

Shropshire Council
Legal and Democratic Services
Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Date: Tuesday, 17 January 2017

Committee:
Strategic Licensing Committee

Date: Wednesday, 25 January 2017

Time: 10.00 am

Venue: Shrewsbury Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

You are requested to attend the above meeting.
The Agenda is attached

Claire Porter
Head of Legal and Democratic Services (Monitoring Officer)

Members of the Committee

Keith Roberts (Chairman)
Andrew Davies (Vice Chairman)
Peter Adams
Joyce Barrow
Vernon Bushell
Dean Carroll
Peter Cherrington
Nigel Hartin
Roger Hughes
Duncan Kerr
Nic Laurens
Robert Macey
Vivienne Parry
Jon Tandy
Robert Tindall

Substitute Members of the Committee

Andrew Bannerman
Gwilym Butler
Vince Hunt
John Cadwallader
Ted Clarke
Pauline Dee
Richard Huffer
John Hurst-Knight
Christian Lea
Jane MacKenzie
William Parr
David Roberts
David Turner
Tina Woodward
Paul Wynn

Your Committee Officer is:

Shelley Davies Committee Officer

Tel: 01743 257718

Email: shelley.davies@shropshire.gov.uk

AGENDA

1 Apologies

To receive apologies for absence

2 Minutes of Previous Meeting (Pages 1 - 4)

To confirm the Minutes of the meeting held on 7th June 2016

Contact: Emily Marshall (01743 257717).

3 Public Question Time

To receive any public questions or petitions from the public, notice of which has been given in accordance with Procedure Rule 14. The deadline for this meeting is Friday 20th January 2017.

4 Disclosable Pecuniary Interests

5 Safety of Sports Grounds - Annual Report of Activity (January 2017) (Pages 5 - 8)

To consider the report of the Health Protection/Prevention Team Manager, attached marked 5.

Contact: Matthew Aldridge 01743 251700

6 Licensing Fees and Charges - 2017 - 2018 (Pages 9 - 54)

Report of the Trading Standards & Licensing Operations Manager is attached, marked 6.

Contact: Frances Darling (01743 251715)

7 Street Trading - Adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (Pages 55 - 58)

Report of the Transactional and Licensing Manager is attached, marked 7.

Contact: Mandy Beever (01743 251702).

8 Street Trading Policy Consultation Proposals (Pages 59 - 128)

Report of the Transactional and Licensing Manager is attached, marked 8.

Contact: Mandy Beever (01743 251702).

9 Exercise of Delegated Power (Pages 129 - 136)

Report of the Transactional and Licensing Manager is attached, marked 9.

Contact: Mandy Beever (01743 251702).

10 Records of Proceedings - Licensing Act Sub-Committees (Pages 137 - 144)

To consider the records of proceedings of the Licensing Act Sub-Committee meetings for May 2016 to September 2016 are attached for the Committees information.

- 23rd May 2016
- 27th June 2016

Contact: Emily Marshall (01743 257717) or Shelley Davies (01743 257718)

11 Date of Next Meeting

To note that the next meeting of the Strategic Licensing Committee will be held on 22nd March 2017 in the Shrewsbury Room, Shirehall, Shrewsbury.

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Strategic Licensing
Committee

25th January 2017

Item

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Public

**MINUTES OF THE STRATEGIC LICENSING COMMITTEE MEETING HELD ON 7 JUNE
2016
10.00 - 10.20 AM**

Responsible Officer: Emily Marshall
Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillor Keith Roberts (Chairman)
Councillors Peter Adams, Vernon Bushell, Dean Carroll, Peter Cherrington,
Andrew Davies (Vice Chairman), Nigel Hartin, Roger Hughes, Duncan Kerr, Nic Laurens,
Robert Macey, Vivienne Parry, Jon Tandy and Robert Tindall

1 Election of Chairman

RESOLVED:

That Councillor Keith Roberts be elected Chairman for the ensuing year.

2 Apologies

An apology for absence was received from Councillor Joyce Barrow.

3 Appointment of Vice-Chairman

RESOLVED:

That Councillor Andrew Davies be appointed Vice-Chairman for the ensuing year.

4 Minutes of Previous Meeting

RESOLVED:

That the Minutes of the meeting held on 30th March 2016 be approved as a correct record and signed by the Chairman.

5 Public Question Time

There were no public questions received.

6 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the agenda.

7 Appointment to Licensing and Safety Sub-Committee

The Committee were asked to confirm the delegated powers to the Licensing and Safety Sub-Committee for the municipal year 2016 to 2017 (see minute 10 of the meeting held on 8th June 2011) and to appoint its membership. Members were reminded that this Sub-Committee's powers were mainly used for dealing with matters concerning hackney carriage and private hire vehicles and drivers.

RESOLVED:

1. That, a standing Licensing and Safety Sub-Committee be established comprising 5 members of the Strategic Licensing Committee and with full delegated powers to discharge the Council's Licensing and Safety functions as set out in Annex A of the report to the Strategic Licensing Committee, see Minute 10 of the meeting held on 8th June 2011.
2. That the rules of the Licensing and Safety Sub-Committee be those that were set out in Annex B of the report to the Strategic Licensing Committee, see Minute 10 of the meeting held on 8th June 2011.
3. That Councillors Joyce Barrow, Vernon Bushell, Andrew Davies, Nic Laurens and Viv Parry, be appointed to serve on the Sub-Committee with Councillors Steve Davenport, Roger Hughes, Jon Tandy and Nigel Hartin (1 Conservative Vacancy) appointed as substitute Members.

8 Licensing Act 2003 and Gambling Act 2005 Delegations and Administrative Matters

The Committee were asked to confirm the delegated powers of the Licensing Act Sub Committee for the municipal year 2016 to 2017 (see minute 11 of the meeting held on 8th June 2011). The Licensing Act Sub-Committee dealt with matters concerning applications made under the Licensing Act 2003 and the Gambling Act 2005. The committee were also asked to confirm the method of appointing members (which could be three members of the Strategic Licensing Committee).

RESOLVED:

That the delegated powers of, and method of appointments to, the Licensing Act Sub-Committee for the municipal year 2016 to 2017 be as those agreed on 8th June 2011 (See Minute 11).

9 Exercise of Delegated Powers

Consideration was given to the report of the Team Manager – Operational Community Safety in relation to delegated powers to issue and amend licences. (copy attached to the signed minutes).

RESOLVED:

That the report of the Team Manager – Operational and Community Safety be noted.

10 Records of Proceedings Licensing Act Sub-Committee

The records of proceedings of the Licensing Act Sub-Committee meetings from February 2016 to April 2016 were received by Members (Copy attached to the signed minutes).

RESOLVED:

That the records of proceedings of the Licensing Act Sub-Committee meetings from February 2016 to April 2016 be noted.

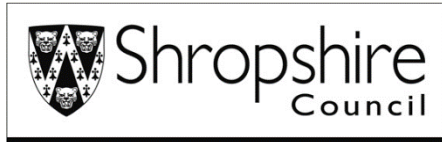
11 Date of Next Meeting

It was noted that the next meeting of the Strategic Licensing Committee would be held on Wednesday, 28th September 2016 in the Shrewsbury Room, Shirehall.

Signed (Chairman)

Date:

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<u>Committee and Date</u>
Strategic Licencing Committee
25 th January 2017

<u>Item</u>
5
Public

SAFETY OF SPORTS GROUNDS – ANNUAL REPORT OF ACTIVITY (JANUARY 2017)

Responsible Officer: Matthew Aldridge: Health Protection Team Manager – Regulatory Services

e-mail: Matthew.aldridge@shropshire.gov.uk

Tel: 01743 251700

1. Summary

1.1 On 15th December 2009 it was agreed that an annual report be given to members of the Strategic Licencing Committee detailing the exercise of delegated functions in respect of the safety of sports grounds, undertaken by the Public Protection service over the past year.

1.2 There are no financial, environmental or health and safety implications associated with this report.

2. Recommendations

2.1 That the Strategic Licencing Committee note the activities in respect of safety of sports grounds at designated sports grounds and regulated stands in Shropshire.

REPORT

3. Background

3.1 The Safety of Sports Grounds Act 1975, Fire Safety and Safety of Places of Sport Act 1987 and the Regulatory Reform (Fire Safety) Order are enforced by Public Protection.

3.2 Under the Safety of Sports Grounds Act 1975, the Council is required to issue Safety Certificates for designated sports grounds which are defined as:

A place where sports or other competitive activities take place in the open air and where accommodation has been provided for spectators, consisting of artificial structures or of natural structures artificially modified for the purpose.

3.3 Safety certificates are required in sports grounds that can accommodate more than 10,000 spectators (5000 in the case of Football League grounds) or have a covered stand that holds more than 500 spectators.

3.4 The primary purpose of the safety certificate is to set a limit on the safe capacity of a designated ground or regulated stand. The capacity of a sports ground or stadium is calculated on the physical condition of the stadium (the P factor) and the level of safety management (the S factor).

3.5 The safety certificate will also detail conditions in respect to safety matters with which the certificate holder must comply if that capacity is to be maintained.

3.6 The venues within Shropshire which hold safety certificates are:

- Shrewsbury Town Football Club
- Ludlow Racecourse
- New Saints Football Club, Park Hall, Oswestry.

4 Shrewsbury Town Football Club (Greenhous Meadow)

4.1 An annual regime of during performance inspections (DPI's) and site visits have been conducted to verify the safe capacity of the stadium taking account of the physical condition of the stadium and the safety management operations in place (P and S factors). The calculations have been verified and the capacity of the club has been retained at a maximum of 9875 people.

4.2 A Safety Advisory Group (SAG) consisting of West Mercia Police, Shropshire Fire and Rescue, West Midlands Ambulance Service, The Safety of Sports Grounds Authority, Emergency Planning and Public Protection has met twice (March and November) to routinely address any safety issues associated with football matches at the stadium.

4.3 In February 2016, a planning application was received notified in relation to the location of a Lidl supermarket within the grounds of STFC. Representations were made on behalf of Regulatory Services in relation to recommending that restrictions were placed on deliveries during match days, review of the arrangements for safe access and egress of supporters to and from the ground and the location of stewards around the proposed site.

4.4 The following official match day inspections (DPI's) were carried out by the service and representatives of the Safety Advisory Group to view the clubs operational procedures in action and to assess compliance with the General Safety Certificate:

4.5 Shrewsbury Town vs. Manchester United (22nd February 2016). A visit was undertaken to view the safety management operation during a full capacity high risk game. Overall a very high standard of safety management was seen however concerns were raised in relation to obstruction of the emergency vehicle access route on Oteley Road and issues in relation to inappropriate placement of TV camera cables and advertising hoardings as this game was broadcast live. These issues were followed up with the safety officer and through the SAG by Regulatory Services.

4.6 Shrewsbury Town vs Sheffield United (Tuesday 18th October 2016). This was police-free match and a well-controlled safety management system was implemented. Issues noted related to requirements highlighted in the fire risk assessment, evacuation training of

hospitality staff on non-match days and housekeeping issues. The fire risk assessment is currently under review and items are currently being followed up in accordance with an agreed action plan.

4.7 A further non match day inspection was conducted on the 17th November to determine compliance with the general conditions of the safety certificate. A legal requirement was identified to remedy the follow-up items detailed in their fire risk assessment. Subsequent to this an action plan has been agreed to ensure that these items are addressed.

4.8 The General safety certificate was re-issued on the 23rd November 2016 without any changes to the existing conditions

4.9 Special safety certificates were granted for the following events over the past twelve months:

- RAF vs Navy (March 2016)
- Celebrities Match (April 2016)

4.10 Further to a question raised by Cllr. Dean Carroll at the Strategic Licencing Committee meeting in January 2016 regarding the training and competency of stewards, this has been followed up directly with the Safety Officer of the club and it has been confirmed that all 97 stewards (100%) have achieved NVQ Level 2 in Spectator Safety. The club also have links with Telford College to put any prospective stewards through the Level 2 training. Any extra stewards that are required at extraordinary fixtures are provided by external companies where Level 2 qualifications are required.

5 Ludlow Racecourse

5.1 A General inspection of the ground has taken place to review the P&S factors with an S factor of 0.5 giving a capacity of 8655 in total covering all viewing areas. The average attendance of the ground at regular race meetings is around 2000 spectators per event.

5.2 A race day inspection was due to take place on the 6th January 2017, however this had to be postponed as the race meet was cancelled due to bad weather. The inspection will now take place in February 2017.

5.3 A non-during performance inspection was conducted on the 27th October 2016. Good standards were seen but some minor maintenance issues and the requirement to review their fire risk assessment was raised.

5.4 Shropshire Council Regulatory services plan to hold a specific Safety Advisory Group with Ludlow Racecourse before the start of the 2017/18 season to bring key partners into the safety management regime.

6 New Saints Football Club, Oswestry

6.1 A full review of the safety management operation has taken place during the year by Regulatory Services.

6.2 Match day inspections were carried out by the service to view the clubs operational procedures in action and to assess compliance with the General Safety Certificate on the 28th June 2016 (UEFA Champions league qualifier vs. Tre Penne of San Marino) and 12th July 2016 (UEFA Champions league qualifier vs. Apoel Nicosia of Cyprus). The inspections found that levels of compliance were satisfactory.

6.3 Following the site visits and match inspections the application of the Guide to Safety at Sports Grounds (Green Guide) has resulted in the S factor remaining at 0.5 keeping the capacity of the ground to 1500 spectators including hospitality areas.

6.4 The capacity remains sufficient for regular fixtures at the club, which typically attracts less than 500 spectators at each fixture.

6.5 Shropshire Council Regulatory services recommend that a specific SAG is set up to involve key stakeholders in the safety management regime. It is advised that this takes place before the UEFA games outside the main football season in June 2017.

7. Sports Grounds Safety Authority (SGSA):

7.1 The Sports Ground Safety Authority regulate the council in relation to how it exercises its licencing functions in relation to Sports Grounds.

7.2 Shropshire Council also sit on the West Midlands Sports grounds safety advisory group whereby good practice is shared with other regulators, clubs and the SGSA.

8. Risk Assessment and Opportunities Appraisal

None

9. Financial Implications

None

10. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) None
Cabinet Member (Portfolio Holder) Cllr. Malcolm Price
Local Member
Appendices None



<u>Committee and Date</u>
Strategic Licensing Committee
25 January 2017

<u>Item</u>
6
Public

LICENSING FEES AND CHARGES 2017-2018

Responsible Officer Frances Darling - Trading Standards and Licensing Operations Manager
e-mail: frances.darling@shropshire.gov.uk Tel: 01743 251715

1. Summary

- 1.1 This report proposes revised fees for the period 1 April 2017¹ to 31 March 2018 for licences and licensing related activities where the authority has the discretion to determine the relevant fees, this includes hackney carriage and private hire vehicle and drivers' licences, private hire operator licences, public health licences, animal licensing and other miscellaneous licences.
- 1.2 This report also sets out the statutory fees that Shropshire Council is required to charge for specific licences under the Licensing Act 2003 and the Gambling Act 2005.

2. Recommendations

- 2.1 That the Committee notes the statutory fees that Shropshire Council is required to charge in respect of the specified licences under the Licensing Act 2003 and the Gambling Act 2005 as set out in **Part 1 of Appendix A** and recommends that the authority implements these fees (or if subject to statutory amendment, the relevant amended fees) on the 1 April 2017 and instructs the Trading Standards and Licensing Operations Manager to arrange for the fees to be included in the 2017/18 annual fees and charges reports that are presented to Cabinet and Council and

¹ The fees applicable to hackney carriage, private hire vehicle and operator licences may become effective on a date prior to the 1 April 2017. This is because the Council must follow the process prescribed by Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 to vary these fees and the actual date that the fees become legally effective is dependent on whether or not objections are made as part of the prescribed process. Whilst not legally required to do so, the Council has historically applied the same process to hackney carriage and private hire vehicle drivers licences.

further instructs the Trading Standards and Licensing Operations Manager to implement, as appropriate, any other statutory fees that may be brought into force during the 2017/18 financial year and to publish all relevant statutory fees on the licensing pages of the Council's website as soon as is practicable.

2.2 That the Committee recommends that the authority implements, with any necessary modification and with effect from 1 April 2017, the proposed fees as set out in **Part 2 of Appendix A** that relate to those licences and licensing related activities where the authority has the discretion to determine the fees and instructs the Trading Standards and Licensing Operations Manager to arrange for the proposed fees to be included in the 2017/18 annual fees and charges reports that are presented to Cabinet and Council and further instructs the Trading Standards and Licensing Operations Manager to publish the fees, as agreed by Council, on the licensing pages of the Council's website as soon as is practicable.

2.3 a) That the Committee proposes to vary the fees relevant to driver, hackney carriage, private hire vehicle and operator licences as set out in **Part 3 of Appendix A**, with any necessary modification, and instructs the Trading Standards and Licensing Operations Manager, in accordance with the provisions of Section 70 of the Local Government (Miscellaneous Provisions) Act 1976, to publish in the Shropshire Star a notice setting out those fees that it is proposed will be varied and specifying a period from 30 January 2017 to 26 February 2017 (this being not less than 28 days) within which and the manner in which objections to the proposed fees can be made.

AND

b) Where no objections to the proposed variation in fees are received by 26 February 2017 or if all objections so made are withdrawn by the said date the Committee agrees to implement the proposed variation to the fees on 27 February 2017 or where objections to the proposed variation to the fees are received by 26 February 2017 and are not withdrawn by the said date, the Committee agrees to consider the objections at a meeting on the 22 March 2017 with a view to setting the date of 1 April 2017 (being a date not later than 2 months after the 27 February 2017) when the proposed variation to the fees shall come into force with or without further modification and further instructs the Trading Standards and Licensing Operations

Manager to publish the agreed fees on the licensing pages of the Council's website as soon as is practicable.

- 2.4 That the Committee instructs the Trading Standards and Licensing Operations Manager to arrange for the proposed fees as set out in **Part 3 of Appendix A**, with any necessary modification, to be included in the 2017/18 annual fees and charges reports that are presented to Cabinet and Council and that in respect of those fees a note is recorded in the said annual reports stating '*Provisional fees under consultation between 30 January 2017 and 26 February 2017; fees to be confirmed by the Strategic Licensing Committee by 22 March 2017*'.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 The Council's fees and charges may be challenged through a number of routes, e.g. service complaints to the Local Government Ombudsman and judicial review.
- 3.2 As reported to the Committee in previous years, a case of significant importance to the Council and to all licensing authorities is that of *R (on the application of Hemming and Others) v Westminster City Council*.
- 3.3 Timothy Hemming, who owns and operates a sex shop in Soho and holds a sex establishment licence entitling him to do so, and six of his fellow sex shop operators from Westminster, challenged Westminster City Council for charging for licensing enforcement in its fees. Their case was that it was unlawful under European law to include costs of enforcement activities against unlicensed operators in determining the licence fees payable by licensed operators.
- 3.4 On 29 April 2015 the Supreme Court delivered a unanimous decision which overturned a Court of Appeal ruling and confirmed licensing authorities could include the costs of regulatory and enforcement activities, including enforcement to address unlicensed activity, in determining the licence fees to be paid by licensed operators. The costs charged for the clerical and administrative aspects must be reasonable and proportionate to the actual costs of those procedures. This

decision supports the efforts of this Council to recover regulatory and enforcement costs from those who are licensed.

- 3.5 The Supreme Court's decision recognised the commercial benefit of enforcement measures taken against unlicensed operators or licensed operators trading outside the terms of their licences to law abiding licensees. It is clear that competition that law abiding licensees would otherwise face from rogue operators is minimised by effective enforcement. It is common sense that fees ought to comprise a sum to cover the administrative cost of issuing the licence and a sum representing the licensees' share of the cost to the licensing authority for regulating and enforcing the licensing scheme in question.
- 3.6 However, because the law in question is underpinned by a European Directive (the Service Directive 2006/123/EC), the Supreme Court requested a further ruling from the Court of Justice for the European Union (CJEU) to determine whether only successful applicants can be required to make a contribution towards regulatory and enforcement costs. The CJEU heard the case on the 16 November 2016 and confirmed that this was the case.
- 3.7 In practice, the ruling means that where the Council intends to recover regulatory and enforcement costs, it cannot include these costs in the fee that is payable at the time any application is submitted. Such costs are only payable after the decision has been taken to grant or renew a licence. This means that for those licences that incur post application regulatory and enforcement costs, the fees will now be charged in two parts:
- (a) the first part will be payable at the time an application is submitted and will aim to recover the costs associated with the administrative procedures and formalities of the application process (this includes the costs of undertaking all the required checks relevant to each licence type); and
 - (b) the second part will be payable by the applicant only once the licence is granted or renewed and will aim to recover the costs associated with the ongoing regulation and enforcement of the licencing regimes.

- 3.8 There are a number of licences that currently do not incur post application regulatory and enforcement costs. This is because the work undertaken as part of the application process is deemed to be proportionate to the level of risk associated with the activity that is controlled by these particular licence types. For these licences, there will only be one fee payable and this will be at the point of application.
- 3.9 The Services Directive does not directly apply to hackney carriage, private hire and gambling related licences. Nevertheless, consideration was given to voluntarily adopting the two-part fee system across these particular licence types to aid uniformity of practice across all licence types. It has, however, been concluded that the administrative burden and associated increase in cost (which would have to be passed onto licensees) outweighs the aspiration for uniformity. Consequently, for all hackney carriage, private hire and gambling related licences, a single fee will continue to be payable at the point of application.
- 3.10 To reduce the risk of challenge to the Council, a financial modelling tool was introduced in 2013 to calculate licensing fees from 2014/15 onwards. Fees are now being compared on an ongoing rolling basis and this will continue into the future.
- 3.11 The modelling tool developed in 2013 has been further updated, modified and refined to take account of changes recommended by the Council's finance officers, the recent CJEU ruling and to reflect the ongoing changes to the way in which the licensing function is resourced. Overall, the tool draws together detailed information regarding the costs associated with undertaking the administrative procedures and formalities associated with all licensing procedures, including the costs of investigating the background and suitability of applicants for licences together with the cost of monitoring the compliance of those who are licensed against the conditions of their licences. It also aims to demonstrate that the cost of enforcing the licensing regime against unlicensed operators has been considered and is included in licence fees in line with the judgements from the Hemming case. Enforcement costs are not included for joint hackney and private hire drivers' licenses in line with specific provisions of the Local Government (Miscellaneous Provisions) Act 1976.

- 3.12 An Equality and Social Inclusion Impact Assessment has not been undertaken as the report does not concern the implementation of a new policy; the focus of the report is the review of licensing costs to ensure the Council is in a position to recoup its costs on a cost recovery basis in line with current legislative requirements.
- 3.13 There is no anticipated environmental impact associated with the recommendations in this report.
- 3.14 The recommendations are not at variance with the Human Rights Act 1998 and are unlikely to result in any adverse Human Rights Act implications. The recommendations are in line with current legal procedures laid down in relevant licensing legislation and takes into consideration the provisions of the Services Directive and the implications of the Hemming case rulings.
- 3.15 There is no statutory duty on the Council to consult when setting or revising licensing fees with the exception of those fees relating to hackney carriage, private hire vehicles and operators' licences under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976. This duty is reflected in the recommendation set out at paragraph 2.3 above. Historically, the Council has also consulted on driver licence fees and consequently it is recommended that this practice continues. In relation to hackney carriages, the fees for each zone are considered separately. With respect to the remaining discretionary fees, it is suggested that publishing the Council's intentions, prior to the fees coming into force, will be sufficient and this reflects previous practice.
- 3.16 The Committee's legal authority to agree the recommendations is based within a range of specific licensing legislation together with the delegated functions set out in the Council's Constitution. Extracts from the relevant legislation are provided in **Appendix B**. However, due consideration must also be given to the provisions of the Services Directive and the rulings in the Hemming case.

4. Financial Implications

- 4.1 A task, to capture the detail involved in all licensing procedures where the Council has the discretionary power to set fees, has been undertaken and this continues to

evolve through an iterative process to further develop, improve and refine the processes involved. Managers, licensing officers and finance officers have collaborated in this work. The licensing procedures are considered from receipt of application to the issue of the final licence or permit with both variable and fixed costs being considered. These costs include officer, management and member time spent on licensing administration and monitoring compliance of both those already licensed and those who are unlicensed but exclude time spent enforcing matters that relate to joint hackney and private hire drivers' licences. In addition, a proportion of all indirect costs that can reasonably be attributed to licensing procedures have been included; for example, office accommodation, ICT, travelling, advertising, postage & printing, subscriptions, telephone costs, training and other corporate recharges.

