

Licensing & Regulatory Committee

Report from the Director – Environment, Transport and Planning

Street Trading Consent Policy update

Summary

1. As requested at the Licencing and Gambling Committee on 8 October 2024, this report updates Members on the progress towards implementing a Street Trading Policy.

Recommendations

2. There are no recommendations as this report is for information only.

Background

3. The City of York Council (“the Council”) does not currently have a formal Street Trading Policy, instead it has a designated web page containing an application form and guidance notes. Street Trading Consents (“STC”) are also issued subject to standard conditions. There is no legal requirement to have a Policy, however it is considered good practice to ensure that all requirements relating to street trading are contained within one accessible policy document.
4. In 1997, the recently formed City of York Council followed its predecessor, York City Council, and adopted the provisions of Schedule 4 of the Local Government Miscellaneous Provisions Act 1982 (‘the Act’). As such, every street within the Council area was designated a ‘consent street’ for the purposes of street trading. It means that street trading can only take place in the city where the Council consents to it, and within the city walls in particular, a number of established sites have been agreed. A list of those established sites is contained in Annex 1. Given the city’s narrow, busy streets and

essential infrastructure such as barriers, dropped curbs etc as well as the demands of the space by others, managing the space is increasingly challenging.

5. Make It York was established in 2014 and have responsibility for city centre management, as well as organising events to attract visitors. Make It York's main event is the annual Christmas Market which has become ever more popular over the years. In 2023, reports state it attracted between 200,000 and 300,000 visitors a week. Such is the success of the Christmas Market, there have been reports of overcrowding in recent years. Make it York have redesigned the Market to mitigate this, but the success of the Christmas Market means this remains a challenge. As the event organisers, Make It York are responsible for the safety and overall operation of the event. Make It York currently plan the Christmas Market around the street traders' existing sites but exert no control over them. Make It York also currently operate the York Ice Trial (ice sculptures in various locations around York), and a Halloween Festival (a new event for 2024). N.B Other events, such as the Food and Drink Festival, are not organised by Make It York, they are given permission by Make It York to use space(s) within the city centre, in which case the particular event organiser is responsible for their event. It is noted that the Council has also since committed to work with Make it York to find a way to permit blue badge access to the Christmas Market in 2025. As well as alleviating the crowd issues/customer experience, this is also likely to require changes to the Christmas Market event layout.
6. With regard to STC fees, the sites are individually assessed by officers on a 'market value rate' taking into account the location ('inside' or 'outside' of the city walls) and the items sold (broken down into 'ice cream', 'food' and 'non-food'). The most expensive sites are currently £8k per year (£667 per month). Many traders pay in monthly instalments. By way of comparison, the fee for a market stall on the Shambles Market is £25-40 per day/circa £10k per year (although it is recognised that street traders provide their own stall and power which are provided on the market). Some on-line research has identified that Oxford City Council charge £8175 for an annual STC, whilst Canterbury City Council's fee is £31.65 a day or £11.5k over a 365 day year.

7. Under the Act, STCs may only be issued for up to a year. Every year, around February/March, the existing STC holders are simply invited to renew their consents, there is no tendering process or similar. Within the conditions, there are no commitments to a minimum number of trading days as is the case in some other councils, and no alignment of conditions or other requirements in line with Council Plan objectives. The existing conditions state that '*On occasion it is necessary for a vehicle or unit on a static site to move location*' (see para 18 below for more details), and if the conditions are not complied with, may ultimately be revoked. There is a 'waiting list' of people who have shown an interest in trading in the city centre, although it is for specific sites. There are currently 37 people on the waiting list. These would be offered if an existing consent holder declined to renew or surrendered their consent. Outside of the city centre there are several ice cream and sandwich rounds, most of the fixed trading sites are on private land (a STC is also required to trade on private land which is accessible to the public without paying a fee). NB Fees are reduced for traders trading on private land as they also pay rent to the landowner.
8. In view of the potential changes to STC conditions in this financial year, STCs were initially only granted for six months from 1 April to 30 September 2024. However, as a result of the feedback from the consultation, the STCs were immediately re-issued for the remaining six months of the year i.e to the end of March 2025, and Make It York agreed to continue to work to accommodate the street traders' existing sites in the Christmas Market, as they have in previous years. This demonstrates that the Council responded to the feedback received from the consultation.

The Draft Policy

9. Officers prepared a draft Street Trading Policy which largely followed existing provisions. A copy of the draft policy is contained at Annex 2. Officers then consulted upon the draft in the usual way. Holders of STCs were consulted. It is important to stress, that the Policy was simply a draft for consultation/comment. As is noted elsewhere in the report, diverging views were received and where appropriately and immediately acted upon. The key changes consulted upon were:

10. Section 7.1

‘A consent holder cannot sell or transfer the trading site to another trader. If a consent holder no longer wishes to trade from a site, they must surrender the consent to the Council. This is a condition of the street trading consent.’

This is added as a condition.

Reason – traders do not own the trading site it is public highway; we have found that some traders sell their trading sites without informing the Council , in some cases we have only found out at renewal periods.

11. Section 8.2

‘Make It York (MIY) deliver and oversee several events that take place in York city centre throughout the year, some of which are large scale and attract many visitors, for example the Christmas Market. Street trading consent enables traders to make use of the public highway (public space) at times when it is not been used for MIY delivered events, therefore it is not guaranteed that consent holders will be able to trade during MIY delivered events. Consent holders will be given advance notice of when events are taking place that will prevent them trading, the consent will be suspended for the period of the event. Street trading consent fees are set to reflect the periods that traders are unable to trade. If it is appropriate to the event, MIY will offer the trader the opportunity to be part of the event, an additional fee may be payable to MIY. MIY contact information can be found at Annex 4.’

