

Licensing Committee

Thursday 14th July
2011

Member Development Session
6.30pm

followed by Committee
7.30pm

Committee Room 2
Town Hall
Redditch

REDDITCH BOROUGH COUNCIL


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- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
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Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

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Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on Walter Stranz Square.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



Licensing

14th July 2011

7.30pm

Committee

Committee Room 2 Town Hall

Agenda

Membership:

Cllrs:	Michael Braley (Chair)	Bill Hartnett
	Gay Hopkins (Vice-Chair)	Roger Hill
	Peter Anderson	Robin King
	Andrew Brazier	Alan Mason
	Michael Chalk	P Mould
	Anita Clayton	Jinny Pearce
	Andrew Fry	Brenda Quinney
	Malcolm Hall	

1. Apologies	To receive the apologies of any Member who is unable to attend this meeting.
2. Declarations of Interest	To invite Councillors to declare any interests they may have in items on the agenda.
3. Minutes (Pages 1 - 4)	To confirm as a correct record the minutes of the meeting of the Executive Committee held on 17th January 2011. (Minutes attached)
4. Petition - Unicorn Hill Taxi Rank (Pages 5 - 12) Head of Worcestershire Regulatory Services	To consider a petition requesting the re-siting of the Hackney Carriage rank on Unicorn Hill or restricting its hours of operation. (Report attached) (Abbey Ward);
5. Vehicle Inspection Fee Structure - Petition and Objections (Pages 13 - 20) Head of Worcestershire Regulatory Services	To consider objections received to the proposed fee structure for vehicle inspections following the publication of the statutory notice as required by the Local Government (Miscellaneous Provisions) Act 1976. (Report attached) (No Specific Ward Relevance);

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<p>6. Street Trading Policy - Review</p> <p>(Pages 21 - 36)</p> <p>Head of Worcestershire Regulatory Services</p>	<p>To consider a review of the current Street Trading Policy, carried out by Officers with a view to resolving to designate all streets within the District to be Consent Streets for the purposes of the Street Trading under Local Government (Miscellaneous Provisions) Act 1982; with the exception of those streets currently designated as prohibited streets.</p> <p>(Report attached)</p> <p>All Wards;</p>
<p>7. Licensing Act 2003 - Half Yearly Report</p> <p>Head of Worcestershire Regulatory Services</p>	<p>To consider an update on the functions carried out under the Licensing Act 2003 by the Licensing Team and other statutory authorities for the first half of 2011.</p> <p>(Oral Report)</p> <p>(No Specific Ward Relevance);</p>
<p>8. Licensing Committee Work Programme 2011/12</p> <p>(Pages 37 - 38)</p>	<p>To consider the Committee's work programme for the current municipal year.</p> <p>(Report attached)</p>
<p>9. Exclusion of the Public</p>	<p>Should it be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting in relation to any items of business on the grounds that exempt information is likely to be divulged it may be necessary to move the following resolution:</p> <p>“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information (Variation) Order 2006, the public may be excluded from the meeting for the following matters(s) on the grounds that it/they involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs (to be specified) of Part 1 of Schedule 12 (A) of the said Act, as amended.”</p>



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LICENSING

Committee

17th January 2011

MINUTES

Present:

Councillor Michael Braley (Chair), Councillor Anita Clayton (Vice-Chair) and Councillors Michael Chalk, Simon Chalk, Jack Cookson, Andrew Fry, Carole Gandy, Adam Griffin, Bill Hartnett, Robin King, Wanda King, Jinny Pearce, Brenda Quinney and Roger Hill

Also Present:

Inspector Ian Joseph, West Mercia Constabulary, Mark Kay,

Officers:

C Flanagan and S Garratt, M Kay (Licensing Team Manager) and S Wilkes (Business Manager, Community Protection)

Committee Officer:

Ivor Westmore

27. APOLOGIES

Apologies for absence were received on behalf of Councillors Kath Banks and Nigel Hicks. Councillor Roger Hill substituted for Councillor Kath Banks.

28. DECLARATIONS OF INTEREST

There were no declarations of interest.

29. MINUTES

RESOLVED that

the minutes of the meeting of the Licensing Committee held on 29th November 2010 be confirmed as a correct record and signed by the Chair.

30. LICENSING ACT REVIEW

Officers presented a review of the functions carried out in relation to the Licensing Act 2003 by the Council as local Licensing Authority over the last year. A comparison of a number of the key measures

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Chair

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such as complaints of under 18's being sold alcohol, smoking on licensed premises or noise and disorder related issues for the previous two years indicated that there were very few instances of these difficulties and that the situation was generally stable. This data, taken alongside feedback from Officers, demonstrated that key messages continued to be adopted by those operating licensed premises. Smoking on licensed premises had not been the subject of any complaints, for example.

The Licensing Authority reviewed the premises licence of one licensed premises during the course of the year following complaints of under-age sales of alcohol. This had resulted in the Designated Premises Supervisor being changed, staff having to undergo ongoing training and adoption of the 'Challenge 25' scheme.