- 4.2 In relation to the consideration of applications, it is reasonable to recover the costs of running the relevant Committees and the Licensing Panel from licensing fees and consequently these costs have been incorporated into the overall figures.
- 4.3 The forecasted fees are based on undertaking the administrative procedures and formalities associated with the relevant licencing procedures, including the costs of investigating the background and suitability of applicants for licences together with the cost of monitoring the compliance of those who are licensed against the conditions of their licences and enforcement for unlicensed activities where it is permitted. Where relevant the fees have been split into two parts to take account of the recent CJEU ruling referred to in section 3 above. As a result of this work, the proposed fees have been calculated and are set out in **Parts 2 and 3 of Appendix A**.
- 4.4 It is accepted that costs can be recovered over a period of time allowing surpluses to be returned to licensees and deficits to be recouped by the Council. This does not mean that fees have to be adjusted every year to reflect immediately previous deficits or surpluses, although this is the approach that is currently being adopted. In any case, it must be demonstrable over a period of time that only legitimately incurred costs are recovered. The Hemming case rulings make it clear that costs associated with enforcing unlicensed operators/businesses are recoverable by the Council but these costs are excluded from the calculation for the joint hackney and

private hire drivers' licenses in line with provisions in the Local Government (Miscellaneous Provisions) Act 1976. In addition, costs of providing advice to those who may consider applying for a licence in the future are included.

- 4.5 Specifically in relation to the surplus or deficit arising for each licence type in 2014/15, this was added or subtracted from the discretionary licence fees calculated for 2016/17. This added or subtracted element was applied to licence renewals only. An assumption was made as to how many renewals would take place in 2016/17 in order to recover or redistribute the 2014/15 position. Until the end of 2016/17 financial year it will not be known whether the assumptions about the number of renewals were accurate or not and whether a further adjustment is required to reset the 2014/15 position. If a further adjustment is required to correct any material discrepancy in the recovery or redistribution of the 2014/15 position then this will be made against 2018/19 fees and so on until the recovery of the surplus or deficit reaches a satisfactory position.
- 4.6 In the meantime, the proposed fees in this report look to recover or redistribute any deficit or surplus arising on 2015/16 operating costs from 2017/18 licence renewals. Once again an assumption is made about how many renewals will occur in 2017/18 to ensure that recovery or redistribution is on track. Actual numbers of renewals for 2017/18 will not be known until the end of that financial year. If further adjustment is required this will be made against 2019/20 renewals and so on until the recovery of the surplus or deficit reaches a satisfactory position.
- 4.7 Where licenses have a renewal period of greater than one year the recovery or redistribution calculation is spread across the same period.
- 4.8 The detailed proposals for the 2017/18 fees are set out in the relevant appendices. The proposed percentage fee variations are summarised below:-
- a) Public health licence fees have increased by 5.5% where inspection of premises is required and by 4.2% for individuals who wish to register without associated premises. The income received for public health licence fees in 2015/16 did not generate a surplus or significant deficit. The fees for these business types are based on average sized operations. An hourly rate of

£29/hour will be charged where the work required to undertake the licensing process exceeds the average time upon which the set fees are based.

- b) There have been marginal changes in relation to boarding and breeding animal licence fees. The fee for new small establishments has increased by 0.6% and has remained the same for larger establishments with an increase of 2.2% for all renewals. The fees continue to take account of the activity in 2015/16 that contributed to a deficit of £20,683 across animal health licences.
- c) The activity relating to dangerous wild animals and riding establishments has contributed to the 2015/16 deficit of £20,683 across the animal health licences. The fees for new dangerous wild animals and riding establishment licences have increased by 1.3%. The renewal licence fees have decreased by 12.9%. The fees for these business types are based on average sized operations. An hourly rate of £24/hour will be charged where the work required to undertake the licensing process exceeds the average time upon which the set fees are based.
- d) Zoo licence activity in 2015/16 also contributed to the deficit of £20,683 across animal health licences and this has been built into the fee calculations. Zoo licences have increased by 18.1% for new applicants and 55.5% for renewals. This is partly due to additional inspection time that is now necessary to deal with the complexity of the zoo licensing process but also takes account of the deficit.
- e) There have been marginal changes in relation to pet shop licence fees and for performing animals' licences. An increase of 0.6% for new licences and an increase of 2.2% for renewals² to continue to take account of the activity in 2015/16 that contributed to the deficit of £20,683 across animal health licences. An hourly rate of £24/hour will be charged where the work required to undertake the licensing process exceeds the average time upon which the set fees are based.

² Performing animals licence are issued indefinitely and therefore do not incur a renewal fee

- f) New and renewal scrap metal site licences have been reduced by 3.3% and 2.4% respectively. New and renewal collectors' licences have been increased by 9.6% and 7.5% respectively. The fees to vary scrap metal related licences differ depending on the exact variation required but they range from a 7.4% reduction to a 14.1% increase. The scrap metal dealers' regime generated a deficit of £18,372 in 2015/16 and recovery of this has been built into the calculated fees.
- g) Both new and renewal sex establishment licence fees have decreased marginally by 1.2% and 1.5% respectively. There was no surplus or deficit generated in 2015/16.
- h) Street trading consent fees have increased by 1.3% and did not generate a surplus or deficit in 2015/16.
- i) The fees for the distribution of free printed matter did not generate a surplus or deficit and have decreased by 6.9%, 8.7% and 11.2% depending on the duration of the permit. This is largely due to changes in the level of officer responsible for processing these licenses but the continuing reduction in support costs has also had an impact.
- j) The fee for licensing pleasure boats and vessels did not generate a surplus or deficit; however, the fee has increased by 15.9% to take account of the need to liaise with the Marine Inspectorate to more effectively ensure the safety of the boats/vessels.
- k) The fee for producing a copy of the public register under the Licensing Act 2003 and the Gambling Act 2005 has increased by 5.4% and continues to reflect the actual costs incurred to undertake this administrative task. It also continues to promote the 'self-service' behaviour shift that is already evident in this area.
- l) For hackney carriage and private hire licence fees, the fees for the replacement of lost/stolen/damaged fare cards will remain at £2.50 and the replacement of lost/stolen/damaged driver's badge, vehicle plates and door

signs remains at £45 to reflect the costs of the administrative process involved in preparing the replacement items.

m) The hackney carriage and private hire licensing regime in 2015/16 resulted in a deficit of £1,452 for hackney carriages, a surplus of £8,669 for private hire vehicles, a deficit of £15,797 for drivers and a surplus of £5,800 for operators. The recovery of the deficits and the return of the surpluses have been included in the fee calculations for 2017/18. The specific licence fees are set out in the relevant appendices with a summary of the proposed percentage variations listed below:-

- New driver's badge increased by 7.8%
- Renewal driver's badge increased by 6.3%
- Driver's knowledge test resit remains unchanged
- Driver training assessment remains unchanged
- Safeguarding training is a new requirement
- New private hire vehicle increased by 4.2%
- Renewal private hire vehicle reduced by 13.4%
- Private hire vehicle licence transfer increased by 0.9%
- New hackney carriage increased by 5.2%
- Renewal hackney carriage increased by 1.3%
- Hackney carriage licence transfer increased by 3.0%
- New small operators increased by 26.8%
- New large operators increased by 0.6%
- Renewal small operator reduced by 23.8%
- Renewal large operator reduced by 11.8%

n) All discretionary fees with a statutory maximum for licences granted under the Gambling Act 2005 remain unchanged from those fees agreed in 2016/17.

o) The generic fee for administrative amendments remains unchanged.

4.9 Where legislation allows the Council to recover licensing costs, it is important that this is undertaken effectively. Losses that are not funded by other means, including being subsidised by council tax payers, may result in a reduction in the Council's ability to effectively deliver the overall licensing regime in the Shropshire Council area. However, it is recognised that not all licensing costs are recoverable.

5. Background

5.1 The principle of cost recovery under licensing legislation is not limited to the licensing of hackney carriages and private hire vehicles, operators and drivers. It also extends to sex establishments, street trading, acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing, electrolysis, zoos, dog breeding, animal boarding, pet shops, riding establishments, dangerous wild animals, performing animals, scrap metal dealers, pleasure boats/vessels, distribution of free printed matter, together with the issuing of various licences under the Gambling Act 2005.

5.2 The principle was confirmed by a Court of Appeal judgement in the case referred to in paragraph 3.2 above; the Hemming case. The judgement held that there were three elements that made up the licensing fees that were subject to challenge. These were:

- a) the administrative cost of investigating the background and suitability of applicants for licences;
- b) the cost of monitoring the compliance of those with licences with their terms;
and
- c) the cost of enforcing the licensing regime against unlicensed operators.

5.3 The Supreme Court ruled that licensing authorities could include all these activities including the costs of enforcement against unlicensed operators in the fee. However, this is not applied in the case of the joint hackney carriage and private hire drivers' licence in line with provisions in the Local Government (Miscellaneous Provisions) Act 1976.

- 5.4 The CJEU has subsequently also determined that only successful applicants can be required to make a contribution towards regulatory and enforcement costs, which has led to certain fees being payable in two parts.
- 5.5 Certain licences under the Gambling Act 2005 incur fees that are deemed to be discretionary but are subject to a statutory maximum. Currently, the Council has set these fees at less than the statutory maximum. For these reasons, all the Gambling Act 2005 licence fees that are subject to a statutory maximum are included in the proposals in **Part 2 of Appendix A**.
- 5.6 Caravan sites are currently licensed by the Council under the Caravan Sites and Control of Development Act 1960, as amended by the Mobile Homes Act 2013. The amendment to the 1960 Act permits the Council to charge fees for the licensing of caravan sites from 1 April 2014; transitional arrangements apply and the Council is required to publish a fees policy prior to setting fees. The Council has not yet adopted a policy; consequently, fees have not been included in **Appendix B**.
- 5.7 The financial modelling tool, referred to in paragraph 3.10, has been set up to allow caravan site and Licensing Act 2003 fees to be incorporated and calculated as and when the Council is in a position to do so both from a policy and a legislative perspective.
- 5.8 The government has previously consulted on its intention to move from centrally set to locally set licence fees under the Licensing Act 2003 but has not taken this forward at the current time. As a result, the nationally determined statutory fees are retained and the Licensing Act 2003 fees are included in **Part 1 of Appendix A**. There are no discretionary Licensing Act 2003 fees proposed in **Part 2 of Appendix A** other than for providing a copy of information contained in an entry in the public register.
- 5.9 As a result of the Hemming case rulings and licensing legislation, the costs associated with the licensing procedures that the Council may legally recover in fees consists of administrative costs, the costs of investigating the background and suitability of applicants for licences and the costs of monitoring the compliance of those with licences with their terms. Where applicable the cost of enforcement

against unlicensed operators is also included in the fee. These will certainly include the costs that are directly attributable to licensing procedures and a proportion of indirect costs as referred to in paragraph 4.1 above. The Council must be in a position to demonstrate that the costs included in any fees calculations are reasonable and proportionate to the cost of the licensing procedures.

- 5.10 Fees cannot exceed the cost of the licensing procedures and cannot be used to finance the delivery of other Council services.

6. Additional Information

- 6.1 In respect of the discretionary fees proposed in **Part 3 of Appendix A**, namely the setting of fees for hackney carriages, private hire vehicles and operators' licences, statutory procedures must be followed. Consequently to vary the fees from those currently set, the Council is required to follow specific procedures that allow for objections to be made and considered by the Committee. The recommendation at paragraph 2.3 addresses these statutory procedures.
- 6.2 The process that has been undertaken to determine the fees for 2017/18 is an extension of the process that commenced in 2013. This process will continue annually with amendments being made to take account of changes in the law and Council procedures and costs.

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

- Services Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market
- Provision of Services Regulations 2009 - SI 2009 No 2999
- Supreme Court Judgement in the case of R (on the application of Hemming and others v Westminster City Council – 29 April 2015 - [2015] UKSC 25 on appeal from [2013] EWCA Civ 591
- Court of Justice for the European Union Judgement in the case of Hemming [2016] EUECJ C-316/15 (16 November 2016)
- Mobile Homes Act 2013

Cabinet Member (Portfolio Holder)

Malcolm Price – Portfolio Holder for Planning, Housing, Regulatory Services and Environment

Local Member

Not applicable – report has county wide application

Appendices

Appendix A – Licensing Fees and Charges

Part 1 Statutory Fees Gambling Act 2005 & Licensing Act 2003

Part 2 Discretionary Fees General Licences & Statutory Maximum Gambling Act 2005 Licences

Part 3 Discretionary Fees Drivers, Hackney Carriages, Private Hire Vehicles and Operators' Licences

Appendix B Extracts from relevant licensing legislation providing legal framework within which local authorities may charge licensing fees

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Appendix A Part 1 - Gambling Act 2005 Statutory Fees

Lotteries	£
Small Society Lotteries - new registration	40.00
Small Society Lotteries - renewal of existing registration	20.00
Licensed Premises Permits	
Licensed Premises Gaming Machines - Notice of intention - up to 2 machines	50.00
Licensed Premises Gaming Machine Permits - New	150.00
Licensed Premises Gaming Machine Permits - Variation	100.00
Licensed Premises Gaming Machine Permits - Transfer	25.00
Licensed Premises Gaming Machine Permits - Annual Fee	50.00
Licensed Premises Gaming Machine Permits - Change of Name	25.00
Licensed Premises Gaming Machine Permits - Copy (lost, stolen, damaged)	15.00
Club Gaming/Club Machine Permits	
Club Gaming/Club Machine Permits - New OR Renew	200.00
Club Gaming/Club Machine Permits for holders of club premises certificates - New OR Renew	100.00
Club Gaming/Club Machine Permits - Annual Fee	50.00
Club Gaming/Club Machine Permits - Variation	100.00
Club Gaming/Club Machine Permits - Copy (lost, stolen, damaged)	15.00
Prize Gaming Permits	
Prize Gaming Permits - New OR Renewal	300.00
Prize Gaming Permits - Change of Name	25.00
Prize Gaming Permits - Copy (lost, stolen, damaged)	15.00
Family Entertainment Gaming Centre Gaming Machine Permits	
Family Entertainment Gaming Centre Gaming Machine Permits - New OR Renewal	300.00
Family Entertainment Gaming Centre Gaming Machine Permits - Change of Name	25.00
Family Entertainment Gaming Centre Gaming Machine Permits - Copy (lost, stolen, damaged)	15.00

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Rateable Value Bands	A	B	C	D	E
Initial Application Fee	£100	£190	£315	£450	£635
Annual Fee:	£70	£180	£295	£320	£350
Variation Fee:	£100	£190	£315	£450	£635

All premises are licensable based on the non-domestic rateable value of the property as follows:

Rateable Value	Band
No value up to £4,300	A
£4,301 - £33,000	B
£33,001 - £87,000	C
£87,001 - £125,000	D
£125,001 and Above	E

Band	D (x 2)	E (x 3)
Premises in Bands D & E (whose primary business is the sale of alcohol)	900	1905
Premises in Bands D & E (whose primary business is the sale of alcohol) annual charge	640	1050

Exceptionally large events:

Additional Premises Fees can be charged for such events:

Number in attendance at any one time:	Additional Application Fee:	Additional Annual Fee
5,000 to 9,999	£1,000	£500
10,000 to 14,999	£2,000	£1,000
15,000 to 19,999	£4,000	£2,000
20,000 to 29,999	£8,000	£4,000
30,000 to 39,999	£16,000	£8,000
40,000 to 49,999	£24,000	£12,000
50,000 to 59,999	£32,000	£16,000
60,000 to 69,999	£40,000	£20,000
70,000 to 79,999	£48,000	£24,000
80,000 to 89,999	£56,000	£28,000
90,000 and over	£64,000	£32,000

Personal Licences, Temporary Events and other fees:

Type of Application :	Fee:
• Grant or renewal of Personal Licence	£37
• Temporary Event Notice	£21
• Theft, Loss etc of Premises Licence or summary	£10.50
• Provisional Statement (where premises are being built)	£315.00
• Notification of change of name or address	£10.50
• Vary licence to specify individual as premises supervisor	£23
• Transfer of premises licence	£23
• Interim authority notice following death etc. of Licence holder	£23
• Theft, loss etc of Certificate or summary	£10.50
• Notification of change of name or alteration of rules of club	£10.50
• Change of relevant registered address of club	£10.50
• Theft, loss etc, of temporary event notice	£10.50
• Theft, loss etc of Personal Licence	£10.50
• Duty to notify change of name or address	£10.50
• Right of freeholder etc, to be notified of licensing matters	£21
• Minor Variation	£89
• Removal of DPS at Community Premises	£23

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Item 6 Appendix A Part 2 Discretionary Fees General Licences

2016-2017			2017-2018				
Licence Type	2016/17 Fee (£)	Licence Type	Calculated 2017/18 Fee (£) without surplus/deficit adjustment	Proposed 2017/18 Fee (£) including surplus/deficit adjustment		Difference (£)	Difference (%)
Public Health							
Acupuncture Premises, inc. 1 person	145.00	Acupuncture Premises, inc. 1 person	153.00	153.00	Additional persons included on same application £29/person	8.00	5.5%
Acupuncture Person	48.00	Acupuncture Person (not including premises)	50.00	50.00	When application submitted separately from premises application	2.00	4.2%
Electrolysis Premises, inc. 1 person	145.00	Electrolysis Premises , inc. 1 person	153.00	153.00	Additional persons included on same application £29/person)	8.00	5.5%
Electrolysis Person	48.00	Electrolysis Person (not including premises)	50.00	50.00	When application submitted separately from premises application	2.00	4.2%
Cosmetic-piercing Premises, inc. 1 person	145.00	Cosmetic-piercing Premises, inc. 1 person	153.00	153.00	Additional persons included on same application £29/person	8.00	5.5%
Cosmetic-piercing Person	48.00	Cosmetic-piercing Person (not including premises)	50.00	50.00	When application submitted separately from premises application	2.00	4.2%
Tattooing Premises, inc. 1 person	145.00	Tattooing Premises, inc. 1 person	153.00	153.00	Additional persons included on same application £29/person	8.00	5.5%

Item 6 Appendix A Part 2 Discretionary Fees General Licences

Tattooing Person	48.00		Tattooing Person (not including premises)	50.00	50.00	When application submitted separately from premises application	2.00	4.2%
Animals								
Animal Boarding (new) - up to 10 animals	167.00		Animal Boarding (new) - up to 10 animals	168.00	168.00		1.00	0.6%
Animal Boarding (new) - 11 and more animals	216.00		Animal Boarding (new) - 11 and more animals	216.00	216.00		0.00	0.0%
Animal Boarding (renewal) - applicable to all categories. (NB - where the number of boarding animals increases to such an extent that a different category of licence is applicable, applicants must apply for a new licence and pay the appropriate fee.)	268.00		Animal Boarding (renewal) - applicable to all categories. (NB - where the number of boarding animals increases to such an extent that a different category of licence is applicable, applicants must apply for a new licence and pay the appropriate fee.)	135.00	274.00	Initial renewal application fee £166 (includes deficit recovery) Fee due after renewal granted £108	6.00	2.2%
Animal Breeding (new) - up to 10 animals	167.00		Animal Breeding (new) - up to 10 animals	168.00	168.00		1.00	0.6%
Animal Breeding (new) - 11 and more animals	216.00		Animal Breeding (new) - 11 and more animals	216.00	216.00		0.00	0.0%

Item 6 Appendix A Part 2 Discretionary Fees General Licences

Animal Breeding (renewal) - applicable to all categories. (NB - where the number of breeding animals increases to such an extent that a different category of licence is applicable, applicants must apply for a new licence and pay the appropriate fee.)	268.00		Animal Breeding (renewal) - applicable to all categories. (NB - where the number of breeding animals increases to such an extent that a different category of licence is applicable, applicants must apply for a new licence and pay the appropriate fee.)	135.00	274.00	Initial renewal application fee £166 (includes deficit recovery) Fee due after renewal granted £108	6.00	2.2%
Dangerous Wild Animals (new)	239.00	+ vet fees; if exceed 7 hrs + hourly charge for each additional hour or part thereof @ £24/hour	Dangerous Wild Animals (new) - where total licensing procedure takes no more than 9 hrs	242.00	242.00	+ vet fees; if exceeds 9 hrs + hourly charge for each additional hour or part thereof @£24/hour	3.00	1.3%

Item 6 Appendix A Part 2 Discretionary Fees General Licences

Dangerous Wild Animals (renewal)	287.00	+ vet fees; if exceed 3.5 hrs + hourly charge for each additional hour or part thereof @ £24/hr	Dangerous Wild Animals (renewal) - where total licensing procedure takes no more than 3.75 hrs	111.00	250.00	+ vet fees; if exceed 3.75 hrs + hourly charge for each additional hour or part thereof @ £24 /hour	- 37.00	-12.9%
Zoos (new)	662.00	+ vet fees	Zoos (new)	782.00	782.00	+ vet fees Initial application fee £531 Fee due after licence granted £251	120.00	18.1%
Zoos (renewal)	465.00	+ vet fees	Zoos (renewal)	584.00	723.00	+ vet fees Initial renewal fee £469 (includes deficit recovery) Fee due after renewal granted £254	258.00	55.5%
Performing Animals (indefinite registration)	167.00	If exceed 4.5 hrs + hourly charge for each additional hour or part thereof @ £24/hr	Performing Animals (indefinite registration) - where total licensing procedure takes no more than 6 hrs.	168.00	168.00	+ vet fees; if exceed 6 hrs + hourly charge for each additional hour or part thereof @ £24 /hour	1.00	0.6%

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Pet Shops (new)	167.00	If exceed 4.5 hrs + hourly charge for each additional hour or part thereof @ £24/hr	Pet Shops (new) where total licensing procedure takes no more than 6 hrs.	168.00	168.00	+ vet fees; if exceed 6 hrs + hourly charge for each additional hour or part thereof @ £24 /hour	1.00	0.6%
Pet Shops (renewal)	268.00	If exceed 3.5 hrs + hourly charge for each additional hour or part thereof @ £24/hr	Pet Shops (renewal) where total licensing procedure takes no more than 4.5 hrs.	135.00	274.00	+ vet fees; if exceed 4.5 hrs + hourly charge for each additional hour or part thereof @ £24 /hour Initial renewal application fee £166 (includes deficit recovery) Fee due after renewal granted £108	6.00	2.2%
Riding Establishments (new)	239.00	+ vet fees; if exceed 7 hrs + hourly charge for each additional hour or part thereof @ £24/hr	Riding Establishments (new) - where total licensing procedure takes no more than 9 hrs.	242.00	242.00	+ vet fees; if exceed 9 hrs + hourly charge for each additional hour or part thereof @ £24 /hour	3.00	1.3%

Item 6 Appendix A Part 2 Discretionary Fees General Licences

Riding Establishments (renewal)	287.00	If exceed 3.5 hrs + hourly charge for each additional hour or part thereof @ £24/hr	Riding Establishments (renewal) where total licensing procedure takes no more than 3.75 hrs.	111.00	250.00	+ vet fees; if exceed 3.75 hrs + hourly charge for each additional hour or part thereof @ £24 /hour	-37.00	-12.9%
Scrap Metal								
Scrap Metal Dealer - Site (new)	660.00		Scrap Metal Dealer - Site (new)	638.00	638.00	Initial application fee £94 Fee due after licence granted £544	-22.00	-3.3%
Scrap Metal Dealer - Site (renewal)	763.00		Scrap Metal Dealer - Site (renewal)	638.00	745.00	Initial renewal application fee £201 (includes deficit recovery) Fee due after renewal granted £544	-18.00	-2.4%
Scrap Metal Dealer - Collectors (new)	177.00		Scrap Metal Dealer - Collectors (new)	194.00	194.00	Initial application fee £119 Fee due after licence granted £75	17.00	9.6%
Scrap Metal Dealer - Collectors (renewal)	280.00		Scrap Metal Dealer - Collectors (renewal)	194.00	301.00	Initial renewal application fee £226 (includes deficit recovery) Fee due after renewal granted £75	21.00	7.5%
Scrap Metal Dealer Site Manager Variation	87.00		Scrap Metal Dealer Site Manager Variation	90.00	90.00		3.00	3.4%

Item 6 Appendix A Part 2 Discretionary Fees General Licences

Scrap Metal Dealer - Site/Collector Licensee Name - Variation (not transfer of licensee)	46.00		Scrap Metal Dealer - Site/Collector Licensee Name - Variation (not transfer of licensee)	50.00	50.00		4.00	8.7%
Scrap Metal Dealer - collector to site variation	470.00		Scrap Metal Dealer - collector to site variation	435.00	435.00	Initial application fee £250 Fee due after variation granted £185	-35.00	-7.4%
Scrap Metal Dealer - site to collector variation	92.00		Scrap Metal Dealer - site to collector variation	105.00	105.00		13.00	14.1%
Sex Establishments								
Sex Establishments (New)	2,391.00		Sex Establishments (New)	2,362.00	2,362.00		-29.00	-1.2%
Sex Establishments (Renewal)	1,705.00		Sex Establishments (Renewal)	1,679.00	1,679.00		-26.00	-1.5%
Street Trading Consents								
Minium charge for up to 7 days (the 7 days may be used at any time within a 12 month period commencing from the date the consent is issued, but the dates must be confirmed on application)	75.00		Minium charge for up to 7 days (the 7 days may be used at any time within a 12 month period commencing from the date the consent is issued, but the dates must be confirmed on application)	76.00	76.00		1.00	1.3%
Each additional day or part thereof	4.00		Each additional day or part thereof (the dates must be confirmed on application)	4.00	4.00		0.00	0.0%
Distribution of free printed matter								
Weekly permit	87.00		Weekly permit	81.00	81.00		-6.00	-6.9%
Monthly permit	126.00		Monthly permit	115.00	115.00		-11.00	-8.7%

