

Licensing Committee - 8 December 2009

6. Street Trading Fees (Executive Decision/ Key Decision)

Executive Portfolio Holder: Ric Pallister (Health, Housing, Inclusion and Revenues & Benefits)
Head of Service: Laurence Willis, Assistant Director - Environment
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Purpose of the Report

To request that members consider changes to street trading fees with regard to both structure and the level of fees payable.

Recommendations

- (1) To adopt the proposed new structure for ascertaining street trading fees.
- (2) To adopt the proposed street trading fees for the outer zone
- (3) To note it is not proposed to change the existing level of fees in the inner zone

Background

The council resolved that each and every street within the South Somerset District (except for any part or parts of Station Road, Somerton) was designated as consent streets with effect from 1st September 2009. The situation prior to this resolution was that street trading was prohibited in South Somerset except for a small number of consent streets. In February of this year a High Court decision¹ has brought more traders within the scope of street trading legislation in that street trading can take place on private land; it was held that

“ whether premises were private property was an immaterial consideration for the purposes of considering what constituted a street... as the key consideration was whether the public could go to a place without having to make a payment and not whether they did so go.”

Traders trading from private land had expressed concern that fees for street trading consents were too high for the amount of trade they received and the cost they were paying for ground rent. Now that the scheme has been running for the first quarter of the year, it was agreed to review the cost of operation.

Charging for Street Trading Consents

The power to charge for Street Trading Consents is contained within schedule 4 of the Local Government (Miscellaneous Provisions) 1982 Act (LGMPA 1982). Paragraph 9(1) of schedule 4 states:-

“A district council may charge such fees as they consider reasonable for the grant or renewal of a street trading consent”.

¹ West Berkshire District Council v Simon Paine [2009] EWHC 422 (Admin)

Such fees however must not be used to raise general revenue for the council; it may take into consideration the costs of operating a street trading scheme, including the costs of prosecuting unlicensed traders² and the costs of training its members and officers³. Different fees may be charged for different types of consent depending on a) its duration; b) the street in which it authorises trading and c) the type of goods that is traded.⁴

Proposal for New Structure and Charges

It is proposed that two charging zones be created across South Somerset. These will be: a) the area administered by Yeovil Town Council under delegated authority from the District Council to be known as the inner zone and b) the rest of South Somerset to be known as the outer zone.

The inner zone will comprise of the land within the boundaries of the following roads: Brunswick Street, Park Street, Summer House Terrace, Old Station Road, Reckleford and Queensway except for any land within this area which is owned by South Somerset District Council – a map defining this area is attached. This zone will continue with the current fee structure of £13 per day for a casual trader; £11 per day for a permanent street trader and £250 for a promotional event. It is considered that pitches in this part of the district are subject to a higher footfall and trade mainly takes place on the street rather than on private land, thereby not incurring additional charges for ground rent and therefore to set the same fee throughout the district would disadvantage outer zone traders.

After consultation with traders in the outer zone⁵, (the majority of which are on private land); it is proposed that for regular street trading the fees will be as follows: Annually £1600, six monthly £900, three monthly £500 and a daily rate of £11 with the traders deciding which option will best suit their business. For casual traders the daily rate will remain at £13 per day. All fees to be paid in advance. Should a trader surrender a consent they will receive a pro-rata refund based on the number of days remaining unexpired at the time of surrender.

Research was conducted into the fees set by other councils for comparison purposes; however no two councils have the same fees or charging structures for direct comparisons to be made. East Devon charge £15 per day. Exeter charge £865 for six months, £1368 for 12 months and £25 per day for casual traders. Taunton Deane charge a daily rate of between £30 - £50, with lay-bys from between £1920 – £2880 and one area being as much as £3000 per year; however their mobile traders are only charged £350. Bath & North East Somerset charge £103 for an initial application fee, £10 street trading badge with pitches in the centre of Bath being charged between £21 to £42 per day and the peripheral pitches charged between £10.50 and £21. Brighton & Hove have two trading zones with annual fees ranging from £524 to £4,312.

Financial Implications

It is estimated that the level of income expected from the proposed fees for current street traders will be approximately £24,953, however lower fees may also attract more businesses to the South Somerset area, should this be the case and the level of income

² R V Manchester City Council ex Parte King 89 L.R.G.696 [1991] C.O.D. 422: Times, April 3, 1991: Daily Telegraph, April 12, 1991

³ Button, J. A solicitor providing legal advice to local authorities. <http://www.jamesbutton.co.uk>

⁴ Local Government Miscellaneous Provisions Act 1982, schedule 4 paragraph 9(2)

⁵ Meeting conducted at the Council Offices, Brympton Way, Yeovil on 12 November 2009

rise disproportionately with the associated costs, the level of fees could be revisited at a later date.

The costs of producing a new street trading policy together with administration and enforcement costs until 31st March 2009 have been costed at £31,840. However as the next full review of the policy is not expected until 2013, only one third of the time spent by officers on policy and legal work are being attributed to this tax year, which produces expected costs of £24,840 that are roughly in line with the expected income.

Implications for Corporate Priorities

To increase economic vitality and prosperity of the area by attracting more businesses and retaining existing consent holders

To deliver well managed, cost effective services valued by our customers

Other Implications

None

Background Papers: *Local Government Miscellaneous Provisions Act 1982*