The Business Manager, Community Protection, Worcestershire Regulatory Service, provided an update on his team's activities during the course of the previous year. Details were provided of test purchase attempts across the County and within the Borough for both on- and off-licence premises. Failure rates had proved to be significantly higher for public houses as opposed to off-licence retailers which would inform future test purchase and enforcement activity. The need for close working between the Licensing Authority, Police and Trading Standards was emphasised, given the need to ensure that all such activity was intelligence-led.

Inspector Ian Joseph of West Mercia Constabulary provided an update on the Police's activity in relation to licensing matters over the previous year. It was noted, initially, that attendance generally at licensed premises had been reduced towards the end of 2010 and over the holiday period. This had led to one of the local night-clubs reducing its days of operation which had the potential to reduce the detriment to other aspects of policing. The use of drinks promotions and longer opening hours continued to be monitored by the Police and a number of interventions had been made during the course of the year where there was concern at the implications of specific proposals. There had been some Police activity to try and curb instances of drinking among the under 18's, which was often linked to anti-social behaviour.

Inspector Joseph provided a brief update on organisational developments within the West Mercia force, particularly as they affected Licensing. No final decisions had yet been made on proposals but it was expected that there would be two Community Safety Hubs serving the whole Force area. It was also expected that the present police licensing function for the Redditch area would be removed with licensing functions falling back to the local

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forces to deliver as a consequence. There was some concern amongst Members at the move away from Divisional to Headquarters staffing of the Licensing function and Members sought and received an assurance that they would receive updates on progress with these changes.

The Committee endorsed the current practice of receiving six-monthly monitoring reports from the Police and Community Protection teams.

RESOLVED that

the annual report on the Licensing Act 2003 be noted.

31. HACKNEY CARRIAGE - FARE TARIFF

Officers presented a report which sought Members' consideration as to whether fares for the hiring of Hackney Carriages within the Borough should be altered and, if so, to what extent.

The Committee was informed that, since preparing the report, Officers had been made aware through the Taxi Forum that drivers wished to see an increase to help defray the rising cost of fuel in particular. Any increase implemented by the Authority would not oblige Hackney Carriage drivers to have their meters recalibrated to this higher fare level but it would provide the scope for them to have this done should they wish.

Members considered that the 6% increase which was now being recommended by Officers was quite reasonable given the circumstances. There was some concern that a proportion of drivers who did not recalibrate their meters charged on the basis of what customers ordinarily paid, but Officers did provide an assurance that checks were made on non-recalibrated meters on an annual basis. In addition, there were reported to be few complaints of such occurrences.

RECOMMENDED that

- 1) there be an increase in the Hackney Carriage fare rates in line with the current Retail price Index as detailed in paragraph 5.1 of the report and advertised as required under the Local Government (Miscellaneous Provisions) Act 1976; and**
- 2) authority be delegated to the Head of Environment, in consultation with the Chair of the Licensing Committee:**

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- (i) to consider any objections received, following public advertisement; and
- (ii) to modify the fare rates or confirm the fare rates unmodified, as appropriate; and
- (iii) to set a date when the fare rates shall come into operation in line with the statutory requirements as set out in paragraph 3.4 and 3.5 of the report.

32. LICENSING COMMITTEE WORK PROGRAMME - 2010-2012

Members noted that a number of the scheduled meeting might subsequently not be convened as the regular activities of the Committee did not require much beyond two or three meetings each year. Aside from the meetings at which regular reports on the Licensing Policy or the Licensing Act 2003 were received, it was acknowledged that additional meetings were dependant on sufficient business being available.

RESOLVED that

the Work Programme for the Committee be noted.

The Meeting commenced at 7.00pm
and closed at 7.50pm

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Chair

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PETITION – UNICORN HILL TAXI RANK

Relevant Portfolio Holder	Councillor Juliet Brunner – Community Safety & Regulatory Services
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan, Head of Worcestershire Regulatory Services
Wards Affected	Abbey Ward
Key Decision / Non-Key Decision	

1. SUMMARY OF PROPOSALS

To receive a petition requesting the re-siting of the Hackney Carriage rank on Unicorn Hill or restricting its hours of operation.

2. RECOMMENDATIONS

The Committee is asked to RECOMMEND that

- 1) subject to Members' comments, no further action be taken for the reasons set out in the report;**

and RESOLVE that

- 2) the Petition and report be noted.**

3. KEY ISSUES

Financial Implications

- 3.1 There are no financial implications if Members follow the recommendation for no further action. However, if the Committee decide to give the petition further consideration to relocate the Hackney Carriage rank costs of re-advertising, the full 12 week consultation and any changes to the rank, i.e. changes to road markings by the County Council etc would need to be taken into consideration.

Legal Implications

- 3.2 Under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976, the Borough Council may from time to time appoint stands (ranks) for Hackney Carriage for the whole or any part of a day in any highway in the district which is maintainable at the public expense and, with the consent of the owner, on any land in the district which does not

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form part of a highway so maintainable and may from time to time vary the number of Hackney Carriages permitted to be at each stand.

