
STREET AMENITY POLICY – OUTCOME OF CONSULTATION

Relevant Portfolio Holder	Councillor Rita Dent
Portfolio Holder Consulted	Yes
Relevant Head of Service	Kevin Dicks
Wards Affected	All wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Members are asked to consider the feedback from the consultation on the draft Street Amenity Policy and to approve the final version of the policy to come into force from 01 May 2015.

2. RECOMMENDATIONS

2.1 That Members note the responses received during the consultation period and consider the information set out in the report.

2.2 That Members approve the contents of the draft Street Amenity Policy attached at Appendix 1 and authorise the introduction of the policy with effect from 01 May 2015.

2.2 That members recommend to Cabinet that the fees set out at paragraph 3.2 of this report be adopted and added to the Fees and Charges Schedule as follows:

Street Amenity Policy - First application: £200

Street Amenity Policy - Annual renewal: £55.

2.3 That Members recommend to Full Council that delegated authority be granted to the Head of Legal, Equalities and Democratic Services to update the Scheme of Delegations to make provision for the officer decisions required under Section 115 of the Highways Act 1980 as described in this report, and for the terms of reference for Licensing Committee to be amended to allow for it to determine Street Amenity Consents.

3. KEY ISSUES

Financial Implications

- 3.1 The introduction of the Street Amenity Policy will not have any direct financial implications on the Council's budget. Agreement has been reached that staff from Worcestershire Regulatory Service (WRS) will perform the role of receiving and processing applications, including granting applications where appropriate and supporting the process for licensing sub-committee hearings to take place in the event that any applications are contested. There will not be any increase in the amount of charges the Council pays for the services provided for it by WRS. However, to off-set the extra costs it is proposed that the fee income generated from the policy will be retained by WRS as opposed to being returned to BDC.
- 3.2 An application / annual fee will be charged to go towards the additional cost of managing the Street Amenity Policy. Fees will be charged on a costs recovery basis only as with other regulatory services. WRS officers have carried out an exercise to calculate the charges based on pricing for their time and the proposed fee schedule is set out below. The fees will require separate approval from Cabinet as part of the Councils fees and charges policy.

Proposed charges for Street Amenity Policy

First application	£200
Annual renewal	£55

- 3.3 The level of fees will be kept under close review by WRS and may be subject to future change. The reason for this is that it is difficult to assess how much work is going to be involved until the policy is put into practice. The fees proposed are the best estimate WRS can give at this time on the information available and are in line with the fees for street amenity policies in other Districts in Worcestershire.

Legal Implications

- 3.4 As referred to above WRS have agreed to take on the additional work for administering the Street Amenity Policy on the basis that they retain the fee income.
- 3.5 The legal authority to regulate the placing of items on the Highway is set out in section 115E of the Highways Act 1980. As a pedestrianised former highway the land owner of the High Street is Worcestershire County Council.

Discussions have been on-going between the District Council legal team and the County Council legal team as to how the policy is going to be put into effect. It is understood that the County Council are in agreement for the District Council to exercise the power to licence street furniture for the High Street. This is a dual function that can be exercised by County or District under the legislation. A suitably worded letter of understanding will be drawn up to reflect the agreement.

- 3.6 Applications for street furniture to be placed on the highway in other areas of the District will continue to be decided by the County Council, as will applications for certain other highway uses within the area covered by the policy.
- 3.7 There are a number of licences for street cafes that have been granted by the County Council. Care will have to be taken to ensure that when these licences expire, new applications are made to the District Council under the new policy. Officers requested information about which premises hold existing licence from the Highways department in January and are waiting for this to be supplied.
- 3.8 The draft policy is restricted to the adopted Highway along the pedestrianised section of Bromsgrove High Street. It does not extend to any other areas of public highway or to any areas of private land. Siting of Street Café areas on private land sits outside the Highways Act, would require the consent of the land owner and must not conflict with any rights of way that may exist.
- 3.9 Expanding the policy to other streets within the Town Centre area may be considered in due course once they have benefitted from reconstruction works as part of the overall Town Centre Regeneration Programme. Any such expansion would also have to take into account the restrictions outlined above as to private land and the need not to conflict with any rights of way.
- 3.10 When granting a licence the Council may attach such conditions as they think fit under section 115F of the Highways Act 1980.
- 3.11 To enable the policy to be implemented changes will need to be made to the Bromsgrove District Council constitution to allow for Licensing Sub-Committee to determine any applications where objections have been raised and to delegate to officers the ability to grant consents for uncontested applications in the Officer Scheme of Delegations and to attach conditions to consents that are granted.

