
REPORT FOR: CABINET

Date of Meeting:	6 December 2018
Subject:	Street Trading - Extension of Designated Areas
Key Decision:	Yes
Responsible Officer:	Paul Walker, Corporate Director, Community
Portfolio Holder:	Councillor Varsha Parmar, Portfolio Holder for Environment
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	Appendix A – Steps to be taken to adopt street trading provisions Appendix B – EQIA Appendix C - Details of the proposed additional streets for designation Appendix D – Previously designated streets

Section 1 – Summary and Recommendations

This report sets out proposals to designate additional streets in the Borough for street trading purposes and seeks member approval to take the necessary steps to consult on this.

Recommendations:

Cabinet is requested to:

1. Approve the proposed designation of streets for consultation purposes.
2. Authorise the Corporate Director (Community), following consultation with the Portfolio Holder for Environment, to take all necessary steps to publish and consult on the proposed resolution(s) to designate streets.
3. Note that the outcome of the consultation will be reported back to Cabinet with any amendments considered appropriate for final approval.

Reason: (for recommendations)

The Council has previously adopted Part III Street Trading Provisions under the London Local Authorities Act 1990 ('The Act'). In November 2015 certain streets were put forward for designation, and approved in March 2016 by Cabinet.

It is now proposed, with the increased desire for Street Trading in all forms across the Borough, that these designations are extended to cover more areas of the Borough to enable the effective management and control of street trading across the Borough. Appendix C outlines the proposed areas for designation. These will be consulted upon and the responses received will be reviewed and presented back to Cabinet before a final designation is made.

Section 2 – Report

1. INTRODUCTION

- 1.1 Harrow Council is committed to maintaining a vibrant economy for the benefit for those who live, work and conduct business in the Borough
- 1.2 Street trading (subject to certain exceptions and additional inclusions) is defined in the London Local Authorities Act 1990 ('the Act') as the selling or the exposure or offer for sale of any article (including a living thing); and the purchasing of or offering to purchase any ticket; and the supplying or offering to supply any service in a street, for gain or reward.
- 1.3 A street trading licence is a licence granted under Part III of the Act valid for the period specified in the licence - not less than six months and not more than three years.
- 1.4 A temporary licence is a licence granted under Part III of the Act valid for a single day or for such period as may be specified in the licence not exceeding six months.
- 1.5 In July 2000 members voted to adopt the Part III Street Trading provisions under the London Local Authorities Act 1990 and resolved that the appointed day for the borough of Harrow would be 30 November 2000. Notice of the appointed date was published in the Harrow Times on 24 August 2000. Therefore the Part III provisions have applied to the Harrow administrative area since 30 November 2000.

Designation of Licence Streets

- 1.6 Although the provisions of the Act were appointed as applicable to the borough, streets in the borough were not designated for street trading purposes until 2016 as noted above. Temporary Licences were issued where appropriate prior to this point. It is now proposed further streets set out in the Appendix are designated as Licence Streets, as this would enable effective management and control of street trading across the Borough.
- 1.7 If approved by members, the necessary steps will be taken to consult on the proposal, before this comes back to Cabinet for final approval of designations.
- 1.8 A notice of intention to designate streets will need to be published in a local newspaper in respect of the proposed streets for designation. The notice will give a minimum of 28 days from date of publication for representations to be made.
- 1.9 Officers will also need to consult the Chief Officer of Police for the Harrow area and the Highways Department.
- 1.10 The outcome of the consultation will be reported back to Cabinet for consideration.

Markets

- 1.11 This policy does not affect Markets which is being looked at under a separate policy to enhance and encourage markets throughout the Borough

2. Options considered

Designate certain further streets in the borough as 'Licence Streets'

- 2.1 Designating further streets in the borough would enable the council to better manage and control street trading across the Harrow area. This would help prevent unlicensed trading, risks to health and safety of the public, and a lack of cohesiveness in the overall retail offer within the Harrow area. By designating streets this would help prevent the illegal use of forecourt space for the trading of goods and enable the effective enforcement of this activity where it does take place.

- 2.2 This is the preferred option by Officers.

Do not designate the further proposed streets in the borough as 'Licence Streets'

- 2.3 If the further proposed streets are not designated as licence streets, street trading in those areas will not be managed or controlled effectively. This could lead to illegal trading and a lack of cohesiveness in the overall retail offer within the Harrow area. This could lead to un-licensed trading and risks to health, safety and the economic welfare of the public at large or to individuals.

- 2.4 If the situation remains as is, prime commercial areas would not be able to undertake street trading in a fair and consistent manner

Designate all streets in the borough as 'Licence Streets'

- 2.5 It is not considered viable to designate all streets within the Borough as there are numerous areas, especially residential, where street trading is not desired or practical

3. Resources

- 3.1 Current staffing will be used and there is no requirement for additional staffing as a result of the changes proposed in this paper.

4. Community & Consultation

- 4.1 If agreed by Cabinet, as noted earlier in this report, there will be a public consultation in respect of the proposed (resolution to) designate licence streets in the borough. The Act also requires that the Commissioner of Police for the area and the Highways authority are consulted too. Consultation will be borough-wide.

5. Performance Issues

5.1 There are no performance issues related to this matter

6. Environmental Implications

6.1 The approach to street trading noted in this report is expected to lead to a positive environmental impact. It should promote a vibrant economy and a mixed economy of provision across the borough to better meet the needs of residents and businesses. Together with an aim to protect the safety of highway users, to prevent nuisance and to regulate the number and location of street traders.