- 3.3 Before appointing any stand or varying the numbers to be at each stand, the Council is required to notify the Police for the areas in which the stands will be situated.
- 3.4 The Council is required to give public notice of the proposals by advertising in at least one local newspaper and take into consideration any objections or representations in respect of such proposals, which may be made to them in writing within 28 days of the first publication of the notice.
- 3.5 A District Council may not appoint a stand:
- a) so as unreasonably to prevent access to any premises;
 - b) so as to impeded the use of bus stops, or in such a position to interfere with access to any station or depot of any passenger road transport operations, except with the consent of those operators;
 - c) on any highway except with the consent of the Highways Authority.
- 3.6 It is necessary for ranks to be signed and the road marked out accordingly.

Service/Operational Implications

- 3.7 A petition was received by Overview and Scrutiny Committee on the 24th May 2011 from the Business Owners/traders located in Unicorn Hill, Redditch, whose concern is the detrimental effect on trade which has arisen since the siting of a taxi rank on the left side of Unicorn Hill (looking down the hill from the Churchyard).
- 3.8 The Overview and Scrutiny Committee on the 24th May 2011 referred the petition to the Council's Licensing Committee for further consideration.
- 3.9 The petition holds 13 signatures (available in background papers) and a copy of the petition prayer can be found at appendix 1.
- 3.10 Since the siting of the rank in 2003/2004 business owners/traders have raised their concerns twice; firstly during the consultation period 2003/2004 and again in August 2006 which was responded to by Officers.

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- 3.11 The petitioners are requesting that the rank either be moved or the hours of operation restricted.
- 3.12 Following receipt of the petition licensing staff conducted a short consultation exercise with the relevant agencies, West Mercia Police, West Mercia Road Traffic Management Police, Redditch Taxi Association (the trade) and the County Council.
- 3.13 It would appear the consensus amongst those consulted with, is that the current position/location of the Hackney Carriage rank on Unicorn Hill is the most ideal location to service travellers that side of the town. In the previous consultation during 2003/2004 the Highways Department advised that it is not legally possible to provide road markings for short term parking in the day time and a taxi rank at night due to the different road markings required.
- 3.14 The suggestion put forward within the prayer of petition to move the rank to perhaps the train station is untenable – the Local Authority has no right of access to Private Land and previous enquiries have resulted in a resounding “no” from the land owners.

Customer / Equalities and Diversity Implications

- 3.15 Any change to the Unicorn Hill Hackney Carriage rank will need to be advertised and go through a 12 week consultation process, prior to coming back before this Committee.

4. RISK MANAGEMENT

None.

5. APPENDICES

Appendix 1 - Petition

.Appendix 2 - Relevant Minute from Overview and Scrutiny Committee, 24th May 2011

6. BACKGROUND PAPERS

Previous reports regarding Unicorn Hill Hackney Carriage rank
Previous briefing notes
Previous Memorandum dated 24th August 2006

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AUTHOR OF REPORT

Name: Sue Garratt – Senior Licensing Practitioner
Worcestershire Regulatory Services
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Prayer of Petition

Re-siting of taxi rank from its present location in Unicorn Hill

The signatories to this petition are business owners/traders located in Unicorn Hill, Redditch whose concern is the detrimental effect on trade which has arisen since the siting of a taxi rank on the left side of Unicorn hill (looking down the hill from the churchyard).

Several businesses have already been forced to close and the concern of local businesses is that, due to the lack of parking facilities, more will follow. The fear is that Unicorn Hill is fast becoming a 'backwater' with all trade being funnelled into the Kingfisher Centre and Church Green area.

We respectfully request that consideration be given by the Council to re-siting the taxi rank (perhaps to the station car park) or restricting the time of their rank usage to 5.30pm onwards thus making them still available to inbound rush hour train commuters.

Consideration to some 'short stay' parking bays in Unicorn Hill would also be helpful.

Overview and Scrutiny Committee

24th May 2011

11. PETITION - UNICORN HILL - TAXI RANK

The Committee considered a petition regarding the siting of the taxi rank on Unicorn Hill and its effect on local businesses.

The Chair invited a member of the public to speak to the petition. Mr Peter Mitchell, a local businessman who had traded from a premises on Unicorn Hill for ten years reported that he had been approached by other local businesses who wished to see the taxi rank relocated or the hours of operation altered as it was seen to be having a detrimental effect on trade.

The Committee briefly discussed the current location and possible alternative locations for the rank. The point which had been made in respect of limiting the hours of operation of the taxi rank was considered relevant as it was recognised that the issue for many of these businesses was the effect on custom during normal trading hours.

Given the nature of the petition and the course of action which the petitioners were seeking the Committee determined that the matter might more properly be referred to the Licensing Committee for further consideration.

RECOMMENDED that

the petition and an accompanying Officer report be submitted to the Licensing Committee for consideration by that body.

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VEHICLE INSPECTION FEE STRUCTURE – PETITION AND OBJECTIONS

Relevant Portfolio Holder	Councillor Juliet Brunner – Community Safety & Regulatory Services
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan, Head of Worcestershire Regulatory Services.
Wards Affected	No specific Ward relevance
Key Decision	

1. SUMMARY OF PROPOSALS

Further to item 24 of the minutes of the Licensing Committee's 25th January 2010 meeting, to introduce two vehicle inspections per year. The Committee is asked to consider objections received to the proposed fee structure for vehicle inspections following the publication of the statutory notice as required by the Local Government (Miscellaneous Provisions) Act 1976.

