

# CHESHIRE EAST COUNCIL

## Licensing Committee

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<b>Date of Meeting:</b>	6 <sup>th</sup> March 2017
<b>Report of:</b>	Miss Jennifer Knight – Senior Licensing Officer
<b>Subject/Title:</b>	Designation of Streets within the Borough for the purposes of Street Trading
<b>Portfolio Holder:</b>	Cllr Paul Bates – Communities and Health

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### 1.0 Report Summary

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

### 2.0 Recommendation

- 2.1 That Members consider the content of the report, the responses received in respect of the consultation and resolve:

To 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 that authority be given to the Licensing Team Leader to follow any necessary statutory procedures including the publication of the required Notices.

### 3.0 Reasons for Recommendations

- 3.1 To ensure that the Council's Street Trading Designation are review and updated.

### 4.0 Wards Affected

- 4.1 All areas of the Borough will be affected

### 5.0 Local Ward Members

- 5.1 Not applicable

### 6.0 Policy Implications

- 6.1 The Licensing Committee adopted a Street Trading Policy on the 16<sup>th</sup> July 2013.

### 7.0 Financial Implications

- 7.1 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.
- 7.2 These Notices will incur a cost that is estimated to be £5,000. The income from the issuing of street trading consents is approximately £6,570 pa. The Licensing Team has made budgetary provision for this process to be undertaken.

## **8.0 Legal Implications**

- 8.1 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.

- 8.2 Schedule 4 of the 1982 Act sets out the powers available, including

- The designation of streets as prohibited, consent, or licence
- Exemptions
- Setting of fees
- Applying conditions
- Any offences

- 8.3 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.

### **8.4 Statutory Process for Designation of Streets**

- 8.4.1 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.

## **9.0 Risk Management**

- 9.1 Proper consideration of any consultation responses or objection responses will reduce the risk of legal challenge.
- 9.2 It is good practice to review and update (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.

## **10.0 Background**

- 10.1 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).
- 10.2 The purpose of designating streets for the purpose of street trading is to ensure appropriate controls are in place to regulate and ensure that:
- An area is not saturated with street traders to the detriment of permanent businesses
  - The highway is not obstructed
  - The presence of the trading unit does not present a danger to pedestrians and other road users or an annoyance is caused to residents
- 10.3 In relation to the designation of streets the Committee has the following options:
1. 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.
  2. 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.
  3. 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.
- 10.4 The Licensing Team consulted 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

10.5 No relevant consultation responses were received.

10.6 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.

#### **11.0 Access to Information**

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

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