Item 6 Appendix A Part 2 Discretionary Fees General Licences

Annual permit	169.00		Annual permit	150.00	150.00		-19.00	-11.2%
Miscellaneous								
Pleasure Boats & Vessels	145.00	+ marine surveyor's report fee	Pleasure Boats & Vessels	168.00	168.00	+ marine surveyor's report fee	23.00	15.9%
Gambling Act 2005 and Licensing Act 2003								
Copy of public register entry (per individual entry)	37.00		Copy of public register entry (per individual entry)	39.00	39.00		2.00	5.4%
Additional Administrative Charges (applicable to all licences including hackney carriage and private hire related licences)								
License holder transfer/change of details	24.00		License holder transfer/change of details (e.g. change of address/other minor changes)	24.00	24.00		0.00	0.0%

Appendix A Part 2 Discretionary Fees with Statutory Maximum - Gambling Act 2005 Licences

Licence Type	2016/17 Fees (£)	Proposed Fees 2017/18 (£)	Difference (£)	Difference (%)
Regional Casino Premises Licence				
Fee in respect of new premises	13,100.00	13,100.00	0.00	0%
Annual Fee	13,000.00	13,000.00	0.00	0%
Fee for application to vary licence	6,500.00	6,500.00	0.00	0%
Fee for application to transfer a licence	5,600.00	5,600.00	0.00	0%
Fee for application to reinstate a licence	5,600.00	5,600.00	0.00	0%
Fee for application for provisional statement	13,100.00	13,100.00	0.00	0%
Large Casino Premises				
Fee in respect of new premises	8,700.00	8,700.00	0.00	0%
Annual Fee	8,700.00	8,700.00	0.00	0%
Fee for application to vary licence	4,350.00	4,350.00	0.00	0%
Fee for application to transfer a licence	1,900.00	1,900.00	0.00	0%
Fee for application to reinstate a licence	1,900.00	1,900.00	0.00	0%
Fee for application for provisional statement	8,700.00	8,700.00	0.00	0%
Small casino premises				
Fee in respect of new premises	6,900.00	6,900.00	0.00	0%
Annual Fee	4,300.00	4,300.00	0.00	0%
Fee for application to vary licence	3,450.00	3,450.00	0.00	0%
Fee for application to transfer a licence	1,500.00	1,500.00	0.00	0%
Fee for application to reinstate a licence	1,500.00	1,500.00	0.00	0%
Fee for application for provisional statement	6,900.00	6,900.00	0.00	0%
Bingo premises licence				
Fee in respect of new premises	2,000.00	2,000.00	0.00	0%
Annual Fee	900.00	900.00	0.00	0%
Fee for application to vary licence	1,200.00	1,200.00	0.00	0%
Fee for application to transfer a licence	950.00	950.00	0.00	0%
Fee for application to reinstate a licence	950.00	950.00	0.00	0%
Fee for application for provisional statement	2,000.00	2,000.00	0.00	0%
Adult Gaming Centre Premises Licence				
Fee in respect of new premises	1,500.00	1,500.00	0.00	0%
Annual Fee	900.00	900.00	0.00	0%
Fee for application to vary licence	820.00	820.00	0.00	0%
Fee for application to transfer a licence	900.00	900.00	0.00	0%

Appendix A Part 2 Discretionary Fees with Statutory Maximum - Gambling Act 2005 Licences

Fee for application to reinstate a licence	900.00	900.00	0.00	0%
Fee for application for provisional statement	1,500.00	1,500.00	0.00	0%
Betting Premises (track) licence				
Fee in respect of new premises	1,850.00	1,850.00	0.00	0%
Annual Fee	900.00	900.00	0.00	0%
Fee for application to vary licence	790.00	790.00	0.00	0%
Fee for application to transfer a licence	790.00	790.00	0.00	0%
Fee for application to reinstate a licence	790.00	790.00	0.00	0%
Fee for application for provisional statement	1,850.00	1,850.00	0.00	0%
Family Entertainment Centre Premises Licence				
Fee in respect of other premises	1,400.00	1,400.00	0.00	0%
Annual Fee	600.00	600.00	0.00	0%
Fee for application to vary licence	800.00	800.00	0.00	0%
Fee for application to transfer a licence	700.00	700.00	0.00	0%
Fee for application to reinstate a licence	700.00	700.00	0.00	0%
Fee for application for provisional statement	1,400.00	1,400.00	0.00	0%
Betting Premises (other) licence				
Fee in respect of other premises	2,100.00	2,100.00	0.00	0%
Annual Fee	575.00	575.00	0.00	0%
Fee for application to vary licence	1,160.00	1,160.00	0.00	0%
Fee for application to transfer a licence	950.00	950.00	0.00	0%
Fee for application to reinstate a licence	950.00	950.00	0.00	0%
Fee for application for provisional statement	2,100.00	2,100.00	0.00	0%
Applicable to all gaming licences				
Change of circumstances fee - for all gaming licences	45.00	45.00	0.00	0%
Fee for copy licence - for all gaming licences	22.00	22.00	0.00	0%

Appendix A Part 3 - Discretionary Fees Hackney Carriage and Private Hire Vehicles and Drivers

Licence Type	2016/17 Fee (£)	Licence Type	Calculated 2017/18 Fee (£) without surplus/deficit	Proposed 2017/18 Fee (£) including surplus/deficit	Difference (£)	Difference (%)
Drivers						
Driver's Joint Badge New 3 year (inc. DVLA, DBS check, first knowledge test and first driver training)	218.00	Driver's Joint Badge New 3 year (inc. DVLA, DBS check, first knowledge test and first driver assessment)	235.00	235.00	17.00	7.8%
Driver's Badge 3 yr Renewal (inc. DVLA and DBS check)	190.00	Driver's Badge 3 yr Renewal (inc. DVLA and DBS check)	198.00	202.00	12.00	6.3%
Driver's Knowledge Test Resit	53.00	Driver's Knowledge Test Resit	53.00	53.00	0.00	0.0%
Driver Badge replacement following damage or	45.00	Driver Badge replacement following damage or loss	45.00	45.00	0.00	0.0%
Driver Training assessment	23.00	Driver Training assessment	23.00	23.00	0.00	0.0%
Safeguarding Training	39.00	Safeguarding Training	39.00	39.00	0.00	0.0%
Vehicles						
Private Hire Vehicle - new	142.00	Private Hire Vehicle - new	148.00	148.00	6.00	4.2%
Private Hire Vehicle - renewal	164.00	Private Hire Vehicle - renewal	151.00	142.00	-22.00	-13.4%
Private Hire Vehicle Licence Transfer (transfer of existing licence to a new vehicle)	107.00	Private Hire Vehicle Licence Transfer (transfer of existing licence to a new vehicle)	108.00	108.00	1.00	0.9%

Appendix A Part 3 - Discretionary Fees Hackney Carriage and Private Hire Vehicles and Drivers

Hackney Carriage Vehicle - new	135.00	Hackney Carriage Vehicle - new	142.00	142.00	7.00	5.2%
Hackney Carriage Vehicle - renewal	152.00	Hackney Carriage Vehicle - renewal	145.00	154.00	2.00	1.3%
Hackney Carriage Licence Transfer (transfer of existing licence to a new vehicle)	99.00	Hackney Carriage Licence Transfer (transfer of existing licence to a new vehicle)	102.00	102.00	3.00	3.0%
Exterior plate replacement following damage or loss	45.00	Exterior plate replacement following damage or loss	45.00	45.00	0.00	0.0%
Internal plate replacement following damage or loss	45.00	Internal plate replacement following damage or loss	45.00	45.00	0.00	0.0%
Fare Card replacement following damage or loss	2.50	Fare Card replacement following damage or loss	2.50	2.50	0.00	0.0%
Private Hire Door Signs (pair)	45.00	Private Hire Door Signs (pair)	45.00	45.00	0.00	0.0%

Appendix A Part 3 Discretionary Fees Private Hire Operators

2016 - 2017		2017 - 2018				
Licence Type	2016/17 Fee (£)	Licence Type	Calculated 2016/17 Fee (£) without surplus/deficit adjustment	Calculated 2016/17 Fee (£) including surplus/deficit adjustment	Difference (£)	Difference (%)
Private Hire Operator - 5 Year - New						
Private Hire Operator - up to 30 vehicles	250.00	Private Hire Operator - up to and including 30 vehicles and one base	317.00	317.00	67.00	26.8%
Private Hire Operator - more than 31 vehicles	672.00	Private Hire Operator - 31 vehicles and more and/or more than one base	676.00	676.00	4.00	0.6%
Private Hire Operator - 5 Year - Renewal						
Private Hire Operator - up to 30 vehicles and one base	332.00	Private Hire Operator - up to and including 30 vehicles and one base	263.00	253.00	-79.00	-23.8%
Private Hire Operator - more than 31 vehicles and/or more than one base	755.00	Private Hire Operator - 31 vehicles and more and/or more than one base	676.00	666.00	-89.00	-11.8%

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Extracts from relevant licensing legislation providing legal framework within which local authorities may charge licensing fees

Local Government (Miscellaneous Provisions) Act 1982

Controls sex establishments, street trading, acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis

Sex establishments - Schedule 3 paragraph 19

An application for the grant, variation, renewal or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority.

Street Trading – Schedule 4 paragraph 9

(1) A district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.

(2) A council may determine different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according—

(a) to the duration of the licence or consent;

(b) to the street in which it authorises trading; and

(c) to the descriptions of articles in which the holder is authorised to trade.

(3) A council may require that applications for the grant or renewal of licences or consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.

(4) A council may determine that fees may be paid by instalments.

(5) Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.

(6) A council may recover from a licence-holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as licence-holder.

(7) Where a licence—

(a) is surrendered or revoked; or

(b) ceases to be valid by virtue of paragraph 4(7) above,

the council may remit or refund, as they consider appropriate, the whole or a part—

(i) of any fee paid for the grant or renewal of the licence; or

(ii) of any charges recoverable under sub-paragraph (6) above.

(8) The council may determine—

(a) that charges under sub-paragraph (6) above shall be included in a fee payable under sub-paragraph (1) above; or

(b) that they shall be separately recoverable.

(9) Before determining charges to be made under sub-paragraph (6) above or varying the amount of such charges the council—

(a) shall give notice of the proposed charges to licence-holders; and

(b) shall publish notice of the proposed charges in a local newspaper circulating in their area.

(10) A notice under sub-paragraph (9) above shall specify a reasonable period within which representations concerning the proposed charges may be made to the council.

(11) It shall be the duty of a council to consider any such representations which are made to them within the period specified in the notice.

Acupuncture - Section 14 (6)

A local authority **may charge such reasonable fees as they may determine** for registration under this section.

Tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis – Section 15 (6)

A local authority **may charge such reasonable fees as they may determine** for registration under this section.

Local Government (Miscellaneous Provisions) Act 1976

Controls hackney carriages and private hire vehicles

Section 53 - Drivers' licences for hackney carriages and private hire vehicles

(2) Notwithstanding the provisions of the Act of 1847*, a district council **may demand and recover** for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, **such a fee as they consider reasonable with a view to recovering the costs of issue and administration** and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.

*Town Police Clauses Act 1847

Section 70 - Fees for vehicle and operators' licences

(1) Subject to the provisions of subsection (2) of this section, a district council **may charge such fees** for the grant of vehicle and operators' licences as may be resolved by them from time to time and **as may be sufficient in the aggregate to cover in whole or in part—**

(a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the

purpose of determining whether any such licence should be granted or renewed;

(b) the reasonable cost of providing hackney carriage stands; and

(c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

(2) The fees chargeable under this section shall not exceed—

(a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;

(b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds; and

(c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

(3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

(6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.

Zoo Licensing Act 1981

Controls zoos – Section 15

(1) Subject to this section, the local authority **may charge such reasonable fees as they may determine in respect of—**

(a) applications for the grant, renewal or transfer of licences;

(b) the grant, renewal, alteration or transfer of licences;

(2) Any fee charged under paragraph (a) of subsection (1) in respect of an application shall be treated as paid on account of the fee charged under paragraph (b) on the grant, renewal or transfer applied for.

(2A) Subject to this section, the authority may charge to the operator of the zoo such sums as they may determine in respect of reasonable expenses incurred by them—

(a) in connection with inspections in accordance with section 9A and under sections 10 to 12;

(b) in connection with the exercise of their powers to make directions under this Act;

(c) in the exercise of their function under section 16E(4) of supervising the implementation of plans prepared under section 16E(2); and

(d) in connection with the exercise of their function under section 16E(7) or (8).

(2B) The authority's charge under subsection (2A)(d) shall take into account any sums that have been, or will fall to be, deducted by them from a payment under section 16F(7) in respect of their costs.

(3) In respect of any fee or other sum charged under this section, the local authority may, if so requested by the operator, accept payment by instalments.

(4) Any fee or other charge payable under this section by any person shall be recoverable by the local authority as a debt due from him to them.

(5) The local authority shall secure that the amount of all the fees and other sums charged by them under this section in a year is sufficient to cover the reasonable expenditure incurred by the authority in the year by virtue of this Act.

Breeding of Dogs Act 1973

Controls breeding establishments for dogs – Section 3A

(1) The costs of inspecting premises under this Act and the Breeding of Dogs Act 1991 shall be met by the local authority concerned.

(2) **A local authority may charge fees—**

(a) in respect of applications for the grant of licences under this Act; and

(b) in respect of inspections of premises under section 1(2A)* of this Act.

(3) A local authority may set the level of fees to be charged by virtue of subsection (2) of this section—

(a) with a view to recovering the reasonable costs incurred by them in connection with the administration and enforcement of this Act and the Breeding of Dogs Act 1991; and

(b) so that different fees are payable in different circumstances.

* Section 1(2A)

On receipt of an application by a person to a local authority for the grant of a licence under this Act in respect of any premises—

(a) if a licence under this Act has not previously been granted to the person in respect of the premises, the authority shall arrange for the inspection of the premises by a veterinary surgeon or veterinary practitioner and by an officer of the authority; and

(b) in any other case, the authority shall arrange for the inspection of the premises by a veterinary surgeon or veterinary practitioner or by an officer of the authority (or by both).

Animal Boarding Establishments Act 1963

Controls boarding establishments for dogs and cats – Section 1

(2) Every local authority may, on application being made to them for that purpose by a person who is not for the time being disqualified—

(a) under this Act, from keeping a boarding establishment for animals; or

(b) under the Pet Animals Act 1951, from keeping a pet shop; or

(c), (d) . . . ; or

(e) under the Protection of Animals (Amendment) Act 1954, from having the custody of animals, or

(f) under section 34(2), (3) or (4) of the Animal Welfare Act 2006, or

(g) under subsection (1) of section 40 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11), from an activity mentioned in subsection (2)(a), (b) or (c) of that section,

and **on payment of such fee as may be determined by the local authority**, grant a licence to that person to keep a boarding establishment for animals at such premises in their area as may be specified in the application and subject to compliance with such conditions as may be specified in the licence.

Pet Animals Act 1951

Controls pet shops – Section 1

(2) Every local authority may, on application being made to them for that purpose by a person who is not for the time being disqualified from keeping a pet shop, and **on payment of such fee as may be determined by the local authority**, grant a licence to that person to keep a pet shop at such premises in their area as may be specified in the application and subject to compliance with such conditions as may be specified in the licence.

Riding Establishments Act 1964

Controls hiring of horses for riding and instruction in riding – Section 1

(2) Every local authority may, on application being made to them for that purpose by a person who is an individual over the age of eighteen years or a body corporate, being a person who is not for the time being disqualified,—

(a) under this Act from keeping a riding establishment; or

(b), (c) . . . ; or

(d) under the Pet Animals Act 1951, from keeping a pet shop; or

(e) under the Protection of Animals (Amendment) Act 1954, from having the custody of animals; or

(f) under the Animal Boarding Establishments Act 1963, from keeping a boarding establishment for animals; or

(g) under section 34(2), (3) or (4) of the Animal Welfare Act 2006; or

(h) under subsection (1) of section 40 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11), from an activity mentioned in subsection (2)(a), (b) or (c) of that section,

grant, **on payment of such fee as may be determined by the local authority** a licence to that person to keep a riding establishment at such premises in their area as may be specified in the application and subject to compliance with such conditions as may be specified in the licence.

Dangerous Wild Animals Act 1976

Controls dangerous wild animals as listed in the Act – Section 1

(2) A local authority shall not grant a licence under this Act unless an application for it—

... and

(e) is accompanied **by such fee as the authority may stipulate** (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application).

Performing Animals (Regulation) Act 1925

Controls performing animals – Section 1

(1) No person shall exhibit or train any performing animal unless he is registered in accordance with this Act.

(2) Every local authority shall keep a register for the purpose of this Act, and any person who exhibits or trains animals as aforesaid on making an application in the prescribed form to the local authority of the district in which he resides, or if he has no fixed place of residence in Great Britain, to the local authority of

such one of the prescribed districts as he may choose, and **on payment of such fee as appears to the local authority to be appropriate** shall be registered under this Act, unless he is a person, who, in pursuance of an order of the court made under this Act, is prohibited from being so registered.

(3) Any application for registration under this Act shall contain such particulars as to the animals and as to the general nature of the performances in which the animals are to be exhibited or for which they are to be trained as may be prescribed, and the particulars so given shall be entered in the register.

(4) The local authority shall give to every person whose name appears on the register kept by them a certificate of registration in the prescribed form containing the particulars entered in the register.

(5) Every register kept under this Act shall at all reasonable times be open for inspection and any person shall be entitled to take copies thereof or make extracts therefrom.

(6) Any person entered on the register shall, subject to the provisions of any order made under this Act by any court, be entitled, on making application for the purpose, to have the particulars entered in the register with respect to him varied, and where any such particulars are so varied the existing certificate shall be cancelled and a new certificate issued.

(7) A copy of every certificate of registration issued by a local authority shall be transmitted by the authority to the Secretary of State and shall be available for inspection at all reasonable times.

(8) **A local authority may charge such fees as appear to them to be appropriate for inspection of the register, for taking copies thereof or making extracts therefrom or for inspection of copies of certificates of registration issued by them.**

Public Health Acts Amendment Act 1907

Controls pleasure boats/vessels - Section 94

(1) The local authority may grant upon such terms and conditions as they may think fit licences for pleasure boats and pleasure vessels to be let for hire or to be used for carrying passengers for hire, and to the persons in charge of or navigating such boats and vessels, and **may charge for each type of licence such annual fee as appears to them to be appropriate.**

Environmental Protection Act 1990

Controls free printed matter – Schedule 3A paragraphs 3 & 4

3 (1) A principal litter authority may on the application of any person consent to that person or any other person (identified specifically or by description) distributing free printed matter on any land designated by the authority under this Schedule.

4 (1) A principal litter authority **may require the payment of a fee** before giving consent under paragraph 3 above.

(2) The amount of a **fee under this paragraph is to be such as the authority may determine**, but may not be more than, when taken together with all other fees charged by the authority under this paragraph, is reasonable to cover the costs of operating and enforcing this Schedule.

Gambling Act 2005

Statutory fees are prescribed for:-

- small society lotteries (Schedule 11 – Part 5)
- club gaming permits and club machine permits (Schedule 12)
- notification of gaming machines in alcohol licensed premises (Section 282)
- family entertainment centre gaming machine permits (Schedule 10)
- licensed premises gaming machine permits (Schedule 13)
- prize gaming permits (Schedule 14)

And, therefore, the licensing authority has no control over these fees. The following statutory instruments are relevant:-

- Small Society Lotteries (Registration of Non-Commercial Societies) Regulations 2007
- Gambling Act 2005 (Club Gaming and Club Machine Permits) Regulations 2007
- Gaming Machines in Alcohol Licensed Premises (Notification Fee) (England and Wales) Regulations 2007
- Gambling Act 2005 (Family Entertainment Centre Gaming Machine) (Permits) Regulations 2007
- Gambling Act 2005 (Licensed Premises Gaming Machine Permits) (England and Wales) Regulations 2007
- Gambling Act 2005 (Prize Gaming) (Permits) Regulations 2007

The licensing authority must determine the fees, up to certain statutory maximums, that are applicable to premises licences, e.g. adult gaming centres, betting at race tracks, betting shops, bingo premises, casinos and for temporary use notices. The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 and the Gambling (Temporary Use Notices) Regulations 2007 set the relevant statutory maximums. In addition, Section 212 of the Act states:-

(2) the authority—

(a) shall determine the amount of the fee,

(b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases),

(c) shall publish the amount of the fee as determined from time to time, and

(d) **shall aim to ensure that the income from fees of that kind as nearly as possible equates to the costs of providing the service to which the fee relates (including a**

reasonable share of expenditure which is referable only partly or only indirectly to the provision of that service).

(3) For the purposes of subsection (2)(d) a licensing authority shall compare income and costs in such manner, at such times and by reference to such periods as the authority, having regard to any guidance issued by the Secretary of State, think appropriate.

In addition, where the licensing authority is required to maintain licensing registers, the authority may determine fees for providing access to, making copies of and/or providing information to members of the public from those registers.

Premises licences (Section 156)

(1) A licensing authority shall—

(a) maintain a register of premises licences issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Small society lotteries (Schedule 11 Part 5 paragraph 55)

(1) Where a statement is sent to a local authority under paragraph 39 the authority shall—

(a) retain it for at least 18 months,

(b) make it available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of it or part of it to any member of the public on request.

(2) But a local authority may refuse to provide access or a copy unless the person seeking access or a copy pays a fee specified by the authority.

(3) A local authority may not specify a fee under sub-paragraph (2) which exceeds the reasonable cost of providing the service sought (but in calculating the cost of providing a service to a person the authority may include a reasonable share of expenditure which is referable only indirectly to the provision of that service).

Club gaming permits and club machine permits (Schedule 12 paragraph 26)

(1) A licensing authority shall—

(a) maintain a register of permits issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Temporary Use Notice (Section 234)

1) A licensing authority shall—

(a) maintain a register of temporary use notices given to them together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Family entertainment centre gaming machine permits (Schedule 10 paragraph 23)

(1) A licensing authority shall—

(a) maintain a register of permits issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Licensed premises gaming machine permits (Schedule 13 paragraph 22)

(1) A licensing authority shall—

(a) maintain a register of permits issued by the authority together with such other information as may be prescribed,

(b) make the register and information available for inspection by members of the public at all reasonable times, and

(c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.

(2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Prize gaming permits (Schedule 14 paragraph 23)

- (1) A licensing authority shall—
 - (a) maintain a register of permits issued by the authority together with such other information as may be prescribed,
 - (b) make the register and information available for inspection by members of the public at all reasonable times, and
 - (c) make arrangements for the provision of a copy of an entry in the register, or of information, to a member of the public on request.
- (2) A licensing authority may refuse to provide a copy of an entry or of information unless the person seeking it pays a reasonable fee specified by the authority.

Scrap Metal Dealers Act 2013

Controls buyers/sellers of scrap metal and motor salvage operators (Section 5 Schedule 1 paragraph 6)

- (1) An application must be accompanied by a fee set by the authority.
- (2) In setting a fee under this paragraph, the authority must have regard to any guidance* issued from time to time by the Secretary of State with the approval of the Treasury.

*Scrap Metal Dealers Act 2013: guidance on licence fee charges – issued by Home Office 12 August 2013

Licensing Act 2003

Statutory fees for premises licences, club premises certificates, temporary event notices and personal licences are currently prescribed by the Licensing Act 2003 (Fees) Regulations 2005. The licensing authority has no control over these fees.

In addition, there is a requirement to maintain a register and make it available for inspection without payment but if requested to provide a copy of information contained in the register a fee may be charged under Section 8 of the Act.

- (4) If requested to do so by any person, a licensing authority must supply him with a copy of the information contained in any entry in its register in legible form.
- (5) A licensing authority may charge such reasonable fee as it may determine in respect of any copy supplied under subsection (4).

Caravan Sites and Control of Development Act 1960

Under the Caravan Sites and Control of Development Act 1960, as amended by the Mobile Homes Act 2013, licensing authorities are permitted to charge fees for the licensing of residential caravan sites with effect from 1 April 2014. Transitional

arrangements will be in place and the licensing authority is required to publish a fees policy. (NB The Council has not yet prepared a fees policy and therefore is currently unable to charge fees in this respect.)