2. RECOMMENDATIONS

The Committee is asked to consider the objections to the fee structure for vehicle inspections and RECOMMEND that:

EITHER

- 1) the Licensing Committee's decision with regards to fees made at the Licensing Committee meeting of the 25th January 2010 be confirmed, subject to incorporation of the minor amendment made by Officers shown within this report at paragraph 3.7.**

OR

- 2) the Licensing Committee's decision with regards to fees made at the Licensing Committee meeting of the 25th January 2010 be amended.**

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3. KEY ISSUES**Financial Implications**

- 3.1 The cost of re-introducing in house 6 monthly vehicle inspections and testing for Hackney Carriage and Private Hire Vehicles would be met entirely by revenue received from vehicle inspection fees. Adopting this method would place no financial burden on the Council.

Legal Implications

- 3.2 The Local Authority has powers under Section 50 of the Local Government (Miscellaneous Provisions) Act 1976 to require vehicle inspections on up to three occasions per year.
- 3.3 The Legal Services Manager was consulted on the original report and has also been consulted following the receipt of objections.

Service/Operational Implications

- 3.4 Members may recall the previous decision of the Licensing Committee made on 25th January 2010, which included adopting two vehicle inspection tests a year following a series of very poor spot checks of the Hackney Carriage and Private Hire fleet.

- 3.5 Due to technical reasons at Crossgates Depot, the implementation of this decision had been delayed for a period of eighteen months.

- 3.6 The actual cost of carrying out the service including any administrative processes was originally proposed and agreed as the following:

Vehicle Inspection	£50.00
Vehicle Inspection re-test	£50.00

- 3.7 Following verbal objections by the taxi drivers, Officers reconsidered these fees and slightly amended the re-test fee. These fees, as set out below, were then advertised and consulted upon as required:

Vehicle Inspection Test	£50.00
Vehicle Inspection Re-Test	£25.00

- 3.8 These fees are in line with other Local Authorities within the County and simply reflect the actual cost of this work being undertaken in house. A chart showing garage fees set by Local Authorities within the County can be seen at appendix 1.

- 3.9 Appendix 1 also shows current garage charges.

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Customer / Equalities and Diversity Implications

- 3.10 Prior to implementation of the new vehicle inspection regime Officers have advertised and consulted with the taxi drivers on the set fees for the vehicle inspections as required to do so by Section 70 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.11 There have been several letters of objection to these fees and a breakdown of these objections can be found at appendix 2.
- 3.12 Alongside the letters of objection a petition signed by 177 taxi drivers has been received (total number of taxi drivers licensed by Redditch is currently 400)

4. RISK MANAGEMENT

None

5. APPENDICES

Appendix 1 - Chart of Local Authority garage fees within the County and current testing fees.

Appendix 2 Consultation response table.

6. BACKGROUND PAPERS

Redditch Taxi Association Petition
Original letters of objection

AUTHOR OF REPORT

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WORCESTERSHIRE AUTHORITIES

TABLE OF VEHICLE TESTING

AUTHORITY	COST	TEST PER YEAR	INHOUSE/EXTERNAL
Bromsgrove	£54.00	2 (vehicles over 7 years)	In house
Malvern	£60.95 incl MOT	1 per year	1 garage external
Worcester	\Included with licence fee	2 (vehicles over 8 years)	1 garage external
Wychavon	No test only normal MOT	1 per year	N/A
Wyre Forest	Included with licence fee	2 per year + £10.00 MOT	In house

Current Vehicle Testing Costs

Abacus Auto Services and Hogan Brothers

Abacus	£37.00	Vehicle Test	
	£50.00	Vehicle Test + MOT	
Hogan Brothers	£40.00	Vehicle Test	
	£55.00	Vehicle Test + MOT	

CONSULTATION ON VEHICLE INSPECTION FEES

Period 12th MAY 2011 – 9TH JUNE 2011

CONSULTEE	REFERENCE	COMMENT	OFFICERS COMMENT
Redditch Taxi Association – Petition (165 Signatures)		Disagree with the Crossgates Pricing Structure	Pricing Structure was re-viewed by from original report by Officers and re-test fee lowered from £50.00 to £25.00.
	Letter 8 th June	Rejecting new proposal, doubling fees currently at testing station.	Increase from annual test to six monthly testing will incur additional cost to driver. No compromise of the safety of the travelling public
	Undated Letter	Disagree about new policy and fees – general objection – no specific comments	No Officer Comment
	Undated Letter	Objection in general – cannot afford fees	No Officer Comment
	Letter 7 th June	Objection to fees. States not in the public interest.	No Compromise on Safety of the travelling public.
	Undated Letter	Objection to the proposal. Current fees at outside garages true reflection of earnings of a taxi driver – increase would impact negatively on the economic climate.	Fees are set on a recovery of costs basis only.
Redditch Taxi Association	Letter 8 th June	Fees are above the normal rate of inflation. Object to retest Fee Strongly object and can see any commercial or logical reason as to why the fee should be in excess of current fees.	Fees are set on a recovery of costs basis only.

