- 3.11 Halls Fruits and Bedding and Bushes currently have extensive stall layouts and a significant number of responses have been received concerned that proposals will adversely affect their stalls by reducing their size. On pg 24 condition 15 does state “without prior approval” and it is envisaged that these would be given approval if plans were submitted detailing the design and stall layout. Officers could then assess the layout against the plans.

It is accepted however that this doesn't give these traders much protection. It may be more appropriate in the circumstances for them to apply for multiple stalls with dimensions of 2.5 metres x 1.5 metres and pay additional fees.

Another option would be to specifically exclude these 2 stall holders from the dimension condition. For the sake of clarity consents are not transferrable in the Guidance.

- 3.12 From the consultation responses Members are asked to consider whether to increase fees to allow for the Council to contract for independent cleaning of Lewes pedestrian precinct immediately after the end of a street trading event. Members are asked to note that under the Local Government (Miscellaneous Provisions) Act 1982 Sch. 4 para 9 (1) the Council may charge such fees as they consider reasonable for the grant or renewal of a street trading consent. However, it is noted that whilst the Council can recover from a licence holder such reasonable charges as they may determine for the collection of refuse, etc there is no similar provision in relation to consent holders and so this could be open to challenge. In any case there is a concern that this would be too cost prohibitive for individual day traders.
- 3.13 In Appendix 1 response number 2 suggests that street traders must have a tidy and presentable stall and engage staff that are also presentable. They want the Council to enforce this by regular and critical inspections. Appendix D to the Guidance provides detailed stall design and dimensions. Members are asked to consider if they want a dress code imposed on stall holders.
- 3.14 In Appendix 1 response number 2 suggests street traders should not be permitted to sell any product that is sold by shops on the precinct. Members are asked to consider this response. The proposed Guidance suggests at page 4 (section 4, o) that due to the nature of a market they should be permitted to sell a variety of goods regardless of nearby fixed businesses but they may be restricted on the number of lines of a product. Page 4 of the Guidance does make a presumption against grant of a consent for street traders where there is direct competition within 100 metres unless the consent holder is a market operator.

- 3.15 In Appendix 1 response number 2 suggests that no vehicles (including trailers) should be allowed in the precinct between 6.30 am and 6.00 pm. Members are asked to consider this response and note that markets and stall holders may find it problematic to set up and take down the stalls if this were to apply.
- 3.16 In Appendix 1 response number 2 suggests a street trader must be fully setup before 7am and must not dismantle until after 6pm. Members are asked to consider this response and note the Saturday market operates until lunchtime so it may be impracticable to require them to not dismantle until 6.00pm.
- 3.17 Changes have been made to the Guidance following the Business and Planning Act 2020 which are reflected on page 8 at section 13.
- 3.18 The issue of buskers or pedlars have not been considered as they are a separate issue and covered under different legislation.

4 Financial appraisal

- 4.1 There are no direct financial implications associated with this report. However, for information the 2020/21 income budget for street trading is £3,000.

5 Legal implications

- 5.1 The Legal Section considered this Report on 4 August 2020 (Iken-8034-LDC-MW).

6 Risk management implications

- 6.1 If the Council does not have an effective street trading regime in place that is subject to proper oversight by Councillors it will not be able to demonstrate that it has in place adequate means to safeguard council assets and services, and it could be subject to criticism from the council's external auditor or the public.

7 Equality analysis

- 7.1 An Equality & Fairness Analysis has been completed and concluded that there are no negative impacts identified for protected groups. Changes to set up times and stall parameters may have positive impacts for disabled, elderly and people with mobility issues, and their carers. It may also improve accessibility for expectant mothers and those with children in pushchairs.

8 Sustainability implications

- 8.1 The new Guidance if implemented will cease the use of single use plastic bags and the use of petrol and diesel generators will no longer be permitted. There was overwhelming support for these changes in the consultation.

9 Appendices

- Appendix 1 – Consultation responses
- Appendix 2 – Proposed final Street Trading Guidance

10 Background papers

The background papers used in compiling this report were as follows:

- Licensing Committee [14 Feb 2019 10.00 am](#)