Licences for which the licensing authority is NOT permitted to charge

- **House-to-house collections:** House to House Collections Act 1939
- **Street collections:** Police, Factories, etc. (Miscellaneous Provisions) Act 1916



<u>Committee and Date</u>
Strategic Licensing Committee
25 January 2017

<u>Item</u>
7
Public

Street Trading - Adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

Responsible Officer Mandy Beever – Transactional and Licensing Team Manager
e-mail: Mandy.Beever@shropshire.gov.uk Tel: 01743 251702

1. Summary

- 1.1** This report sets out the details of a proposal to regularise the adoption of the provisions of Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') for the whole of the Shropshire Council administrative area. Schedule 4 of the 1982 Act contains provisions relating to the determination of Prohibited, Licensed, and Consent Streets, the setting of fees, the administration of licenses and consents, and enforcement in the event of non-compliance.

2. Recommendation

- 2.1** That the Committee pursuant to Part III of the Local Government (Miscellaneous Provisions) Act 1982 ('the 1982 Act') and in accordance with the delegations set out in the Constitution, resolve to adopt Schedule 4 of the 1982 Act which shall apply throughout the Shropshire Council administrative area with effect from 26 January 2017 or on such later date as is agreed by the Committee and agrees that all existing Street Trading delegations and designated streets shall remain in place subject to any future amendments.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1** It has become evident that whilst it is clear that some of the Shropshire Council's five predecessor district/borough councils undertook the process to adopt the provisions of Schedule 4 of the 1982 Act, there are some irregularities and there may be insufficient evidence available to fully demonstrate proper adoption of the provisions of Schedule 4 of the Act for the whole of the Shropshire Council administrative area. This appears to be simply as a result of the passage of time and the lack of retention of relevant records.
- 3.2** It is considered prudent to ensure that the provisions of Schedule 4 of the 1982 Act are properly adopted to ensure that the provisions for ongoing delegation are met; in effect adoption of the legislation at this stage provides a 'line in the sand' after which time it will be clear that Shropshire Council has adopted the legislation across the administrative area of Shropshire Council.
- 3.3** An Equalities Impact Needs Assessment has not been undertaken as the report does not concern the implementation of a new policy; it is concerned with a legal matter that is clearly set out in domestic legislation.
- 3.4** There is no anticipated environmental impact associated with the recommendations in this report. The recommendation is not at variance with the Human Rights Act 1998 and is unlikely to result in any adverse Human Rights Act implications. The recommendation is in line with current legal procedures laid down in the 1982 Act.

4. Financial Implications

- 4.1** There are no financial implications associated with this report.

5. Background

- 5.1** The legislative provisions relating to Street Trading is contained within Part III and Schedule 4 of the 1982 Act. Schedule 4 of the Act is adoptive; consequently, if a

local authority wishes Schedule 4 of the Act to apply in its area it must pass the appropriate resolution.

5.2 In summary, for the authority to properly adopt the legislation the authority must pass a resolution specifically adopting the legislation in its area and the resolution must specify a date upon which the legislation will come into force.

6. Additional Information

6.1 The Strategic Licensing Committee has the power to adopt the legislation under the terms of the Constitution.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information) None
Cabinet Member (Portfolio Holder) Councillor Malcolm Price – Portfolio holder for Planning, Housing, Regulatory Services and Environment
Local Member Applicable to all Members
Appendices None

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<u>Committee and Date</u>
Strategic Licensing Committee
25 January 2017

<u>Item</u>
8
Public

STREET TRADING POLICY CONSULTATION PROPOSALS

Responsible Officer Mandy Beever – Transactional and Licensing Team Manager

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1. Summary

- 1.1 The control of Street Trading is currently based on the regimes that existed within the previous District and Borough councils (South Shropshire District Council, North Shropshire District Council, Shrewsbury and Atcham Borough Council, Oswestry Borough Council and Bridgnorth District Council) prior to the formation of Shropshire Council ('the Council').
- 1.2 Street Trading is a function of the Council. However, under provisions in the Local Government Act 1972, the Council can delegate the responsibility for the function to Town and Parish Councils.
- 1.3 The administration of Street Trading includes the determination of Prohibited, Licensed and Consent Streets, the setting of fees, the administration of licenses and consents, and enforcement in the event of non-compliance.
- 1.4 Work has been undertaken to rationalise and align Street Trading controls across the whole administrative area of the Council. This has led to a draft Street Trading Policy ('the Policy') that members are now being asked to consider and approve for public consultation.
- 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 Committee approves, with any necessary amendments, the proposed Street Trading Policy 2017 – 2022 as set out in **Appendix A** and instructs the Transactional and Licensing Team Manager to commence an 8 week public consultation from 30 January 2017 to the 26 March 2017.

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** The main purpose of the report is to seek approval for a formal consultation. It is proposed to undertake the consultation through the Councils website and directly with relevant stakeholders including existing Street Traders, Parish and Town Councils, Highways England and Shropshire Council Highways Service.
- 3.3** Street Trading provisions are local in nature. Currently delegations exist in relation to Bishops Castle, Ludlow, Shifnal and Oswestry Town Councils. The consultation process will explore the opportunity to further delegate the responsibility for the Street Trading function to Parish and Town Councils. In addition, views will be sought to determine whether the existing Prohibited and Consent Streets are fit for purpose given the very different economic climate within which Street Trading is now undertaken compared with the climate that did exist when the legislation was originally adopted over thirty years ago by the previous District and Borough Councils.
- 3.4** Historically, the District and Borough Councils opted to designate streets as Consent rather than Licence Streets. Having considered the legislation and the practical implications of implementation it is recognised that the Consent Street provisions are administratively more straightforward and less burdensome on both the Council and applicants. However, it does limit the Street Traders right to challenge decisions that are made by the Council and limits the Councils ability to adequately scrutinise the suitability of applicants.
- 3.5** Given the safeguarding responsibilities that the Council clearly has, it is recognised that the Consent Street provisions limit the Council's ability to undertake sufficient checks for safeguarding purposes. Consequently, as part of the consultation process active consideration will be given to converting Consent Streets to Licence Streets and amending the draft Policy to discourage the designation and use of Consent Streets.
Moving towards the designation and use of Licence Streets will have a positive impact on the 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 is compatible with the provisions of the Human Rights Act 1998 and is unlikely to result in any adverse Human Rights Act implications. However, this will be given further consideration as part of the consultation process.
- 3.6** The draft Policy currently proposes that the application process and requirements to obtain a Street Trading Consent mirror those required by the Street Trading

Licence. This approach will be important if the Council decides to retain Consent Streets. The Council may face a challenge on the robust nature of the proposed application process; however, it is deemed proportionate given the need to ensure applicants are suitable under the Councils safeguarding responsibilities.

- 3.7 An Equality and Social Inclusion Impact Assessment (ESIIA) is being considered and the feedback from the consultation process being proposed will form a key element to inform the ESIIA.
- 3.8 There is no anticipated environmental impact associated with the recommendation.

4. Financial Implications

- 4.1 There are no direct financial implications associated with the recommendation; however, there is clearly officer time required to undertake the process. The officer time and associated costs can be recovered through the consent/licence fees that are determined by the cost recovery fee setting process.
- 4.2 Licence fees will reduce if more Town and Parish Councils seek to take on responsibility for the Street Trading function. The extent of this cannot be determined until the end of the consultation. However, in 2014/15 Shropshire Council received 35 Street Trading applications and issued 31, with associated licence fees of £5,165. In 2015/16, 18 applications were received and 12 issued, with associated licence fees of £4,891.
- 4.3 If the function is undertaken by Town and Parish Councils, this will release staff resources to allow an improved focus on the complex details associated with other licensing regimes.

5. Background

- 5.1 The legal controls relating to Street Trading are contained in Section 3 and Schedule 4 of the Local Government Miscellaneous Provisions Act 1980. These include the designation of streets, setting of fees, the administration of licences and consents, and enforcement in the event of non-compliance.
- 5.2 Street Trading legislation is adoptive by the District, Borough or Unitary Councils for their particular areas. Where a local authority has adopted the legislation, it can then determine which streets if any, within its area are to be designated as Licence, Consent or Prohibited streets.
- 5.3 The former South Shropshire District Council, North Shropshire District Council, Oswestry Borough Council and Shrewsbury & Atcham Borough Council adopted the provisions and designated specific streets as Prohibited and Consent. These streets have remained as Prohibited and Consent by virtue of the Unitary Council process and are detailed in the draft Policy.

- 5.4** Bridgnorth District Council did not adopt the legislation and hence there are no designated streets in what was Bridgnorth District Council administrative area.
- 5.5** Under the previous District and Borough councils no Licenced Streets were designated. As a consequence, there are currently no Licenced Streets in the Shropshire Council Administrative Area.
- 5.6** 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, licenced 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
- 5.7** Where a street has not been designated as either Prohibited, Licenced 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 Councils Highways Service where the land is a highway.
- 5.8** 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.
- 5.9** 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.
- 5.10** Under provisions of the Local Government Act 1972, on the 9 December 2010 the Council delegated to Bishops Castle, Ludlow and Shifnal Town Councils all of its powers emanating from Section 3 and Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 in respect of Street Trading. Similarly, on the 18 July 2013, the Council delegated these powers to Oswestry Town Council. The powers delegated to Oswestry Town Council relate to the Administrative Area of the former Oswestry Borough Council; however, current practice is such that the delegation relates only to the area for which Oswestry Town Council has responsibility.
- 5.11** 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, this has the potential to enhance the localism of service provision.

- 5.12** 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.
- 5.13** Whilst the draft Policy aims to provide a clear and consistent approach to the control of Street Trading, for the purposes of the consultation process it also aims to generate feedback in relation to the wider approach that the Council is considering, particularly around further delegation of the function to Town and Parish Councils, the move from Consent to Licence Streets and the increased focus on safeguarding.

6. Additional Information

None

<p>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</p>
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<p>Local Government (Miscellaneous Provisions) Act 1982 s.3 and Schedule 4</p>
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<p>Local Government Act 1972 s101 (1) (b)</p>

<p>Strategic Licensing Committee, 5th June 2013: Street Trading – Delegation of Powers to Oswestry Town Council</p>
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<p>Cabinet Member (Portfolio Holder)</p>

<p>Councillor Malcolm Price - Portfolio holder for Planning, Housing, Regulatory Services and Environment</p>

<p>Local Member</p>

<p>Applicable to all Members</p>

<p>Appendices</p>

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Street Trading Policy

2017 – 2022

Date policy adopted:

Adopted by:

Date of implementation:

Next review period:

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PART 1

INTRODUCTION

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PART 1 – INTRODUCTION

- 1.0 On 1st April 2009 Shropshire Council became the responsible authority for the street trading provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Prior to this date the responsibility lay with the preceding district and borough councils (South Shropshire District Council, North Shropshire District Council, Shrewsbury and Atcham Borough Council, Oswestry Borough Council and Bridgnorth District Council) all of which ceased to exist as a result of the unitary process.
- 1.1 The Street Trading Policy ('the Policy') is applicable to the regulation of street trading across the whole of the administrative area of Shropshire Council. This Policy supersedes all previous Council policies relating to Street Trading. The Policy is in place to ensure that Shropshire Council (The Council) can properly regulate those who trade in the street and not from within a business premises. Where Street trading provisions do not apply The Council encourages Street Traders to have regard for the principles set out in this Policy.
- 1.2 Street trading is a function of Shropshire Council. However, under provisions in the Local Government Act 1972, the Council can delegate the responsibility for the function to Town and Parish Councils. Shropshire Council actively encourages Town and Parish Councils to adopt this function in order to facilitate more local decision making. Shropshire Council will support and facilitate the delegation process to ensure a smooth transition.
- 1.3 The administration of street trading includes the determination of Prohibited, Licensed, and Consent Streets, the setting of fees, the administration of licenses and consents, and enforcement in the event of non-compliance.
- 1.4 The Council takes a permissive approach to Street Trading and is unlikely to designate any further prohibited streets and aims to grant valid Licence and Consent applications.

Scope

- 1.5 "Street trading" is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street.
- 1.6 "Street" includes any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.
- 1.7 The Street trading provisions are local in nature and within the administrative area of Shropshire Council there are certain streets and areas that have been designated as Prohibited Streets, Licensed Streets and Consent Streets as set out in Appendix 1. Where a street has not been designated as either Prohibited, Licenced or Consent, the Council has no regulatory responsibility under Street trading legislation and therefore, no permissions are required from the Licensing Service. However, Street traders must always seek permission to use the land from the land owner. This includes Shropshire Councils Highways Service where the land is a highway. Where a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force Street Trading is not permitted other than trading to which the control order does not apply.

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- 1.8 Where the streets are designated as either ‘prohibited’, ‘licenced’ or ‘consent’ they are defined as;

Prohibited Street

“prohibited street” means a street in which street trading is prohibited.

If a street is designated as a “prohibited street” then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example, the street may not be wide enough to facilitate a trader or the council may wish to restrict trading at a particular location. It may be considered that the prohibited status might be the most appropriate designation for the majority of residential streets in a town. There is no right of appeal in respect of a Council decision to designate a street as prohibited; challenge is by way of Judicial Review.

Licence Street

“licence street” means a street in which street trading is prohibited without a licence granted by the council.

Street trading in a licence street without a licence is a criminal offence. If a street is designated as a “licence street” then applications can be made by persons over 17 for a licence to trade in the articles described in the application on certain days on that street. For so long as the designation of licence street remains in place for that particular street or part of street the council is duty bound to grant or renew a properly made application unless one or more of the statutory grounds for refusal applies. There is a right of appeal against a council decision made in respect of a street trading licence.

Consent Street

“consent street” means a street in which street trading is prohibited without the consent of the council.

If a street is designated as a “consent street” then street trading without a consent is a criminal offence. There is no right of appeal¹ against any council decision made in respect of a street trading consent. Street trading consent cannot be granted for a period of time exceeding twelve months and can be revoked at any time. When granting or renewing a consent the council may attach any reasonable condition, furthermore the council can at any time vary the conditions attached to a consent. Any such variations will be notified in writing to the named person on the consent and will take effect immediately or on the date of the notification letter.

Legislative framework

- 1.9 The operation of the Council’s licensing service is undertaken in accordance with relevant legislation, applicable conditions and the Regulators’ Code (BRDO 14/705 April 2014).
- 1.10 The primary legislation relating to street trading is the Local Government (Miscellaneous Provisions) Act 1982. In addition, the service is provided in accordance with all relevant Council policies, but in particular those relating to:

¹ An aggrieved party may challenge a decision by way of judicial review.
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- Protection of children, young persons and vulnerable adults;
 - Better regulation and enforcement;
 - Access to information;
 - Public sector equality duty; and
 - Human rights²
- 1.11 The regulation of street trading will be considered in conjunction with but not restricted to the following;
- granting of Pavement Permits;
 - Street Collections;
 - Distribution of Free Printed Matter;
 - Face to Face fund raising'
 - House to House Collections;
 - Planning and wider premises licensing regimes;
 - Pedler certificates for selling door to door; and
 - any restrictions imposed by Public Space Protection Orders (PSPO).
- 1.12 So far as is reasonably practicable the Council will avoid duplication with other regulatory regimes. In particular, the Policy and associated conditions do not address health and safety at work, fire safety or planning requirements. Street traders are required to ensure all relevant provisions are satisfied in these respects.

Purpose

- 1.13 Shropshire Council recognise that street trading is important to both the local environment and the local economy. Street trading can provide vitality and interest to Shropshire's already vibrant towns and communities, and provides an opportunity for small businesses to establish themselves and grow.
- 1.14 The fundamental purpose of the Policy is to create a street trading environment which complements premises based trading, is sensitive to the needs of the public, provides diversity and consumer choice, and enhances the character, ambience and safety of local environments for people who live, work and visit in Shropshire.
- 1.15 The Council positively encourages applications from Street Traders that aim to promote a healthy lifestyle.
- 1.16 Whilst recognising the important contribution that street trading brings to supporting local businesses and the growth and prosperity of Shropshire's economy, a key purpose is also to reduce any potential harm or exploitation which could occur through street trading.
- 1.17 Shropshire Council ('the Council') is particularly concerned to ensure:
- public safety
 - the prevention of public nuisance
 - the prevention of crime and disorder

² Human Rights Act 1998, in particular, Article 1, Protocol 1 – peaceful enjoyment of possessions (a licence is considered a possession in law and people should not be deprived of their possessions except in the public interest); Article 6 – right to a fair hearing; Article 8 – respect for private and family life (in particular, removal or restriction of a licence may affect a person's private life); Article 10 – right to freedom of expression.

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- the protection of children, young persons and vulnerable adults from harm
- 1.18 The Council recognises that promoting the welfare of children and protecting them from harm is everyone's responsibility, in particular, Street Traders who may have dealings with children, young people and vulnerable adults have a duty to report matters of concern to the relevant authorities. Further details are set out in Appendix 2.
- 1.19 The Policy provides guidance to any person with an interest in street trading, in particular, but not restricted to:
- persons who wish to apply to undertake street trading;
 - persons who hold existing licences or consents, including those that are the subject of review;
 - the Council, in its capacity as the licensing authority, including licensing officers, members of the relevant licensing committees ;
 - licensing consultants, solicitors and barristers advising and/or representing applicants and licence/consent holders; and
 - Magistrates and judges hearing appeals or judicial reviews against Council decisions.

Consultation and Communication

- 1.20 In determining the Policy, the Council has consulted as set out on page [page number to be inserted at conclusion of consultation exercise]. The views of relevant stakeholders have been taken into consideration.
- 1.21 In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communicating and consultation with all stakeholders. In particular, the Council welcomes the opportunity to communicate and consult with street traders to enable and encourage the exchange of views and information in relation to the Policy, conditions, changes in the law and reviews. The specific methods to achieve this communication and consultation will be determined as required.

Review of the Policy

- 1.22 The policy will be the subject of continuous evaluation and, if necessary, formally reviewed every 5 years. At the time of review all relevant stakeholders will again be consulted.

Conditions

- 1.23 The Council will adopt any reasonable conditions that it deems necessary and appropriate to ensure that traders comply with relevant legislation and the fundamental purpose of the Policy. Any trader may request a review of any condition at any time.

PART 2

LICENSING PRINCIPLES, PROCESS AND DELEGATION

PART 2 – LICENSING PRINCIPLES, PROCESS AND DELEGATION

Introduction

- 2.0 The Council has adopted a scheme in accordance with Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 which permits the Council to control street trading in the areas listed and mapped in Appendix 1.

Licensing principles

- 2.1 The Council aims to provide a clear, consistent and responsive service to prospective and current consent and licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants.
- 2.2 All applications will be considered and determined on their own individual merits.

Licensing process and delegation of functions

- 2.3 The licensing of street trading is a Council function that is discharged by the Council's Strategic Licensing Committee, Licensing and Safety Sub-committee and officers in accordance with delegated authority set out in the Council's Constitution.
- 2.4 Whilst officers and the relevant committees will, in the majority of cases, follow the Policy, there may be specific circumstances that require a departure from the Policy. In such circumstances, the reasons for departing from the Policy will be made clear.

Committees

2.5 Strategic Licensing Committee

This Committee is made up of 15 members of the Council. It deals with policy issues, standard conditions of licence/consent and the setting of fees and charges.

2.6 Licensing and Safety Sub-committee

The Committee has been established to consider applications and hear objections in relation to licensing matters, it is made up of a selection of Members from the Strategic Licensing Committee. Five to six Members (Quorum of 3) will sit on hearings to consider new applications, renewals and reviews of licences/consents that are referred by officers; this includes the hearing of objections. The hearings are normally held in public unless there are matters to be considered that are of a confidential nature.

- 2.7 Members, when determining applications for a licence/consent, renewals or reviews of a licence/consent, will have regard to the Local Government (Miscellaneous Provisions) Act 1982 and other relevant legislation, the Human Rights Act 1998, the Equality Act 2010, any relevant legal case law and other relevant Council policies.

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Consideration of a Licence application by the Licensing and Safety Sub-committee

- 2.8 On receipt of relevant written representations and/or if the applicant has not met the criteria, arrangements will be made for the application to be heard by the Licensing and Safety Sub-committee and the applicant and all parties making representations will be notified in writing of the date, time and place where the application will be heard.
- 2.9 The person or body making a representation will be expected to attend the hearing and be allowed the opportunity to address the Licensing and Safety Sub-committee and ask questions relating to the application. The applicant can be represented by a solicitor, or supported by a friend or colleague.
- 2.10 Representations received by the Council will be circulated to members of the Committee in advance. Where appropriate, the representations will also be sent to the applicant but without any information that would identify the person submitting the representation.
- 2.11 The Licensing and Safety Sub-committee will always determine applications by:
- Considering each on its own merits.
 - Using this Policy.
 - Dealing with the hearing in a balanced and impartial manner.
 - Ensuring that the rules of natural justice are applied in any hearings held.
 - Giving all parties sufficient opportunity to present their case, ask questions and present information for consideration in support of their application or representation.

Consideration of a Consent application

- 2.12 Applications are considered by a Public Protection Officer (Specialist).
- 2.13 On receipt of relevant written representation and/or if the applicant has not met the criteria, the Officer will determine the application.
- 2.14 Where appropriate, any representation made will be sent to the applicant but without any information that would identify the person submitting the representation.
- 2.15 The Officer will always determine applications by:
- Considering each on its own merits.
 - Using this Policy.
 - Dealing with the hearing in a balanced and impartial manner.
 - Ensuring that the rules of natural justice are applied in any hearings held.
 - Giving all parties sufficient opportunity to present their case, ask questions and present information for consideration in support of their application or representation.
- 2.16 Where the Officer with delegated authority is unable to reach a decision or for any other reason so agreed by that Officer will be referred to the Licensing and Safety Sub-committee for determination in accordance with the procedure as set out at paragraphs 2.8 to 2.11 above.

Decisions

- 2.17 The Council, by virtue of an officer with delegated authority, has the power to refuse, grant or renew licences or consents and also to vary or revoke existing licences and consents in accordance with relevant legislative provisions.
- 2.18 Any decision to refuse to grant or renew a licence or consent or to vary or revoke an existing licence or consent will be made in accordance with the Council's scheme of delegation as set out in Appendix 3 and other relevant procedures. In particular, applications will be considered favourably where there is clear and robust evidence of effective mitigating measures offered by the applicant in relation to those matters set out in Appendix 4.
- 2.19 Where applications are to be determined, the officer and Licensing and Safety Sub-committee will take into consideration the facts of the application, any information and/or evidence provided by other interested parties, together with the recommendation made by the licensing officer presenting the report. Where necessary officers will seek comments directly from officers from the Council with responsibility for Highways, officers from West Mercia Police and any other relevant organisation. In order to provide applicants with the opportunity to consider and respond by way of written and/or verbal representations, as appropriate, the Council will provide the relevant details which have given rise to the need for an officer decision and/or hearing.
- 2.20 Following the determination of an application by the Council the applicant will receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made. This will include information on the right of appeal where appropriate.

Abandoned vehicles/objects

- 2.21 The failure to remove any Street Trading Stall in accordance with the relevant environmental impact conditions will be treated as an abandoned vehicle/object under the relevant legislation and may be removed by the Council for retention or destruction. The consent or licence holder shall pay all costs incurred by the Council in carrying out such action. Impounded vehicles and equipment will not be released until all outstanding costs have been paid by the consent or licence holder and may in default of payment be sold by the Council.

Appeals

2.22 Street Trading Licence

Parties aggrieved by a decision of the Council, with respect to a refusal to grant or renew a licence or vary or revoke an existing licence, have a right of appeal to the Magistrates' Court. This must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice in such circumstances.

2.23 Street Trading Consent

There is no right of appeal for a street trading consent.

Working in partnership

- 2.24 The Council aims to work in partnership when dealing with street trading issues. Partners will include (but are not restricted to) relevant Town and Parish Councils, trade associations, West Mercia Police, Shropshire Council Highways, Highways England, Revenues and Benefits teams and consumer groups.
- 2.25 However, it must be recognised that the Council, as primary regulator, will ensure that all relevant provisions relating to the effective administration of licensing functions are robustly enforced to protect the public.

Setting fees

- 2.26 The cost of dealing with street trading is covered by fees from licences and consents.
- 2.27 The Council aims to ensure that the income from fees, as nearly as possible, equates to the costs of providing the service to which the fees relate; in this respect, the Council is committed to continuous improvement across the fee setting process.
- 2.28 The Council aims to make its fee setting as transparent as possible. Costs are tracked to enable the Council to evidence, as much as is reasonably practicable, how it arrives at the specified fee levels. Fees are calculated on a cost recovery basis only.
- 2.29 The Council does not recover costs for the collection of refuse or the cleansing of streets on the basis that the conditions of each licence/consent requires the licence/consent holder to take responsibility for such matters.
- 2.30 The Strategic Licensing Committee reviews the fees annually under delegated authority from the Council.

