

## **Licensing Committee**

---

**Date of Meeting:** 02 March 2020

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

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

---

### **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 and resolve to:
  - I. Pass a resolution confirming the designation of streets within 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 appropriately and that they are updated to ensure that they remain relevant.

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

- 4.1. No other options have been considered at this stage of the process.

## **5. Background**

- 5.1. On the 2<sup>nd</sup> September 2019, the Licensing Committee considered a report with proposed changes to the Designation of Streets for the purposes of Street Trading.
- 5.2. That report went into detail explaining the street trading process and why the designation of streets was requested.
- 5.3. Members resolved to pass a resolution confirming their intention to pass a further resolution to change the designation in line with the schedule attached at appendix A.
- 5.4. Following that initial resolution being passed, the Licensing Team commenced the process set out in paragraph 6.1.4. This included placing Notices in various newspapers circulating in the Borough.
- 5.5. No objections to the proposed changes have been received.
- 5.6. Accordingly, Members must now pass the resolution in paragraph 2.1 so that the changes can be further advertised in line with the statutory requirements and can therefore come into effect.
- 5.7. At the meeting on the 2<sup>nd</sup> September 2019, Members also expressed their wish to see amendments to the how street trading fees are administered. These amendments were to include flexibility for day, week, and monthly rates. This process is being considered as part of the Team's work to update the Street Trading Policy and a report will be presented to the Licensing Committee for consideration at a future meeting.

## **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 provision within the approved budget 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 review and update (where necessary) street trading designations. Designations that have not been reviewed 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 informal consultation process designed to ascertain the views of interested parties at the first opportunity. It was not intended to remove 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 6.1.5 gave a further opportunity for objections to the proposed changes to be submitted.
- 8.5. In the event of any 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.
- 8.6. As set out within paragraph 5.5 no objections to the resolution have been made.

## **9. Access to Information**

- 9.1. Members may wish to revisit the report presented to the Licensing Committee on the 2nd September 2019.

## **10. Contact Information**

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

Name: Kim Evans

Job Title: Licensing Team Leader

Email: [Kim.Evans@cheshireeast.gov.uk](mailto:Kim.Evans@cheshireeast.gov.uk)