

Agenda



Listening Learning Leading

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Date: 7 January 2014

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A MEETING OF THE

General Licensing Committee

WILL BE HELD ON WEDNESDAY 15 JANUARY 2014 AT 10.00 AM

COMMITTEE ROOM 4, SOUTH OXFORDSHIRE DISTRICT COUNCIL
OFFICES

Members of the Committee:

Mr Malcolm Leonard (Chairman)

Mrs Elizabeth Gillespie
(Vice-Chairman)
Ms Joan Bland
Mr Bernard Cooper

Mrs Pat Dawe
Mrs Ann Midwinter
Ms Anne Purse

Mrs Pearl Slatter
Mrs Margaret Turner
Mr Michael Welply

Substitutes

*Mr Roger Bell
Mr David Bretherton
Mrs Celia Collett, MBE
Mrs Margaret Davies
Mr Mark Gray
Mr Will Hall*

*Mr Tony Harbour
Mrs Eleanor Hards
Mr Marcus Harris
Mr Stephen Harrod
Mr Marc Hiles
Dr Christopher Hood*

*Ms Lynn Lloyd
Mrs Denise Macdonald
Mr Alan Rooke
Mr David Turner*

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1 Apologies for absence

2 Declaration of disclosable pecuniary interests

3 Addresses to the committee

Members of the public may address the committee for up to five minutes about the items on the agenda provided they have registered to speak by contacting democratic services by noon on Monday 13 January.
Contact details are at the top of this agenda.

4 Minutes of the previous meeting (Pages 3 - 4)

Minutes of the meeting of 8 July 2013 **(attached)**

5 Street trading policy: draft for consultation (Pages 5 - 26)

Report of the Head of Legal and Democratic Services **(attached)**.

Purpose: to consider the revised street trading policy for public consultation.

MARGARET REED

Head of Legal and Democratic Services

Minutes



Listening Learning Leading

OF A MEETING OF THE

General Licensing Committee

HELD AT 3.00 PM ON MONDAY 8 JULY 2013

COUNCIL CHAMBER, DISTRICT COUNCIL OFFICES, CROWMARSH
GIFFORD

Present:

Mr Malcolm Leonard (Chairman)

Mrs Elizabeth Gillespie, Ms Joan Bland, Mr Bernard Cooper, Mrs Pat Dawe, Mrs Ann Midwinter, Mrs Pearl Slatter, Mr Michael Welply and Mr David Turner (as substitute for Ms Anne Purse)

Apologies:

Ms Anne Purse and Mrs Margaret Turner tendered apologies.

Officers:

Mr Robert Draper, Mrs Liz Hayden and Mrs Jennifer Thompson

Also present:

Ms Joy Bussell, Insight Oxford Consultants Ltd

4 Minutes of the previous meeting

RESOLVED: to approve the minutes of the meeting held on 16 May 2013 as a correct record and agree that the Chairman sign them.

5 Addresses to the committee

Mr D Clark of Thame Taxis and Chinnor Cabs spoke to the committee in support of drivers and operators setting their own tariff for hackney carriage fares.

Mr R Hullock of Britain Taxis spoke to the committee in support of drivers and operators setting their own tariff.

Mr M Brind, an independent driver in Didcot spoke to the committee in support of drivers and operators setting their own tariff.

Mr D Pryor of Pryors spoke to the committee in support of drivers and operators setting their own tariff.

Mr J Akhtar spoke to the committee in support of the district council setting the tariff for hackney carriage fares, or for removing meters altogether if drivers and operators were allowed to set their own tariffs.

6 Hackney carriage tariff in South Oxfordshire District Council area

The committee had before them the report of the Head of Legal and Democratic Services setting out the results of the public consultation; the report from the consultants; and an additional paper setting out the comments from members of the trade and public. The committee considered whether to recommend Council to allow drivers and operators to set their own tariffs, or to introduce a council set tariff and undertake the statutory consultation on structuring and setting this.

Mr R Draper, Licensing Team Leader, Mrs Liz Hayden, Legal, Licensing and Community Safety Manager, and Ms J Bussell of Insight Oxford Consultants Ltd, introduced the report and answered questions from the committee.

The committee debated their recommendation to Council, taking into account the officer's report, the summary of the public consultation, the verbatim responses received, and the addresses from members of the trade.

Members of the committee noted that the evidence from the consultation process could be considered sound. This showed support for an operator-set tariff. They noted that it was not possible to accurately split the data into Vale and South areas but respondents were asked where they hired taxis. Officers explained that from 1 October 2013 council-approved compliance centres would test meters for accuracy and then seal these. It was not possible to undertake spot-checks on meters. Complaints about over-charging for hackney carriage hires would be investigated by the licensing team.