Reason – currently MIY deliver events such as the Christmas Market, and have street traders, that are not part of their event, within the footprint. In recent years there has been feedback that the event is overcrowded. There are complaints about the events being overcrowded. As such, Make It York require ability to redesign the layout of the Christmas Market.

12. Annex 1 Pedlars – added to clarify how pedlars operate including that pedlars’ certificates are issued and enforced by the police.

13. Annex 2 Conditions – the only new proposed conditions are:

Street trading sites on the public highways:

18. Trading sites on the public highway cannot be sold or transferred by the consent holder. If a consent holder no longer wishes to trade from a site, they must surrender the consent to the Council.

Reason – to prevent the practice of consents being sold on by consent holders.

19. If events are taking place on the public highway in the city centre the street trading consent may be suspended for the duration of the events.

Reason – to give effect to paragraph 8.2

20. Annex 3 and 4 – added for info.

Consultation

21. The consultation ran from 8 April until 30 June 2024. There were 20 responses in total. Full details of the responses will be provided in the Street Trading Policy report in due course. There were opposing views. The most feedback received was in response to paragraph 8.2 which was opposed by existing STC holders in particular. Furthermore, at this Committee on 8 October, a number of STC holders spoke and presented a 'charter of rights for street traders' which the Council were urged to consider. A copy of the charter is contained in Annex 3. Whilst there is no provision for a 'charter of rights' as such, at least some of the principles may be appropriate to feed into a Street Trading Policy. There was also a request for a meeting between some of the city centre STC holders, the Council and Make It York. This meeting took place on Thursday, 24 October 2024.

Analysis.

22. As well as extending the duration of the consents, Make It York have agreed that there will be no changes for the Christmas Market this year. They will operate the market and accommodate the street traders in their existing locations. The street traders proposed that Make It York officers may issue instructions to the street traders for the 'safety and good order' of the Christmas Market which has been gratefully accepted. (The existing conditions state only authorised officers of the Council may issue such instructions).

23. In response to the feedback, it is not proposed to continue with paragraph 8.2 as written. Officers accept the paragraph was not written as intended. It was intended to convey that Make It York would provide details in advance of events at which the street trading pitches may not be available, and that the consent could be suspended if it is not. It was not intended to be read that the *pitches would always be suspended*. Nevertheless, upon reflection, officers accept that is how it reads. For the avoidance of doubt, it will not be proposed that Make It York provides the consent for the period of their events. City of York Council will remain responsible for issuing STCs. Neither will it be proposed that the consents are suspended for the period of the event and the fees adjusted. Condition 19 is therefore no longer relevant. Despite this, the essence of what happens to street traders during Make It York events, particularly the Christmas Market, remains in contention.
24. Make it York's desire to have 'a blank canvass' upon which to redesign the event to improve the customer experience, including easing the crowding and more recently to accommodate blue badge access remains. Whilst they cannot guarantee the exact pitch, Make It York are willing to guarantee an alternative pitch within the event footprint. The event footprint is a specific area, marked on a map, for event planning purposes. At present, the existing street trader conditions state that... *'On occasion it is necessary for a vehicle or unit on a static site to move location. When this occurs the consent holder shall comply with any directions made by a duly authorised officer of the City of York Council'*. This does happen from time to time, for example during the installation of the hostile vehicle measures. It is therefore argued that street traders are already bound to being moved (anywhere) under their existing conditions. Make It York say that this provision is more generous than the existing case, because they are guaranteeing that street traders will remain within the footprint of the Christmas Market whereas the existing conditions do not.
25. The street traders, on the other hand, are extremely concerned that their livelihoods are at stake. The street traders rely on the income from the Christmas period (and other seasonal trade) to remain viable. They are concerned that any movement of their pitch, particularly to a less favourable position, could result in a significant fall in income and

devastate their business. The street traders seek a guarantee that they will not be moved in any of Make It York's plans to re-design the Christmas Market i.e. that they are considered like any other permanent, fixed immovable feature which needs to be worked around.

26. Officers will continue to explore a way to resolve the apparent impasse, but if there is no resolution, then Members will be invited to determine the position when considering the Street Trading Policy.
27. It is understood by officers that there is broad agreement around the other aspects of the policy. With regards to the charter for street traders' rights, there is no provision to adopt such a charter. However, officers are reflecting on the proposed commitments with a view to drafting them into the Policy where appropriate. Discussions will also continue with the street traders in this regard.

Council Plan.

28. The STC policy aims to strengthen the provision of 'a fair, thriving and green economy for all'.

Implications.

29. The implications arising from the report are as follows:
 - **Financial** – There are no direct financial implications to the Council.
 - **Human Resources (HR)** – There are no HR implications to the Council.
 - **Equalities** –An equalities impact assessment will accompany the draft Street Trading Policy.
 - **Legal** - There is no legal requirement for a Street Trading Policy. The legislative provisions for STCs is described in the report and the key case law in respect of street trading is contained within the draft Street Trading Policy in Annex 2. The Council may, exceptionally, decide to deviate from its own Policy if appropriate or reasonable to do so. Any decision made by Members may be subject to challenge by way of judicial review.

- **Crime and Disorder** – There are no direct crime and disorder implications arising from the report.
 - **Information Technology (IT)** – There are no IT implications.
 - **Property** – There are no property implications.
- Other** – There are no other implications.

Risk Management.

30. There are no risk management considerations as this report is for information only.

Contact Details.

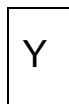
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**Report
Approved**



Date 25.10.24

Wards Affected: All.

Background Papers

None

Annexes

Annex 1 - List of established street trading sites

Annex 2 – Copy of the draft policy

Annex 3 - The charter of street traders' rights