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STREET TRADING POLICY - REVIEW

Relevant Portfolio Holder	Councillor Juliet Brunner – Community Safety & Regulatory Services
Portfolio Holder Consulted	Yes
Relevant Head of Service	Steve Jordan, Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Key Decision / Non-Key Decision	

1. SUMMARY OF PROPOSALS

To report on a review of the current Street Trading Policy, carried out by Officers with a view to resolving to designate all streets within the District to be Consent Streets for the purposes of the Street Trading under Local Government (Miscellaneous Provisions) Act 1982; with the exception of those streets currently designated as prohibited streets.

2. RECOMMENDATIONS

The Committee is asked to **RESOLVE** that

- 1) **the contents of the draft Street Trading Policy Statement, the draft Customer Information Pack and the draft Standard Conditions attached at Appendices 1 to 3 of this report be approved. (Members will note that Appendix 3 sets out the new proposed fee structure for Street Trading Consents); and**
- 2) **the approved draft versions of the documents at Appendices 1 to 3 be subject to public consultation, such consultation to take place over a 12 week period with the responses being reported back to the Licensing Committee.**

3. KEY ISSUES

Financial Implications

- 3.1 Estimated costs of the service have been included within the WRS budget and are reflected as non profit making.

Legal Implications

- 3.2 Redditch Borough Council (The Council) pursuant to Section 3 of The Local Government (miscellaneous Provisions) Act 1982 has previously

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resolved to adopt Schedule 4 of the Act to control Street Trading in the Town Centre only.

- 3.3 The draft proposal within this report changes that resolution to incorporate the whole of the district and would need to be advertised and be subject to a 12 week consultation.
- 3.4 The proposal is that the Council should resolve that every street within the area of the district of Redditch should be designated as a Consent Street, under the Act, (LGMPA) (except those shown at Appendix 1 and nominated at Prohibited Streets).
- 3.5 Policies have several advantages, ensuring transparency so that individuals know where they stand and can plan their affairs. That like cases can be dealt with similarly so there is fairness and consistency, and there is promotion of efficient administration.

Service/Operational Implications

- 3.6 The current Street Trading Policy has not been reviewed since it was introduced in August 1989.
- 3.7 Officers have now completed a review of the current Redditch policy and the proposed policy statement is attached at Appendix 1. For Members information, the proposed policy statement is based on the version currently being used in two other Local Authorities within the County. Feedback from those authorities is that the proposed policy statement has operated effectively with no significant issues being reported.
- 3.8 Members have been advised previously that Worcestershire Regulatory Services is working towards introducing common policies across the County. There are plans in place for the draft documents at Appendices 1 - 3 to be introduced in two other authorities in the near future, and is currently out to consultation within Bromsgrove District. The introduction of this proposed policy will enable customers to benefit from a transparent, objective and consistent approach to Street Trading on a countywide basis, whilst still allowing for any local differences to be incorporated.
- 3.9 Officers looked specifically at the current fee structure. The proposed fees are shown in the Information Pack at Appendix 2. As previously discussed at other Local Authorities the proposed fees will be consistent with the adjoining local Authorities and set on a recovery of costs basis.

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- 3.10 Standard Conditions to be attached to Street Trading Consents are shown at Appendix 3.
- 3.11 In terms of moving the process forward, the purpose of this report is to inform Members and to obtain Member approval to the draft documents. The draft documents will then go out to consultation. Officers propose a 12 week public consultation which will be circulated to interested parties and published on Redditch Borough Council's website. Officers will report back to the Licensing Committee with the responses to the consultation and to seek formal approval of the final version of the policy at the end of the consultation.
- 3.12 By designating all, or most, streets as Consents Streets within the district, the Council can encourage commercial activity throughout the District and control it by giving or withholding consent as appropriate.
- 3.13 Street trading currently takes place in streets which have no designation (i.e. streets out of the town centre area). These streets could be designated as consent streets and thereby bring traders under street trading consent control. Currently designated streets are those detailed in Appendix 1.
- 3.14 Prohibited streets; Streets which are currently designated as prohibited streets are designated as such for a variety of reasons. The main reason being that they are unsuitable places such as, a highway or to prevent late night nuisance in the streets around the town centre. These are also shown at Appendix 1.
- 3.15 Designation of the majority of streets as consent streets within the District would mean that mobile trades such as ice cream vendors would also be required to apply for street trading consent.

Customer / Equalities and Diversity Implications

- 3.16 The draft revised policy will go through a 12 week consultation and will be circulated and published on our web pages as part of the formal consultation process, prior to coming back before this Committee
- 3.17 There are no adverse implications to consent holders through the proposed changes to this Policy.

4. RISK MANAGEMENT

None.

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5. **APPENDICES**

Appendix 1 - Proposed Policy Statement
Appendix 2 - Proposed Information Pack (inclusive of fees)
Appendix 3 - Proposed Standard Conditions.

