

CABINET

27 JANUARY 2023

REPORT OF LEISURE & TOURISM PORTFOLIO HOLDER

A.7 TOWN POLICE CLAUSES ACT 1847 - ADOPTION OF TENDRING DISTRICT COUNCIL ROAD CLOSURE POLICY

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek approval for the adoption of a Tendring District Council policy in respect of applications for temporary road closures under section 21 of The Town Police Clauses Act 1847.

EXECUTIVE SUMMARY

- If anyone wishes to hold a special event such as a parade, or a social gathering and would like to close a road, permission is required.
- The District Council has powers under The Town Police Clauses Act 1847 to close public roads temporarily to allow such events to take place safely.
- Only events that require a temporary closure for the purpose of processions, illuminations, rejoicings or any case where the public arising from a specific event throngs the streets may be considered under this Act.
- Closure of major trunk roads, through roads, or longer-term closures must be facilitated by application to the County Council for a Closure Order under provisions of the Road Traffic Regulation Act 1984.
- Approval for events under provision of The Town Police Clauses Act 1847 must be sought from the Police and the District Council and a legal Order must be made by the District Council before a road may be closed.
- Applications for temporary road closures to support events are currently administered by the Councils Public Realm team and Orders sealed by the Council's Legal service.
- The number of applications for temporary road closures has increased in recent years, which has highlighted the need for, and benefits associated with clearer rules associated with road closure applications.
- A (draft) Tendring District Council Local Road Closures Policy for special events under section 21 of The Town Police Clauses Act 1847 is attached to this report as Appendix A for consideration.

RECOMMENDATION(S)

It is recommended that:

- a) Cabinet adopts the Tendring District Council Local Road Closure Policy for special events;
- b) the Assistant Director (Building and Public Realm) be authorised to update the policy with any future legislative or best practice changes, in consultation with the Portfolio Holder for Leisure and Tourism; and
- c) fees will be waived for street parties organised for the weekend of the Coronation of the King or of national importance as determined by the Portfolio Holder at the relevant time.

REASON(S) FOR THE RECOMMENDATION(S)

Adoption of a Local Road Closure Policy for events applied for under The Town Police Clauses Act 1847 will improve administration and efficiency associated with applications for the temporary closure of roads, provide a basis for setting fees and charges, reduce complaints concerning inconsistency of decisions made and increase clarity around the roles and responsibilities of both applicant and administrator.

ALTERNATIVE OPTIONS CONSIDERED

The Council could choose not to adopt a policy; however, concerns have been raised due to increasing numbers of events and the impact on local residents highlighting the need for a policy to be considered.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Delivering High Quality Services

- Effective regulation and enforcement of roads for events will improve services to the community, promoting businesses and tourism.

Community Leadership Through Partnerships

- Joined up public services benefit residents and businesses.

Effective and Positive Governance – The Council will issue and publish a decision confirming whether the Order is being granted or refused, with reasons recorded.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The draft policy for applications for local road closures is a result of public feedback and discussion's with elected members in affected areas and the relevant Portfolio Holder.

This report provides an opportunity for further consultation and engagement concerning the policy content.