The committee discussed the option of allowing operators to set their own tariffs for a minimum of three months and notify the licensing authority of these, but concluded this gave no real benefit to the public and was overly bureaucratic and labour intensive. It considered that there were benefits in having a council-set tariff defining a maximum fare. However there were disadvantages for the trade in restricting the fares they could charge, given the wide variety of costs, standards and journeys undertaken. There was limited additional benefit to the public in having a council set tariff over an operator set tariff with a meter, as there would still be a range of tariffs and extra charges in operation. The consultation showed a clear majority in favour of allowing operators and drivers to set their own tariffs.

A motion to recommend Council to allow drivers and operators to continue to set their own tariffs was proposed, seconded, and carried when put to a vote.

RESOLVED: to recommend Council to allow drivers and operators to continue to set their own tariffs.

The meeting closed at 4.30 pm

Chairman

Date

General Licensing Committee Report



Report of Head of Legal and Democratic Services

Author: Robert Draper

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Wards affected: All

To: General Licensing Committee

Date: 15 January 2014

Street Trading Policy: draft for consultation

Recommendations

The committee is recommended to:

- (a) agree the proposed street trading policy for public consultation; and
- (b) authorise the Head of Legal and Democratic Services to make any further minor editorial changes to the proposed policy, prior to the document being issued for consultation.

Purpose of Report

1. To present the General Licensing Committee with a report to consider the revised street trading policy for public consultation.

Strategic Objectives

2. A revised street trading policy will promote economic development through consistent standards. In addition, it will increase the efficiency of the licensing team by introducing improved processes and procedures.

Background

3. South Oxfordshire District Council last revised its current Street Trading Consent Policy in 2009. Overall the policy is adequate but requires updating to improve the consultation processes and require peripatetic street traders to have street trading consents.

Proposed policy

4. The key changes that are proposed are summarised in Appendix 1 to this report and reflected in the draft policy in Appendix 2.
5. In accordance with best practice, the council will consult for a period of 12 weeks to ensure that all interested parties have the opportunity to engage with and respond to the draft policy. The consultation papers will be posted on the council website. Comments will be sought from:
 - Thames Valley Police
 - Oxfordshire Fire and Rescue Service
 - Oxfordshire County Council Highways
 - Oxfordshire County Council Trading Standards
 - Parish and Town Councils
 - Current street traders
 - Local business organisations
 - Residents
6. In addition the council's regulatory and enforcement services have been consulted. This includes:
 - Planning
 - Environmental health
 - Economic development
 - Parks and leisure
 - Car parks
7. After the consultation period, officers will report all comments received back to a further meeting of the General Licensing Committee, which will then make a recommendation to the council on a final policy.

Financial Implications

8. The current consent fee is £1200 per annum. Currently there are 12 street trading consents within the district. This gives an income of £14,400 per annum. The setting of street trading consent fees must reflect the costs of administering and enforcing street trading consents. The proposed consent fee level is £400 per annum per location based on revised costing from the adoption of new licensing software and improved working practices. This would generate an income of £4,800. It is proposed that new applicants for street trading consents will pay a non-refundable application fee of £300 per location. This fee covers the cost of processing the application and undertaking the consultation including a site visit.

Legal Implications

9. The policy has been drafted to reflect current legislative requirements. All applications for consents under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, have to be made and determined in accordance with the council's street trading policy.

Risks

10. Failure to reflect the requirements of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, in the policy for street trading could result in the

council not complying with the legislation. Having a clear policy helps to ensure that decisions comply with the legislation and are made fairly and consistently.

Conclusion

11. The committee is recommended to:

- (a) agree the proposed street trading policy for public consultation; and
- (b) authorise the Head of Legal and Democratic Services to make any further minor editorial changes to the proposed policy, prior to the document being issued for consultation.

Background Papers

None

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APPENDIX 1

Street Trading Policy

Consultation process

The proposed consultation process increases the visibility of applications to local residents. A yellow, A4 sized notice will be prominently displayed within 50 metres of the proposed location. The notice will give details of the proposed consent including type of business, trading days and hours and how to comment on the proposed consent. This plus the use of existing mechanisms for consulting with district councillors, town and parish councils will ensure that all parties that may be affected by a street trading business can have their voices heard. The county highways department, Thames Valley Police and the Fire and Rescue Service, will consider all applications. Any objections on the grounds of highway safety will lead to the rejection of an application (Highways Act 1980, Section 147a).

