



Committee and Date

Strategic Licensing Committee

7 December 2022

Item

Public

## Review of the Street Trading Policy 2023 to 2028

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### 1. Synopsis

- 1.1 The Council's existing Street Trading Policy came into effect from 1 April 2018. Since this date there have been changes in licence processes and the way in which Street Trading is delivered across the administrative area of Shropshire Council.
- 1.2 This report sets out the proposed Street Trading Policy 2023 to 2028 and highlights those matters that have led to the most significant proposed changes.

### Executive Summary

- 1.1. The Council adopted the Street Trading provisions under the Local Government (Miscellaneous provisions) Act 1982 for the whole of the Shropshire Council administrative area on the 26 January 2017.
- 1.2. The administration of Street Trading includes the determination of Prohibited, License and Consent Streets, the setting of fees, the administration of licenses and consents, and enforcement in the event of non-compliance.
- 1.3. The Council's existing Street Trading Policy came into effect from 1 April 2018.
- 1.4. The Policy requires updating to reflect the Council's priorities and outcomes for 2023 – 2028, in relation to protecting people from harm, promoting health and managing the environment. In addition, ongoing improvements in licensing practices and procedures need to be embedded within the Policy to further strengthen the application process and to provide the foundations for robust enforcement to increase compliance.
- 1.5. The aim of the Policy is to ensure that the Council can properly regulate those who trade in the street and not from within a business premises.

## 2. Recommendation

- 2.1. That the Strategic Licensing Committee agrees, with any necessary modifications, that the proposed Street Trading Policy 2023 to 2028, as set out in **Appendix A**, is adopted by the Council and implemented with effect from 1 April 2023.

## REPORT

### 3. Risk Assessment and Opportunities Appraisal

- 3.1. The preparation and publishing of the Policy is not a legal requirement. However, it will help to ensure that the Council can properly regulate those who trade in the street and not from within a business premises. It will create transparency for all stakeholders providing the manner in which the Council intends to regulate Street Trading.
- 3.2. Street Trading provisions are local in nature. Under provisions of the Local Government Act 1972, on the 9 December 2010 the Council delegated to Ludlow Council all its powers emanating from Section 3 and Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 in respect of street trading.
- 3.3. Ludlow Town Council is the only Town Council who currently undertakes the administration and enforcement of Street Trading.
- 3.4. The consultation process explored the opportunity to further delegate the responsibility for the Street Trading function to Parish and Town Councils.
- 3.5. Where Street Trading provisions are delegated, the decision on where and when Street Trading should be permitted can be exercised more locally. Should additional Town and Parish Councils express an interest in taking on responsibility for the Street Trading function a separate report will be brought before the Strategic Licensing Committee.
- 3.6. Enabling the powers to be exercised at the most local level has clear benefits for Shropshire communities, allowing more informed decisions regarding how Street Trading is conducted according to the nature of the local area. However, based on previous responses there is no appetite for this function to be delegated to a more local level.
- 3.7. An informal consultation in respect of the proposal to revise the policy was undertaken with Town and Parish Councils and licence holders from the 21 March 2022 to the 17 April 2022. Feedback from this consultation was considered and included in the revision of the policy.
- 3.8. Town and Parish Councils were contacted and asked to consider the requirements of the existing Policy and how this has affected the running of some their events since it came into effect. The general discussions resulted in an additional section being added to the proposed policy to include further clarity on the activities which are 'out of scope' for Street Trading purposes.