PART 3

LICENSABLE ACTIVITIES

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PART 3 – LICENSABLE ACTIVITIES

Introduction

- 3.0 This part of the Policy focusses on the licensable activities and the necessary steps required to obtain and hold a consent or licence. These steps will include the standards that applicants must attain and the conditions that apply. Where appropriate, any reference to ‘applicant’ is deemed to include existing consent and licence holders.
- 3.1 The following are applicable to all consent and licence types:
- Where an applicant has failed to declare relevant information or provided false information the application is likely to be refused; where this relates to an existing licence or consent, the licence or consent is likely to be revoked. Applicants are reminded that any applicant who makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
 - All fees are payable at the time of application. Where a consent or licence is not granted, i.e. the applicant withdraws their application; a proportion of the licence fee will be refunded. The actual amount of the refund will depend upon the progress of the application at the time the applicant withdraws;
 - In the event that an application for street trading is paid by cheque, the application will not be valid until such time as the cheque has cleared. In the event that the cheque does not clear and the licence or consent has been issued, the Council will seek to revoke the consent or licence;
 - The application process must be completed within 6 months unless prevented from doing so by matters that are outside the applicant’s control, otherwise the application process will cease to progress further until such time as the applicant provides all the required information;
 - Where a licence or consent has been surrendered or revoked a new application must be submitted in accordance with the relevant new licence or consent procedure before the Council will consider the application;
 - When a licence or consent expires, the Council will not permit any ‘periods of grace’ for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

Appointments

- 3.2 The Council runs an appointment system. Applicants will not be seen without an appointment. The Council will notify street traders who hold an annual licence/consent that their licence or consent is due to expire at least four weeks before the actual expiry.

Criminal Record Disclosure

- 3.3 Criminal record disclosure is relevant to those persons who wish to apply for a Street Trading licence because the Council has a responsibility to ensure the suitability of the applicant for this particular licence. The Council recognises that this requirement is not directly replicated within the consent regime; however, on the basis that the Council may grant a consent if it thinks fit, the Council has agreed to consider the suitability of applicants for consents in the same manner as the law requires for the applicants of a licence. Refer to Appendix 5 and Appendix 6 for further details in this respect.

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3a

Street Trading Licence

Application process for new and renewal

3a.1 Any person wishing to trade in a licenced street will require a licence issued by the Council.

3a.2 Applicants must submit the following to the Licensing Authority:

- A completed and signed relevant Street Trading Licence application form.
- The appropriate application fee.
- One passport size photograph, countersigned in accordance with passport rules.
- Evidence of right to work in the UK in accordance with the Home Office requirements (if applicable).
- Proof of identity, address and date of birth documentation: e.g. passport, photo driving licence, national proof of age standards photo card, birth certificate, current utility bill/bank statement not more than 3 months old.
- Provide a satisfactory basic criminal record disclosure from Disclosure Scotland (see note below and Appendix 5).
- Where the proposed street activity is from a fixed position, a copy of map of at least 1:1250 scale clearly outlining the proposed trading location in red should be provided. An additional map to scale clearly identifying the precise trading position and its proximity to other similar retail outlets (shops etc).
- 3 colour photographs of any stall, van, barrow, cart, etc. that will be used for the street trading activity showing the front, rear and side of the unit. The photographs must also show any proposed branding and/or advertisements that will be displayed.
- A scetch or diagram of the stall, van, barrow, cart, etc. identifying the external dimensions.
- If trading in food or drink:
 - a declaration that you have registered as a food business;
 - evidence of current training to a level equivalent to the Chartered Institute of Environmental Health (CIEH) Level 2 Food Hygiene Certificate for the food business operator and those staff who have a supervisory role in the preparation and handling of open high risk foods;

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- evidence that the business has a food hygiene score rating of 3 or above; and,
- evidence that the vehicle/unit meets the Council's food safety standards.

- An original certificate of insurance that covers the street trading activity for third party and public liability risks up to a minimum of £5,000,000.
- Evidence that appropriate permission has been obtained from the landowner of the proposed trading location.
- Any permissions or consents already granted with regard to the proposed operation, e.g. including but not limited to planning consent, licence for the sale of alcohol, late night refreshment premises licence, and waste disposal agreement.

3a.3 If any of the required documentation expires or the evidence becomes invalid during the term of the applicants licence, the licence will cease to have effect until the applicant has produced current valid documentation/evidence to the Council.

Note

3a.4 The basic criminal record disclosure from Disclosure Scotland must be no more than three years old at the time the application is submitted.

3a.5 A satisfactory enhanced DBS report will be accepted as an alternative to the basic criminal record disclosure from Disclosure Scotland.

Consultation

3a.5 Applicants will be required to display a site notice on or immediately outside the proposed trading location, for a period of 14 consecutive days. If no representations are received following the 14 days the Council may grant the application in the terms applied for, and standard conditions will be attached to the licence (subject to all other requirements in this policy).

3a.6 Where objections are received and not resolved relating to the grant or renewal of a licence the application will be referred to the Licensing Committee for determination.

Granting of Applications

3a.7 The Licensing and Safety Sub-committee or officers with delegated authority will grant applications meeting the criteria contained within this Policy.

3a.8 On granting the application the Council will issue a Street Trading Licence for a period of twelve months or shorter period as specified in the licence and shall also specify the following principle terms:

- the street(s) and where relevant a particular place in that street(s);
- the day(s);
- the trading times; and

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- the description of articles/goods that may be sold.

3a.9 In addition, the Council will attach standard conditions (subsidiary terms - see below) and where necessary any additional specific conditions.

Standard Conditions (Subsidiary Terms)

3a.10 The standard conditions with which a Street Trader must comply are set out in Appendix 7. Where the street trading activity takes place on an 'A-Road', the additional standard conditions as set out at Appendix 8 also apply. These conditions are in addition to any matters set out within the main body of the Policy.

Other Conditions

3a.11 The Council aims to grant licence applications and for this purpose may require street traders to comply with other more specific conditions that may from time to time be required.

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3b

Street Trading Consent

Summary

3b.1 Any person wishing to trade in a consent street will require a consent issued by the Council.

3b.2 Applicants must submit the following to the Council:

- A completed and signed relevant Street Trading Consent application form.
- The appropriate application fee
- One passport size photograph, countersigned in accordance with passport rules.
- Evidence of right to work in the UK in accordance with the Home Office requirements (if applicable).
- Proof of identity, address and date of birth documentation e.g. passport, photo driving licence, National Proof of Age Standards Photo Card, birth certificate, utility bill/bank statement not more than 3 months old.
- Provide a satisfactory basic criminal record disclosure from Disclosure Scotland (see note below).
- Where the proposed street activity is from a fixed position, a copy of map of at least 1:1250 scale clearly outlining the proposed trading location in red should be provided. An additional map to scale clearly identifying the precise trading position and its proximity to other similar retail outlets (shops, etc.) should also be provided.
- 3 colour photographs of any stall, van, barrow, cart, etc. that will be used for the street trading activity showing the front, rear and side of the unit and dimensions of that unit.
- If trading in food or drink:
 - a declaration that you have registered as a food business;
 - evidence of food hygiene qualifications;
 - evidence that the business has a food hygiene score rating of 3 or above; and,
 - evidence that the vehicle/unit meets the Council's food safety standards.
- An original certificate of insurance that covers the street trading activity for third party and public liability risks up to a minimum of £5,000,000.

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- Evidence that appropriate permission has been obtained from the landowner of the proposed trading location.
- Any permissions or consents already granted with regard to the proposed operation, e.g. including but not limited to planning consent, licence for the sale of alcohol, late night refreshment premises licence, waste disposal agreement.

3b.3 If any of the required documentation expires or the evidence becomes invalid during the term of the applicant's consent, the consent will cease to have effect until the applicant has produced current valid documentation/evidence to the Council.

Note

3b.4 The basic criminal record disclosure from Disclosure Scotland must be no more than three years old at the time the application is submitted.

3b.5 A satisfactory enhanced DBS report will be accepted as an alternative to the basic criminal record disclosure from Disclosure Scotland.

Consultation

3b.6 Applicants will be required to display a site notice on or immediately outside the proposed trading location, for a period of 14 consecutive days. If no representations are received following the 14 days the Council may grant the application in the terms applied for, and standard conditions will be attached to the Consent (subject to all other requirements in this policy).

3b.7 Where objections are received and not resolved relating to the grant or renewal of a consent the application will be referred to the Licensing & Safety Sub-Committee for determination.

Granting of Applications

3b.8 The Licensing and Safety Sub-committee, or Officers with delegated authority will grant applications meeting the criteria contained within this Policy.

3b.9 On granting the application the Council will issue a Street Trading Consent for a period not exceeding twelve months and will specify the following:

- the street(s) and where relevant a particular place in that street(s);
- the day(s);
- the trading times; and
- the description of articles/goods that may be sold.

3b.10 In addition, the Council will attach standard conditions and where necessary any additional specific conditions

Standard Conditions

3b.11 The standard conditions with which a Street Trader must comply are set out in Appendix 9. Where the street trading activity takes place on an ‘A-Road’, the additional standard conditions as set out at Appendix 8 also apply. These conditions are in addition to any matters set out within the main body of the Policy and maybe varied by the Council at any time.

Other Conditions

3b.12 The Council aims to grant consent applications and for this purpose may require street traders to comply with other more specific conditions that may from time to time be required.

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PART 4

INSPECTION, COMPLIANCE, ENFORCEMENT AND COMPLAINTS

PART 4 – INSPECTION, COMPLIANCE, ENFORCEMENT AND COMPLAINTS

Summary

- 4.0 This part of the Policy sets out the manner in which the Council approaches inspection, compliance and enforcement, including the way in which complaints will be dealt with, as it relates to Street Trading Licences and Consents.
- 4.1 The overarching principles are led by the Better Regulation and Enforcement Policy (or such similar policy that may from time to time be adopted) which is available on the Council's website at <http://shropshire.gov.uk/shropshire-council/policies/>. In addition, the Council undertakes an intelligence led approach supported by the National Trading Standards Intelligence Operating Model (IOM).

Inspection, Compliance and enforcement

- 4.2 The Council will generally use the least intrusive regulatory tool to achieve compliance and will ensure that any regulatory action is proportionate to the importance of the matters to which it relates. Council officers may undertake inspection, compliance and enforcement activities for the purpose of assessing compliance with consents/licences, and to determine whether an offence is being committed.
- 4.3 In doing so, the Council's officers will work closely with other enforcement authorities to achieve compliance with the relevant legislation, licence/consent requirements and specific conditions of each licence/consent.
- 4.4 The Council will undertake all inspection, compliance and enforcement work in accordance with the Council's Better Regulation and Enforcement Policy. The Better Regulation and Enforcement Policy sets out clearly the overall approach adopted by the Council towards inspection, compliance and enforcement. It also specifically sets out the principles by which the Council intends to manage all criminal investigations; these principles also apply to the way in which criminal proceedings will be managed in relation to street trading related criminal offences specified in the Local Government (Miscellaneous Provisions) Act 1982 ('the Act').
- 4.5 In relation to the prevention, investigation and prosecution of offences under the Act, the Council will give priority, based on the level of risk posed, to crimes in which there is a greater risk of harm or exploitation to children and vulnerable persons.
- 4.6 The Council will default, in the first instance, to its regulatory rather than criminal powers when considering a breach of licence/consent conditions. These regulatory powers include revocation, suspension and adding/removing/amending conditions.
- 4.7 However, where there are significant breaches of licence/consent conditions that satisfy the criteria for invoking criminal powers in accordance with the Council's Better Regulation and Enforcement Policy this will mean that the Council will investigate matters with a view to instituting criminal proceedings irrespective of whether it has used its regulatory powers or not.
- 4.8 The Council will abide by the statutory principles of good regulation and the Regulators' Code. Inspection and enforcement activities will be carried out in a way that is transparent, accountable, proportionate, consistent and targeted, and promotes efficient

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and effective regulatory approaches that improve outcomes without imposing unnecessary burdens on business.

- 4.9 Traders must comply with all reasonable requests made by officers of Shropshire Council, the relevant Highways authority and the police. Licence and Consent holders are strongly encouraged to cooperate with officers of all other relevant bodies. Failure to cooperate may lead to revocation of their consent or licence.

Complaints

- 4.10 Where appropriate, complainants will be encouraged to raise complaints with the relevant consent or licence holder or business concerned. However, the Council will also respond to complaints in line with its Better Regulation and Enforcement Policy and will use complaint information to assist in the determination of licence/consent decisions.

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PART 5

CONSULTATION

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PART 5 – CONSULTATION

- 5.0 Formal consultation was undertaken for a period of [to be inserted at conclusion of consultation exercise]. However, a period of informal engagement with key stakeholders was also undertaken from May to December 2016 to assist in the initial draft of the Policy that was subject to the formal consultation process. The Council has consulted as widely as was reasonably practicable. Details of the consultees are set out below.
- 5.1 The representations received during the consultation process, together with the Council's responses, is available on the Council's website as part of the report that was presented to the Strategic Licensing Committee on [to be inserted once known].
- 5.2 During the process of assessing the representations of those who were consulted, the Council had regard to guidance issued under the Act and gave appropriate weight to the views of those it consulted. In determining the weight to give particular representations, the following factors were taken into account:
- Who made the representation (their expertise or interest)
 - Relevance of the factors to the licensing objectives
 - How many people expressed the same or similar views
 - How far the representations related to matters that the Council should be including in its Policy.
- 5.3 Members of the public were invited to put forward their comments to the proposed policy document during a consultation periods. In addition consultation was undertaken with the following stakeholders and partners:-
- West Mercia Police
 - Shropshire Fire and Rescue Service
 - Shropshire Council Highways
 - Highways England
 - Town & Parish Councils
 - Charitable Organisations
 - All current consent and licence holders
- 5.4 We have also consulted various other teams within the Council, these include:
- Environmental Health
 - Planning
 - Street Scene
 - Legal Services
 - Chair and members of the Licensing Committee
 - Portfolio Holder
- 5.5 We have considered and taken into account the views of all the appropriate bodies and organisations.

PART 6

LICENSING CONTACT DETAILS

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PART 6 – LICENSING CONTACT DETAILS

Contact details

For information, advice and guidance relating to Street Trading Consents or Licences:

Licensing
Public Protection
Shropshire Council
Abbey Foregate
Shrewsbury
Shropshire
Tel: 0345 678 9026
Email: licensing@shropshire.gov.uk

Website: <http://new.shropshire.gov.uk/licensing>

Licence Fee Payments Telephone: 0345 678 9026

On line: https://payments.shropshire.gov.uk/epayments/webpay_public/webpay

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APPENDICES

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Appendix 1 – Consent, Licensed and Prohibited Streets

Consent Streets

1.0 Ludlow Consent Streets

Bull Ring, Broad Street (from Buttercross to Lloyds Bank), Castle Street, Castle Square (excluding Market Square), Upper Dinham, Harp Lane, Church Street, High Street, Market Street, King Street, Tower Street

1.1 Wem Consent Streets

Crown Street, High Street, Noble Street, Aston Street, Market Street, Mill Street, New Street, Chapel Street, Leek Street

1.2 Ellesmere Consent Streets

Church Street, Talbot Street, Watergate Street, Trimply Street, High Street, Wharf Road, Cross Street, Birch Road, Scotland Street, Brownlow Road, Victoria Street, Pinfold Lane, Sparbridge, Mereside, Willow Street.

1.3 Market Drayton Consent Streets

High Street, Queen Street, Cross Street, Cheshire Street, Towers Lawn, Frogmore Road, Shropshire Street, Stafford Street, Great Hales Street.

1.4 Whitchurch Consent Streets

High Street, Watergate Street, Bull Ring, Mill Street, Green End, Brownlow Street and car park

1.5 Oswestry Consent Streets

i) The car park and lay-by adjacent to Offas Dyke on the B4579 at Craignant.

ii) The lay-by and access road running parallel with the B5070 adjacent to Tradfield House, Nefod Lane and the Glerid roundabout on the A5.

iii) All areas of land, including designated car parks forming part of the North and South commons at the Old Oswestry Racecourse, off the B4580.

iv) The lay-by and access road running parallel with the A495 between the Green, The Elms and its junction with Drenewydd.

v) The area known as The Cliffe within the Borough of Oswestry at Ruyton-X1- Towns.

vi) The two lay-bys on the North and South sides respectively of the B4396 between its junction with the B4397 and Knockin Hall.

vii) The whole of the lay-by on the Crew Green to Meverley road immediately to the north-east of the River Severn crossing.

viii) The following roads and streets within the borough of Oswestry:-

All A and B class roads (including trunk roads).

All streets within the specified area of the Town of Oswestry.

ix) The area within 100 metres of a school premises is a consent street.

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1.6 Shrewsbury Consent Streets

i) The Square

ii) St Chad's Terrace – outside the main entrance gate to the Quarry

iii) Priory road – the western end close to the children's playground

For Shrewsbury this does not have effect in the following areas – The Quarry; Mardol Gardens; The Parade; Riverside Shopping Centre; and Victorian Arcade.

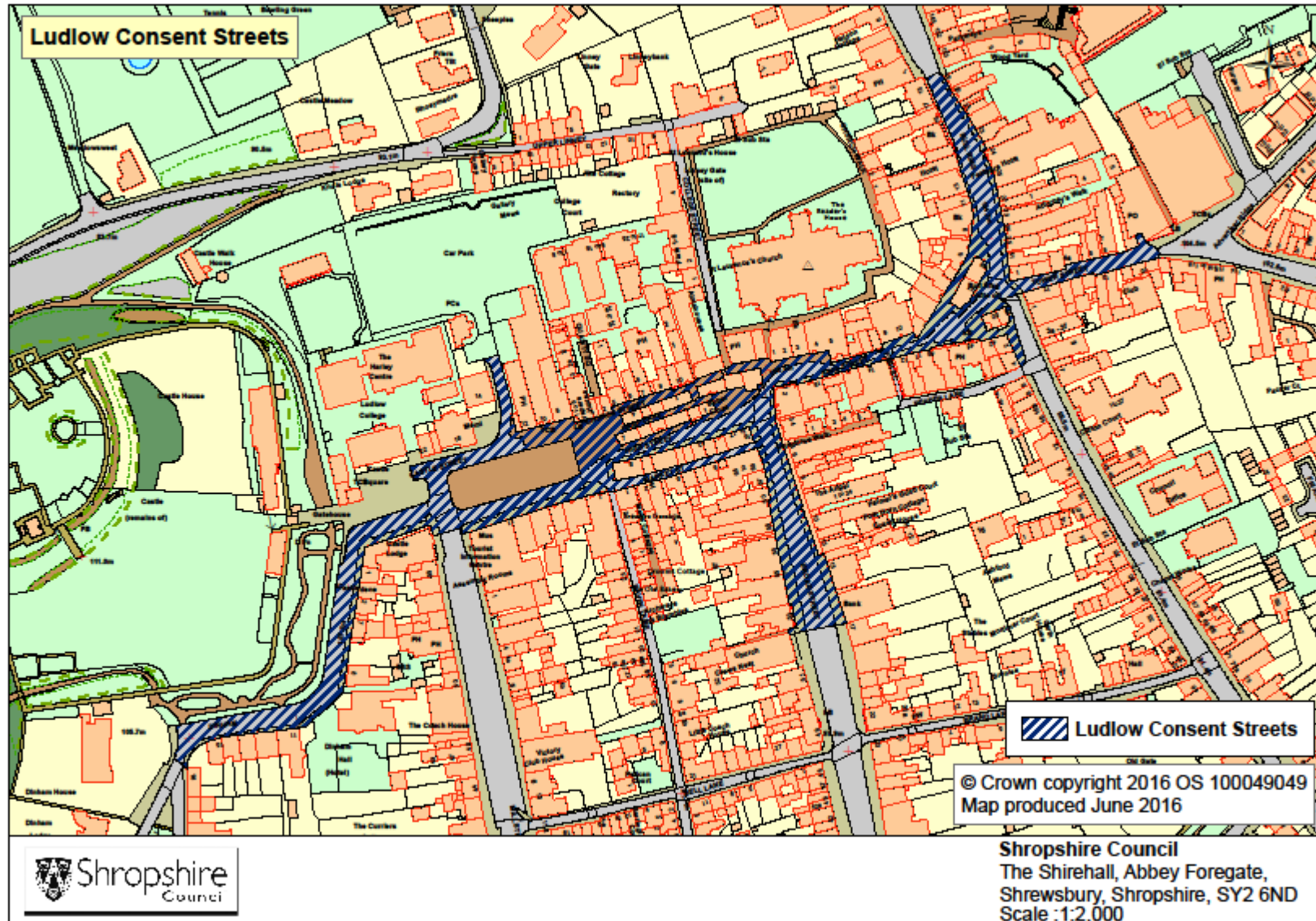
1.7 The use of the Square is permitted for the following purposes and for such other exceptional purposes as may be considered appropriate by the Council:

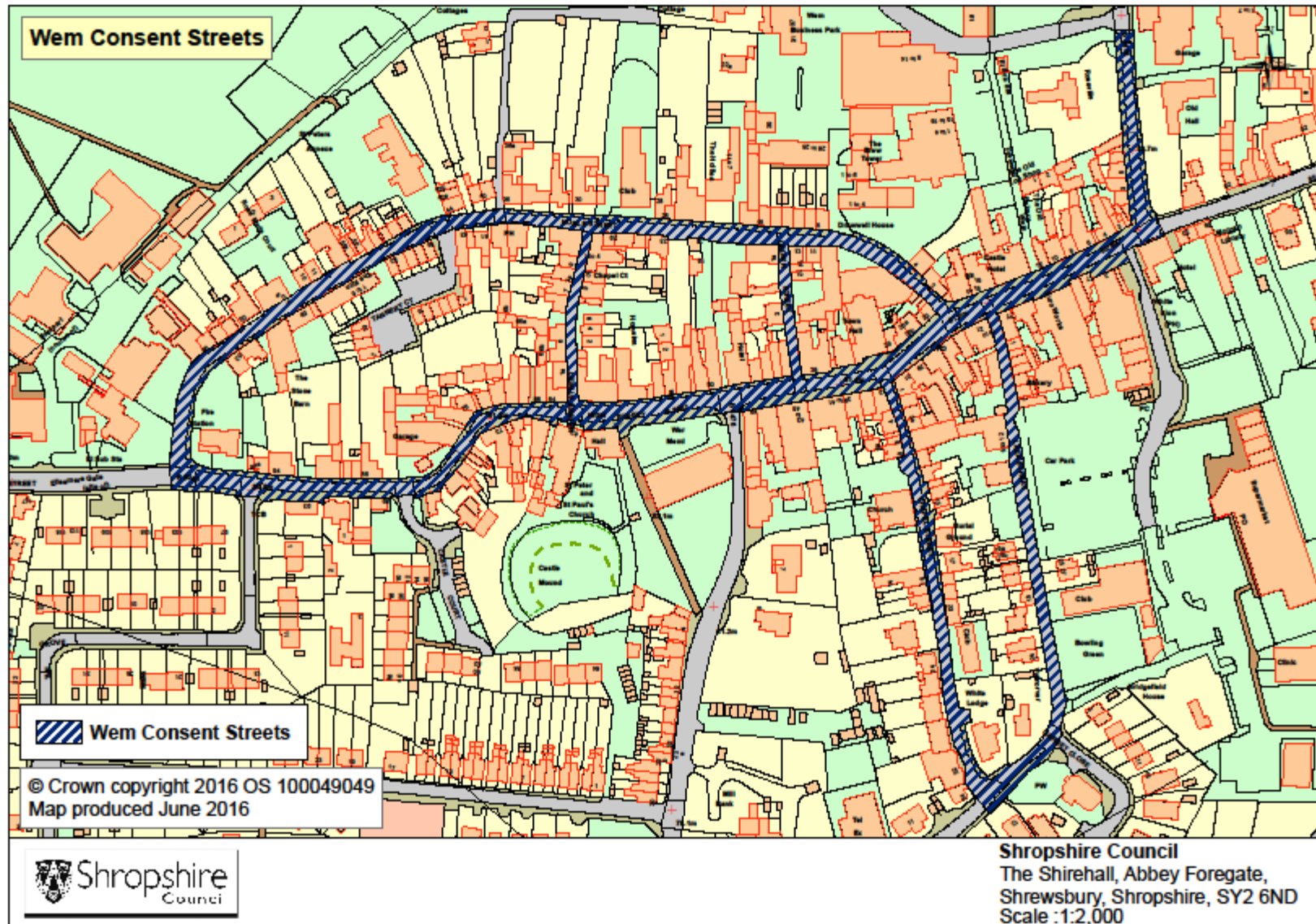
- Charitable or similar non-profit making associations
- Armed Forces
- Certain local organisations – Shropshire Horticultural Society, and West Midlands Horticultural Society

