



# Street Trading Policy

## 2017 – 2022

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## CONTENTS

### Policy

Part 1 Introduction

Part 2 Licensing Principles, Process and Delegation

Part 3 Licensable Activities

- 3a Street Trading Licence
- 3b Street Trading Consent

Part 4 Inspection, Compliance, Enforcement and Complaints

Part 5 Consultation

Part 6 Licensing Contact Details

### Appendices

Appendix 1 – Consent and Licenced Streets

Appendix 2 - Child Exploitation and Tafficking of Children and Young People

Appendix 3 – Extract from the Shropshire Council Constitution setting out Delegations

Appendix 4 – Matters to be considered when determining an application

Appendix 5 – Suitability of an applicant to hold a Licence or Consent

Appendix 6 - Relevance of Criminal Convictions and Cautions

Appendix 7 – Standard Licence Conditions (Subsidiary Terms)

Appendix 8 - Additional Consent Conditions for 'A-Roads'

Appendix 9 - Standard Consent Conditions

# PART 1

# INTRODUCTION

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## APPENDIX A – Street Trading Policy Consultation Proposals

### PART 1 – INTRODUCTION

- 1.0 On 1<sup>st</sup> 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.

## **APPENDIX A – Street Trading Policy Consultation Proposals**

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 appeal<sup>1</sup> 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:

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<sup>1</sup> An aggrieved party may challenge a decision by way of judicial review.

## APPENDIX A – Street Trading Policy Consultation Proposals

- Protection of children, young persons and vulnerable adults;
  - Better regulation and enforcement;
  - Access to information;
  - Public sector equality duty; and
  - Human rights<sup>2</sup>
- 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

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<sup>2</sup> 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.

## APPENDIX A – Street Trading Policy Consultation Proposals

- 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**



## APPENDIX A – Street Trading Policy Consultation Proposals

### 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.

## **APPENDIX A – Street Trading Policy Consultation Proposals**

### **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.

## APPENDIX A – Street Trading Policy Consultation Proposals

### 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.

## **APPENDIX A – Street Trading Policy Consultation Proposals**

### **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 require 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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## APPENDIX A – Street Trading Policy Consultation Proposals

### 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.

## APPENDIX A – Street Trading Policy Consultation Proposals

### 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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## APPENDIX A – Street Trading Policy Consultation Proposals

### 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;



## APPENDIX A – Street Trading Policy Consultation Proposals

- 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

## **APPENDIX A – Street Trading Policy Consultation Proposals**

- 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.

## APPENDIX A – Street Trading Policy Consultation Proposals

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.

## **APPENDIX A – Street Trading Policy Consultation Proposals**

- 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

## **APPENDIX A – Street Trading Policy Consultation Proposals**

### **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

## APPENDIX A – Street Trading Policy Consultation Proposals

### 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

## **APPENDIX A – Street Trading Policy Consultation Proposals**

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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## APPENDIX A – Street Trading Policy Consultation Proposals

### 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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## APPENDIX A – Street Trading Policy Consultation Proposals

### 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](mailto: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](https://payments.shropshire.gov.uk/epayments/webpay_public/webpay)

# 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 Drenwydd.

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 Molverley 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.