- 3.9. A formal consultation in respect of the revised policy was undertaken from 27 June 2022 to the 21 August 2022. The consultation welcomed and encouraged all interested parties to provide feedback in relation to the content of the whole policy.
- 3.10. The 4 individual responses to the formal consultation full details of the responses have been analysed and officer comments and explanatory notes recorded. The consultation responses can be found at **Appendix B** and the officers comments can be found at **Appendix C**.
- 3.11. Following feedback during the formal consultation from Bridgnorth Town Council and Cae Glas Charity in Oswestry, existing street designations have been amended and new streets designated as streets/areas where consent or licence does not have effect for Street Trading purposes, in accordance with Schedule 4 of the 1982 Act. This includes, Severn Park (WV15 5AE), Crown Meadow (WV16 4HL), Castle Grounds (WV16 4AB) in Bridgnorth and Cae Glas Park in Oswestry.
- 3.12. At a meeting of the Strategic Licensing Committee, held on the 5 October 2022, consideration was given to the proposed amendments to the designated streets. The Committee resolved to publish and serve notices, in accordance with the 1982 Act, to finalise the designation of relevant streets across the county. No objections were received to the notices and as a result the new designations will take effect from 1 April 2023. The relevant report can be found in the papers for the Committee meeting held on the 5 October 2022 at Agenda Item 8. [Agenda for Strategic Licensing Committee on Wednesday, 5th October, 2022, 10.00 am — Shropshire Council](#).
- 3.13. The review and adoption of a Policy will have a positive impact on Human Rights, including The Right to Life (Article 2), Right to a Fair Trial (Article 6) and Right to Respect for Private and Family Life (Article 8), of both applicants and their customers. On this basis, the recommendation contained in this report are compatible with the provisions of the Human Rights Act 1998 and are unlikely to result in any adverse Human Rights Act implications.
- 3.14. The proposed Policy contains the application processes and requirements to obtain both a Street Trading Licence and Consent. The proposed Policy can be found at **Appendix A**. The Consent process/requirements purposefully mirror those set out for a Licence Street. It is recognised that the Council may face a challenge on the robust nature of the proposed application process in relation to Consent Streets; however, the Act sets out that ‘the Council may grant a Consent if they think fit’ and in order to make this judgement it is deemed necessary and proportionate given the need to ensure applicants are suitable under the Council’s safeguarding responsibilities.
- 3.15. The Act provides a broad basis to request such ‘particulars as the Council may reasonably require’ in order to determine whether or not to grant or renew a Street Trading Licence. It is on this basis that Officers consider the information requested as part of the application process to be entirely lawful.
- 3.16. An Equality, social inclusion and health impact assessment (ESHIA) has been carried out and informed by the feedback from the consultation process. The

ESHIA is set out at **Appendix D**. as the screening indicates, the proposed Policy is intended to benefit the community as a whole by generally improving the street trading regime operated by the Council. This will naturally lead to benefits for people in the nine Protected Characteristic Groupings as defined by the Equality Act 2010, because they are part of the wider community and because everyone is anticipated to benefit from the safeguarding provisions in place already that are being reinforced through this revised Policy.

- 3.17 For all the Groupings, the impact of the proposed Policy is rated as ‘low positive’. However, in practice, with the exception of ‘age’ and ‘disability’ and those with caring responsibilities, thus potentially including the groupings of ‘sex’ and ‘pregnancy and maternity’, the impact in reality is likely to be neutral – neither positive nor negative – with no anticipated need to take actions to mitigate or enhance the impact beyond common sense considerations that will benefit all groupings. Additionally, positive impacts are anticipated to accrue for our tenth grouping of consideration in Shropshire, of Social Inclusion. This is not least due to improvements anticipated for vulnerable individuals and households such as young people leaving care, and veterans and serving members of the armed forces, as well as low income households, rural households, and people living in fuel poverty.
- 3.18 This would include consideration of sightlines where street traders are in operation to aid those with caring responsibilities, whether of young children or of people with mental health problems, learning disabilities, or neurodiverse conditions, and consideration of practical accessibility matters for people with physical disabilities or those who may be pregnant. In addition, as street traders may unintentionally cause intimidation or distress to vulnerable children and adults through the methods that they may choose to employ to attract business, such as loud voices, guidance will need to be given on this matter to people applying for licences. This may be a particular consideration for people with neurodiverse conditions such as autism, or with attachment disorders.
- 3.19 Once traders are in operation, there is potential for any officer of the Council to help, e.g. attending social workers, by being made aware of the new policy and by being encouraged to act as the eyes and ears of the Council in helping feedback to the service area. This could help ensure effectiveness as well as efficiency of the new policy. With respect to ‘age’ and ‘disability’ groups and people with caring responsibilities, in particular around the Council’s safeguarding responsibilities, there will be ongoing dialogue with the Shropshire Children Safeguarding Board and the Keeping Adults Safe in Shropshire Board. Use will be made of the Communications team to aid knowledge sharing about the arrangements and about the safeguarding measures that are in place.

