

<b>Report To:</b>	<b>LICENSING COMMITTEE</b>	<b>Date:</b>	<b>28<sup>TH</sup> OCTOBER 2020</b>
<b>Heading:</b>	<b>STREET TRADING: NEW RESOLUTION</b>		
<b>Portfolio Holder:</b>	<b>REGULATORY SERVICES</b>		
<b>Ward/s:</b>	<b>ALL</b>		
<b>Key Decision:</b>	<b>YES</b>		
<b>Subject to Call-In:</b>	<b>NO</b>		

### **Purpose of Report**

On 25<sup>th</sup> July 2019 Council approved the adoption of a brand new Street Trading Policy (recommended by the Licensing Committee). The intention of the Policy was to **“open up the District for business”** and to improve the control of Street Trading. However, a resolution was not made at that time to vary existing street trading designations currently in force pursuant to a number of historical resolutions that are counter-productive to the aims of the new Street Trading Policy.

### **Recommendation(s)**

#### **The Licensing Committee is recommended to:**

- 1) Recommend that all street within the Ashfield District be designated as “Consent Streets”;**
- 2) Approve the Draft Street Trading Resolution for consultation; and**
- 3) Instruct the Licensing Manager to carry out the statutory consultation process and report any responses back to the Committee for further consideration.**

### **Reasons for Recommendation(s)**

The powers to control Street Trading within the Council’s area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.

When Council adopted the new Street Trading Policy on 25<sup>th</sup> July 2019 setting the locality as one where a Street Trading Consent must be obtained before trading can commence, a Resolution was not made to designate all of the streets within the District as “Consent Streets” (i.e. streets on which trading may take place once the Council has granted the individual trader a “Consent” to do so).

This report seeks to rectify this omission.

### **Alternative Options Considered**

**Consider designating some streets as Licence and/ or Prohibited streets:** Not recommended as this would restrict street trading in the District and be contrary to the spirit of the approved Street Trading Policy. The Street Trading Policy contains safeguards to ensure that trading will not be allowed in inappropriate locations.

**Do nothing:** Not recommended as this would mean that any designations under historic Resolutions made prior to 25<sup>th</sup> July 2019 would remain in force, meaning street trading consents for new locations would not be able to be granted without a formal Resolution being made, and that the restricted number of 15 Consent Streets would remain the norm.

### **Detailed Information**

On 25<sup>th</sup> July 2019, following the recommendation of this Committee, Council adopted a new Street Trading Policy that proposed all streets within the Ashfield District be Consent Streets (i.e. a street trading Consent must be granted by the Council in order for Street Trading to take place on the highway). Unfortunately when the Street Trading Policy was put before this Committee, Officers were unaware of the need to also seek a formal resolution of the Committee to vary the existing street trading designations made by prior resolutions of this Committee.

The Local Government (Miscellaneous Provisions) Act provides for the regulation of street trading within a local authority area. The Authority may choose to designate a street as either a:

- a) Prohibited Street;
- b) Licence Street; or
- c) Consent Street.

If no designation is made street trading in that area cannot be regulated by the Authority. If a street is designated a Prohibited Street no trading at all is permitted. The differences between a Licence and a Consent street are set out in **Appendix One**. The method for designating a street is prescribed by the legislation, requiring public consultation and a resolution of the Committee.

On 6<sup>th</sup> March 2002 the Licensing and Registration Committee resolved to adopt the street trading legislation for the whole district and designated any streets that were not Consent Streets as Prohibited Streets. Since then a number of further resolutions have been made adding to the list of Consent streets however any streets not on that list currently remain prohibited streets. A copy of the March 2002 resolution along with a list of the current Consent Streets within the District is attached at **Appendix Two**.

Without a new Resolution to vary the existing prohibited street designations, the aims of the new Policy would be unable to be achieved. It is proposed that this Committee make a Resolution that all streets within the Ashfield District be "Consent Streets". A copy of the **Draft Resolution** is attached at **Appendix Three**.

Making such a Resolution will enable proportional and managed growth for future generations which meets with the needs of our communities and economy; ensure that we are supporting business, growth and employment, and ensure that we are able to improve the environmental sustainability of our region.

Members will already be aware of the seven criteria contained within the Street Trading Policy which define locations that may not be deemed suitable for Street Trading (a copy of the Policy is attached at **Appendix Four**), which are:

- **In close proximity to a place of worship;**
- **In close proximity to a place of education;**
- **In close proximity to a place of healthcare;**
- **In close proximity to a place of cultural or historical local / national significance;**
- **In close proximity to primarily residential properties;**
- **In close proximity to a business offering the same goods / services;**
- **Likely to undermine the safety and / or convenience of the general public and / or road users.**

Although the proposal is for all streets to be designated Consent Streets this does not automatically grant a right to trade from that street. A trader must first apply for, and be granted, a Street Trading Consent. The above criteria will be applied when an application for a Consent is received and provide a framework to ensure that consent will not be granted for trading to take place in inappropriate locations.

In order to change the designation of currently prohibited streets public consultation must first be undertaken in line with the process set out in the legislation. A Public Notice must be placed in a local paper and on the Council website stating the intention to pass the Resolution, and a copy of the Resolution must be served on the Police and Highways Authority (neither of whom provided any objection to the Street Trading Policy), copies will also be served on others listed in the Street Trading Policy, and all current Street Traders.

The consultation shall last for 28 days, and the responses to the consultation shall be put before this Committee. Once a Resolution is passed, the Council must publish it for two consecutive weeks in a local paper (the first of which must not be less than 28 days before the date specified in the Resolution for the designation to come into force).

## **Implications**

### **Corporate Plan:**

### **Legal:**

The Local Government (Miscellaneous Provisions) Act 1982 (Schedule 4) sets out the process for designating Consent Streets and rescinding any existing Street Trading Resolution(s).

The process to be followed has been detailed within this report.

### **Finance:**

The cost of administering the Street Trading Scheme is recovered through the fees and charges applicable to this specific licensing function, and such fees are reviewed annually.

This report is effective from **28<sup>th</sup> October 2020** and has the following financial implications.

<b>Budget Area</b>	<b>Implication</b>
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

**Risk:**

<b>Risk</b>	<b>Mitigation</b>
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carry out its licensing functions and decision making processes.

**Human Resources:**

There are no Human Resources implications contained within this report.

**Environmental/Sustainability**

By approving the draft Resolution, the Council is able to control Street Trading throughout the District, ensuring the protection and sustainability of the local environment.

**Equalities:**

There are no diversity or equality implications contained within this report.

**Other Implications:**

None

**Reason(s) for Urgency**

Not applicable

**Reason(s) for Exemption**

Not applicable

**Background Papers**

**Appendix One:** Explanation of Street Trading Licences and Street Trading Consents

**Appendix Two:** List of current Consent Streets

**Appendix Three:** Draft Resolution

**Appendix Four:** Street Trading Policy

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