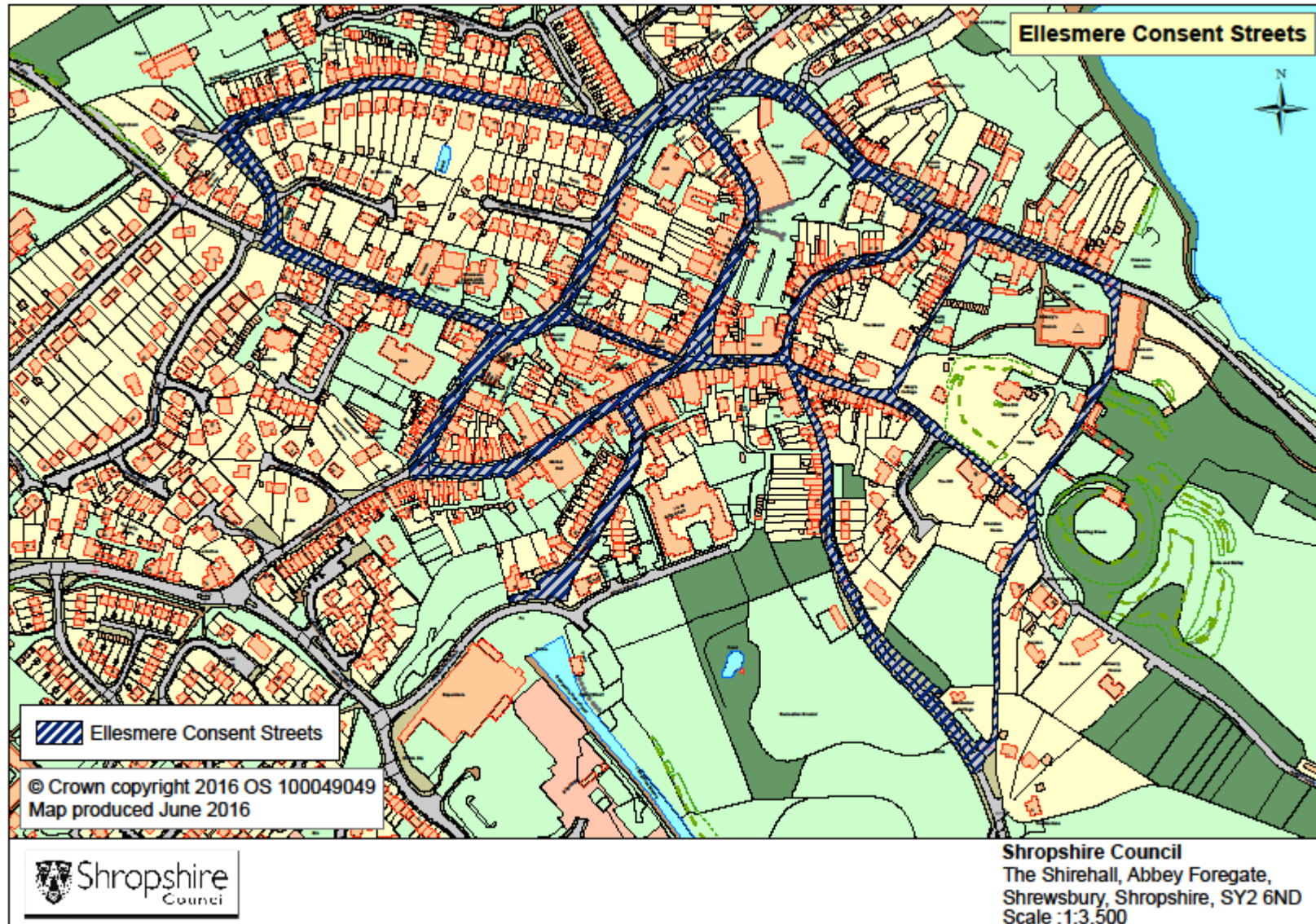
Prohibited Streets

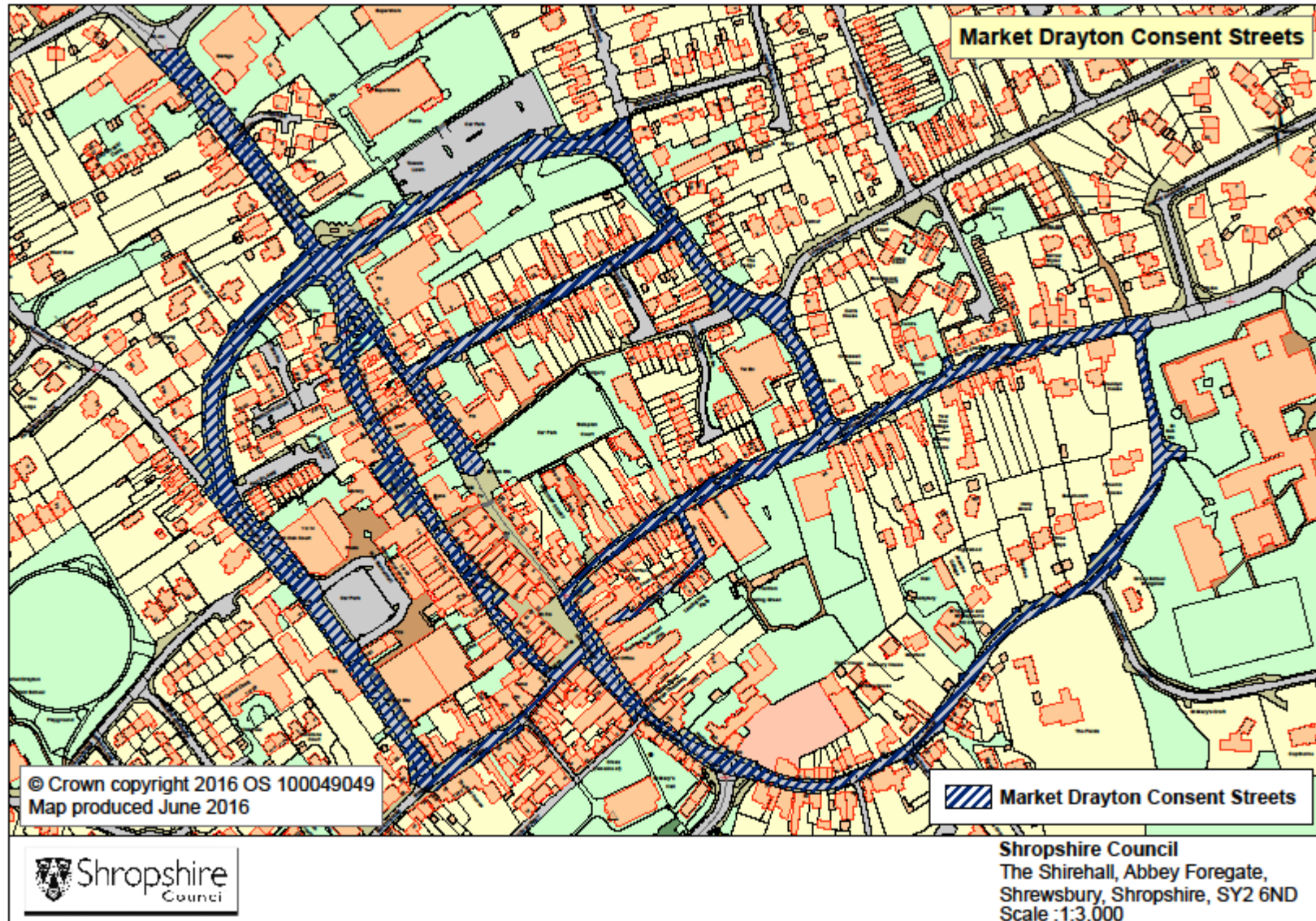
1.8 Shrewsbury

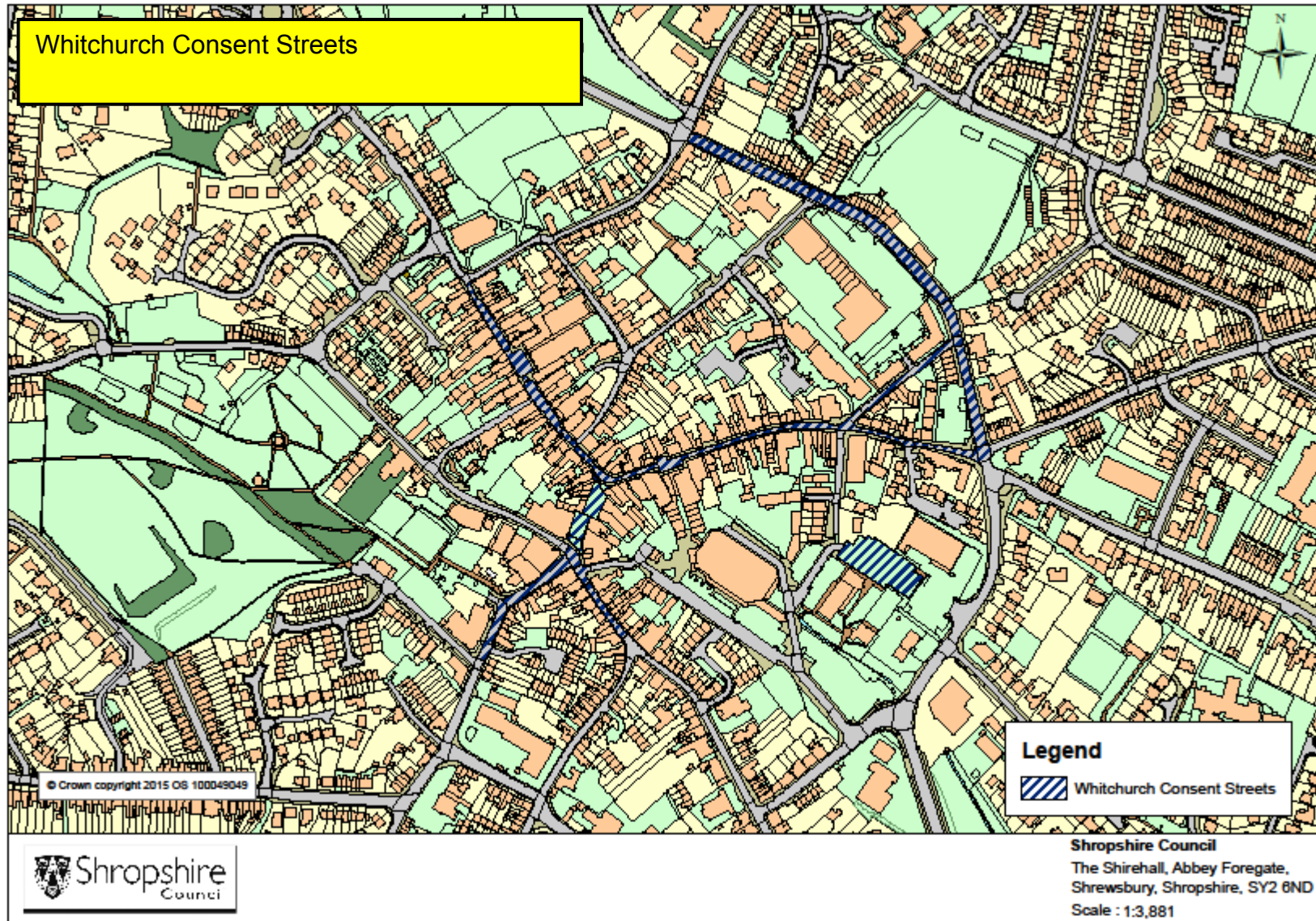
Street trading is prohibited in all streets (save for those referred to in Schedule 1 Shrewsbury Consent Streets i-iii) within the boundary of the Conservation Area which is primarily the town centre and immediate surroundings (see attached map)



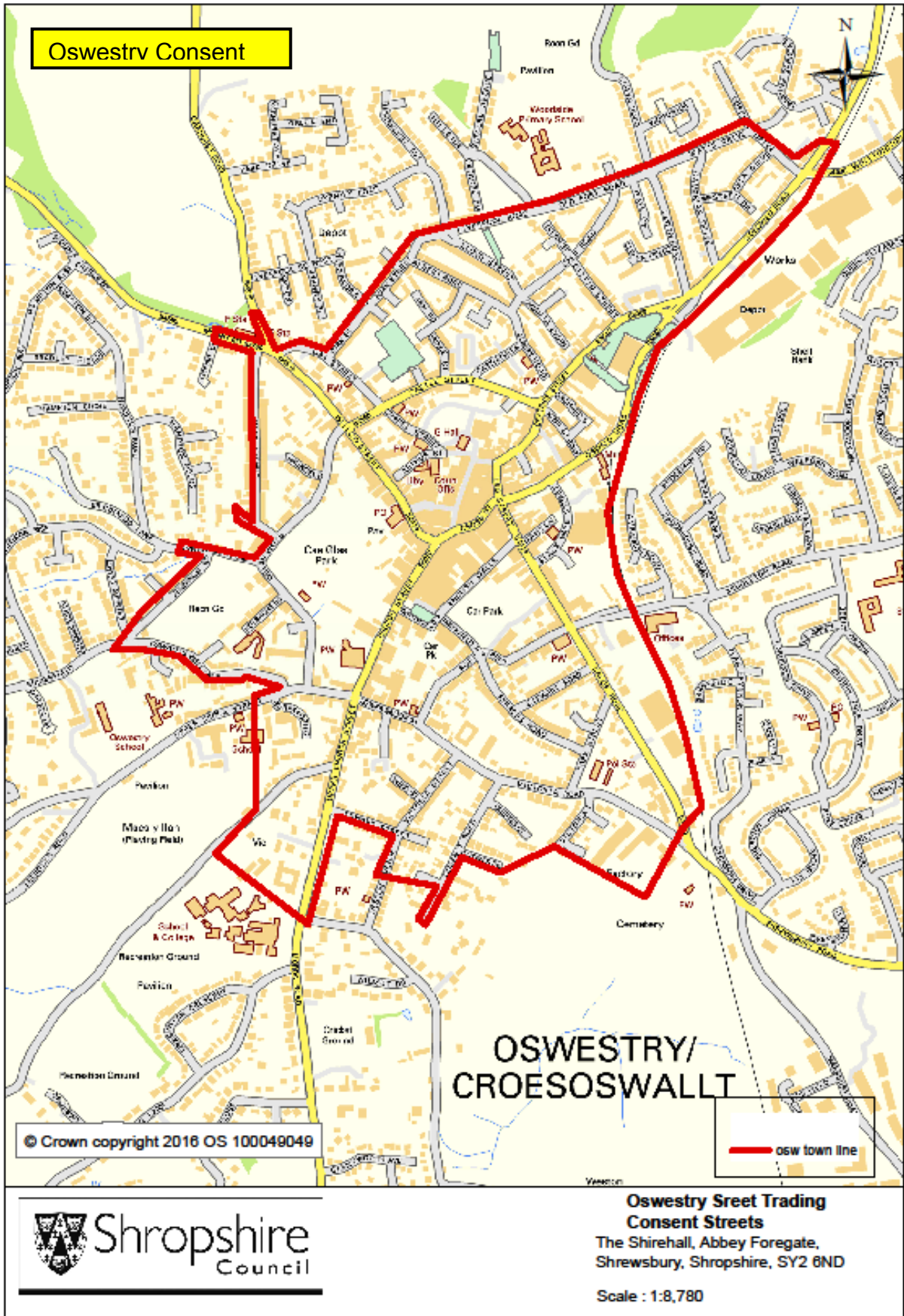




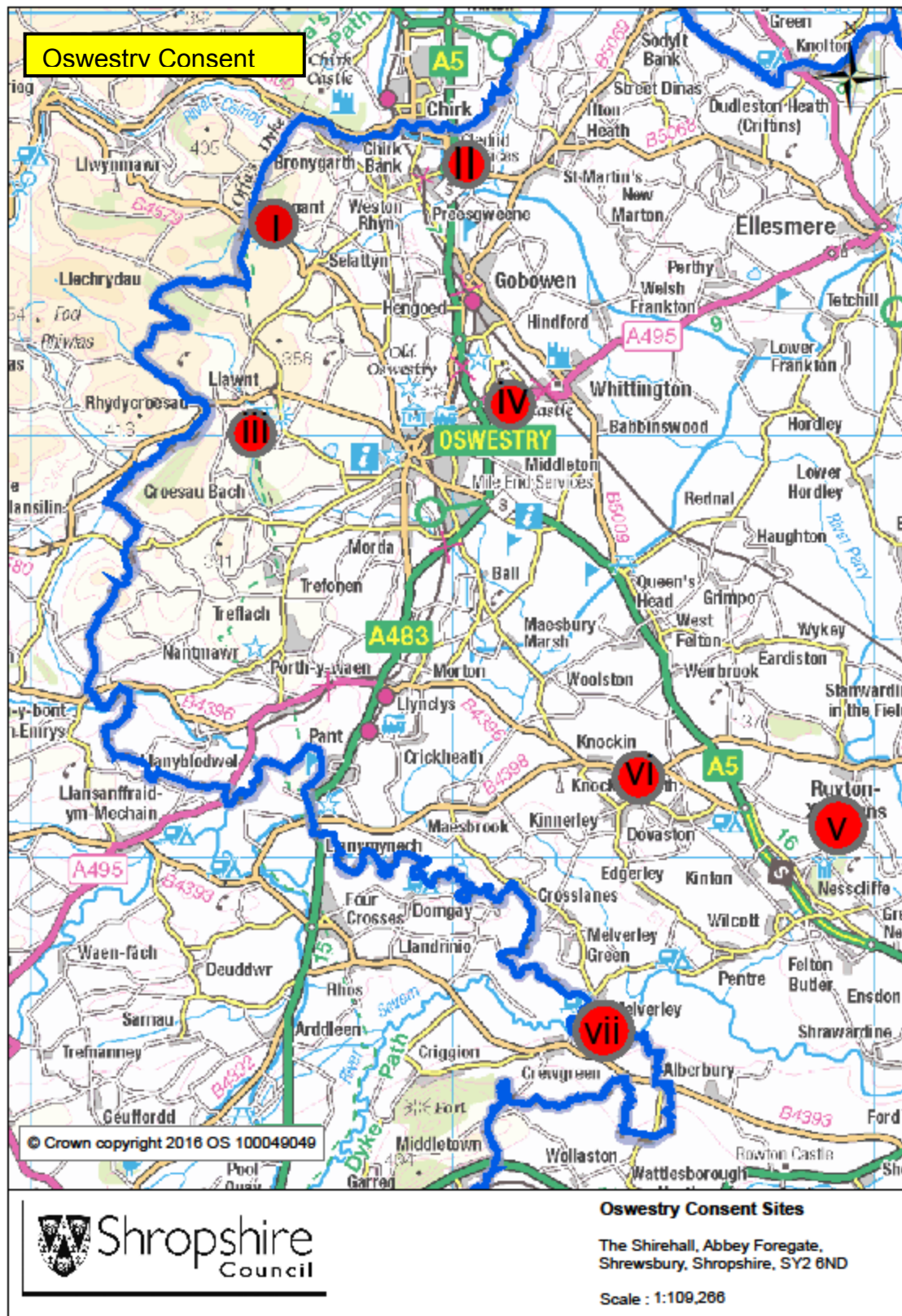




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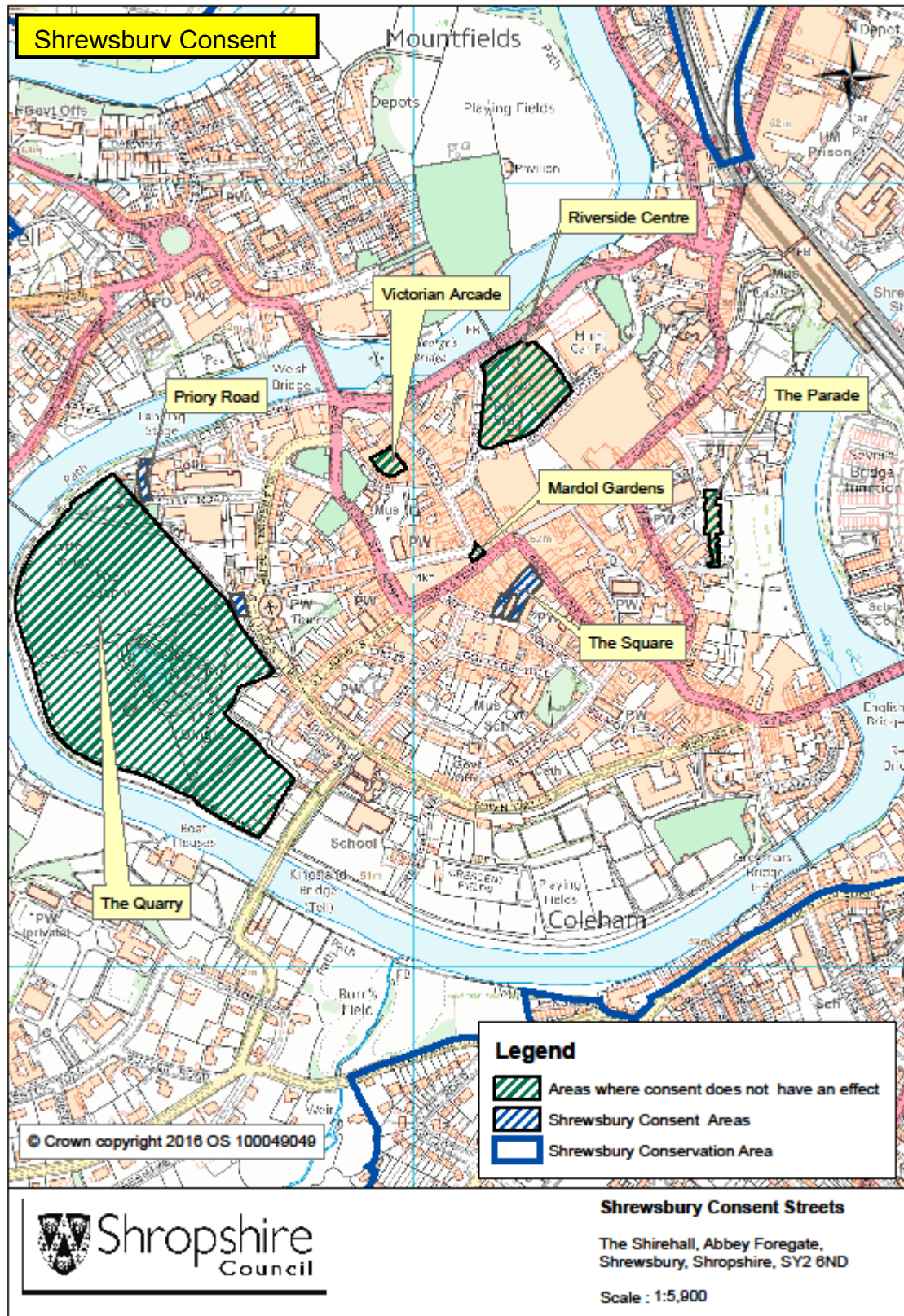
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APPENDIX A – Street Trading Policy Consultation Proposals



Child Exploitation and Trafficking of Children and Young People

Introduction

- 1.0 Set out below is information for street traders to help them report, to the relevant authorities, matters of concern that could relate to the safety of children, young people and vulnerable persons, particularly as it relates to child sexual exploitation and trafficking.

General information

- 1.1 Shropshire Council's Licensing Service is helping to tackle child sexual exploitation and trafficking by working together with key partners particularly West Mercia Police, Children and Adult Services within the Council and the Safeguarding Children Board. The Board also works with the police, children's social care, schools, health services and the youth offending team, as well as specialist child sexual exploitation organisations such as the child sexual exploitation National Working Group (NWG) Network.
- 1.2 Through agencies working together and sharing information, we aim to identify and prevent sexual exploitation, disrupt the activities of perpetrators, protect children and young people and prosecute perpetrators of sexual exploitation. Sharing information with West Mercia Police and Children's Social Care helps to protect young people from harm. Safeguarding children and young people is everyone's business and everyone's responsibility.
- 1.3 Child sexual exploitation is a crime that can affect any child, anytime, anywhere – regardless of their social or ethnic background.
- 1.4 Sexual exploitation of children and young people involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something, e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.
- 1.5 Child sexual exploitation involves perpetrators grooming youngsters and using their powers to sexually abuse them. Sexual exploitation of children and young people can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes.

