

Name of Committee:	Licensing Committee		
Committee Date:	19 October 2023		
Report Title:	Adoption of Street Trading Provisions – Local Government (Miscellaneous Provisions) Act 1982		
Responsible Officer:	Alex Robinson – Executive Head of Place		
Cabinet Lead:	Councillor Elizabeth Lloyd		
Status:	Non-Exempt		
Urgent Decision:	No	Key Decision:	No
Appendices:	Appendix A: Statutory notice published in newspaper Appendix B: Draft resolution		
Background Papers:	Licensing Committee – Monday 26 June 2023 17:00, Item 11: Adoption of Street Trading Provisions – Local Government (Miscellaneous Provisions) Act 1982		
Officer Contact:	Name: Briony Appletree Email: licensing@havant.gov.uk		
Report Number:	HBC/040/2023		

Corporate Priorities:

Pride in Place – to enable a vibrant and diverse street trading offering in the Borough.
Growth – stimulate the local economy.

Executive Summary:

This paper is submitted to the Licensing Committee following public consultation on the Council's proposal to adopt Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, regarding street trading provisions and designation of consent streets.

Recommendations:

Members are asked to:

- A. Review comments received during the consultation.
- B. Approve amendments required as a result of the consultation responses.
- C. Recommend that Full Council adopt the provisions of Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act") for the Havant Borough Council administrative area.

1.0 Introduction

- 1.1 This report sets out details of the proposal to regularise the adoption of the provisions of Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ('the Act') for the Havant Borough Council administrative area.

2.0 Background

- 2.1 Schedule 4 of the Act contains provisions relating to the determination of prohibited, licence and consent streets, the setting of fees, the administration of licences and consents, and enforcement powers.
- 2.2 It has become evident that, whilst the Council did adopt the provisions under the Act sometime in 1983, there may be insufficient evidence available to fully demonstrate proper adoption.
- 2.3 At a meeting of the Licensing Committee held on 26 June 2023, Members agreed to the commencement of the relevant statutory consultation period required prior to adoption of the legislation.
- 2.4 A statutory notice was published in the Hampshire Independent on Friday 25 August 2023, inviting representations in writing to the Licensing Team by 22 September 2023.
- 2.5 Notice of the intention to designate streets was sent to both the Police and Highways Authority on Friday 25 August 2023, inviting representations in writing to the Licensing Team by 22 September 2023.

3.0 Options

- 3.1 The Council received no responses during the consultation period, and therefore it is not considered necessary to make any amendment to the proposal to adopt the relevant legislation and designated consent streets prior to the recommendation being made to Full Council.

4.0 Relationship to the Corporate Strategy

- 4.1 Pride in Place: Creating a great place to live, work and enjoy – enabling a vibrant and diverse street trading offering in the Borough, enhancing the retail and food/beverage offering for residents and visitors.
- 4.2 Growth: Building our future – stimulating the local economy by encouraging local businesses to utilise street trading as part of their offering.

5.0 Conclusion

- 5.1 The Licensing Committee are requested to recommend the adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, and recommend the adoption of consent streets, as outlined in the draft resolution at Appendix B.

6.0 Implications and Comments

6.1 S151 Comments

The adoption of Street Trading Provisions does not impact or change any existing budget pressure, nor does it add any new pressures. All costs can be met within existing budgets.

The proposed resolution would also mitigate the risks of exposure to high legal cost in any potential judicial review (even if the probability/likelihood risk is low). Therefore, this has my approval.

6.2 Financial Implications

Adoption of the relevant provisions of the Act requires the Council to publish notice of its intention to pass a resolution on street trading and the designation of consent streets. It is then required to publish a notice that the same resolution has been passed. Publication of these notices will be in the Hampshire Independent, as agreed by the Executive Head of Place, with the cost borne by the Licensing Team's existing budget.

6.3 Monitoring Officer Comments

Full Council has the power to adopt the legislation, and designate consent streets, under the terms of the Constitution.

6.4 Legal Implications

- (i) Only the Full Council has the power to adopt the legislation, and designate consent streets, under the terms of the Constitution.
The power to designate streets cannot be delegated as it requires a resolution.
- (ii) The adoption of street trading provisions is contained in Part III, section 3 of the Local Government (Miscellaneous Provisions) Act 1982. A Council may resolve that Schedule 4 to this Act shall apply to their district and, if a council does this, Schedule 4 shall come into force in their district on such day as may be specified in the resolution.
- (iii) The statutory process for the designation of streets under this legislation includes the following steps:
 - The intention to designate a street must be advertised in a local newspaper and served on the Police and Highways Authority, giving 28 days for written representations;
 - The Council is under a duty to consider any representations received. Following consultation, a further report is submitted to the Licensing Committee with details of any objections made. The Licensing Committee will consider these objections and make a recommendation to Full Council;
 - If Full Council resolves to designate consent streets, a further public notice must be published at least 28 days before the resolution takes place. The notice of resolution must be published in local newspaper in two successive weeks (the first notice appearing a minimum of 28 days before resolution takes effect);
 - Controls come into effect on the date specified in the resolution.

6.5 Equality and Diversity

All applications will be treated fairly, free from bias and with due regard the Council's Equality Policy.

6.6 Human Resources

There are no human resources implications arising as a result of this report.

6.7 Information Governance

There are no information governance implications arising as a result of this report.

6.8 Climate and Environment

There are no climate and environment implications arising as a result of this report.

7.0 Risks

7.1 As the Council cannot currently sufficiently evidence the adoption of the relevant provisions of the Act, the Council is exposed to legal challenge by means of Judicial Review. Resolving to adopt the provisions at this stage will ensure that accurate records of adoption are kept.

8.0 Consultation

8.1 No comments, objections or representations were received during the statutory consultation period, and therefore there are no proposed amendments to the proposal to adopt the relevant legislation and designate consent streets prior to being recommended to Full Council for adoption.

8.2 A separate consultation process has taken place in relation to the Council's draft street trading policy.

9.0 Communications

9.1 The Licensing Team will directly arrange the publication of the statutory notices with the relevant newspaper, following the Council's resolution to adopt the legislation and designate consent streets.

Agreed and signed off by:		Date:
Cabinet Lead:	Councillor Elizabeth Lloyd	11/10/2023
Executive Head:	Alex Robinson	11/10/2023
Monitoring Officer:	Jo McIntosh	11/10/2023
Section151 Officer:	Steven Pink	11/10/2023