Service / Operational Implications

Feedback from Consultation Process

3.12 Following consideration of the draft policy by members of Licensing Committee on 12th January 2015, the consultation period ran from 19th January 2015 to 2nd March 2015. A copy of the consultation document is attached at Appendix 2. The consultation was advertised by the following means:-

- Press release and promotion of the consultation on the Council's web site
- Delivery of flyers to the business premises on the High Street
- Letters sent to the food businesses that will be directly affected and be required to make an application under the new policy
- Direct notification to Members and to the usual statutory consultees including Worcestershire Highways, West Mercia Police, Hereford and Worcester Fire and Rescue Service, Ambulance service, WRS and internal Council departments that are affected

3.13 A total of 7 responses were received. A table setting out the main issues raised by the responses is attached at Appendix 3. From those consultees who replied there would appear to be broad support for the introduction of the policy, including the proposals for size and lay out and the proposed fee levels. Some consultees gave more detailed feedback. Officers have been through these comments carefully and made some minor changes to reflect the points made.

3.14 The minor changes include:-

Part 1

- Para 5 – clarification of the dual responsibilities of the District and the County under the Highways Act
- Para 19 – clarification of emergency exits/ routes
- Para 26 – clarification that food business must ensure licensing rules are adhered to
- Para 32 – addition requirement for street furniture to be stored safely when not in use.
- Para 42 – clarification of the rules around operating hours for consents

Part 2

- Para 4 – addition of Community Environmental Health Team WRS and Hereford and Worcester Fire Service as consultees.

- 3.15 The Community Environmental Health Team requested that:
- * all operators must comply with relevant food safety requirements.
 - * licence should not be transferrable.
 - * there is someone from the District Council to monitor and inform WRS where necessary.

Environmental Services comments:

- those venues that allow smoking in the café area must provide receptacles for public use.

Suggested issues NOT put into the Policy:

- set a time frame for when furniture can be in place (Environmental Services) – Policy was amended to restrict use of furniture to within opening times.
- The use of own food/drink in a street café area (John Gaunt & Partners) – we do not wish to encourage people to use these areas for their own food/drink.
- A licence should be revoked if renewal fee not paid on time (Environmental Health) – a licence will not be issued if the fee has not been paid.

- 3.16 Members are now asked to consider the consultation responses and to approve the amended draft policy. Subject to Cabinet approval of the fees, and Council approval of the changes needed to the Constitution referred to at para 3.11, officers would intend to bring the new policy into effect starting in May 2015. For the first 12 months there will be an overlap between any existing licence issued by the County Council and the new scheme. Gradually as the older County Council issues licences expire, all the food businesses will be brought under the new policy.

- 3.17 As detailed in the report to Licensing Committee of 12th January 2015, the policy will be administered on behalf of the Council by colleagues from WRS. Provided there are no objections and the policy is met, consents will be granted by officers under delegated powers. Where there are objections, or a proposal is outside of policy, then the decision whether or not to grant will be made by Licensing Sub-committee following a hearing.

4. RISK MANAGEMENT

4.1 The identified risks include:-

- The risk that some premises will not co-operate with the new system - this has been mitigated by pre-consultation with the relevant food businesses but the Council will not have the ability to compel a business to apply for a licence. In other town centres which operate street amenity policies such as Worcester and Wyre Forest there have generally not been problems with non-compliance.
- The ability of the Council to enforce the policy – unlike some other regulatory schemes there are no provisions that would allow the Council to prosecute a business that continually infringed the scheme. If problems arose the Council would seek to resolve them through discussion and giving advice to the business owner. Section 115 of the Highways Act also includes provision for the serving of a formal notice to require a breach of the terms of the licence to be remedied.

5. APPENDICES

Appendix 1 – Amended Draft Street Amenity Policy
Appendix 2 – Consultation Questions
Appendix 3 – Summary of consultation responses

6. BACKGROUND PAPERS

Report to Licensing Committee dated 12th January 2015

AUTHOR OF REPORT

Name: Richard Savory

Bromsgrove Town Centre Regeneration Programme Manager

Bromsgrove District Council

E Mail: r.savory@bromsgroveandredditch.gov.uk

Tel: (01527) 881281/881306