## **APPENDIX A – Street Trading Policy Consultation Proposals**

### **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:

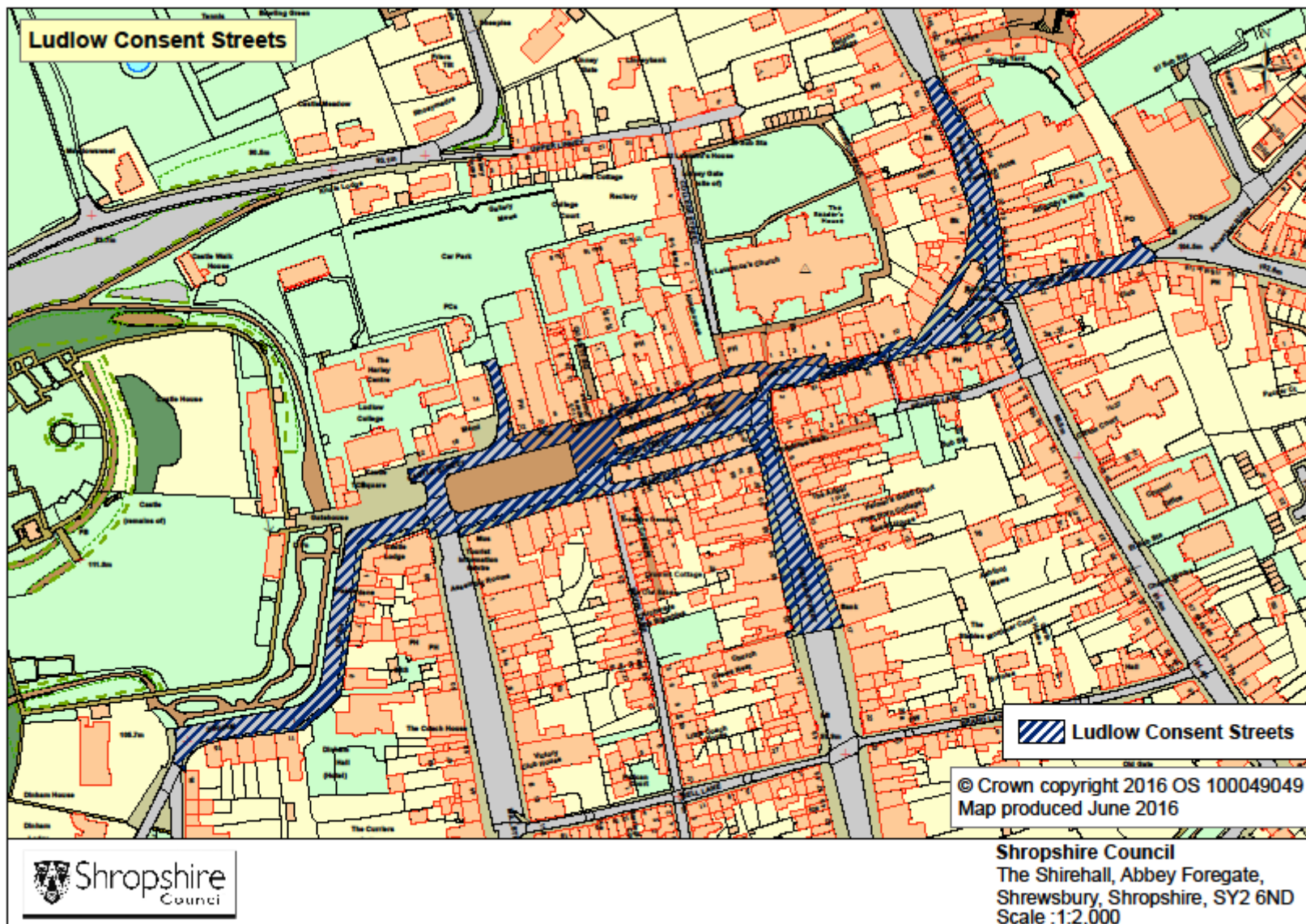
- Charitable or similar non-profit making associations
- Armed Forces
- Certain local organisations – Shropshire Horticultural Society, and West Midlands Horticultural Society

### **Prohibited Streets**

#### **1.8 Shrewsbury**

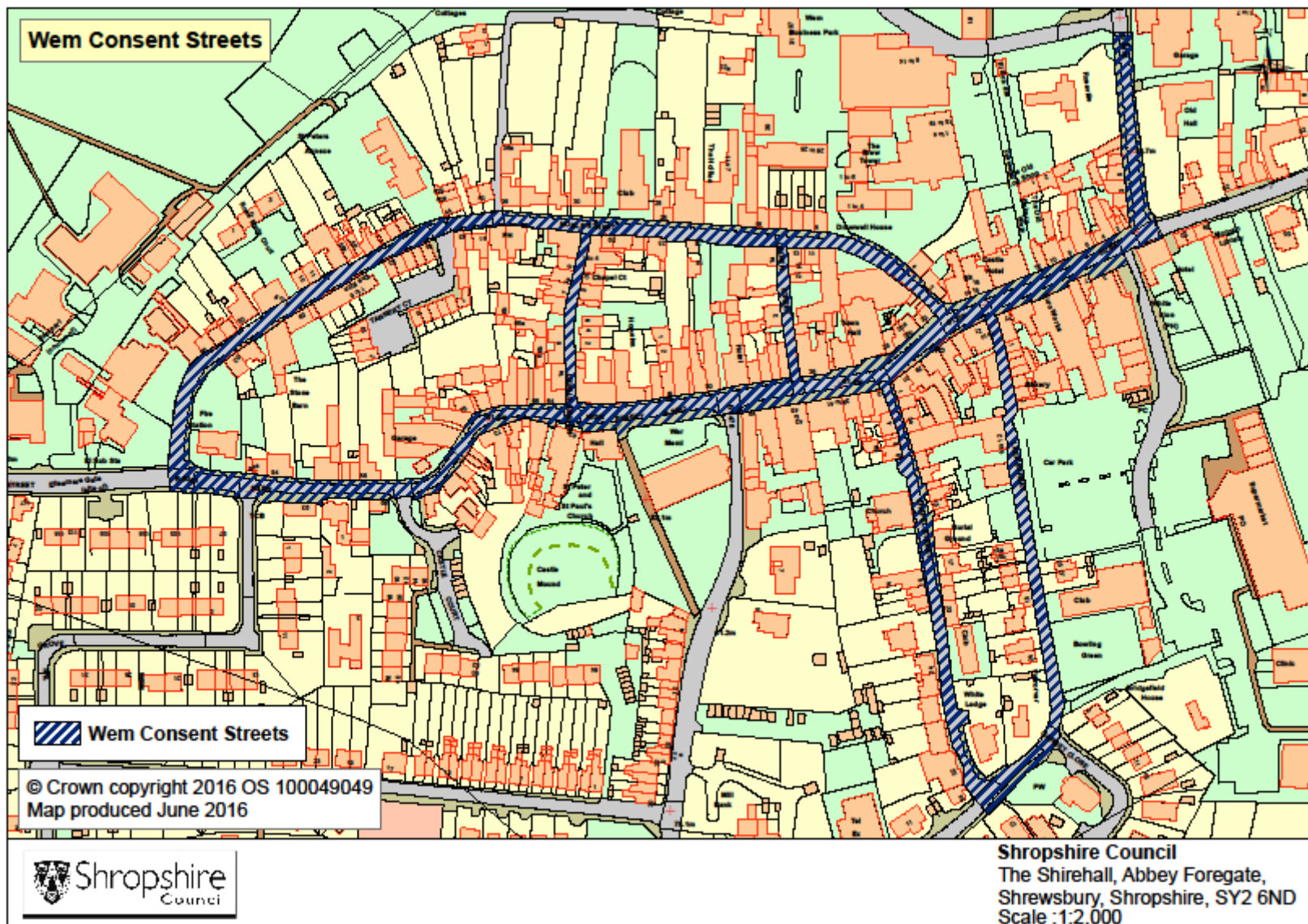
Street trading is prohibited in all streets (save for those referred to in Schedule 1 Shrewsbury Consent Streets i-iii) within the boundary of the Conservation Area which is primarily the town centre and immediate surroundings (see attached map)