How street traders can help tackle child sexual exploitation

- 1.6 Street traders are in a good position to help identify victims of sexual exploitation because through the trading they undertake they regularly come into contact with children and young people. This means they are in an ideal position to help protect young people.
- 1.7 In particular, street traders should consider the following questions when trading:

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- Does your customer appear to be under 18 years old?
 - Are they with a much older person and appear to be in a relationship?
 - Do you think that they are under the influence of alcohol or drugs?
 - Are you aware of any conversations that suggest children or young people are being or have been taken to a hotel, party or secluded location? If so, ask yourself why?
 - Are you aware of children/young people being taken regularly to the same localities? If so, ask yourself why?
- 1.8 **If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported in accordance with the relevant provisions relating to the ‘Safety of children and vulnerable persons’ detailed below.**
- 1.9 **If you have reason to suspect that a child is being abused or at risk of abuse it is your responsibility to report your concerns to and share information with West Mercia Police (Tel: 101) and Children’s Social Care (Tel: 0345 678 9021).**
- 1.10 Further information about Shropshire’s Safeguarding Children Board can be found at: (<http://www.safeguardingshropshireschildren.org.uk/scb/index.html>)

[Awaiting further input with regard to vulnerable adults]

Extract from the Shropshire Council Constitution setting out Delegations

[Will include the relevant extract from the Shropshire Council Constitution setting out Delegations]

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Matters to be considered when determining an application

In considering applications for the grant or renewal of a Street Trading Licence/Consent or the decision to revoke a current licence/consent the following factors will be considered (This is not an exhaustive list and each application will be judged on its own individual merits);

1.1 Suitability of Applicant

- whether the applicant or operator of the stall is under the age of 17 years;
- whether a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force on the proposed trading location;
- whether the applicant has been convicted of an offence that the Council considers makes them unsuitable to hold such Licence/Consent, (guidance relating to the relevance of convictions is set out in Appendix 6);
- whether the applicant has at anytime persistently refused or neglected to pay fees or charges due in relation to a Licence/Consent;
- whether the applicant has without reasonable excuse failed to trade on the street and on the days and times agreed in relation to a licence/consent;
- whether the applicant of the licence/consent has failed to comply with the conditions relating to a licence/consent;
- whether any earlier licence/consent to the applicant has been surrendered, refused or revoked (whether it be by this Council or another);
- the levels of complaints received about the operation of the street trading activity, taking into account whether and how such matters were resolved;
- the attitude of the applicant and/or their staff in dealing with concerns and queries raised by any person, Officer or organisation; and
- any other relevant information relating to the suitability of the applicant to hold such a Licence/consent.

1.2 Public Safety / Highway

- Whether the street trading activity represents or is likely to represent a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site;

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- Whether there is sufficient space in the street for the applicant to engage in the trade in which he/she is proposing without causing undue interference or inconvenience to other persons using the street;
- Whether the street trading activity may damage the structure or surface of the street;
- Whether the location and operating times will be such that the highway can be maintained and that there are no dangers to those who have a right to use the highway and no obstruction for emergency services.

1.3 Public Order

- Whether the street trading activity represents, or is likely to represent a risk to public order.

1.4 Avoidance of Public Nuisance

- Whether the street trading activity represents, or is likely to represent a risk of nuisance or annoyance, particularly in residential areas.
- Whether the granting of the application is likely to give rise to nuisances or loss of amenity caused by noise, odour, litter, disturbance or anti social behaviour;
- Whether the street trading activity is in an area which is residential and where trading would not normally take place.

1.5 Street Trading stall

[This will include a van, barrow, cart, individual item for sale (e.g. motor vehicles), etc.]

- Whether the unit satisfies all relevant Health and Safety requirements.
- Whether the unit satisfies all relevant hygiene standards.
- Whether the unit is of a smart appearance.
- Whether the appearance of the trading unit or structure and the associated branding and advertising is compatible with the character of the area in which it is proposed to be situated.

1.6 Environmental impact

- Whether the proposed operation will or is likely to have a negative impact on the local environment (e.g. street surfaces and materials, verges, power supply, carbon footprint, supply chain, packaging, surface water or foul drainage system, waste minimisation, waste disposal and waste created by customers).

1.7 Goods to be sold

- If trading in food or drink, whether the food business operator and those staff who have a supervisory role in the preparation and handling of open high risk foods hold evidence of

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current training to a level equivalent to the Chartered Institute of Environmental Health (CIEH) Level 2 Food Hygiene Certificate;

- If trading in food, whether the food business has achieved a food hygiene rating score of 3 or more;
- Whether the sale of the articles would conflict with those provided by nearby business premises providing similar goods or services;
- Whether the trading in a particular location will conflict with concessions granted to other existing street traders;
- Whether the quality of the goods to be sold and the hours and days for which it is intended to trade are suitable.

1.8 Number of Street Trading Licence/Consents

- Whether there are enough traders trading in the street from shops or otherwise in the goods in which the applicant decides to trade.

1.9 Objections

- Any objections made about the application or Licence/Consent holder from interested parties.

Suitability of an applicant to hold a Licence or Consent

- 1.0 The Council has a responsibility for determining the suitability of applicants to hold a licence or consent. The principles set out below will be taken into account.
- 1.1 The Council will not grant a licence/consent to anyone unless it is satisfied that they are a suitable applicant. The Council will consider the following criteria when assessing the suitability of an applicant:
- the integrity of the applicant;
 - the competence of the applicant to undertake street trading in a manner consistent with this Policy; and
 - any previous criminal history and/or pattern of behaviour.
- 1.2 In order to ensure the Council is in a position to make as accurate an assessment of the applicant's suitability to hold a licence/consent as is reasonably practicable, all applicants (including sole traders, partnerships and companies) on initial application and renewal must:
- provide a satisfactory basic criminal record disclosure from Disclosure Scotland (applicants can apply to Disclosure Scotland by telephone on 0870 609 6006, online at www.disclosurescotland.co.uk, by email at info@disclosurescotland.co.uk, by fax 0870 609 6996 or in writing to Disclosure Scotland at PO Box 250, Glasgow, G51 1YU)³; and
 - have two satisfactory references from either professional or business sources who have known the applicant for at least two years and are in a position to comment on the applicant's general character, standing in the community, experience of street trading. (NB the Council will not accept references from family members.)

NB For partnerships or companies, the above requirements apply to all partners and directors/company secretaries. In addition, where necessary the Council will undertake further checks with West Mercia Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from.

- 1.3 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. In the event that an applicant is not able to obtain a certificate of good conduct, they may submit a statutory declaration with regard to their conduct, which must be completed in the presence of a practising solicitor. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at <https://www.gov.uk/government/world>. The FCO may be contacted for further assistance

³ The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (April 2009) and abides by the handling of DBS certificate information requirements on the secure storage, handling, use, retention and disposal of disclosure certificates and certificate information. Further information about the DBS can be found on the GOV.UK website at: <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>. Where practical, the Council encourages the use of the DBS Update Service for all applicants.

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by telephone on 020 7008 1500, by email at fcocorrespondence@fco.gov.uk or by post at the FCO, King Charles Street, London, SW1A 2AH.

- 1.4 When assessing the suitability of an applicant to hold a licence/consent, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, level of previous compliance, and willingness to co-operate with Council officers) whilst holding a licence/consent from the Council or any other authority. Particular attention will be given to patterns of behaviour, the time-scale over which they have occurred, both in terms of proven criminal offences and other behaviour/conduct that may call into question the integrity and competence of the applicant to undertake street trading activities.
- 1.5 In addition, the Council considers that an important element associated with the suitability to continue to hold a licence/consent is the appearance and behaviour of the applicant. Consequently, the Council requires all licence/consent holders to maintain a reasonable standard of appearance and behaviour when in contact and dealing with customers, the general public, other licence/consent holders, other traders, Council officers and elected members at all times.
- 1.6 Applicants and licence/consent holders must also co-operate with any reasonable request made by an authorised officer of the Council, any Highways England officer, or any officer from the emergency services.
- 1.7 The Council will also consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst licence/consent holders were directly engaged in permitted work at the time or whether they occurred during the licence/consent holder's own personal time.

Criminal record disclosure

- 1.8 The Rehabilitation of Offenders Act 1974 applies to persons who wish to apply for a permit. This means that convictions (not all) and cautions become spent in accordance with the provisions of the 1974 Act.
- 1.9 Although cautions are generally not as serious as convictions, they do require an admission of guilt before they can be issued and are therefore a valuable indication as to an applicant's character and whether they are a suitable person to be granted or hold a licence/consent.
- 1.10 The Council does not deem that a criminal record automatically bars an applicant from holding a licence/consent; however, it will be a significant factor when determining whether a licence/permit ought to be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out under 'Relevance of Criminal Convictions'. However, the over-riding consideration will always be to ensure the safety and welfare of the licence/consent holder's existing and potential customers.
- 1.11 Where an applicant is the subject of an outstanding charge or summons, their application may continue to be processed; however, depending on the circumstances, it is unlikely that a decision on the application will be made until the conclusion of the criminal proceedings.

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- 1.12 Where the outstanding charge or summons involves a serious offence and/or the individual's offending history and behaviour/conduct indicates a pattern of unlawful or unacceptable behaviour/character traits, then the application is likely to be refused.
- 1.13 Where there is evidence/information that an applicant has been arrested or charged but not convicted of offences but the nature of this evidence/information suggests the applicant may not be a suitable person, the Council will give serious consideration to refusing an application or revoking an existing licence/consent.

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Relevance of Criminal Convictions and Cautions

Introduction

- 1.0 The purpose of this section is to provide additional guidance to determine whether or not an applicant or an existing licence/consent holder is a suitable person to hold a street trading licence/consent as it relates specifically to convictions and cautions.
- 1.1 The guidance has been produced to assist the Council in its decision-making and to maintain the consistency of the decisions made. It has also been formulated to provide clearer information to current and potential applicants, with a view to minimising the cost and time spent on the licensing and consent process by both the Council and the applicant.
- 1.2 The aim of the guidance is not to punish the applicant twice for a conviction or caution but to ensure that public safety is not compromised. The Council cannot review the merits of any conviction.
- 1.3 Each case is to be decided on its own individual merits and, where the circumstances demand, the decision making body may depart from the guidance in which case the reasons for this will be made clear.

Legislation

- 1.4 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 sets out that the Council may refuse or revoke an application on the basis that the applicant is unsuitable to hold a licence/consent by reason of having been convicted of an offence or for any other reason.

Defining 'suitability of an applicant'

- 1.5 There is no legal definition as to what definitively constitutes a 'suitable applicant'. However, because of the potential vulnerability of the customers that licence/consent holders may come into contact with, it is incumbent on the Council to take a very robust stance when deciding whether or not a person is suitable to hold a licence/consent granted by the Council.
- 1.6 In essence, a suitable applicant will be:
 - Honest and trustworthy
 - Not abusive, violent or threatening
 - Knowledgeable and competent in the area of street trading
 - Able to communicate effectively with customers

The Council's approach when considering convictions

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- 1.7 The disclosure of any convictions or cautions will not necessarily mean an applicant is an unsuitable applicant and, therefore, automatically prevented from being issued a licence/consent. However, the Council will have regard to unspent convictions and cautions and they will be assessed accordingly. Consideration will be given, but not restricted to, the following:
- How relevant the offence(s) are to the licence/consent being applied for.
 - How serious the offence (s) were.
 - When the offence(s) were committed.
 - The date of conviction.
 - The extent of any mitigating factors.
 - Sentence imposed by the court.
 - Whether the offence(s) form part of a pattern of offending or indicate a pattern of unacceptable behaviour.
 - Any other character check considered reasonable, e.g. personal references.
 - Any other factor that may be relevant.
- 1.8 If the Council has any doubts as to the suitability of an applicant/existing licence/consent holder, then an application must be refused or consent/licence revoked until those doubts can be effectively allayed through the provision of further adequate evidence.
- 1.9 If the applicant or holder of a licence/consent has notified the Council of a conviction but is appealing against it to a higher court the matter will be referred to the Licensing Act Sub-committee for a decision as to whether the permit ought to be revoked.

Patterns of behaviour

- 1.10 A series of offences or a pattern of behaviour/conduct over a period of time is more likely to give cause for concern than an isolated conviction/incident. However, that is not to say that an isolated conviction/incident cannot give cause for concern in its own right, particularly where it relates to a serious matter. In such circumstances, the Council will give significant consideration to refusing to grant a licence/consent or to revoking an existing licence/consent.
- 1.11 A serious view will always be taken where an applicant shows any tendency towards criminal and/or unacceptable/inappropriate behaviour patterns. In such instances, the Council is unlikely to consider such an applicant/existing licence/consent holder is a suitable person to hold a licence/consent and will give significant consideration to refusing to grant a licence/consent or to revoking an existing licence/consent.

Rehabilitation periods

- 1.12 Detailed guidance (effective March 2014) on the Rehabilitation of Offenders Act 1974 is available on the GOV.UK website at <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>
- 1.12 A person with a conviction for an offence need not be automatically barred from obtaining a licence/consent. However, they would be expected to remain free of conviction for an

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appropriate period of time (as set out in Tables A and B below) and demonstrate adequate evidence that they are a suitable person to hold a licence/consent. The onus is on the person to produce such evidence.

NB Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is suitable.

Table A

Sentence	Rehabilitation period (applies from the end date of the sentence, including any licence period)
Custodial sentence* of over 48 months, or a public protection sentence**	Never spent
Custodial sentence* of over 30 months and up to and including 48 months	7 years
Custodial sentence* of over 6 months and up to and including 30 months	4 years
Custodial sentence of 6 months or less	2 years
Community order	1 year

*Custodial sentence includes both an immediate custodial sentence and a suspended sentence.

**Public protection sentence means a sentence of imprisonment imposed for specified sexual and violent offences as set out in Schedule 15 of the Criminal Justice Act 2003. (Equivalent provisions of the Armed Forces Act 2006 are also applicable.)

Table B

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Sentence	Rehabilitation period (applies from the date of conviction)
Endorsement for a road traffic offence imposed by the court or a FPN; or if a driving licence is revoked or refused on medical grounds by the DVLA (or other body responsible for issuing the driving licence)	5 years
Penalty points for a road traffic offence	3 years
Driving disqualification*	when the disqualification ceases to have effect
Community order with no specified end date	2 years
Fine	1 year
Conditional discharge	Period of the order
Absolute discharge	None
Conditional caution	3 months or when the caution ceases to have effect if earlier
Simple caution	Spent immediately
Compensation order	On the discharge of the order (i.e. when it is paid in full); individuals must obtain and retain proof of payment from the court
Binding over order; Attendance centre order; Hospital order (with or without a restriction order)	Period of the order

Disqualified' – refers to the period of disqualification actually served in order to take account of the fact that a court may reduce the period of disqualification; an applicant must provide evidence to prove that the court agreed a reduction in the period of disqualification.

- 1.13 Where a person does not satisfy the rehabilitation periods referred to in the tables above, then the Council will refuse to grant a new licence/consent or revoke an existing licence/consent until the applicant is in a position to satisfy them.
- 1.14 The specific periods of rehabilitation are not intended to be taken as definitive time periods by which an applicant/licence or consent holder is automatically granted a licence simply on the basis that the rehabilitation period has elapsed. Rather they are intended to give parameters for consideration when taken with the overall history of an applicant/licence or consent holder in order to assist the Council to determine whether an applicant/existing licence/consent holder is a suitable person or not. The rehabilitation periods will not be considered in isolation.
- 1.15 The Council will not grant a licence/consent to an applicant who has been convicted of a specified sexual or violent offence unless significant and exceptional circumstances apply.

Street Trading offences

- 1.16 In addition to the consideration of rehabilitation periods, where an existing licence/consent holder is found guilty of street trading related offences or multiple breaches of licence/consent requirements, licence/consent holders will be referred to the Licensing Act Sub-Committee or relevant officer with delegated authority in line with the

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Councils scheme of delegation with a view to determining whether the licence/consent should be revoked.

Right of appeal

- 1.17 Any applicant refused a licence on the grounds that they are not a suitable person, or who has had their licence revoked has a right of appeal to the Magistrates' Court within 21 days of the notice of decision.
- 1.18 There is no right of appeal against refusal or revocation of a street trading consent.

Conclusion

- 1.19 Any applicant having a previous or current conviction should not, in principle, debar them from obtaining a licence/consent. However, previous convictions are a significant factor in the decision making process and it will inevitably be more difficult for such applicants to obtain a licence/consent. It is this Council's policy to consider the protection of the public above all else by ensuring all holders of a licence/consent are honest and trustworthy, will not be a threat to the public, and are competent in their role and able to communicate effectively. In doing so, the Council will focus on the background of an applicant as a whole and will not consider individual offences and their rehabilitation periods identified above in isolation from other factors, in particular patterns of unacceptable or inappropriate behaviour and conduct that may not necessarily be linked to proven convictions.

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Standard Licence Conditions (Subsidiary Terms)

1.0 Conduct of licence holder

1.1 The licence holder must ensure that all employees are made aware of the responsibility to promote the welfare of children, young people and vulnerable adults and to protect them from harm. To this end a consent holder must ensure that all employees are made fully aware of the information contained in the policy in particular Appendix 2 relating to child sexual exploitation.

1.2 [Awaiting further input with regard to vulnerable adults]

1.3 Throughout the currency of the licence, the licence holder must continue to be a suitable person to hold the licence. In this respect, the licence holder must have due regard to the relevant provisions of the Council's policy, be aware of the checks that will be undertaken by the Council and act in accordance with the responsibilities that being a suitable person would reasonably place on a license holder.

1.4 In particular, during the currency of a licence, the licence holder must notify the Council, in writing, within 72 hours, if:

- They receive any warnings, cautions or fixed penalties;
- Are arrested (whether or not charged with an offence);
- Are charged with any criminal offence;
- Are convicted of any criminal offence; or
- Allegations are made of their involvement in criminal activity.

1.5 The licence holder must notify the Council in writing, of any change of address and contact details which may occur during the currency of their licence.

1.6 The licence holder MUST at all times when undertaking the street trading activity:

- comply with all reasonable requests made by an authorised officer of the Council, emergency services, or an authorised officer of the Highways England or Highway Authority.
- at all times maintain a valid third party public liability insurance to the satisfaction of the Council and shall produce a valid certificate of such insurance when requested by an authorised officer of the Council.
- Be clean and respectable in their dress and person and maintain a high standard of personal hygiene.
- Behave in a civil and orderly manner towards all persons including, but not limited to, pedestrians, customers, the general public, other street users, police officers, officers and elected members of the Council.
- Be courteous to customers.

1.7 The licence holder MUST NOT, at any time when undertaking the street trading activity:

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- Use offensive, racist, abusive, profane or insulting language or behaviour.
 - smoke (this includes electronic cigarettes).
 - leave their stall, van, barrow, cart, etc. unattended at any time.
 - not trade outside the street and the days and times permitted by the licence.
 - not trade using a street trading licence where there are other licence, consent, approval or registration requirements under any other statutory provisions.
 - not assigned or transferre the licence to any other person.
- 1.8 Where the licence holder is not in sole control of the stall, van, barrow, cart, etc. they must ensure that those persons left in charge of the stall, van, barrow, cart, etc or assisting are adequately trained to undertake the street trading activity.

2.0 Public Safety / Highway

- 2.1 The street trading activity must not obstruct any of the street in which trading takes place other than as granted by the licence.
- 2.2 The licence holder must undertake regular checks to ensure enough space is maintained in the street to prevent undue interference or inconvenience to other stall holders and persons using the street.
- 2.3 The street trading activity must not endanger any persons using the street.
- 2.4 The street trading activity must not damage the structure or surface of the street.

3.0 Public Order

- 3.1 The licence holder must take appropriate steps to manage and control customers waiting to be served to ensure that public order is maintained.

4.0 Avoidance of Public Nuisance

- 4.1 Cause or permit sound emitted from any radio/sound reproducing instrument or equipment to be an annoyance/nuisance to any person.
- 4.2 The street trading activity must not cause annoyance, nuisance or loss of amenity to occupiers in the vicinity by virtue of noise, odour, litter and disturbance or anti social behaviour.
- 4.3 The licence holder must not operate a generator or other plant or equipment if it gives or is, in the opinion of an authorised officer of the Council, likely to give rise to nuisance to

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other persons and shall immediately comply with any direction of an authorised officer of the Council to mitigate or abate such nuisance.

5.0 Street Trading stall

[This will include a van, barrow, cart, caravan, individual item for sale (e.g. motor vehicles) etc.]

- 5.1 The licence holder must ensure that he stall, van, barrow, cart, etc. satisfies all relevant Health and Safety requirements.
- 5.2 The licence holder must ensure that he stall, van, barrow, cart, etc. satisfies all relevant hygiene standards.
- 5.3 Whilst trading the licence holder must at all times display in a conspicuous position the licence issued ensuring the licence holders name and licence number are fully visible to the public.
- 5.4 The size and type of stall or container must accord with the photographs/diagram, including the branding and advertisements, submitted as part of the licence application. Any alterations to the stall/container and branding or advertising must be notified to the Council and approval agreed prior to use.
- 5.5 The storage and use of fuel e.g. liquefied petroleum gas, petrol, calor gas etc. must comply with relevant safety requirements including, but not limited to, the number and method of securing full and empty gas cylinders. (The licence holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).
- 5.6 Suitable and sufficient fire extinguishers shall be held and maintained on the stall, van, barrow, cart, etc.
- 5.7 All electrical installations shall comply with any relevant safety requirement. (The licence holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).
- 5.7 The licence holder must, if requested by an authorised officer of the Council, arrange a test of any electrical or gas installation by a competent person and must submit a certificate of test to the Council.

6.0 Environmental Impact

- 6.1 At the end of the trading period the licence holder shall remove all waste resulting from the street trading activity and ensure that the surrounding area is left clean and tidy.
- 6.2 The licence holder must not dispose of waste in public waste bins.
- 6.3 The licence holder must provide adequate waste bins and ensure that throughout the period of trading the bins do not overflow.
- 6.4 Ensure any litter that is not adequately disposed of by customers is removed and the surrounding area is kept clean and tidy at all times.

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- 6.5 The licence holder must not deposit on any street surface, verges or into surface water drains any solid or liquid refuse, waste water or oil or other matter.
- 6.6 The licence holder must ensure that fuel, oil and any other waste does not leak onto the street, highway or verge or pollute any surface water or foul drainage system.
- 6.7 The licence holder must remove the Street Trading Stall from the approved site immediately upon the expiry of the licence.

7.0 Goods to be sold

- 7.1 The licence holder must not offer, display, sell or supply any article other than as specified in the licence.
- 7.2 The licence holder must ensure articles stored, offered, displayed, sold or supplied in such a manner to ensure that they meet all relevant hygiene standards.

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Additional Consent Conditions for 'A-Roads'

- 1.0 Floodlighting, fairy/string/novelty lights or similar forms of illumination of the site are not permitted. Any other lighting provided shall be so positioned or controlled so as not to cause glare or annoyance to traffic on the highway or to neighbouring property.
- 1.1 Advance advertisement, by the placing of signs, whether attached to a vehicle or any description or otherwise, is not permitted.
- 1.2 Advertisements on the site shall be subject to the approval of Council, the Highways England and their Agents.
- 1.3 In the interests of public safety, no outside eating facilities, such as tables, chairs, etc. shall be provided on the site without prior consent and must not represent or be likely to represent a substantial risk to the public or users of the highway.
- 1.4 The consent or licence holder shall maintain separate additional sanitary accommodation including suitable closet and wash hand basin having supplies of hot and cold water or a suitable bactericidal agent for the use of customers only and ensure that such accommodation is only accessible from outside the unit.
- 1.5 The consent or licence holder shall make available adequate sanitary accommodation including closet and wash hand basin with hot and cold water for the use of food handlers only.
- 1.6 The consent or licence holder shall ensure that all vehicles, including trailers and caravans, that are the subject of the consent or licence left in or on the public highway, lay-by or adjacent verges comply fully with all relevant road traffic legislation including legislation relating to vehicle construction and use.
- 1.7 Vehicles of any description, including caravans, trailers etc. which are the subject of or are ancillary to the trading consent or licence, shall be kept in such a condition as to enable them to be capable of being towed off the site immediately.
- 1.8 For the avoidance of any doubt, any vehicle which requires alterations or operations, other than one or more of the following, shall not be regarded as complying with this condition;
 - Winding up or the raising of corner stays
 - Unplugging of generator connection
 - Disconnection of gas supply
 - Closing of any canopies or trading windows
 - Removal of any steps
 - Securing of internal contents
 - Hitching to a suitable towing vehicle and connection to the towing vehicles lighting system

1.9 The main activity shall not be the sale of alcohol

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- 1.10 The vehicle shall not be sited in a lay-by by adjoining the highway in such a position that in the opinion of the Council and the Highways Agency any danger to other highway users or customers would be likely to arise. No vehicles or projections from vehicles, such as canopies, opening windows etc., shall restrict visibility or obstruct the path of vehicles entering or leaving the lay-by or on the highway.
- 1.11 Where no internal seating facilities are provided for the use of customers, any trading window shall be positioned so that it is parallel to and facing the nearside verge or pavement (if any) of the lay-by in which it is situated in order that customers do not have their backs towards the traffic on the adjacent highway itself.
- 1.12 A trader shall remove his vehicle, trailer or caravan from the approved site immediately upon the expiry of his trading consent or licence.
- 1.13 No vehicle, trailer or caravan on a consent or licence site shall be left on the site for a period in excess of 48 hours if trading is not taking place.

