

**CONSULTATION ON DRAFT REVISED STREET TRADING POLICY AND
PROPOSAL TO DESIGNATE ALL STREETS AS CONSENT STREETS**

Relevant Portfolio Holder	Councillor G Prosser
Portfolio Holder Consulted	Yes
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

In November 2017 the Licensing Committee approved consultation on a draft revised street trading policy. The Committee also resolved to approve consultation on a proposal to designate all streets in the Borough as “consent streets” for the purpose of controlling street trading. The Committee is now asked to consider the outcome of the consultation exercise.

2. RECOMMENDATIONS

That Members RESOLVE to approve the revised street trading policy at Appendix 1 to take effect on 1st September 2018.

That Members RESOLVE to instruct officers to carry out further consultation on the proposal to pass resolutions to designate all streets in the Borough as consent streets for the purpose of controlling street trading.

3. KEY ISSUES

Financial Implications

- 3.1 The costs associated with carrying out the further consultation exercise on the proposal to designate all streets in the Borough as consent streets would be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) as amended allows local authorities to adopt provisions concerning the control of street trading. Under the Act there is no legal requirement for the Council to have a policy on how it proposes to control street trading under the Act.
- 3.3 However it is considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its functions are carried out. It is also considered best practise to review any such policy adopted from time to time.
- 3.4 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling or exposing or offering for sale of any article (including a living thing) in a street.
- 3.5 Schedule 4 also defines street as including:
- (a) any road, footway, beach or other area to which the public have access without payment; and
 - (b) a service area as defined in section 329 of the Highways Act 1980,
- 3.6 Paragraph 2 of Schedule 4 states that a district council may by resolution designate any street in their district as—
- (a) a prohibited street;
 - (b) a licence street; or
 - (c) a consent street.
- 3.7 “Prohibited street” means a street in which street trading is prohibited.
- 3.8 “Licence street” means a street in which street trading is prohibited without a licence granted by the district council.
- 3.9 “Consent street” means a street in which street trading is prohibited without the consent of the district council.

Service / Operational Implications

- 3.10 Council's usually control street trading so that they can decide where to allow street trading and can properly manage the environmental and safety implications that the street trading creates. Controlling street trading also allows Councils to manage the impact street trading has on the local economy.

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- 3.11 The control of street trading can also be of benefit to traders who can obtain greater security over their “pitch” if they are the only person who has the Council’s consent to trade there.
- 3.12 Officers believe that it is important that where a Council decides to exercise control over street trading, the Council should adopt a street trading policy, which sets out clearly how applications for street trading consents will be dealt with and what principles will be applied when determining applications made for street trading consents. It is also believed that such a policy should be reviewed from time to time to ensure it is still appropriate and in line with the Council’s aims and objectives in controlling street trading.
- 3.13 The Council’s current street trading policy and standard conditions has been in place since July 2012. It has therefore been six since these have been formally reviewed.
- 3.14 In November 2017 the Licensing Committee resolved to approve a draft revised street trading policy for the purpose of consultation with relevant parties.
- 3.15 The draft revised street trading policy was a more comprehensive and detailed document than the current street trading policy and incorporates the standard conditions. The draft revised policy aims to provide as much information and guidance as possible to assist applicants, consent holders, officers and Members with a view to achieving a transparent and consistent approach to how the Council’s street trading functions are carried out. A copy of the draft revised street trading policy consulted upon can be seen at **Appendix 1**.
- 3.16 At the same meeting the Licensing Committee were asked to review the current arrangements for designating where and how street trading is controlled under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 3.17 Currently the designation of streets is as shown at **Appendix 2**. Under these designations there are a number of named “prohibited streets” with all other streets in the Borough being designated by the Council as “consent streets.”
- 3.18 Officers consider that it would be preferable to designate all streets in the Borough as consent streets and remove any prohibited streets.
- 3.19 The rationale behind this is that such a change would allow every application to be considered on its merits and would enable street trading to be permitted in what are currently the prohibited streets, where it was felt appropriate to allow it. This could be for example to facilitate a short term community event or other similar event where the

ability to allow street trading would enhance the event and provide a benefit to the wider community.

- 3.20 Additionally it is believed that the draft revised street trading policy would, if adopted, put in place a robust framework for consultation and consideration of all applications received on their own merits. Therefore the need to designate any streets as prohibited streets would be diminished.
- 3.21 There is a detailed legal procedure to follow in order to properly designate streets as consent streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The process to be undertaken can be summarised as follows:
- Council publishes notice of its intention to pass a resolution to designate streets as consent streets
 - Minimum of 28 days given for people to make representations relating to this intention
 - Any representations received are considered
 - Council passes a resolution to designate streets as consent streets
 - Notices published to advertise the making of the resolution (at least 28 days before resolution takes effect).
 - Resolution takes effect
- 3.22 Rather than immediately commencing the legal process required, the Licensing Committee resolved to direct officers to carry out consultation on the proposal to designate all streets as consent streets alongside the consultation on the draft revised street trading policy.
- 3.23 A consultation questionnaire was designed to elicit views on the following matters set out in the draft policy:-
- The objectives of the policy
 - The application procedures
 - The key considerations
 - The standard conditions
 - Any other observations
- 3.24 The consultation questionnaire also sought views on the proposal to amend the current designation of streets.
- 3.25 A copy of the consultation questionnaire can be seen at **Appendix 3**.

- 3.26 The consultation questionnaire was specifically sent out to the following bodies:
- West Mercia Police
 - West Mercia Safer Roads Partnership
 - Highways Authority (Worcestershire county Council)
 - Highways England
 - Safer Redditch
 - Street Cleansing Team (Redditch Borough Council)
 - Planning Authority (Redditch Borough Council)
 - Hereford and Worcester Chamber of Commerce
 - Local Enterprise Partnership
 - North Worcestershire Economic Development and Regeneration
 - Feckenham Parish Council
 - Trading Standards (Worcestershire county Council)
 - Child Employment and Entertainment Licensing Officer (Worcestershire County Council)
- 3.27 Additionally the consultation was sent to existing street trading consent holders and advertised on the “consultations” page of the Council website. The consultation was also advertised via social media channels.
- 3.28 The consultation commenced early in January 2018 and ran until 31st March 2018.
- 3.29 Disappointingly the only response to the consultation came from Highways England who responded as follows:
- “As the proposals will not have any impact on the Strategic Road Network (Motorways and Trunk Roads), we do not have any comment to make on the documents.”*
- 3.30 Members are now asked to resolve to approve the revised street trading policy at **Appendix 1** to take effect on 1st September 2018.
- 3.31 In relation to the proposal to designate all streets in the Borough as consent streets, officers feel that further consultation on this proposal should be carried out. This consultation would be a more focussed exercise as it would not be combined with consultation on a draft revised policy.
- 3.32 The results of this additional consultation could then be considered by the Licensing Committee at a future date.

4. RISK MANAGEMENT

4.1 None

5. APPENDICES

Appendix 1 – Revised Street Trading Policy

Appendix 2 – Existing Street Designations

Appendix 3 – Consultation Questionnaire

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