

# **CHESHIRE EAST COUNCIL**

## **REPORT TO: LICENSING COMMITTEE**

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**Date of Meeting: 20 July 2009**

**Report of: Mrs K Khan**

**Subject/Title: Street trading – designation as ‘prohibited street’**

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### **1.0 Report Summary**

- 1.1 The report provides details in relation to the designation of streets within the former Borough of Macclesfield and the current proposal in relation to the confirmation of the designation of a street as ‘prohibited’ for the purposes of street trading.

### **2.0 Recommendations**

- 2.1 The Licensing Committee is requested, in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, to authorise the publication of a notice of intention to designate the A556 (to its extent within the Borough), together with any adjoining street for a distance of 50 metres, as prohibited streets for the purposes of street trading.

### **3.0 Reasons for Recommendations**

- 3.1 The function of designating streets for the purposes of street trading has been delegated to the full Licensing Committee. The background to the recommendation is provided within paragraph 11 below.

### **4.0 Wards Affected**

- 4.1 Bucklow

### **5.0 Local Ward Members**

- 5.1 Cllr J Macrae, Cllr A Knowles, Cllr G Walton

### **6.0 Policy Implications including - Climate change - Health**

- 6.1 The decision to re-confirm the designation is in line with the Council’s existing decisions in relation to the designation of ‘A’ roads.

### **7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)**

- 7.1 There will be a cost associated with the publication of the requisite notices to advertise the intention to designate.

## **8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)**

- 8.1 Not applicable.

## **9.0 Legal Implications (Authorised by the Borough Solicitor)**

- 9.1 Paragraph 2 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 provides that local authorities may, by resolution, designate any street in their district as a prohibited street.
- 9.2 Paragraph 2 further provides the process which the local authority must follow when it designates streets, and states that a resolution may not be passed unless a notice of intention has been published in a local newspaper and served on the chief officer of Police and the relevant Highways Authority. The notice must provide a period of twenty-eight days within which objections may be made. As soon as practicable after the expiry of the objection period the authority is required to consider any representations, after which they may, if they think fit, pass a resolution. If a resolution is made, notice of the resolution is required to be published in a local newspaper for two consecutive weeks.

## **10.0 Risk Management**

- 10.1 If the process set out within Schedule 4 of the Act was not followed then the resolution may be at risk of legal challenge.

## **11.0 Background and Options**

- 11.1 At a meeting of the Highways Committee of Macclesfield Borough Council on 15 September 1983, a resolution was passed which included the designation of the A556 (from Plumley to Altrincham) together with any adjoining street for a distance of 50 metres as a prohibited street with effect from 7 November 1983.
- 11.2 As Members may also be aware, at the meeting of Macclesfield Borough Council's Licensing Committee on 4<sup>th</sup> November 2008, the Committee resolved to designate all 'A' and 'B' roads within the Borough (with limited exceptions) as prohibited streets together with all adjoining streets for a distance of 50 metres. As part of the consultation process in relation to this resolution Cheshire County Council were served with a notice as the Highways Authority.
- 11.3 As a 'trunk' road, the A556 is managed and maintained by the Highways Agency, an executive branch of the Department of Transport. As such the Highways Agency is the relevant Highway Authority in relation to this road rather than Cheshire East Borough Council which is the Highway Authority in relation to the majority of 'A' roads in the Borough. The A556 a major trunk road between North Cheshire and South Manchester and as such is a heavily used dual carriageway/four lane road. Due to the nature of the road and the speed

and volume of traffic of all types using it, it is suggested that mobile traders would continue to cause significant risks to highway safety.

- 11.4 Whilst the resolution in 1983 did designate the road as a prohibited street, it is suggested that for the purposes of clarity, and for the avoidance of doubt, taking into account the designation in 2008, the Committee is requested to authorise the publication of a notice of intention to designate the A556 as a prohibited street together with any adjoining streets within 50 metres.

## **12.0 Overview of Year One and Term One Issues**

- 12.1 Not applicable.

## **13.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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