6. **BACKGROUND PAPERS**

Street Trading Policy August 1989
Local Government (Miscellaneous Provisions) Act 1982 Section 3,
Schedule 4.

AUTHOR OF REPORT

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STREET TRADING - POLICY STATEMENT

UNDERLYING PRINCIPLES

1. Street Trading is regarded as an acceptable activity in Redditch within the consented areas (Appendix A), provided that it is located where it can make a positive contribution to add interest, vibrancy, and diversity to the area and does not give rise to problems associated with Crime and Disorder.
2. The Council is the responsible authority for granting Street Trading Consents in Redditch and will ensure that traders operate in accordance with conditions attached to such Consents (Appendix B).
3. The Council accepts that Redditch comprises distinct areas with differing historic and commercial characters, and varying streetscape qualities, which should be individually developed and promoted.
4. The Council will consult with the following agencies:
 - The Highways Authority – Worcestershire County Council;
 - The Chief Officer of Police;
 - Worcestershire Regulatory Services – Compliance Team;
 - The Councils Street Scene and Community Services Team;
 - The Council's Community Safety Team;
 - Trading Standards;
 - The Parish Council (if any) in which the Trading Unit is to be located;
 - The Ward Councillors; and
 - The owners/occupiers of any properties near to the proposed location of trading site.
 - Any other relevant agency
5. The Crime and Disorder Act (1998) stresses the need to take positive action to combat crime and the fear of crime. Therefore, prior to granting any Street Trading Consent the Council will pay particular attention to any potential crime and disorder arising directly or indirectly from the Consent and will give significant weight to the views of the Police and Community Safety Officer.
6. The Council may issue Consent for up to one year or a lesser period where appropriate if the trading activity is seasonal or of a temporary nature.
7. Applications will only be considered where an applicant has completed an application form and will not be granted unless an applicant has paid the appropriate Consent fee.

8. Applications for a Street Trading Consent will be considered and determined under the Council's Scheme of Delegation by the Head of Worcestershire Regulatory Services, or otherwise by the Council's Licensing Sub-Committee.
9. Where more than one trader applies for Consent to trade from an approved site, the applications will be referred to the Council's Licensing Sub-Committee.

CRITERIA FOR CONSIDERING APPLICATIONS FOR STREET TRADING CONSENTS

When considering an application for a Street Trading Consent, the Council will take into account the following matters when reaching its decision:

1. Responses from Consultees and other interested parties.
2. The proposed siting and design of the street trading vehicle and whether or not it enhances the area within the immediate vicinity.
3. Any potential obstruction to the free flow of pedestrians or of vehicles in the street, with special regard for the visually impaired.
4. Road safety, either arising from the siting of the street trading vehicle or as a result of customer visiting or leaving the site, including existing traffic orders and waiting restrictions.
5. The nature of the proposed goods to be traded and whether this will create conflict with the trade of adjacent, established shops.
6. Whether the proposed siting of the street trading vehicle obstructs the frontage of adjacent established shops.
7. The numbers, distribution and location of existing street trading consents.
8. The likelihood of excessive noise, odour and litter being generated.
9. Whether the proposal would conflict with any other policies of the Council.

CONSENTED STREETS	PROHIBITED STREETS
<p>ALL STREETS WITHIN REDDITCH DISTRICT EXCEPT THOSE DESIGNATED AS PROHIBITED STREETS AND THE TOWN CENTRE USED FOR MARKET PURPOSES.</p>	<p>All 'A' and 'B' roads in the Borough:-</p> <p>Bromsgrove Highway Warwick Highway Alvechurch Highway Alcester Highway Coventry Highway Birmingham Road Dagnell End Road Redditch Ringway Windmill Drive/Middle Piece Lane Salters Lane/Hewell Road Windsor Road/Middle House Lane Papermill Drive Lower Common Lane Alders Drive Far Moor Lane</p> <p>Claybrook Drive Icknield Street Drive Battens Drive Old Forge Drive Holloway Drive</p> <p>Greenlands Drive Rough Hill Drive Woodrow Drive Washford Drive Coldfield Drive Birchfield Road Windmill Drive Headless Cross Drive Evesham Road Callow Hill Lane Icknield Street</p> <p>Droitwich Road, Feckenham Alcester Road, Feckenham Saltway, Feckenham High Street , Feckenham Church Road, Astwood Bank.</p>

STREET TRADING

INFORMATION PACK

What is a Street Trader?

A Street Trader is someone who:-

- i. Trades on any road, footways, highways, and other adjacent areas to which the public have access without payment. Traders must obtain land owners' permission when trading on private land.
- ii. Sells or exposes or offers for sale any article, whether food or non-food, including a living thing, whether with or without a stall or vehicle.
- iii. Trades from a fixed location.

Does the Control apply to all Traders?

