

<b>Meeting:</b>	<b>Assistant director environment and place</b>
<b>Meeting date:</b>	<b>Thursday, 26 July 2018</b>
<b>Title of report:</b>	<b>Re-designation of High Town, Hereford from a 'Consent' street to a 'Licence' street, for street trading purposes</b>
<b>Report by:</b>	<b>Bereavement and markets services manager</b>

## **Classification**

Open

## **Decision type**

Non-key

## **Wards affected**

Central

## **Purpose and summary**

To change the street trading designation of High Town, Hereford from a Consent Street to a Licence Street. A consent street is designed for more itinerant types of trading which takes place from a vehicle, cart or barrow. A licence street is better suited to trading from fixed positions and allows for a wider variety of trading units.

## **Recommendation(s)**

**That:**

- (a) a notice of intention to designate High Town, Hereford as a licence street, for street trading purposes, is published in line with the requirements of the Local Government (Miscellaneous Provisions) Act 1982;**
- (b) the Assistant Director, Environment and Place be authorised to determine the**

**designation, having regard to any representations received in response to the notice and if designation is determined, to rescind High Town as a consent street, taking all necessary steps to implement the change**

## **Alternative options**

1. To maintain the status quo with regard to the designation of High Town for street trading purposes. This is not recommended as it limits future street trading options within High Town particularly in regard to the introduction of semi-permanent street trading units as documented in the High Town post refurbishment trading review - 10<sup>th</sup> October 2016.

## **Key considerations**

2. Street trading is defined as 'the selling, or exposing or offering for sale any article in a street.'
3. Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA) contains the ability for councils to control street trading. On 13 November 1998 this council resolved that the LGPA applied in Herefordshire and adopted schedule 4 provisions. At this time the council designated a number of 'prohibited' streets for street trading purposes, with those not listed automatically designated as having 'consent' status. Permission from the council is required for anyone wishing to trade as a street trader in such a consent street. Any appeals are dealt with by the magistrates court. A further designation of 'licence' status is available, although it is not unusual for a council to have a combination of such streets, Herefordshire Council has not currently used this designation.
4. A licence status street gives the local authority some different powers compared to one that has a consent status. One such difference applies to the type of trading unit that can be authorised. A licence street offers a wider scope of units as defined by any 'stall or container.' Other differences include variations in relation to licensing conditions, enforcement controls and fees that can be levied. Notably, an element for refuse collection and cleansing of the streets can be included for a licence street, though it is not anticipated the overall fees for traders will significantly change. Licence fees will be reviewed prior to the refurbishment but would not be implemented until after it is completed. Communication with existing traders has been and will continue to be ongoing throughout this process.
5. In light of the city centre refurbishment programme, which will improve the visual appearance of the area, it is appropriate to upgrade the street trading provision including the type, style and location of trading units. Altering High Town from a consent to licence street would allow a system where both towed and semi-permanent units are potentially utilised. Semi-permanent would mean a trading unit is routinely left in situ each evening and only moved as and when the council requests it e.g. to make way for the May Fair.
6. The LGMPA prescribes a statutory process to be followed in relation to the designation of prohibited, licence, and consent streets for the purpose of street trading. It requires the publication of a notice of intention to make a resolution to designate streets in a local newspaper. The notice will include a draft of the resolution and state that representations concerning it may be made in writing to the Council within a period of not less than 28 days from the date of the publication of the notice.
7. Before deciding whether to pass such a resolution any representations in response to the notice must be considered. Should such a resolution be made, a post resolution notice

must be published in a local newspaper at least 28 days before the day specified in the resolution for the coming into force of the resolution to designate the streets.

8. It is anticipated that similar levels of enforcement will be applied as required in a licence street compared to that of a consent street.

## **Community impact**

9. The proposal will help enhance the vibrancy and vitality of the city centre for those visiting and working in it, this in turn will help support the growth of our economy – one of the priorities of the council's corporate plan.

## **Equality duty**

10. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
11. This recommendation will not have a detrimental effect on any stakeholders, with the revised layout of High Town and Commercial Street being approved in October 2016 following consultation with interesting parties, in particular Hereford Disability United and Herefordshire Vision Links.

## **Resource implications**

12. It is envisaged that the service budget will be maintained as a result of this proposal. Advertising costs for the three public notices required are estimated to cost £1.2k and this will be met from within the existing allocated service budget.

## **Legal implications**

13. As this council has resolved that schedule 4 of the LGPMA will apply. The council has discretionary powers to designate streets into consent, licence, prohibited streets. This power is only exercisable after following a statutory process as set out in paragraphs 6 and 7 above. Council has delegated this function to the chief executive so it is permissible under the officer scheme of delegation for the assistant director to take this decision.

## **Risk management**

14. The risk of not implementing the recommendation would result in being unable to fully realise the improvements to street trading the council is seeking to achieve.

## **Consultees**

15. None for this report as consultation was carried out on a previous report. See background papers. Representations will be sought and considered as part of the statutory process.

## **Appendices**

None

## **Background papers**

High Town Post Refurbishment Trading Review report Oct 10<sup>th</sup> 2016

High Town Post Refurbishment Trading Layout