

Report To:	LICENSING COMMITTEE	Date:	27th January 2021
Heading:	STREET TRADING: NEW RESOLUTION		
Portfolio Holder:	REGULATORY SERVICES		
Ward/s:	ALL		
Key Decision:	N/A		
Subject to Call-In:	N/A		

Purpose of Report

On 28th October 2020 the Licensing Committee Council approved a new Draft Street Trading Resolution to compliment the new Street Trading Policy that came into force in Summer 2019, and to supersede any previous Street Trading Resolutions made by the Council that restricted street trading to just 15 specific locations.

A public consultation on the new draft Street Trading Resolution was held from 9th November 2020 – 20th December 2020, and the Licensing Committee is required to consider any such responses, make any necessary amendments to the draft Street Trading Resolution in light of such responses, and then recommend the draft Street Trading Resolution to Council for adoption.

Recommendation(s)

The Licensing Committee is recommended to:

- 1) Consider any responses to the public consultation;
- 2) Make any amendments to the Draft Street Trading Resolution in light of any such responses; and
- 3) Recommend that Council adopt the new Draft Street Trading Resolution, and to instruct the Licensing Manager to arrange the necessary statutory publication of the New Street Trading Resolution.

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 25th 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, and that this Committee recommends to council that the new Draft Street Trading Resolution be adopted.

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 25th 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 25th 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 method for designating a street is prescribed by the legislation, requiring public consultation and a resolution of the Committee.

On 6th 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 One**.

Without a new Resolution to vary the existing prohibited street designations, the aims of the new Policy would be unable to be achieved. On 28th October 2020 this Committee approved a new Draft Street Trading Resolution for public consultation. The new Draft Resolution would enable all streets within the Ashfield District be “Consent Streets”. A copy of the Draft Resolution is attached at **Appendix Two**.

The consultation ran from 9th November 2020 to 20th December 2020 and was publicised on the Council website, all current Street Traders were written to, and both the Police and Highways

Authority were notified. No responses were received. As such, this Committee is asked to recommend that Council adopt the new Draft Street Trading Resolution originally approved for consultation by this Committee.

If Council adopts the new Draft Resolution, it 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).

Protections are in place for communities and existing businesses within the Street Trading Policy, in order that street trading is not a cause of nuisance, unfair competition, or would negatively impact on any location.

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 Three**) in order to promote the above matters, which are that Street Trading applications for the following locations will likely be refused:

- **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.**

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 **27th January 2021** and has the following financial implications.

Budget Area	Implication
General Fund – Revenue Budget	None

General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
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: New Draft Street Trading Resolution

Appendix Two: List of current Consent Streets

Appendix Three: Street Trading Policy

Report Author and Contact Officer

Julian Alison
Licensing Manager

Email: j.alison@ashfield.gov.uk

Tel: 01623 457364