7. Risk Management Implications

7.1 The proposed designation of streets is proposed to help ensure that street trading across the Harrow area is regulated effectively including protecting the safety of highway users and preventing nuisance, and ensuring a clear process is in place.

7.2 The increased designated street trading areas simplifies the system and does not require additional resource.

8. Procurement

8.1 There are no procurement implications to this report

9. Legal Implications

9.1 In July 2000 members voted to adopt the Part III Street Trading provisions under the London Local Authorities Act 1990 ('the Act') and resolved that the appointed day for the borough of Harrow would be 30 November 2000. Notice of the appointed date was published in the Harrow Times on 24 August 2000. Therefore the Part III provisions have applied to the Harrow administrative area since 30 November 2000.

9.2 Part III of the London Local Authorities Act 1990 ('the Act') provides a regime for the licensing of street trading for a participating borough.

9.3 Section 24 of the Act sets out how streets (or part of a street) can be designated as a 'licence street' if a council wishes to licence street trading in its area:

24 Designation of licence streets

[(1) If a borough council consider that street trading should be licensed in their area they may from time to time pass any of the following resolutions:—

(a) a resolution (in this Part of this Act referred to as a "designating resolution") designating any street within the borough as a "licence street";

(b) a resolution specifying in relation to any such street or any part of a street any class or classes of articles, things or services which they will, or other than which they will not, prescribe in any street trading licence granted by them in respect of that street; and may from time to time by subsequent resolution rescind or vary any such resolution: ...”

9.4 However, before passing a resolution to designate a street(s), it is a requirement that the council must consult with the Commissioner of Police of the Metropolis on the proposal. When passing a designating resolution for a street, the earliest the designation can take effect is one month after the passing of the resolution and so the date specified in the resolution has to take this into account (section 24(3)).

9.5 Section 24(4) and 24(5) of the Act also goes on to state:

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...

(4) A borough council shall not pass a resolution or rescind or vary a resolution under this section unless—

(a) they have published notice of their intention to do so in a local newspaper circulating in their area;

(b) they have served a copy of the notice on the highway authority for that street (unless they are that highway authority); and

(c) where subsection (5) below applies, they have obtained the necessary consent.

(5) This subsection applies—

(a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and

(b) where the resolution designates as a licence street any street maintained by a highway authority;

and in subsection (4) above “necessary consent” means—

(i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and

(ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

9.6 The section also lists who are relevant corporations and this includes Transport for London.

9.7. The notice of intention required by section 24(4)(a) has to contain a draft of the resolution and invite representations in writing to be made to the council (within a period not less than 28 days after publication). After the period for representations the council should, at the earliest opportunity, consider the representations and thereafter (subject to any changes that are felt appropriate as a result of the representations) the council can pass the resolution to designate the street(s). A notice has to be published in a local newspaper for two consecutive weeks confirming the passing of the resolution, but the first publication cannot be later than 28

days before the day specified in the resolution for the coming into force of the designation.

9.8. Section 25 of the Act sets out requirements for making a street trading licence application.

9.9. A council can (and Harrow has) make regulations that prescribe the procedure for determining applications

9.10 The Act also provides that a council can (and Harrow has) set regulations that prescribe standard conditions that apply to a street trading licence.

9.11. Section 31 of the Act allows the council to grant temporary licences for any street , regardless of whether it is licenced or not, and section 32 of the Act permits the council to charge fees and charges in respect of street trading licences on a cost recovery basis, subject to certain consultation requirements.

9.12. Street trading without the required licence is an offence under section 38 of the Act and carries a maximum fine not exceeding level 3 on the standard scale, which currently is £1000. Section 34 also sets out further offences.

10. Financial Implications

10.1. The Council has power to charge for licences under s32 of the Act.

10.2. Fees and charges for street trading licences are set on a full cost recovery basis and are reviewed annually and adjusted if appropriate. The fee structure is split into two parts as required by law such that an initial administration fee is charged and if an applicant is successful, a further fee which also covers enforcement, is applied.

10.3. Applicants for charity/community markets may apply to the council for a reduction or waiver of market licence fees.

11. Equalities implications / Public Sector Equality Duty

The Equality Act 2010 outlines the provisions of the Public Sector Equality Duty which requires public authorities to have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation.

The broad purpose of this duty is to integrate considerations of equality into day to day business and keep them under review in decision making, the design of policies and the delivery of services so that the potential impact on any protected groups is identified and steps taken to mitigate or remove them.

The EqIA did not identify any adverse or disproportionate impact on any of the protected groups. This is also in line with the previous EqIA that was conducted for the original streets that were designated.

Council Priorities

The Council's vision:

Working Together to Make a Difference for Harrow

The extension of the street trading designations will provide a fairer and more consistent approach to street trading across the Borough, thus particularly contributing to

- Making a difference for local businesses

Section 3 - Statutory Officer Clearance

Name: Dawn Calvert	<input checked="" type="checkbox"/>	Chief Financial Officer
Date: 28 th June 2018		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 16 th October 2018		

Section 3 - Procurement Officer Clearance

Name: Nimesh Mehta	<input checked="" type="checkbox"/>	Head of Procurement
Date: 28 th September 2018		

Ward Councillors notified:	NO, as it impacts on all Wards
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EqIA carried out:

YES (for previous report)

EqIA cleared by:

Hanif Islam

Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Head of Community & Public Protection, 020 8736 6267, richard.lebrun@harrow.gov.uk

Background Papers: Street Trading Cabinet Report, June 2016

Call-In Waived by the Chair of Overview and Scrutiny Committee

NO – CALL IN APPLIES