

**Agenda Item No: 4**

**Report to: Cabinet**

**Date of Meeting: 6 October 2014**

**Report Title: Street Trading Policy**

**Report By: Richard Homewood, Director of Environmental Services**

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### **Purpose of Report**

To propose an updated policy for the continued management and development of street trading (including markets).

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### **Recommendation(s)**

- 1. The street trading and highways licensing policy attached to this report is agreed and recommended to full Council for adoption.**

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### **Reasons for Recommendations**

To support the growth and retention of markets in Hastings and encourage a high quality street trading environment.

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## Background

1. Street trading has long been an integral part of urban life. Successful markets add to the character and vibrancy of towns, attracting visitors and shoppers into the area. They can also provide valuable and relatively low cost opportunities, at minimal risk, for local people to start up in business. Animation of the public realm is a recognised way of adding to the attractiveness of urban areas, and commercial activity in the public realm can bring added vibrancy and appeal.
2. Street stalls and markets have been a feature in Hastings town centre since the late nineties and, occasionally, in other parts of the town. The frequency of street markets and other commercial activity in the public realm has been increasing in recent years, particularly in the town centre, but also now in St Leonards and on the Stade.
3. The Council revised its Street Trading and Highway Licensing Policy in August 2004 and this remains the current policy. In addition to supporting the establishment of a regular Farmers Market, eleven defined pitches within the town centre were allocated for street trading. These are scattered across the main pedestrianised areas and include pitches in Station Road (4), the Memorial area (3), Robertson Street (2), and Wellington Place (2).
4. The policy allows for the issuing of street trading consents in respect of the following:
  - Goods for sale that are likely to enhance the character and atmosphere of the pedestrianised areas.
  - Sale of small novelty items and mobile catering stalls/vans at large scale street events (eg carnival, bonfire procession).
  - Farmers Market (charges waived).
  - Charitable and non-commercial groups' activities that do not conflict with authorised street collections (waiver of charges dependent on individual circumstances).
5. The current policy states that street trading consents will not normally be issued in respect of catering vendors, eg ice cream, hot dogs, etc. The reason for this is because at the time the policy was adopted in 2004 it was considered that there was already adequate provision of diverse and good quality catering outlets throughout the areas concerned.
6. There are normally two types of charges connected to street trading. The Council charges a fee for issuing a street trading consent (consents can be refused). There are also other charges imposed by the market organiser for the rental or use of the space.
7. When the Council adopted the street trading provisions of the Local Government (Miscellaneous Provisions) Act 1982, it applied them to all streets throughout the

borough, as well as public spaces and Council car parks. They do not apply to private land.

## Development of markets and street trading activity in Hastings

### Farmers Market/Local Market

8. Between 2004-2009 the Council and the Town Centre Management (TCM) partnership supported the efforts of the Community Fruit and Vegetable Project to establish a regular Farmers Market in the town centre. The viability of this market proved to be unsustainable for the organisation but (again with the support of the Council and TCM partnership), a successor organisation, the Hastings Town Centre Market Company (HTCMC), was formed in 2010 and has operated a weekly market each Thursday ever since that time.
9. The original aim of the weekly market was that the type of goods to be sold would be predominantly fresh and locally made or sourced produce, with 60% of the goods traded by primary producers and 40% by secondary producers or non-food items. In actuality, the market in its current form is now best described as a local market, and the goods traded are variable in nature and quality. The HTCMC charges rental fees to the stallholders, and a proportion of this is paid to the TCM partnership. Trading consents are currently issued by the Council at no cost to the stallholders, in accordance with the Cabinet resolution in 2004.
10. Applications for stalls and siting of stalls are vetted by the Town Centre Manager, and the day to day running of the market is handled by the HTCMC.
11. Several town centre businesses started life in this small local market, developing their business skills and customer base to sustain a move to a permanent premises.
12. Over the past year or so there have been concerns expressed that the general appearance of the town centre market detracts from the physical environment, and that the type and quality of some of the goods traded reinforce negative perceptions of the town. Recently, on one occasion a trader without a valid street trading licence traded in dangerous goods (knives), which is clearly the reverse of the image the Council and TCM want to promote for our markets.

### Themed markets

13. The TCM partnership continues to organise themed markets from time to time in the town centre, and these are generally programmed to complement other seasonal events and the town's established retail activity. Fees for these markets are set and collected by the TCM partnership. The street trading consent fees are part of that arrangement and are forwarded to the Council's licensing team for the consents to be issued. The quality, appearance and management of these markets are generally of a high standard, and they are perceived to be as much of an event as they are a commercial undertaking.