LEGAL REQUIREMENTS (including legislation & constitutional powers)			
Is the recommendation a Key Decision (see the criteria stated here)	YES	If Yes, indicate which by which criteria it is a Key Decision	<input checked="" type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)	26/10/2022
<p>Part 3, Schedule 3 of the Council's Constitution – sets out the Responsibility of Executive functions and in section 4.1 paragraph 6 (Part 3.29 & 30), Cabinet collectively shall approve strategies, policies, plans and guidance which are the responsibility of Cabinet and are not delegated elsewhere within the Constitution.</p> <p>Section 21 of the Town Police Clauses Act 1847 ("s21 TPCA") provides for orders to be made "... in all times of public processions, rejoicings, or illuminations and in any case when the streets are thronged or liable to be obstructed...". Accordingly, s21 TPCA only allows temporary road closure orders to be made to facilitate 'rolling-road' events such as parades, carnivals and processions as well as more 'static' community events such as the 'Christmas lights switch-on' and street parties. This process is subject to consultation however, without a policy covering how objections would be considered; the Council was at risk of refusing such applications without policy justifications. The introduction of a policy also assists with safety concerns and raises public awareness of other matters to be considered.</p> <p>The powers to charge are set out in the Local Authorities (Goods and Services) Act 1970 and the Local Government Act 2003 – Section 93 respectively. The latter also requires that charges for discretionary services should be on a cost recovery basis.</p> <p>A local authority may be able to rely on the subsidiary powers under section 111 of the LGA 1972 to authorise the provision of a service to facilitate the discharge of a specific function. Where it does so, the local authority may charge under section 93 for that function-related service (Section 93(7)(a) of the LGA 2003 specifically states that section 111(3) of the LGA 1972, which prohibits local authorities from using their subsidiary powers to raise money, is to be disregarded.</p> <p>As a new proposed policy, it is appropriate for Cabinet to adopt the same with delegations for the Portfolio Holder and Officers to exercise the contents.</p>			
X	The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:		
The Monitoring Officer has been consulted through the development of the policy and has no further comments to make.			
FINANCE AND OTHER RESOURCE IMPLICATIONS			
There are no direct financial or resource implications arising from the proposal to adopt a			

policy for the temporary closure of roads under the Town Police Clauses Act 1847.

Adoption of a policy will improve efficiency around the administration of applications made to the Council.

The introduction of fees will produce an income but these are only to recover a contribution to the costs of approving the applications.

X The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

None

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

<p>A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;</p>	<p>Adoption of a policy in respect of applications for temporary road closures will provide for the setting of fees for applications and outline responsibilities and requirements for applicants. The policy if adopted will provide income from fees charged to offset costs associated with the administration and improved efficiency in administering applications.</p>
<p>B) Governance: how the body ensures that it makes informed decisions and properly manages its risks.</p>	<p>S21 of The Town Police Clauses Act 1847 enables District Councils to close roads temporarily for the purpose of parades, events and processions.</p> <p>Legal Orders are sealed and published on street to provide notification of intention to temporarily close roads if approved.</p> <p>Decisions will be issued and published in granting or refusing an application.</p>
<p>C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.</p>	<p>Refer to financial and other resource implications above.</p>

MILESTONES AND DELIVERY

Policy to be considered with this report.

ASSOCIATED RISKS AND MITIGATION

Risks associated with non-adoption of a policy in respect of applications for temporary road closures in the District are, reputational damage to the Council, inefficient administration of applications and risk of legal challenge around decisions made.

EQUALITY IMPLICATIONS	
<p>The policy requires full consideration of the requirements for anyone with accessibility needs arising from mobility, illnesses and home care requirements.</p> <p>The proposed policy does not affect the protected characteristics of any individuals in any other currently identifiable way and prior to each application being determined under the policy due regard will be given to the Public Sector Equality Duty.</p>	
SOCIAL VALUE CONSIDERATIONS	
None identified	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
None identified	
OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS	
<p>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</p>	
Crime and Disorder	Regulation of roads for processions, parades including demonstrations will assist crime reduction and anti-social behaviour initiatives.
Health Inequalities	The policy supports and recognises the needs of people with special health requirements.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>Applications for temporary road closures to support events are currently administered by the Council's Public Realm team and Orders sealed by the Council's Legal service.</p> <p>The number of applications for temporary road closures has increased in recent years, beyond those received for the Jubilee celebrations, which has highlighted the need for, and benefits associated with clearer rules associated with road closure applications.</p> <p>The concerns noted have been associated with multiple applications for temporary road closures in the same area. Applications for road closures made to support the commercial interests of individuals or businesses as opposed to community based events. Increased administration arising from a lack of clarity around responsibilities associated with the applications and concern about the potential for legal challenges around decisions made by the Council to allow, or refuse a road closure request without a supporting policy.</p>
PREVIOUS RELEVANT DECISIONS
N / A

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Brentwood Council's Road Closure Policy

APPENDICES

Appendix A – Tendring District Council Policy in respect of applications for the temporary closure of roads under the Town Police Clauses Act 1847.

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