

## **Licensing Committee**

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**Date of Meeting:** 02 September 2019

**Report Title:** Designation of Streets within the Borough for the purposes of Street Trading

**Senior Officer:** Frank Jordan – Executive Director Place

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### **1. Report Summary**

- 1.1. This report seeks Members' approval for amendments to the current designation of streets for the purposes of regulating street trading within Cheshire East.

### **2. Recommendations**

- 2.1. That Members consider the content of the report, the responses received in respect of the consultation and resolve to:
  - I. Pass a resolution confirming the Council's intention to designate the identified streets within in the 'Schedule of Streets' (appendix A) for the purposes of Street Trading, and
  - II. That authority be given to the Licensing Team Leader to follow any necessary statutory procedures including the publication of the required Notices to complete the designation process.

### **3. Reasons for Recommendations**

- 3.1. To ensure that the Council's Street Trading Designations are reviewed and updated to ensure that they remain relevant.

### **4. Other Options Considered**

- 4.1. Consideration has been given to not reviewing the current Street Trading Designations. However, these designations have not been amended since the inception of the Council in 2009.

## **5. Background**

- 5.1. A street for these purposes includes any road, footway, beach or other area to which the public has access without payment, including highway service areas. In brief terms, street trading is defined as anyone selling or exposing or offering for sale any article (including a living thing).
- 5.2. The purpose of designating streets for the purpose of street trading is to ensure appropriate controls are in place to regulate and ensure that:
  - I. An area is not saturated with street traders to the detriment of permanent businesses
  - II. The highway is not obstructed
  - III. The presence of the trading unit does not present a danger to pedestrians and other road users or an annoyance is caused to residents
- 5.3. In relation to the designation of streets the Committee has the following options:
  - I. To leave a 'street' undesignated – This would have the effect of leaving any street trading unregulated in that street and a trader would not require any permission from the Council to conduct their business.
  - II. A prohibited 'street' – Street Trading would be prohibited from taking place at all times. If Street Trading were to be conducted an offence contrary to the 1982 Act may be committed.
  - III. A consent 'street' - Street Trading would be prohibited from taking place at all times unless the trader has been granted consent. If Street Trading were to be conducted without consent an offence contrary to the 1982 Act may be committed
- 5.4. Following publication of the Statutory Notices, the matter will be brought back before the Licensing Committee for further consideration. It would be necessary for the Committee to consider any objections received and to determine whether or not to pass a resolution changing the street trading designations.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act) grants a Local Authority the power to adopt legislation to control Street Trading within its area.

6.1.2. Schedule 4 of the 1982 Act sets out the powers available, including

- I. The designation of streets as prohibited, consent, or licence
- II. Exemptions
- III. Setting of fees
- IV. Applying conditions
- V. Any offences

6.1.3. On the 13th October 2011 the Council resolved to adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of the Borough.

6.1.4. Statutory Process for Designation of Streets

6.1.5. The following statutory process would need to be followed:

- I. A Public Notice would need to be published, stating the Council's intention to pass such a resolution, in a local newspaper.
- II. A Copy of the notice must be served upon the Chief Officer of Police for the area and on the Highway Authority responsible for the street(s) in question.
- III. A period of at least twenty-eight days must elapse from the time of the initial publication of the notice, to the time the Council passes a resolution confirming the proposed designation, to allow for objections. Any objections would be considered by the Committee
- IV. Once a resolution had been passed, after considering any objections received, a Public Notice would need to be published for two consecutive weeks in a local newspaper. The first of these public notices must be published within 28 days of the Council determining the outcome.

## 6.2. **Finance Implications**

6.2.1. There are a number of Notices that the Council is required to publish, to ensure that the process for designating streets complies with the legislative requirements.

6.2.2. These Notices will incur a cost that is estimated to be £5,000. The Licensing Team has made budgetary provision for this process to be undertaken.

### **6.3. Policy Implications**

6.3.1. The Licensing Committee adopted a Street Trading Policy on the 16th July 2013. This Policy is also subject to review by the Licensing Committee prior to consultation.

### **6.4. Equality Implications**

6.4.1. Consideration has been given to the application of the 'public sector equality duty' (in accordance with section 149 Equality Act 2010) to the recommendation. The decision requested is likely to have a neutral effect in terms of its impact on those individuals with 'protected characteristics.'

### **6.5. Human Resources Implications**

6.5.1. There are no direct implications for Human Resources

### **6.6. Risk Management Implications**

6.6.1. It is good practice to reviewed and updated (where necessary) street trading designations. Designations that have not been review for many years may be more susceptible to challenge or scrutiny if they are no longer relevant.

### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

### **6.8. Implications for Children & Young People/Cared for Children**

6.8.1. There are no direct implications for children and young people.

### **6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

### **6.10. Climate Change Implications**

6.10.1. It is not considered likely that this report will have a positive or negative effect on Climate Change.

## **7. Ward Members Affected**

7.1. All Wards

## **8. Consultation & Engagement**

8.1. The Licensing Team informally consulted on the proposed designations as detailed in appendix A between 15th September 2016 and 27th October 2016 in the following ways:

- Public Consultation via the Council's web site
- With other relevant Council departments and the Council's Event Safety Advisory Group
- With the Town and Parish Councils
- Cheshire Police

8.2. This was an information consultation process designed to ascertain the views of interested parties at the first opportunity. It was not intended to removed the requirement for the statutory consultation required by the legislation.

8.3. No relevant consultation responses were received

8.4. The publication of Notices referred to in 2.1 gives a further opportunity for objections to the proposed changes to be made.

8.5. In the event of objections being received during the statutory consultation process, Members will be asked to consider the views put forward. This may or may not result in changes to the proposals.

## **9. Access to Information**

9.1. Any background papers relating to this report can be inspected by contacting the report author.

## **10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

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