# APPENDIX A – Street Trading Policy Consultation Proposals

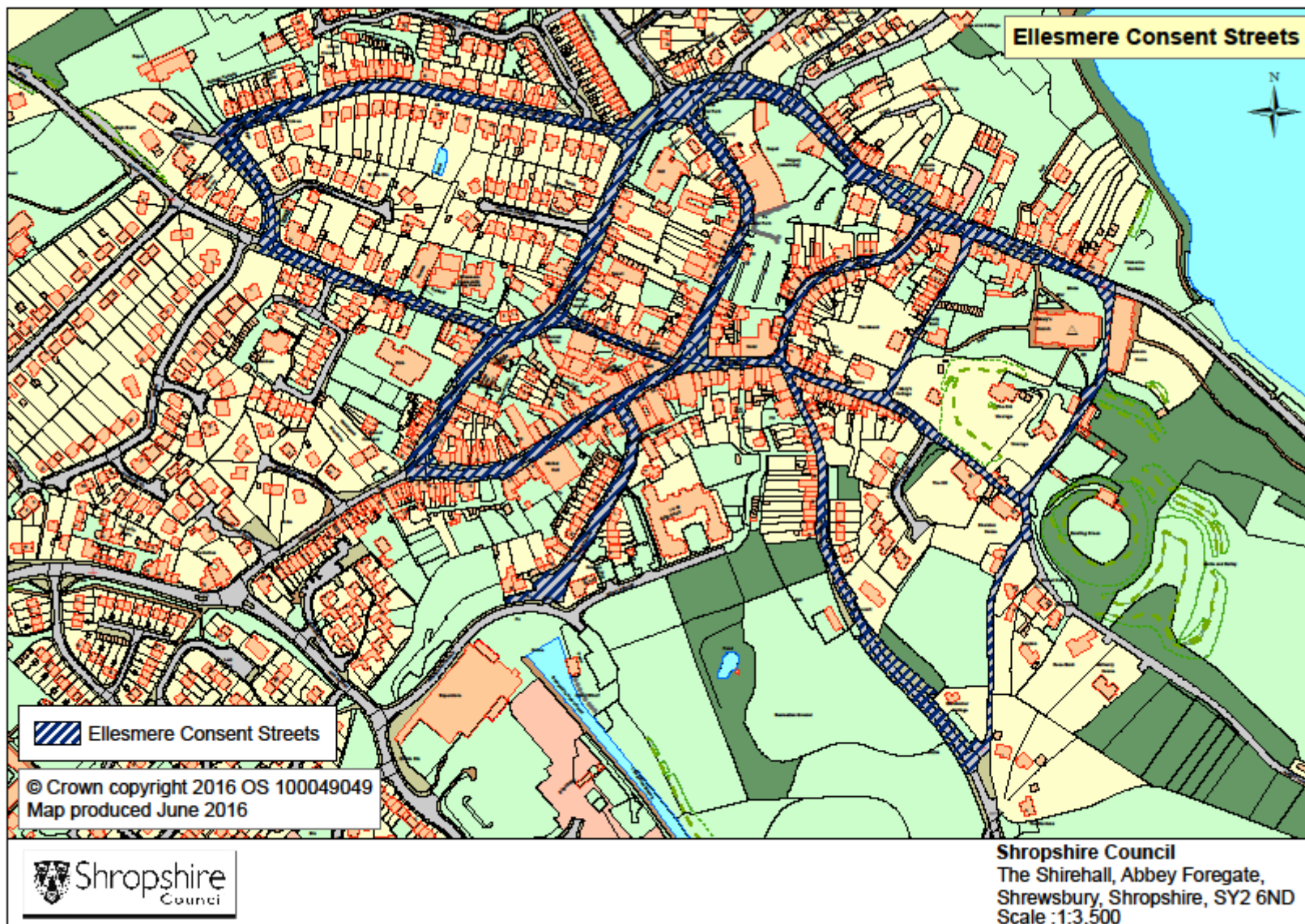




APPENDIX A – Street Trading Policy Consultation Proposals

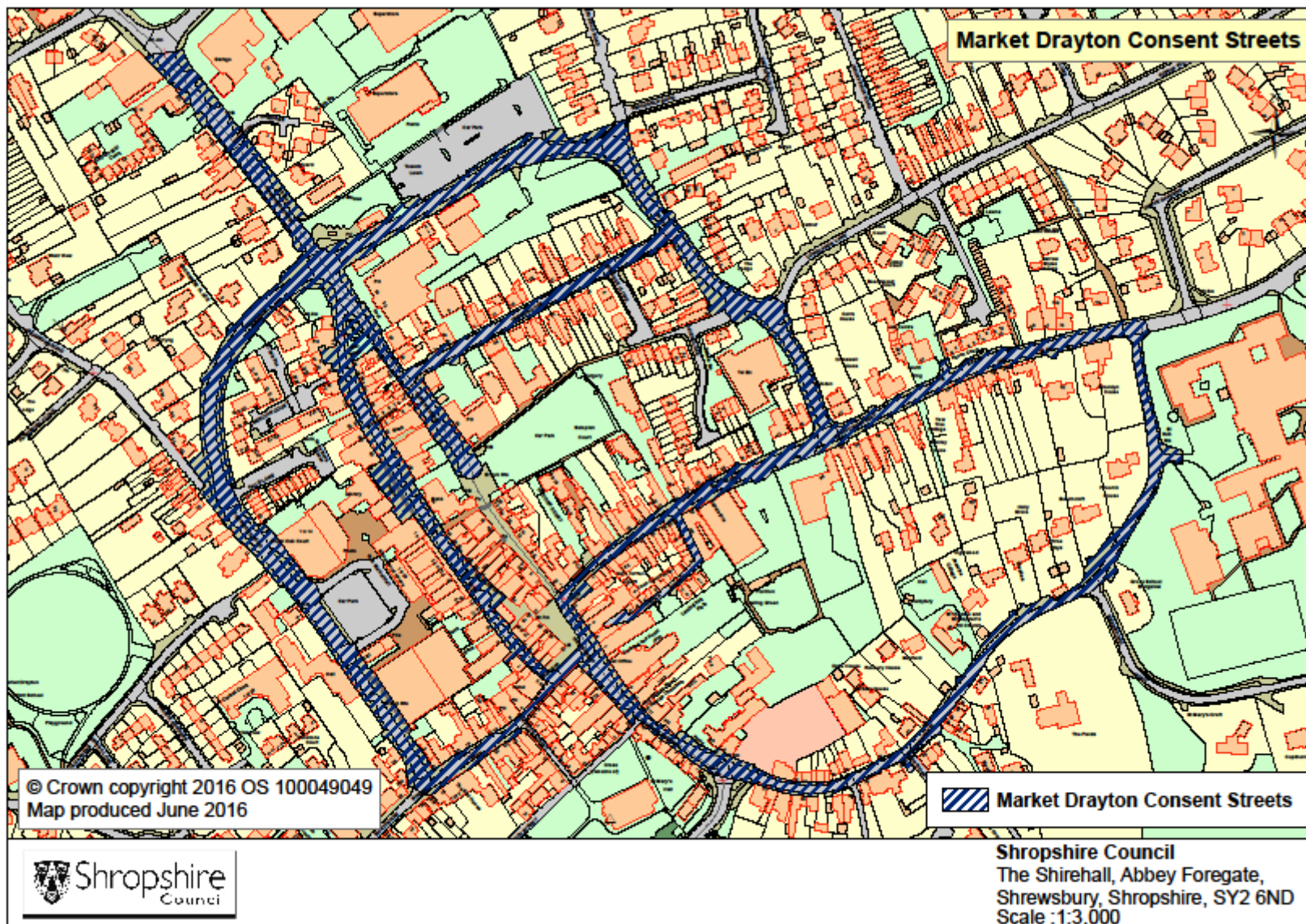


APPENDIX A – Street Trading Policy Consultation Proposals

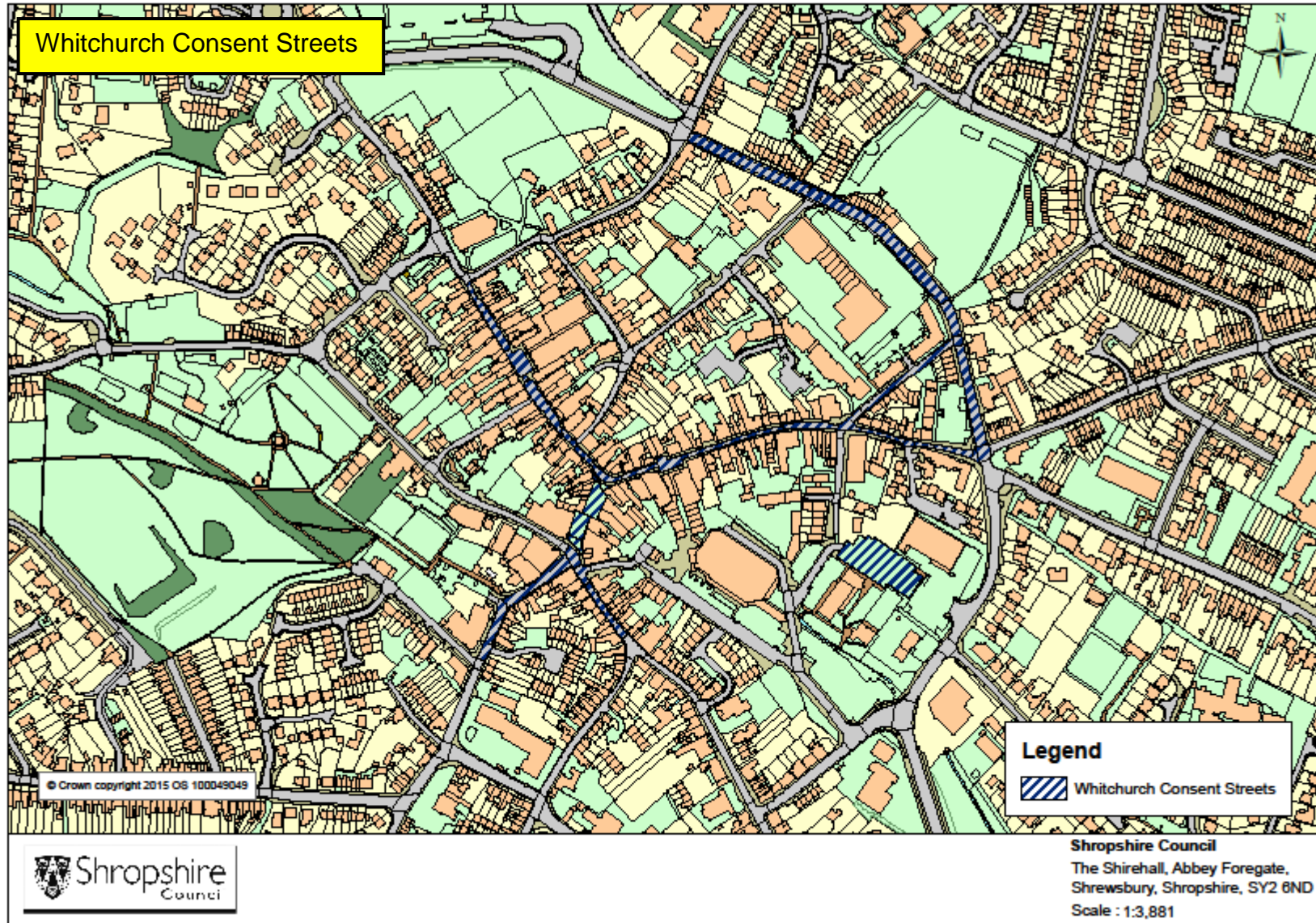




APPENDIX A – Street Trading Policy Consultation Proposals

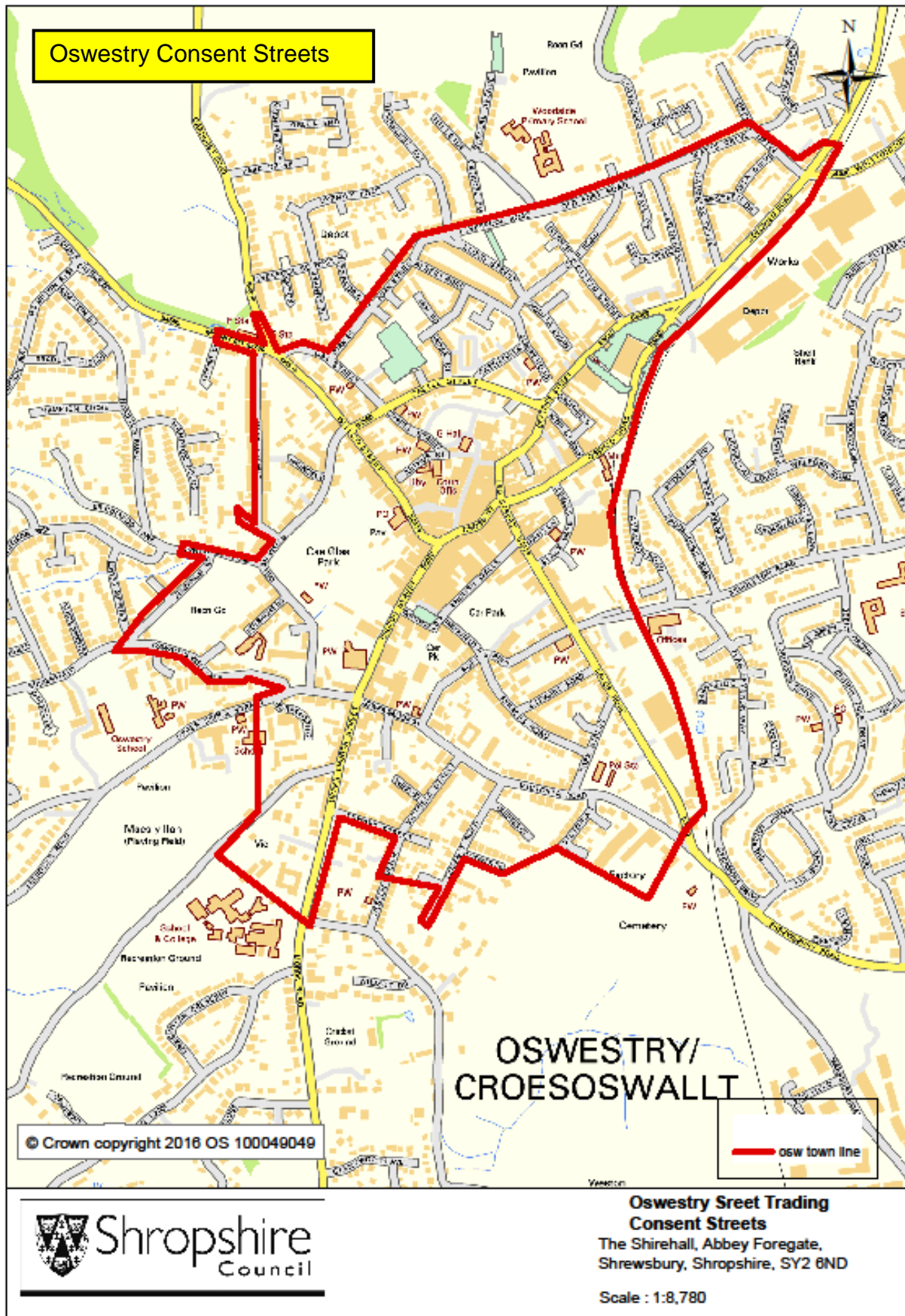


APPENDIX A – Street Trading Policy Consultation Proposals

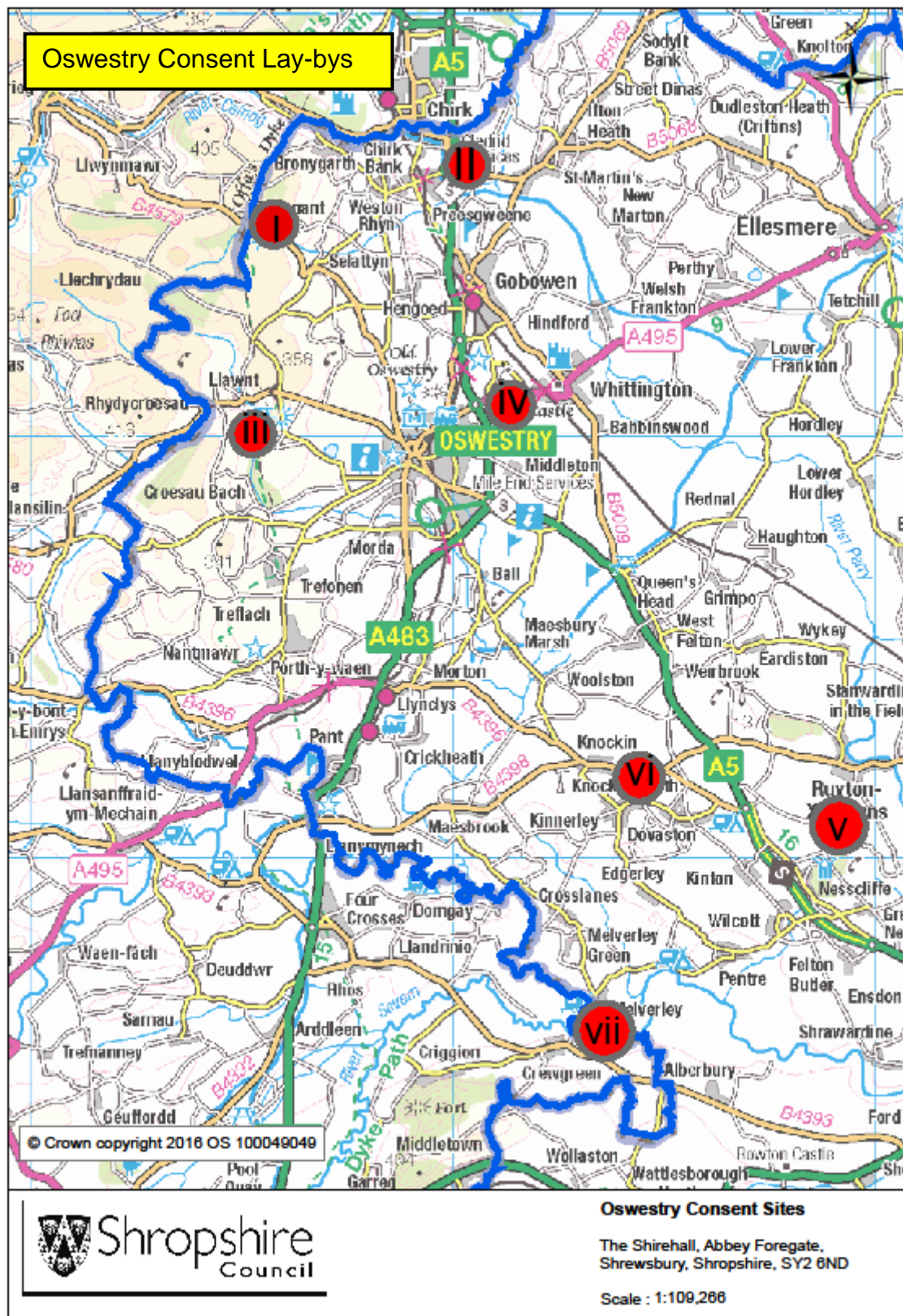




# APPENDIX A – Street Trading Policy Consultation Proposals

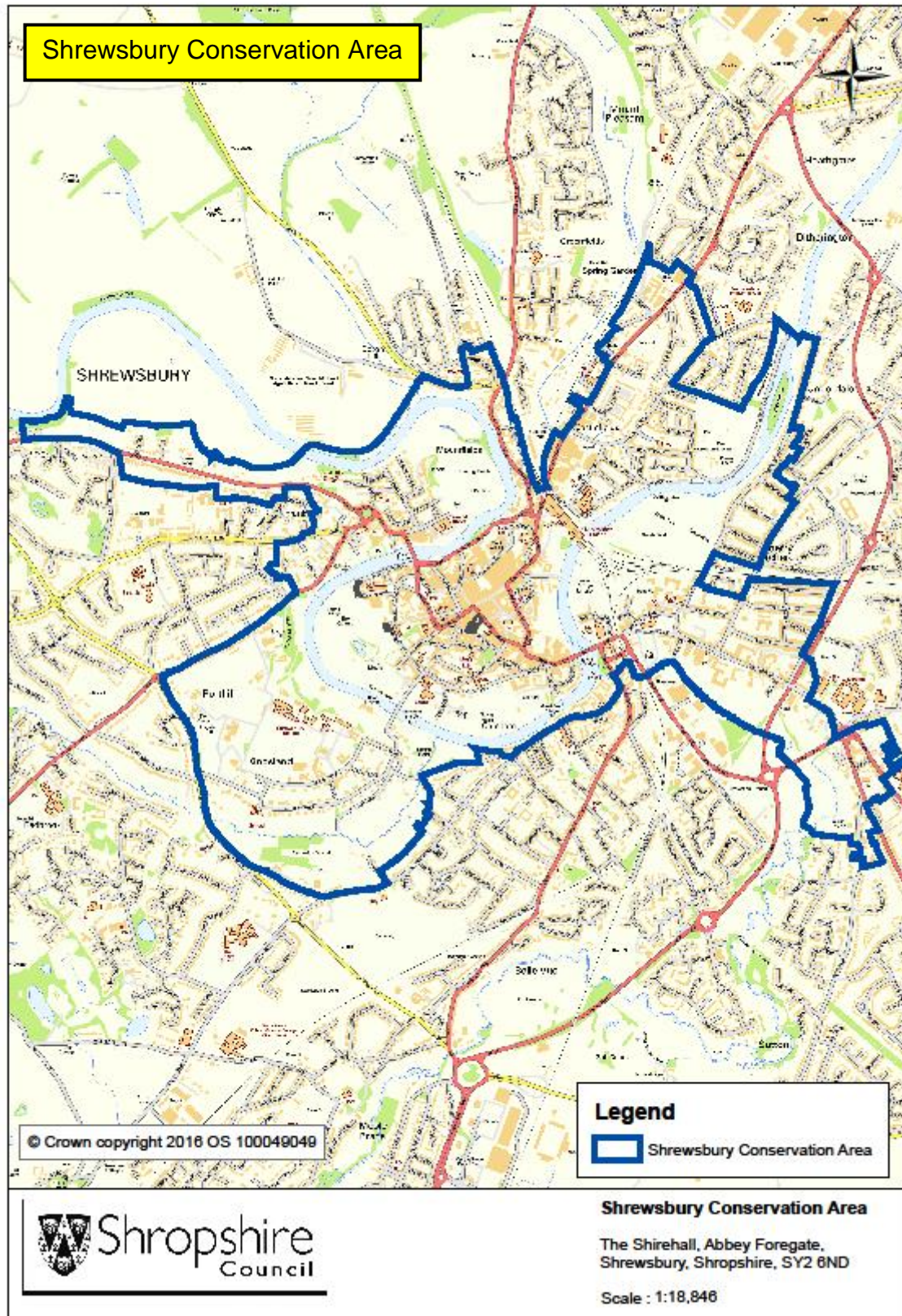


APPENDIX A – Street Trading Policy Consultation Proposals



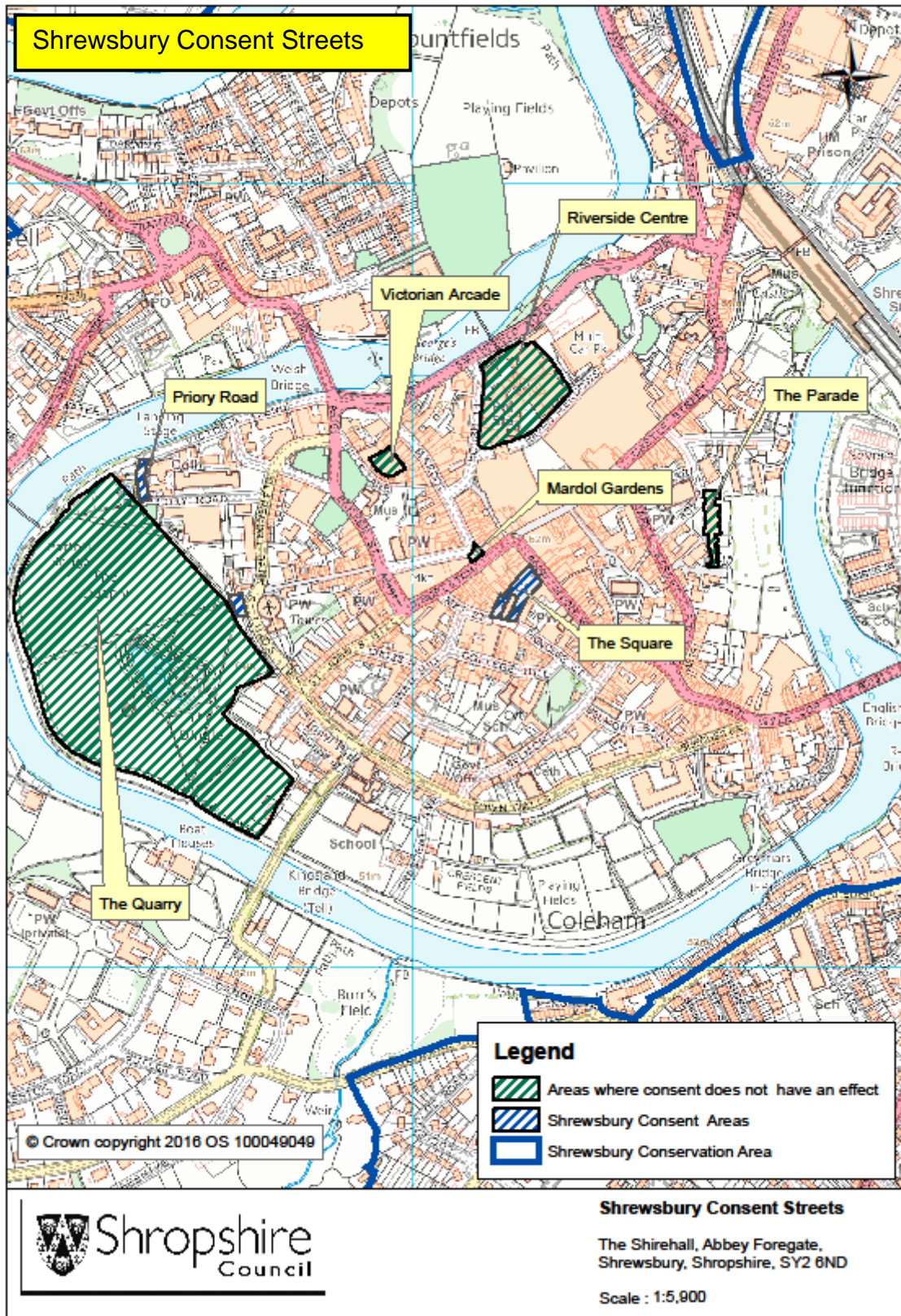


# APPENDIX A – Street Trading Policy Consultation Proposals





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:

## APPENDIX A – Street Trading Policy Consultation Proposals

- 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;

## **APPENDIX A – Street Trading Policy Consultation Proposals**

- 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

## **APPENDIX A – Street Trading Policy Consultation Proposals**

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](http://www.disclosurescotland.co.uk), by email at [info@disclosurescotland.co.uk](mailto:info@disclosurescotland.co.uk), by fax 0870 609 6996 or in writing to Disclosure Scotland at PO Box 250, Glasgow, G51 1YU)<sup>3</sup>; 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

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<sup>3</sup> 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.

## APPENDIX A – Street Trading Policy Consultation Proposals

<https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto: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.



## APPENDIX A – Street Trading Policy Consultation Proposals

- 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

## **APPENDIX A – Street Trading Policy Consultation Proposals**

### **The Council's approach when considering convictions**

- 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>

## APPENDIX A – Street Trading Policy Consultation Proposals

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 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**

<b>Sentence</b>	<b>Rehabilitation period</b> (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.)

## APPENDIX A – Street Trading Policy Consultation Proposals

**Table B**

<b>Sentence</b>	<b>Rehabilitation period</b> (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

## **APPENDIX A – Street Trading Policy Consultation Proposals**

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 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.

**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.

## **APPENDIX A – Street Trading Policy Consultation Proposals**

- 1.7 The licence 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 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.



## **APPENDIX A – Street Trading Policy Consultation Proposals**

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 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 the stall, van, barrow, cart, etc. satisfies all relevant Health and Safety requirements.

5.2 The licence holder must ensure that the 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.

## **APPENDIX A – Street Trading Policy Consultation Proposals**

- 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.
- 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.

**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

## APPENDIX A – Street Trading Policy Consultation Proposals

- 1.9 The main activity shall not be the sale of alcohol.
- 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.

## Standard Consent Conditions

### 1.0 Conduct of consent holder

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- 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;
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  - Allegations are made of their involvement in criminal activity.
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  - 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.

## APPENDIX A – Street Trading Policy Consultation Proposals

- Be courteous to customers.
- 1.7 The consent holder **MUST NOT**, at any time when undertaking the street trading activity:
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  - smoke (this includes electronic cigarettes).
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- 4.1 Cause or permit sound emitted from any radio/sound reproducing instrument or equipment to be an annoyance/nuisance to any person.

## **APPENDIX A – Street Trading Policy Consultation Proposals**

- 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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## **APPENDIX A – Street Trading Policy Consultation Proposals**

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