### Other commercial activity.

14. Under a Highways licence, the TCM partnership promotes and rents out the defined commercial pitches, and the Town Centre Manager controls and manages

the day to day operation of this commercial activity. The TCM partnership charges occupiers a rental fee (based on the type of activity and length of agreement). Those also requiring a street trading consent are issued these by the Council, and these fees are again calculated on an individual basis. The charge is generally £20 per day for traders from outside the borough and £5 per day for persons either living or trading within the Borough. Special discounted rates and payment arrangements (e.g. monthly standing orders) are set up and negotiated for long-term positions in other parts of the town.

15. In recent years, there have been several themed or one-off street markets in other parts of the town, including St Leonards. The St Leonards Town Team hopes to encourage the establishment of regular markets in the future to add to the retail offer and enliven the public spaces in the heart of Central St Leonards. The street trading consent charges for these are again either £20 or £5 per day per stall depending on whether or not the trader lives or runs a business in the Borough.
16. Last year, a regular weekly market was established on the Stade Open Space in the Old Town. The goods sold in this market are predominantly food and crafts, and the street trading consent charges are as above for other markets.

### **Markets on Council premises**

17. The Council provides space for markets on the Stade and in St Leonards and would obviously wish to encourage markets in other locations within the Borough where they would add interest, enhance the commercial life of an area and create employment or self employment.
18. The standard charge (as distinct from consent fees for stall holders) is £410 a day per market, but this is waived or reduced when appropriate to encourage the development of a new business. An example of this was the market held on the Stade which received a substantial initial discount which it is hoped will encourage its return in the future.

### **Need for change**

19. There has been significant growth in the frequency and type of trading activity in recent years. The growth has been organic, and as a result there are now distinct variations in the quality of the markets and goods traded, as well as the visual appearance of the markets themselves and their impact on the surrounding area. There is also a significant variation in the charges imposed on stallholders which, in turn, can affect market viability.
20. It is clearly time to review current practices and policy with a view to ensuring that street trading in Hastings contributes to the regeneration of the town, while enabling profitable trading under conditions that are transparent and equitable. The policy should encourage commercial activity that enhances the distinctive character of the different parts of the town and ensures that traders adhere to good standards common to all responsible commercial operations.

## Proposed revisions to the Street Trading and Highways Licensing Policy

21. The Council will continue to encourage markets and commercial activity on the streets that enhance the environment and enliven public spaces, that attract people into the area, and that complement existing activity. While recognising that different parts of the town have their own unique characters, it is proposed that the following set of broad principles be established that would be applicable to all types of markets:

- a) Each market's physical appearance, management and trading activity should complement the character, ambience and safety of the local environment. Each market is to operate within clearly defined terms and conditions.
- b) Stalls must be visually appealing, be of sound construction, adequate for the purposes intended, not exceed the specified pitch dimensions, and be of a design and appearance that is consistent with other stalls in the same market.
- c) Stalls will be permitted only on pitches previously agreed by the Council at each market location.
- d) Each market will have a designated Market Controller, approved in advance by the Council, who will be responsible for the legal and safe operation of the market. The Market Controller will ensure that the market organisation's and traders' submit applications for street trading consents within the timescales agreed. The Market Controller will also ensure full compliance with any other terms and conditions established by the Council. The Market Controller will charge and collect market fees which are to be agreed in advance by the Council. The fees to be set should not exceed the market management costs and associated overheads and should include a sum sufficient to cover the trading consent fees which will be paid to the Council.
- e) Hours of trading should be aligned to the surrounding retail activity and take into account public safety/crime prevention factors.
- f) A standardised consent fee structure be established and applied across the borough. It is proposed that the Council will charge a £15 per day street trading consent fee per stall, irrespective of where in the Borough the trading takes place, and irrespective of where the applicant lives, and include discounted charges for longer term trading (see paragraphs 27 and 28 for more details on these charges).

### Town Centre Management Committee [TCM]

22. There has been considerable discussion with TCM and its parent organisation Lets Do Business about the concerns identified earlier in this report. TCM has agreed to implement a more proactive approach to managing street trading activity in the town centre to better ensure compliance with trading conditions and a more appealing environment for visitors and traders. We are now in the process of agreeing a Memorandum of Understanding [MOU] between the Council and TCM, which clarifies in some detail how TCM will manage markets and co-operate with

the Council to ensure a safe and attractive environment. The MOU will be consistent with the new borough wide street trading and highway licensing policy.

## Development

23. There is no contradiction between a policy ensuring a quality environment and a commitment to encouraging growth and new entrants to market and street trading.
24. It is intended that the operation of charges both through TCM and HBC should continue to be flexible enough to encourage new enterprise, and it is encouraging that students from the University have recently begun to develop a student market. As internet shopping grows in significance, town centres will have to provide different reasons to visit and different offers for potential customers. Markets are both social and commercial in nature, and can offer entry into business for people at a relatively low initial cost. For this reason they are a potential opportunity for people facing disadvantage including women, ethnic minorities and those without formal qualifications or recognised skills. A market stall is a relatively low risk way of developing business skills and the Economic Development team has worked to develop this in St Leonards in particular. The Council should seek to continue to develop such opportunities as they arise. During 2014/15 the Council will work with TCM to identify if there are training opportunities or other support which could encourage existing or potential stall holders.
25. Meetings have been held with several key stakeholders during the review of the Council's street trading and highway licensing policy. In addition to TCM/LDBG, there have been meetings with the organisers of the 3 markets currently operating across the borough in Central St Leonards, the Town Centre and the Stade Open Space.
26. The meetings with the trade were very constructive and resulted in proposals for consistent borough wide street trading consent fees, rather than different fees depending upon whether the trader is from Hastings or outside the borough. Plus the simplification of some of the street trading licensing procedures, particularly in relation to offering a single licence covering all Hastings markets.
27. As mentioned in paragraph 21(f) a daily street trading consent fee of £15 per stall is proposed, and that this is discounted to £1511 for traders applying annually and paying by monthly standing order. We believe that this level of street trading consent fee is fair and reasonable, given that the law allows for the licensing authority to recoup the cost of administering the licensing process and checking compliance with the conditions attached to the street trading consents.
28. Clearly every time an individual trader applies for consent to trade at a particular location the Council need to process their application and this incurs cost each time. If a trader chooses to apply on an ad hoc basis the processing costs are therefore far greater than if they apply for an annual consent. Although this scenario is unlikely, if a trader applied on an ad hoc basis to trade 3 days a week it would cost them £2,340. Whereas an annual consent would only be £1,511. The annual approach also gives the trader far more scope to trade at that location.

29. However, if serious problems associated with the operation of the stall arise, and if they cannot be resolved with the trader, the terms of the trading consent can be varied, or as a last resort the consent can be revoked.
30. It is also proposed that different street trading consent fees be applied to approved markets, such as those operating at the Stade, Central St Leonards and the town centre. This is to reflect the work carried out by the Market Controllers, which should slightly reduce the Council's administrative work involved in processing individual street trading consent applications, and checking compliance. The street trading consent fees proposed for markets are as follows:-

	Monthly	Quarterly	Annual
All markets	£25	£65	£250
One market	£15	£40	£150

31. East Sussex County Council has indicated that it will delegate several Highways Act licensing and enforcement powers to the Borough Council on a borough wide basis. The aim is to assist in the effective overall management of commercial street activity in Hastings. This will include licensing tables and chairs areas outside premises, and temporary use of the highway such as in pedestrianised areas. These arrangements will be set out in a Service Level Agreement between ESCC and the Council, which it is hoped will take effect from April 2015. The Council will work closely with TCM where the activities they manage require highways licensing.

## Policy Implications

### Economic/Financial

32. It is essential to ensure a properly run market environment in order to benefit both shop based trading and the entrepreneurs involved in markets. Markets are an essential component in the offer of our town centres and seafront. The new Street Trading and Highway Licensing Policy is intended as a framework to encourage this.

### Equalities

33. Markets offer opportunities to those from economically disadvantaged backgrounds to gain a foothold in the local economy and generate wealth. They are a low cost option into business life.

### Community Safety

34. It is the responsibility of the Council to ensure markets operate safely and legally. The policy provides a clear framework to provide an environment which protects the public and assures them of the quality of what is offered. The Council's Licensing Team already work very closely with the County Council Fair Trading Officer, sharing intelligence in relation to the sale of counterfeit goods and enforcement action is taken when appropriate.

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## Wards Affected

All

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Report Template v25.0

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**Area(s) Affected**

All

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**Policy Implications**

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	
Risk Management	
Environmental Issues	
Economic/Financial Implications	Yes
Human Rights Act	
Organisational Consequences	
Local People's Views	

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**Background Information**

Appendix A – Draft Street Trading and Highways Licensing Policy

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**Officer to Contact**

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## **DRAFT STREET TRADING AND HIGHWAY LICENSING POLICY**

### **Preamble**

1. The Borough Council regards street trading, markets and other highway based promotional activities as valuable ways to increase the attractiveness of the town centres, and other locations, promote trade and offer new employment possibilities.
2. The Council believes that only a high quality of provision can support the improvement of the local economy and environment.

### **Types of Trading/Commercial Activity**

3. The Council will seek a diverse range of provision but will not grant consents for street trading, or Highways Act licences for temporary use of a part of the highway in relation to the following:-
  - i) The sale of weapons or items that clearly might be used as weapons.
  - ii) Pets and livestock.
  - iii) Items likely to give offence on grounds of gender, sexuality, religion, disability, age or of an obscene nature.
  - iv) Activities promoting insurance claims.
  - v) Sale of goods or raising funds associated with political or religious activity.
4. Additionally the Council will not normally licence catering outlets on market stalls in Hastings except where these form part of a thematic or ethnic markets promoting a particular seasonal or ethnic menu.
5. The Council particularly welcomes initiatives which enable local business to sell locally sourced products and/or bring a diversity of experience to shoppers and visitors.
6. The Council will seek to advise (and where appropriate) assist new markets alongside other partners like Town Centre Management Group, traders associations and regeneration initiatives.

### **Street Trading Consent Licensing Fee Charges for Stall Holders**

7. The Council's street trading consent fees will be as set out in the following paragraphs and reviewed annually.
8. The Council will charge a £15 per day street trading consent fee per stall irrespective of where in the Borough the trading takes place, and irrespective of where the applicant lives. This will be discounted to £1511 for traders applying annually and paying by monthly standing order.
9. Furthermore, different street trading consent fees be applied to approved markets, such as those operating at the Stade, Central St Leonards and the town centre. This is to reflect the work carried out by the Market Controllers, which should slightly reduce the Council's administrative work involved in processing individual

street trading consent applications, and checking compliance. The street trading consent fees proposed for markets are as follows:-

	Monthly	Quarterly	Annual
All markets	£25	£65	£250
One market	£15	£40	£150

10. This charge will not be set aside except for fixed periods as new markets develop, but shall not be for a period of more than 6 months.

### **Charges for Trading**

11. The Lets Do Business Group (LDBG) acting through Town Centre Management Committee will set charges for markets and on street trading in Hastings Town Centre subject to consultation with and approval by Hastings Borough Council.
12. The Council will charge a fee per day for the commercial use of the Council's land for a market, but this can be varied, particularly to encourage the development and growth of new business. The fee level is set annually.
13. Highways permits for obstructions to purpose built footways and pedestrianised areas should generally only be issued in respect of the following activities:-
- i) Tables and chairs
  - ii) Display of goods
  - iii) Promotional and/or commercial activities compatible with the general aims and provisions of this policy.
14. Highways Act licensing charges will be agreed by the ESCC as they are the Highways Authority and the Council will be acting as their agent in this regard.

### **Expected Standards**

15. The Council will continue to encourage markets and commercial activity on the streets that enhance the environment and enliven public spaces, that attract people into the area, and that complement existing activity. While recognising that different parts of the town have their own unique characters, it is proposed that the following set of broad principles be established that would be applicable to all types of markets:
- i) Each market's physical appearance, management and trading activity should complement the character, ambience and safety of the local environment. Each market is to operate within clearly defined terms and conditions.
  - ii) Stalls must be visually appealing, be of sound construction, adequate for the purposes intended, not exceed the pitch dimensions, and be of a design and appearance that is consistent with other stalls in the same market.
  - iii) Stalls are permitted only on pitches previously agreed by the Council at each market location.

- iv) Each market will have a designated market controller, approved in advance by the Council, who will be responsible for the legal and safe operation of the market and the market organisation's and traders' full compliance with any other terms and conditions established by the Council. The market controller will charge and collect market fees which are to be agreed in advance by the Council. The fees to be set should not exceed the market management costs and associated overheads and should include a sum sufficient to cover the trading consent fees which will be paid to the Council
  - v) Hours of trading should be aligned to the surrounding retail activity and take into account public safety/crime prevention factors.
16. The Borough Licensing Team will periodically monitor for compliance with trading conditions and other health and safety requirements and that the Market Controller is routinely supervising and managing the markets activities to ensure that all markets comply with agreed pitches for trading and all other health and safety requirements.

### **Business Support**

17. The Council wishes to support the development of high quality and successful street trading. It will consider support with training, information, publicity and other tools in the right circumstances.