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Standard Consent Conditions

1.0 Conduct of consent holder

- 1.1 The consent holder must ensure that all employees are made aware of the responsibility to promote the welfare of children, young people and vulnerable adults and to protect them from harm. To this end a consent holder must ensure that all employees are made fully aware of the information contained in the policy in particular Appendix 2 relating to child sexual exploitation.
- 1.2 [Awaiting further input with regard to vulnerable adults]
- 1.3 Throughout the currency of the consent, the consent holder must continue to be a suitable person to hold the consent. In this respect, the consent holder must have due regard to the relevant provisions of the Council's policy, be aware of the checks that will be undertaken by the Council and act in accordance with the responsibilities that being a suitable person would reasonably place on a consent holder.
- 1.4 In particular, during the currency of a consent, the consent holder must notify the Council, in writing, within 72 hours, if:
- They receive any warnings, cautions or fixed penalties;
 - Are arrested (whether or not charged with an offence);
 - Are charged with any criminal offence;
 - Are convicted of any criminal offence; or
 - Allegations are made of their involvement in criminal activity.
- 1.5 The consent holder must notify the Council in writing, of any change of address and contact details which may occur during the currency of their consent.
- 1.6 The consent holder MUST at all times when undertaking the street trading activity:
- comply with all reasonable requests made by an authorised officer of the Council, emergency services, or an authorised officer of the Highways England or Highway Authority.
 - at all times maintain a valid third party public liability insurance to the satisfaction of the Council and shall produce a valid certificate of such insurance when requested by an authorised officer of the Council.
 - Be clean and respectable in their dress and person and maintain a high standard of personal hygiene.
 - Behave in a civil and orderly manner towards all persons including, but not limited to, pedestrians, customers, the general public, other street users, police officers, officers and elected members of the Council.
 - Be courteous to customers.

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- 1.7 The consent holder **MUST NOT**, at any time when undertaking the street trading activity:
- Use offensive, racist, abusive, profane or insulting language or behaviour.
 - smoke (this includes electronic cigarettes).
 - leave their stall, van, barrow, cart, etc. unattended at any time.
 - not trade outside the street and the days and times permitted by the licence.
 - not trade using a street trading licence where there are other licence, consent, approval or registration requirements under any other statutory provisions.
 - not assigned or transfer the licence to any other person.
- 1.8 Where the consent holder is not in sole control of the stall, van, barrow, cart, etc. they must ensure that those persons left in charge of the stall, van, barrow, cart, etc or assisting are adequately trained to undertake the street trading activity.
- 2.0 Public Safety / Highway**
- 2.1 The street trading activity must not obstruct any of the street in which trading takes place other than as granted by the consent.
- 2.2 The consent holder must undertake regular checks to ensure enough space is maintained in the street to prevent undue interference or inconvenience to other stall holders and persons using the street.
- 2.3 The street trading activity must not endanger any persons using the street.
- 2.4 The street trading activity must not damage the structure or surface of the street.
- 3.0 Public Order**
- 3.1 The consent holder must take appropriate steps to manage and control customers waiting to be served to ensure that public order is maintained.
- 4.0 Avoidance of Public Nuisance**
- 4.1 Cause or permit sound emitted from any radio/sound reproducing instrument or equipment to be an annoyance/nuisance to any person.
- 4.2 The street trading activity must not cause annoyance, nuisance or loss of amenity to occupiers in the vicinity by virtue of noise, odour, litter and disturbance or anti social behaviour.

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4.3 The consent holder must not operate a generator or other plant or equipment if it gives or is, in the opinion of an authorised officer of the Council, likely to give rise to nuisance to other persons and shall immediately comply with any direction of an authorised officer of the Council to mitigate or abate such nuisance.

5.0 Street Trading stall

[This will include a van, barrow, cart, caravan, individual item for sale (e.g. motor vehicles), etc.]

5.1 The consent holder must ensure that he stall, van, barrow, cart, etc. satisfies all relevant Health and Safety requirements.

5.2 The consent holder must ensure that he stall, van, barrow, cart, etc. satisfies all relevant hygiene standards.

5.3 Whilst trading the consent holder must at all times display in a conspicuous position the consent issued ensuring the consent holders name and consent number are fully visible to the public.

5.4 The size and type of stall or container must accord with the photographs/diagram, including the branding and advertisements, submitted as part of the licence application. Any alterations to the stall/container and branding or advertising must be notified to the Council and approval agreed prior to use.

5.5 The storage and use of fuel e.g. liquefied petroleum gas, petrol, calor gas etc. must comply with relevant safety requirements including, but not limited to, the number and method of securing full and empty gas cylinders. (The consent holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).

5.6 Suitable and sufficient fire extinguishers shall be held and maintained on the stall, van, barrow, cart, etc.

5.7 All electrical installations shall comply with any relevant safety requirement. (The consent holder is responsible for ensuring that a competent person carries out the necessary installation and maintenance checks to ensure this condition is satisfied).

5.8 The consent holder must, if requested by an authorised officer of the Council, arrange a test of any electrical or gas installation by a competent person and must submit a certificate of test to the Council.

6.0 Environmental Impact

6.1 At the end of the trading period the consent holder shall remove all waste resulting from the street trading activity and ensure that the surrounding area is left clean and tidy.

6.2 The consent holder must not dispose of waste in public waste bins.

6.3 The consent holder must provide adequate waste bins and ensure that throughout the period of trading the bins do not overflow.

6.4 Ensure any litter that is not adequately disposed of by customers is removed and the surrounding area is kept clean and tidy at all times.

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- 6.5 The consent holder must not deposit on any street surface, verges or into surface water drains any solid or liquid refuse, waste water or oil or other matter.
- 6.6 The consent holder must ensure that fuel, oil and any other waste does not leak onto the street, highway or verge or pollute any surface water or foul drainage system.
- 6.7 The consent holder must remove the Street Trading Stall from the approved site immediately upon the expiry of the consent.

7.0 Goods to be sold

- 7.1 The consent holder must not offer, display, sell or supply any article other than as specified in the licence.
- 7.2 The consent holder must ensure articles stored, offered, displayed, sold or supplied in such a manner to ensure that they meet all relevant hygiene standards.

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Committee and Date

Strategic Licensing
Committee

25th January 2017

Item

9

Public

EXERCISE OF DELEGATED POWERS

Responsible Officer Mandy Beever, Transactional & Licensing Team Manager

Email: Mandy.Beever@shropshire.gov.uk Tel: 01743 251702

1. Summary

- 1.1 Licensing officers have been given delegated powers to issue or amend licences, providing no objections have been received in the case of licences issued under the Licensing Act or with regard to general and public health licences.
- 1.2 Further, procedures have been approved for officers with direct line management responsibility for Licensing to use their delegated powers to, amend, revoke or refuse driver and vehicle licences.
- 1.3 This report gives details of the licences issued, variations that have been made and the enforcement action undertaken between 1 September 2016 and the 31 December 2016 and a summary of applications considered by committee.

2. Recommendations

- 2.1 That members note the position as set out in the report.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1 This is an information report giving Members information on the work undertaken by the Licensing Team and Committee and therefore a risk assessment and opportunities appraisal has not been carried out.

4. Financial Implications

- 4.1 There are no financial implications associated with this report.

5. Background

- 5.1 Information regarding the issue of licences by Officers under delegated powers is reported to Committee on a quarterly basis.
- 5.2 Officers use their delegated powers in a number of situations, including where:
- a) A licence has been requested and there have been no objections raised by interested parties or Responsible Authorities.
 - b) The application has met the Council's policy criteria for accepting an application.
 - c) There are vehicle applications for new or renewal licenses and revocation of licences where the operating criteria as set by the Hackney Carriage and Private Hire Licence policy or Out of Area policy is not met and the officer does not consider there to be any special reason for an exception to be made.
 - d) There are driver's applications for new or renewal licences or revocation of licences where the criteria as set by the Hackney Carriage and Private Hire Licence policy is not met and the officer does not consider there to be any special reason for an exception to be made.
- 5.3 The table in Appendix A shows the complete range of licences issued by the licensing team during the period of the 1 September 2016 and the 31 December 2016. During this period the total number of licences processed was 1910.
- 5.4 The Table in Appendix B shows that there were no Licensing and Safety Sub-Committee Meetings held between the 1 September 2016 and the 31 December 2016.
- 5.5 The Licensing Act activities at Sub Committee have also been given in Appendix C.
- 5.6 The Private Hire Vehicle and Hackney Carriage checks undertaken between the 1 September 2016 and the 31 December 2016, results are provided in Appendix D.
- 5.7 Following the decision at the Strategic Licensing Committee on 21st March 2012, vehicles and driver applications are now being considered by Officers using delegated powers. Evidence is obtained by the officers through interview with the applicants, to ascertain where they intend to operate to a material extent and to also obtain agreement that they will keep records if a licence is granted. In relation to Driver Applications where the decision is 'minded to refuse', a letter is sent to the applicant giving them an opportunity to make written representations stating any exceptional circumstances that they wish to be taken into consideration. This is in line with the rules of natural justice which state that there is a right to be heard before a decision is made.

5.8 The number of licences and actions determined by this process is as follows:-

Driver	Granted	Granted and/or Warning Letter	Letter Council is 'Minded to refuse' or 'Revoke'	Refuse to Grant	Revoke	To refer to Committee
New	4	1		5	2	
Renew		2	46		6	
Conduct		6	8		14	
Vehicle	Granted	Granted and/or Warning Letter	Letter Council is 'Minded to refuse' or 'Revoke'	Refuse to Grant	Revoke	To refer to Committee
New	1	1		2		
Renewal		4		5	1	
Condition						

6. Conclusion

6.1 During the last few months the workload for the Licensing team continued to be high and the team have been working hard to maintain the flow of applications.

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

Cabinet Member (Portfolio Holder)

Councillor Malcolm Price – Portfolio Holder for Regulatory Services, Housing and Commissioning (Central)

Local Member

Cover all areas of Shropshire

Appendices:

A – Licences issued 1 September 2016 and the 31 December 2016.

B – Number of hackney Carriage / Private Hire Vehicle applications considered at the Licensing and Safety Sub-Committees from 1 September 2016 and the 31 December 2016.

C – Hearings held for licensed premises at the Licensing Act Sub-Committees from 1 September 2016 and the 31 December 2016.

D – Private Hire Vehicle and Hackney Carriage checks undertaken between the 1 September 2016 and the 31 December 2016.

APPENDIX A

Licences issued – 1 September 2016 and the 31 December 2016.

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General Licensing	Total
Acupuncture Personal	0
Acupuncture Premises	0
Animal Boarding	24
Animal Breeding	17
Caravan Sites	6
Cosmetic Piercing Personal	11
Cosmetic Piercing Premises	6
House to House Collection	15
Pet Shops	6
Riding Establishments	7
Scrap Metal Site	7
Scrap Metal Collector	5
Sex Establishment Licence	0
Street Collection	76
Street Trading Consent	3
Tattooing Personal	1
Tattooing Premises	0
Electrolysis	0
Dangerous Wild Animals	1
Zoo	0
Performing Animals	1
Distribution of Free Printed Matter	6
Total Applications General	192

Taxi Licensing (Surrendered)	Total
Private Hire Vehicles	36
Hackney Carriages	4

Taxi Licensing		Total
Hackney Carriage	N	17
Hackney Carriage	R	34
Joint HC/PH Driver	N	1
Joint HC/PH Driver	R	90
Private Hire Operator	N	0
Private Hire Operator	R	2
Private Hire Vehicle	N	97
Private Hire Vehicle	R	158
Hackney Vehicle Transfer		11
Private Hire Vehicle Transfer		55
Private Hire Licensee Transfer		0
Trailer Licence		0
Total Taxi Applications		465

Licensing Act 2003	Total
Club Certificate with alcohol	1
Personal Alcohol	130
Premises Licence	19
Temp Event Notice no Alcohol	0
Temp Event Notice with Alcohol	349
Minor Variation Application	7
DPS Change/Variation	106
Transfer Application	34
Annual Fee	517
Premises Review	0
Premises Lic with Alcohol - Full Variation	0
Premises Lic without Alcohol - Full Variation	0

Gambling Act 2005	Total
Bingo Premise Licence	0
Betting Premise Licence	0
Licensed Premise Gaming Machine Permit	4
Notification of Intent to have gaming machines	6
Club Machine Permits	0
Occasional Use Licence	0
Adult Gaming Centre	0
Small Society Lotteries	17
Change of Promoter	0
Annual Fee	63
Total Gambling Act 2005 Applications	90

Total Applications	1910
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Total Surrendered Vehicles	40
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Total Surrendered Vehicles	40	Total Lic Act Applications General	1163
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APPENDIX B

Licensing and Safety Sub-Committee Meetings – 1 September 2016 to the 31 December 2016.

Date of Meeting	Scheduled/ Additional	Item	Meeting Venue	Decisions
None				

APPENDIX C**Licensing Act Sub-Committees.****Hearings held for licensed premises from 1 September 2016 to the 31 December 2016.**

Date	Premises	Type of Application	Councillors	Decision	Review Requested by
10 th October 2016	Ellesmere Football Club	Club Certificate	Vernon Bushell Nic Laurens Keith Roberts	Granted	n/a
12 th December 2016	Hayes Barn, The Hayes, Oswestry	New Premises Licence	Peter Adams Peter Cherrington Viv Parry	Granted	n/a

APPENDIX D**Private Hire Vehicle and Hackney Carriage checks undertaken between the 1 September 2016 and the 31 December 2016.**

Inspection Date	Total Number of Vehicles Inspected	Advisory Note	No Action Required
8 th September 2016	9	0	9
8 th September 2016	6	3	3
7 th October 2016	2	0	2
16 th September 2016	4	0	4
9 th December 2016	39	16	23

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SHROPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 23 May 2016

1.00 - 1.26 pm in the Ludlow Room, Shirehall, Abbey Foregate, Shrewsbury,
Shropshire, SY2 6ND

Responsible Officer: Emily Marshall

Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillors Peter Adams, Andrew Davies and Vivienne Parry

29 Election of Chairman

RESOLVED:

That Councillor Andrew Davies be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

30 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

31 Application for a Premises Licence - Café Radio, 39 Bailey Street, Oswestry

Consideration was given to an application for a Premises Licence in respect of Café Radio, 39 Bailey Street, Oswestry, Shropshire, SY11 1PX.

Mr Saffron Rainey (Applicant); Ms Louise Prince (Solicitor – Shropshire Council) and Mr Simon Ditton (Public Protection Officer - Specialist- Shropshire Council) were present.

Mr Rainey addressed the Sub-Committee explaining the nature of his business and that it had been recognised that to ensure the long term viability and sustainability of the business it was important to move into the evening and night time economy. The applicant explained that he had held successful tapas nights using Temporary Event Notices. The premises was located within a night time zone and was based around food rather than drinking. The applicant explained that he had taken steps to address the concerns raised by the local resident, such as a new door closure system to prevent door slamming, a small music amplification system with foam behind the speakers to reduce vibration and also insulation around the speakers, the new system had been checked and approved by the environmental health officer. The premises had been in poor condition when purchased however the area had been cleaned and the yard area tidied. Regular vermin checks were also undertaken.

In response to questions from the Public Protection Officer (Specialist), Interested Parties and Members of the Sub-Committee Mr Rainey confirmed that:

- The live concerts referred to would be acoustic and take place early in the evening;
- Clarified that he would allow 30 minutes for the premises to empty after the last sale and a further 30 minutes for the premises to be cleaned and locked up;
- There was a fire escape door at the back of the premises; and
- He clarified some of the points raised by the objector.

The Public Protection Officer (Specialist) addressed the Sub-Committee, confirming that one objection had been received from a local resident who had also raised concerns but was unable to attend the hearing.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub-Committee retired to consider the application, in private, at 1.20 p.m. and reconvened at 1.24 p.m. to announce their decision.

RESOLVED:

That the application for a Premises Licence for Café Radio 39 Bailey Street Oswestry Shropshire SY11 1PX be granted for the following days, hours and licensable activity:

Live Music - indoors

Thursday to Saturday – 18:00 to 22:00

Recorded Music – indoors

Monday to Wednesday – 11:00 to 22:00

Thursday to Saturday – 11:00 to 23:00

Sunday – 12:00 to 20.00

Supply of Alcohol - on the premises

Monday to Wednesday – 11:00 to 22:00

Thursday to Saturday – 11:00 to 23:00

Sunday – 12:00 to 20:00

Opening Hours

Monday to Wednesday – 09:00 to 22:00

Thursday to Saturday – 09:00 to 23:00

Sunday – 09:00 to 20:00

And in accordance with the following operating schedule:

Prevention of Crime and Disorder

CCTV system is in place and operating at all times licensable activities are taking place with the recordings kept for a minimum of 28 days. Recordings will be made available to Shropshire Council or the police on request.

Public Safety

Premises has good lighting both internally and externally.

Prevention of Public Nuisance

- 1. All deliveries during the daytime.
- 2. Notices will be displayed at exit doors to ask patrons to leave quietly. Staff to ensure patrons do not make too much noise when outside premises.

Protection of Children from Harm

- 1. A Challenge 25 policy will be operated at the premises with notices informing of the policy being displayed within the premises. Those responsible for alcohol sale(s) must be trained on this policy. Regular refresher training to enforce this policy.
- 2. All alcohol sale challenges will be noted in a log book which will be available for inspection by an officer of a responsible authority on request.
- 3. Acceptable proof of identification will be a passport, photocard driving licence or recognised proof of age card.

Reasons:

The Sub-Committee had considered all of the representations that had been made by all parties prior to the hearing and at the hearing. The Sub-Committee also took into account the Guidance issued under S182 of the Licensing Act 2003 and Shropshire Council’s Licensing Policy.

The Sub-Committee had noted the concerns of local resident and understood their position. However, having considered the application in detail and the answers given by the applicant the Sub-Committee were satisfied that the application satisfactorily promoted the licensing objectives and therefore granted the application as detailed above.

The applicant was advised that the decision would be confirmed in writing within 7 days of the date of the hearing and that every party had the right of appeal against this decision to the Magistrates Court within 21 days of being notified of the decision.

Signed (Chairman)

Date:

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SHROPSHIRE COUNCIL

LICENSING ACT SUB-COMMITTEE

Minutes of the meeting held on 27 June 2016
11.00 am - 12.47 pm in the Shrewsbury Room, Shirehall, Abbey Foregate,
Shrewsbury, Shropshire, SY2 6ND

Responsible Officer: Emily Marshall
Email: emily.marshall@shropshire.gov.uk Tel: 01743 257717

Present

Councillors Vernon Bushell, Andrew Davies and Dean Carroll

32 Election of Chairman

RESOLVED:

That Councillor Andrew Davies be elected Chairman of the Licensing Act Sub-Committee for the duration of the meeting.

33 Disclosable Pecuniary Interests

Members were reminded that they must not participate in the discussion or voting on any matter in which they had a Disclosable Pecuniary Interest and should leave the room prior to the commencement of the debate.

Councillor Dean Carroll stated that he knew one of the objectors through his role as a school governor, however this was not to an extent that would affect his judgement.

34 Application for a Variation of a Premises Licence - The Dickin Arms, 37 Noble Street, Wem.

Consideration was given to an application for a Variation of a Premises Licence in respect of Dickin Arms, 37 Noble Street, Wem, SY4 5DT.

Ms. L. Prince (Solicitor – Shropshire Council), Mr S. Ditton (Public Protection Officer (Specialist) - Shropshire Council), Mr Dave Hammond (objector), Mr David Waghorn (objector), Ms Rachel McIntosh (Designated Premises Supervisor – Applicant), Mr Mark Brown (Head of Licensing – Admiral Taverns, representing the Applicant) and Ms Joanne Chanter (Public Protection Officer – Professional – Shropshire Council).

Mr Mark Brown, on behalf of the applicant, addressed the Sub-Committee. Mr Brown explained that the application had been submitted in response to the needs of the business and its long standing customer base. The application would not change the nature of the business, it was intended to mean that regular customers could stay later if they wished to. The premises was very well managed and kept clean and tidy. It was intended to continue to hold one live acoustic music event per month, and there would be no outside entertainment in the beer garden. In an attempt to minimise the noise emanating from the premises and to protect the amenity of local residents, a number of measures had been implemented at the Premises, these included fitting double glazing, the filling up of vents and appropriate signage asking

customers to leave the premises quietly. Ms McIntosh added that the Dicken Arms had a client base ranging in age from 40 to 60 plus, taking a number of bar games, the pub was dementia friendly. The pub did not serve food and all music is finished by 11.00 p.m. Ms McIntosh referred to an isolated incident when a group of non-regulars had been denied entry and had caused some disturbance, however the incident had been dealt with properly by the police at the time. It was added that there was no evidence to suggest that the litter, broken glass and noise referred to by the objectors was related to the Dickin Arms as the street was used as a cut through by people leaving the town centre.

In response to questions from the Members of the Sub-Committee and objectors the Applicant confirmed that:

- The proper notice had been displayed in the window of the premises and an advertisement placed in the Shropshire Star;
- It was not the intention to play recorded music or have live music outdoors;
- With regards to Late Night Refreshments the intention was to hold the occasional barbeque or use a pizza oven, but it was not an essential part of the licence if Members were not supportive of this aspect; and
- Confirmed the option to request a review of the licence, should there be any problems in the future.

The Public Protection Officer (Specialist) addressed the Sub-Committee, confirming that the application had been accepted as a valid application and that during the statutory consultation period relevant representations had been received.

The Public Protection Officer (Professional) addressed the Sub-Committee, confirming that the objection was made on the grounds of the Prevention of Public Nuisance. The Sub-Committee were informed that there were three different noise sources at the premises. Firstly noise from music being played and although the hours had reduced it was still intended to play recorded music past 23:00 hours on Fridays and Saturdays. It was explained that the Out of Hours Team had visited the premises and on the whole there were no issues to report. On one occasion noise levels that would have been audible from neighbouring properties were recorded, however this was before improvements had been made. Secondly noise emanating from the beer garden and thirdly noise from customers leaving the premises which was very difficult to control. The PPO (Professional) outlined the measures that she considered necessary to protect the amenity of nearby local residents.

In response to questions from the Sub-Committee the Public Protection Officer (Professional) confirmed that:

- There had been no complaints relating to noise over the past 14 months; and
- In relation to the issue of noise when customers leave the premises, there hadn't been significant noise nuisance to report.

Mr D. Hammond (Objector) addressed the Sub-Committee in relation to the application stating that the properties near to the premises were listed and so installing double glazing was not possible. Mr Hammond circulated photographs

which showed the Dickin Arms and the surrounding residential properties. Mr Hammond explained that whilst he understood the applicants need to expand the business the location of the Dickin Arms, within a residential area of the town made it unsuitable for extended hours. Mr Hammond referred to an incident in October 2015 which resulted in him making a complaint about the premises, however it seemed to have been a one off and the situation had improved since that time.

Mr D. Waghorn (Objector) addressed the Sub-Committee in relation to the application, he began by outlining where his property was located in relation to the Dickin Arms and explained that nearby properties were quite old and there was a direct line of sight from their bedroom window to the beer garden/smoking area. Mr Waghorn agreed that the premises was very well managed at present but he had concerns about whether any future licensee would run the premises in such a responsible way.

The Chairman invited all parties to sum up and make any final comments prior to the Sub-Committee making a decision on the application.

Members of the Sub- Committee retired to consider the application, in private, at 12.22 p.m. and reconvened at 12.43 p.m. to announce their decision.

RESOLVED:

That the variation application for Dickin Arms, 37 Noble Street, Wem be granted as follows:

Live Music (indoors)

Mon – Sun 11:00 – 23:00

Recorded Music (indoors)

Sun - Thu 10:30 - 23:00

Fri – Sat 10:30 – 00:00

Late Night Refreshment (indoors/outdoors)

Sun – Thu 22:00 - 23:00

Fri – Sat 23:00 – 00:00

Supply of alcohol (off and on premises)

Sun – Thu 10:30 – 00:00

Fri – Sat 10:30 – 01:00

Opening hours

Sun – Thu 10:30 - 00:30

Fri – Sat 10:30 – 01:30

Non-standard timings

An additional hour on Xmas Eve, Xmas Day, Boxing Day, New Year's Day and on the day British Summertime commences. End time on New Year's Eve is start time on New Year's Day.

And with the following additional conditions:

- No drink to be consumed in the outside after 23:00 hours.
- Doors and Windows to be kept closed after 21:00 hours during regulated times.

Reasons

The Sub-Committee had considered all of the documents submitted prior to the hearing and the representations made by all parties at the hearing. The Sub-Committee also took into account the Guidance issued under S182 of the Licensing Act 2003 and Shropshire Council’s Licensing Policy.

The Sub-Committee had noted the concerns of the local residents and understood their position. However, having considered the application in detail and the answers given by the applicant the Sub-Committee were not satisfied that there was evidence to show that the licensing objectives would not be promoted by allowing the variation. Therefore, it was appropriate to grant the variation subject to the additional conditions, set out above, in order to further promote the licensing objectives.

The parties were advised that the decision would be confirmed in writing within 5 working days of the date of the hearing. Every party had the right of appeal against this decision to the Magistrates Court within 21 days of being notified of the decision.

Signed (Chairman)

Date: