



Committee and Date

Strategic Licensing Committee

22 June 2022

Item

Public

Review of the Street Trading Policy 2023 to 2028

Responsible Officer Mandy Beever, Transactional and Licensing Team Manager
e-mail: mandy.beever@shropshire.gov.uk e-mail:

1. Synopsis

1.1 The Council's existing Street Trading Policy came into effect from 1 April 2018. Since this date there have been changes in licence processes and the way in which Street Trading is delivered across the administrative area of Shropshire Council.

1.2 This report sets out the proposed Street Trading Policy 2023 to 2028 (the Policy) upon which the Council proposes to consult and highlights those matters that have led to the most significant proposed changes.

2. Executive Summary

- 2.1. The Council adopted the Street Trading provisions under the Local Government (Miscellaneous provisions) Act 1982 for the whole of the Shropshire Council administrative area on the 26 January 2017.
- 2.2. The administration of Street Trading includes the determination of Prohibited, License and Consent Streets, the setting of fees, the administration of licenses and consents, and enforcement in the event of non-compliance.
- 2.3. The Council's existing Street Trading Policy came into effect from 1 April 2018.
- 2.4. The Policy requires updating to reflect the Council's priorities and outcomes for 2023 – 2028, in relation to protecting people from harm, promoting health and managing the environment. In addition, ongoing improvements in licensing practices and procedures need to be embedded within the Policy to further strengthen the application process and to provide the foundations for robust enforcement to increase compliance.
- 2.5. 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.

3. Recommendation

- 3.1. That the Strategic Licensing Committee agree for formal consultation to be undertaken on the proposed Street Trading Policy for no less than 8 weeks to commence from June 2022.

REPORT

4. Risk Assessment and Opportunities Appraisal

- 4.1. 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.
- 4.2. Street Trading provisions are local in nature. Under provisions of the Local Government Act 1972, on the 9 December 2010 the Council delegated to Ludlow Council all its powers emanating from Section 3 and Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 in respect of street trading.
- 4.3. Ludlow Town Council is the only Town Council who currently undertakes the administration and enforcement of Street Trading.
- 4.4. The consultation process will explore the opportunity to further delegate the responsibility for the Street Trading function to Parish and Town Councils.
- 4.5. Where Street Trading provisions are delegated, the decision on where and when Street Trading should be permitted can be exercised more locally. Should additional Town and Parish Councils express an interest in taking on responsibility for the Street Trading function a separate report will be brought before the Strategic Licensing Committee.
- 4.6. Enabling the powers to be exercised at the most local level has clear benefits for Shropshire communities, allowing more informed decisions regarding how Street Trading is conducted according to the nature of the local area. However, based on previous responses there is no appetite for this function to be delegated to a more local level.
- 4.7. Town and Parish Councils have been contacted and asked to consider the requirements of the existing Policy and how this has affected the running of some their events since it came into effect. A copy of the email sent to all Town and Parish Councils can be found at **Appendix A**. The general discussions have resulted in an additional section being added to the proposed policy to include further clarity on the activities which are 'out of scope' for Street Trading purposes.

- 4.8. The review and adoption of a Policy will have a positive impact on Human Rights, including The Right to Life (Article 2), Right to a Fair Trial (Article 6) and Right to Respect for Private and Family Life (Article 8), of both applicants and their customers. On this basis, the recommendations contained in this report are compatible with the provisions of the Human Rights Act 1998 and are unlikely to result in any adverse Human Rights Act implications.
- 4.9. The proposed Policy contains the application processes and requirements to obtain both a Street Trading Licence and Consent. The proposed Policy can be found at **Appendix B**. The Consent process/requirements purposefully mirror those set out for a Licence Street. It is recognised that the Council may face a challenge on the robust nature of the proposed application process in relation to Consent Streets; however, the Act sets out that ‘the Council may grant a Consent if they think fit’ and in order to make this judgement it is deemed necessary and proportionate given the need to ensure applicants are suitable under the Council’s safeguarding responsibilities.
- 4.10. The Act provides a broad basis to request such ‘particulars as the Council may reasonably require’ in order to determine whether or not to grant or renew a Street Trading Licence. It is on this basis that Officers consider the information requested as part of the application process to be entirely lawful.
- 4.11. An Equality, social inclusion and health impact assessment (ESHIA) has not been completed at this stage because the report concerns the proposal to consult on the revised policy. However, an ESHIA will be completed at the end of the consultation considering all the responses received.

5. Financial Implications

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

6. Climate Change Appraisal

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

7. Background

- 7.1. The legal controls relating to Street Trading are contained in Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. These include the designation of streets, setting of fees, the administration of licences and consents, and enforcement in the event of non-compliance.
- 7.2. Street trading means the selling or exposing or offering for sale of any article (including a living thing) in a street. Streets are designated as either prohibited, licence or consent and they are defined as:

- 'Prohibited Street' means a street in which street trading is prohibited.
 - 'Licence Street' means a street in which street trading is prohibited without a licence granted by the Council.
 - 'Consent Street' means a street in which street trading is prohibited without the consent of the Council
- 7.3. Where a street has not been designated as either Prohibited, Licence or Consent, the Council has no regulatory responsibility under Street Trading legislation and therefore, no permissions are required from the Council. However, Street Traders must always seek permission to use the land from the land owner. This includes Shropshire Council's Highways Service or the Highway Authority for the Strategic Road Network (SRN) (Highways England) where the land is a highway.
- 7.4. It is illegal to trade in those streets designated as Prohibited Streets and the Council cannot subsequently give permission without removing the prohibition. In order to trade legally in a Licence or Consent Street, traders must apply for a Street Trading Licence or Consent and be granted permission to trade. Within the Council this process is undertaken by the Licensing Team.
- 7.5. Prior to submitting an application, the Street Trader must ensure they have permission to use the land from the land owner. The permission to use the land is separate from gaining permission to trade.

8. Conclusions

- 8.1. It is proposed that the consultation process will be for an 8 week period from 27 June 2022 to 21 August 2022 to receive responses. The outcome of the consultation will inform the revision of the Policy and the Committee will have the opportunity to consider this at a future meeting.

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

Local Government Act 1972 s101 (1) (b)

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

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

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

Cabinet Member (Portfolio Holder)

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

Local Member

Not applicable – report has county wide application

Appendices

Appendix A – Email sent to Town and Parish Councils

Appendix B – Proposed Street Trading Policy 2023 to 2028