No, there are various exemptions to the requirement to hold a Street Trading Consent:-

- i. Trading as a pedlar with a valid Pedlar's certificate issued under the Pedlars Act 1871. A pedlar is a person who travels and trades on foot and goes from town to town or from house to house carrying goods to sell. A pedlar cannot trade from a fixed spot. Pedlar's certificates are obtained from any main Police Station.
- ii. A roundsman, who is a person who delivers orders to the customer's door. This is a trader who calls by prior arrangement with the customer and sells at the customer's premises. Ice cream sellers or mobile food sellers are not deemed to be "roundsmen" and require a licence to trade in the street.
- iii. News vendors selling only newspapers and periodicals, unless the stall exceeds one metre in length or width, or two metres in height.
- iv. Trading from the forecourt of a petrol filling station.
- v. Trading from a stall outside a shop as an extension of that business.

How is Street Trading Controlled in Redditch?

Redditch Borough Council has adopted the provisions of the Local Government (Miscellaneous Provisions) Act 1982 so that it can effectively control street trading.

- i. All streets within Redditch District have been designated as consented streets apart from those specifically prohibited (see Appendix A of the Council's Street Trading Policy).
- ii. This means that it is an offence to trade without Consent in any street, road, footway, highway, or adjacent area to which the public have access without payment, other than those prohibited where no trading at all can take place.

- iii. Trading without consent may result in prosecution.
- iv. If a trader has been granted a consent the Council has the right to vary or revoke the Consent at any time if the trader fails to comply with the conditions attached to the Consent.
- v. If you wish to trade outside of the Redditch District you should contact the appropriate District Council for that area. Please note that different Councils may have different procedures and rules regarding street trading.
- vi. If you wish to trade within the Redditch District an application should be made to the Worcestershire Regulatory Services, Licensing, Town Hall, Walter Stranz Square, Redditch, B98 8AH

How do I apply for Consent?

- i. Complete the appropriate application form – for a “static trader” if you wish to trade from a pitch, or for a “mobile” trader if you sell from street to street.
- ii. Attach to the application form the required documents, including a Basic Criminal Records Bureau Disclosure as listed on the application form.
- iii. Post or bring to the Council Offices at Town Hall the completed application form, and original copies of any supporting documents (these will be copied and returned to you).

What Are the Fees Payable for Consent?

- i. Fees are payable for each unit or site. The fee is payable once a decision has been made on an application for a Consent. Fees should be sent with the completed application form.
- ii. Fees may be payable in instalments, by agreement with the Council.
- iii. Fees are reviewed annually and are applicable from 1st April each year.
- iv. Fees payable for static traders who trade from a fixed pitch are:-

	Food		Non Food	
	<i>Initial</i>	<i>Renewal</i>	<i>Initial</i>	<i>Renewal</i>
Single Unit up to 12m ² (max 5m length)	£1418	£1301	£1183	£1064
For every additional 12m ² or part thereof or length more than 5m	£600			
Mobile traders	£575 per vehicle, per annum			

How Long Does Consent Last for?

- i. Consent can be issued for any period up to a maximum of 12 months but will expire on 31st March next, unless surrendered earlier.
- ii. Renewals will take place on receipt of a completed renewal application form and payment of the appropriate fee.

Are Consents Transferable?

- i. No, they are not.
- ii. The Consent holder is entitled to a refund of part of the fee paid if the Consent is surrendered part way through the year.
- iii. Refunds may be made on a pro rata basis, subject to an administration charge of £35.
- iv. If you do not renew the Consent on the expiry or surrender it before then, then any other person will be able to apply to trade from the same site.

What are the Responsibilities of a person granted consent?

Such a person is responsible for ensuring that:-

- i. The consent conditions are complied with.
- ii. All relevant certificates are produced to the Council with any application for Consent.
- iii. The vehicle or stall is registered with the Council if selling food of any description.
- iv. The Council will not be held responsible for any acts or omissions arising from the grant of Consent.
- v. Where trading is on private land, to which the public has access without restriction, permission to trade must be obtained from the owner/occupier as well as the Council

Does the Grant of Consent by the Council give any other entitlement?

- i. No - It only permits trading within the terms of the Consent as specified. The Consent does not override any parking restriction or other traffic regulation.
- ii. The Consent to trade does not imply approval from any other person or authority.

Consideration and Determination of your Application

- i. When received by the Licensing Section your application form will be checked. Provided there are no queries arising from the application form,

your application will be acknowledged in writing within 5 working days of receipt. If there is a query then you will be contacted in writing and/or by telephone and given the opportunity to respond.

- ii. The complete application form will be copied for comment to various parties.

Usually these are the Police, Worcestershire County Council Highways Partnership Unit Manager, Ward Councillors, the Parish or Town Council, Economic Regeneration & Tourism Manager, Community Development Control Manager, Operational Services Manager and local businesses within the vicinity of the proposed site of operation.

- iii. We aim to complete this process within 20 working days but may take longer if a Licensing Sub-Committee hearing is necessary.
- iv. If queries are raised at this stage then you will be contacted in writing and/or by telephone and given the opportunity to address them.
- v. Having received all comments/recommendations and taking into account the Council's adopted Street Trading Policy, the Head of Worcestershire Regulatory Services or one of his nominated officers, under the Council's Scheme of Delegation, may then determine applications where there are no objections and where the application is to be granted. Where your application cannot be granted, or where objections are received, your application will be referred to the Council's Licensing Sub-Committee for consideration and determination.
- vi. You will be informed in writing of the recommendation to the Licensing Sub-Committee and the date of the meeting to which you will also be invited to attend.
- vii. If your application is granted, the Consent will be issued, together with a copy of the Standard Conditions applicable to street trading Consents plus any Special Conditions deemed necessary by the Council.
- viii. If the Committee refuses your application you will be notified in writing of the reasons for refusal.
- ix. There is no right of appeal in the case of refusals or against the application of conditions.

Is there an Independent Body which represents Street Traders?

There is a body which offers advice on all aspects of outside catering. This body is called MOCA (Mobile and Outside Catering Association Ltd.) and is located at:-

Centre Court
1301 Stratford Road
Hall Green
Birmingham
B28 9HH

Tel 0121 693 7000
Fax 0121 693 7100
Website www.moca.co.uk

REDDITCH BOROUGH COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING - STANDARD CONDITIONS

1. Redditch Borough Council ("the Council"), pursuant to Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act") have resolved that Schedule 4 to the Act, to control street trading in the district should come into force from 2012.
2. The Council has resolved that every street within the area of the district of Redditch is to be designated as a Consent Street" under the Act, (except those shown at Appendix One and nominated as Prohibited Streets) which means a street in which street trading is prohibited without a Consent issued by the Council.
3. A street trading Consent is issued by the Council subject to the following conditions, insofar as they do not conflict with or are amended by any specific conditions imposed on the grant of the Consent:-
 - (a) The Consent is valid for the period shown on the Consent
 - (b) The Consentee shall pay a fee to the Council in accordance with the approved list of fees.
 - (c) The Consent may be surrendered by the Consentee at any time, providing that the Council shall repay to the Consentee that part of the fee considered by the Council appropriate for the unexpired period of the licence, less £35 for administrative expenses, the exception being the day rate.
 - (d) The Consent holder must at all times while trading display in a conspicuous position the Consent issued by the Council.
 - (e) The Consentee shall not carry on his/her trade in such a way as to cause obstruction of any part of the street in which he/she is trading, or danger to persons using the street.
 - (f) The Consentee shall not carry on his/her trade in such a way as to cause a nuisance or annoyance to persons using the street or to occupiers in the vicinity.
 - (g) The Consentee shall not sell any type of food, goods or merchandise other than that specified in the Consent.
 - (h) The Consentee shall provide and maintain, where appropriate, adequate facilities for the collection of litter resulting from his/her trading and at the close of each trading day shall remove any litter resulting from his/her trading

from the street. The Consentee shall be responsible for any damage to the highway or otherwise resulting from the trading activity.

- (i) The Consentee shall make such provision as is necessary to prevent the deposit in any street of solid or liquid refuse occurring from the trading activity and shall not discharge any waste water to the street surface or to the surface water drains.
- (j) The Consentee shall not use any television, tape recorder or other device for the reproduction of sound while trading without the express permission of the Council.
- (k) The Consentee shall not trade outside the times and days permitted by the Consent
- (l) The Consentee shall not trade in any location other than the location permitted by the Consent
- (m) Any vehicle, stall or container used by the Consentee in the course of street trading shall be constructed and maintained to the satisfaction of the Council and shall comply with legislation in force at the time or any relevant British Standard.
- (n) The use and storage of liquid petroleum gas shall comply with the Code of Practice or requirements of the Fire Officer.
- (o) The Consent shall not operate for any other purpose than to permit the Consentee to trade in a Consent street in accordance with the conditions imposed. The Consentee must ensure that he/she has obtained any other approval or registration required under any other statutory provisions relevant to his/her trade.
- (p) The Consentee must be 18 years of age or over and shall be responsible at all times for control of the stall. Any persons assisting on the stall shall be 18 years of age or over.
- (q) The Consent is personal to the Consent holder and shall not be assigned or transferred to any other person or company.
- (r) The Consent holder or his employee must move his vehicle/stall or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- (s) Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or bylaws.
- (t) The Consent holder shall at all times maintain a valid Third Party Public Liability Insurance policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon the request.

- (u) Nothing contained in these conditions shall relieve or excuse the Consent holder or his/her employee or agent from any legal duty or liability and the Consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from trading.
- (v) The conditions attached to the Consent may be varied by the Council at any time.
- (w) Any breach of these conditions may lead to the Consent being suspended or revoked.
- (x) In these conditions “the Consent” means a Consent issued under Section 3 of and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982. Consentee means the person named on the Consent issued by the Council and includes any employee, servant or agent of the licence holder and “the Council” means Redditch Borough Council.

DRAFT

**LICENSING
COMMITTEE**

14th July 2011

LICENSING COMMITTEE WORK PROGRAMME 2011/12

17th January 2011

- Licensing Act – Annual Report

14th July 2011

- Petition – Unicorn Hill Taxi Rank
- Petition – Vehicle Inspection Fee Structure
- Street Trading Policy - Review

10th October 2011

9th January 2012

2nd April 2012

To Be Allocated To Suitable Available Dates, Dependent On Agenda