#### **4. Financial Implications**

- 4.1. The officer time and associated costs can be recovered through the licence/consent fees that are determined by the cost recovery fee setting process.

## **5. Climate Change Appraisal**

- 5.1. Compliance with the ‘Environmental Impact’ conditions that will be attached to the Street Trading Licence/Consents will have a positive impact on the environment.

## **6. Background**

- 6.1. The legal controls relating to Street Trading are contained in Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. These include the designation of streets, setting of fees, the administration of licences and consents, and enforcement in the event of non-compliance.
- 6.2. Street trading means the selling or exposing or offering for sale of any article (including a living thing) in a street. Streets are designated as either prohibited, licence or consent and they are defined as:
- ‘Prohibited Street’ means a street in which street trading is prohibited.
  - ‘Licence Street’ means a street in which street trading is prohibited without a licence granted by the Council.
  - ‘Consent Street’ means a street in which street trading is prohibited without the consent of the Council
- 6.3. Where a street has not been designated as either Prohibited, Licence or Consent, the Council has no regulatory responsibility under Street Trading legislation and therefore, no permissions are required from the Council. However, Street Traders must always seek permission to use the land from the land owner. This includes Shropshire Council’s Highways Service or the Highway Authority for the Strategic Road Network (SRN) (Highways England) where the land is a highway.
- 6.4. It is illegal to trade in those streets designated as Prohibited Streets and the Council cannot subsequently give permission without removing the prohibition. In order to trade legally in a Licence or Consent Street, traders must apply for a Street Trading Licence or Consent and be granted permission to trade. Within the Council this process is undertaken by the Licensing Team.
- 6.5. Prior to submitting an application, the Street Trader must ensure they have permission to use the land from the land owner. The permission to use the land is separate from gaining permission to trade.

## **7. Conclusion**

- 7.1. The proposed Policy stems from provisions within the 1982 Act and is intended to benefit the community as a whole by generally improving the street trading regime operated by the Council.

- 7.2 The Policy aims to reflect the Council's priorities and outcomes for 2023 – 2028, in relation to protecting people from harm, promoting health and managing the environment. In addition, ongoing improvements in licensing practices and procedures are embedded within the Policy to further strengthen the application process and to provide the foundations for robust enforcement to increase compliance.
- 7.3 The Policy will be a key tool that will drive street trading standards up for everyone.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

Local Government Act 1972 s101 (1) (b)

Local Government (Miscellaneous Provisions) Act 1982 s.3 and Schedule 4

Strategic Licensing Committee, 4th October 2017: Street Trading Adoption of Streets. <https://shropshire.gov.uk/committee-services/documents/s16627/Agenda%20Item%205%20Street%20Trading.pdf>

Strategic Licensing Committee, 25th January 2017: Street Trading Policy Consultation <https://shropshire.gov.uk/committee-services/documents/s14166/Item%207%20Adoption%20of%20Misc%20Provisions%201982%20Act%20-%20Street%20Trading.pdf>

Strategic Licensing Committee, 22 June 2022: Review of the Street Trading Policy 2023 to 2028 [Agenda for Strategic Licensing Committee on Wednesday, 22nd June, 2022, 10.00 am — Shropshire Council](#)

Strategic Licensing Committee, 5 October 2022: Proposed Variation of the Designation of Licenced Streets [Agenda for Strategic Licensing Committee on Wednesday, 5th October, 2022, 10.00 am — Shropshire Council](#)

**Cabinet Member (Portfolio Holder)**

Councillor Ed Potter, Deputy Leader, Economic Growth, Regeneration and Planning

**Local Member**

Not applicable – report has county wide application

**Appendices**

**Appendix A** – Proposed Street Trading Policy 2023 to 2028

**Appendix B** – Individual Consultation Responses

**Appendix C** - Officer Summary of Consultation Responses

**Appendix D** - Equality, Social Inclusion and Health Impact Assessment

(ESHIA)