Peripatetic street traders

There is clear case law confirming that ice cream vans and similar fall within the remit of street trading. The council does not currently require street trading consents for ice cream or sandwich sellers operating in the district. It is proposed to bring these businesses under the street trading consent system but to avoid the requirement for a consultation. This reflects the limited impact of such traders upon any single location. Peripatetic street traders must comply with additional restrictions to minimise any potential impact upon residents or local people. These restrictions include: maximum wait of 20 minutes in any location and no trading within 100 metres of a school entrance.

Fee structure

The new policy encourages all applicants to make informal contact with the licensing team prior to formally submitting an application. This will enable officers to advise applicants regarding the likely success of an application at a given location or for a particular activity.

Activity	Proposed Fee	Notes
Application for consent (per location)	£300	Non-refundable
Issue of consent (new or renewal) per annum	£400	
Administration fee for changes to existing consents	£30	

The council does not currently charge a separate application fee. An analysis of the costs of issuing consents shows that a substantial amount of officer time is spent on the original application and consultation process. The current fees are set to recover this cost as part of the overall consent fee. It is proposed to set a separate application fee and an annual fee for the issuing of the consent. An application fee of £300 is proposed to cover the licensing officer time and travel involved in undertaking the consultation process and erecting notices on site. This fee would be payable upfront

as part of any formal application and would be non-refundable. A calculation of the costs of administering and enforcing existing consents puts the cost at £400 per annum. This fee would be payable for the issuing or renewal of any street trading consent. A £30 fee is proposed to cover any administrative changes or updates required to consent documents for example change of vehicle or owners address.

Reduction in income

Currently, South charge an annual fee of £1200 per consent. There are currently 12 street trading consents giving a combined income of £14,400.

If the council adopts a fee structure based solely on cost recovery as proposed then there will be a reduction in income of £9,600 to £4,800 during 2014/15 as existing consents end and are renewed at the new level. The introduction of a new licensing software system and efficiencies from new processes and procedures has allowed a revision of the fee structure and level.

S9 (1) Local Government (Miscellaneous Provisions) Act 1982 states that a council may determine such fees as they consider reasonable for the grant or renewal of a street trading consent.

APPENDIX 2



Joint Street Trading Policy

This policy was adopted by the Vale of White Horse District Council at the meeting of Council on ##### and South Oxfordshire District Council at the meeting of Council on ##### and comes into force on ##### 2014 and will be reviewed five years from that date unless previously amended.

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GLOSSARY

The councils	South Oxfordshire District Council and Vale of White Horse District Council.
The applicant	The trader who has submitted an application for a street trading consent.
Consent holder	An individual that holds a street trading consent.
Street trading	The selling, exposing or offering of articles for sale in a street.
A street	Includes any road, footway, beach or other area to which the public have access without payment.
Consent street	A street in which street trading is prohibited without the consent of the council.
Street trading consent	A permission to trade, which is granted by a council subject to conditions and the payment of a fee.
A roundsman	An individual who visits a 'round' of customers and delivers the orders of those customers, for example a milkman. A person operating an ice-cream van is not classed as a roundsman.
A pedlar	A pedlar is a trader who must: <ul style="list-style-type: none"> • keep moving, stopping only to serve customers at their request • move from place to place and not circulate within the same area • carry all goods for sale and not use a trolley or stall • hold a valid pedlar's certificate, issued by a Chief Constable of Police.
Peripatetic trader	A peripatetic street trader is one that: <ul style="list-style-type: none"> • continually moves from location to location • moves at least 50 metres from the last trading location and does not return to that location within four hours • does not wait in one location for more than 20 minutes • does not trade within 100 metres of any entrance to any educational establishment (without formal invitation from the establishment)
Licensing officer	An officer employed by the councils and authorised by the councils to act in pursuance of the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
A town:	A location that has a town council as opposed to a parish council.
Activities not requiring consent	Trading: <ul style="list-style-type: none"> • as a pedlar under a pedlar's certificate • at an established market or fair • as a news vendor • at a petrol station or shop or from a street adjoining a shop which is used as part of the business of the shop • as a roundsman (i.e. delivering pre-ordered goods to customers) • from a licensed highway area • under a street collection permit for charitable purposes

1 Purpose of the policy

- 1.1 This policy sets out the framework for the management of street trading in the area of South Oxfordshire District Council and Vale of White Horse District Council.
- 1.2 The powers to control street trading within the councils' areas are conferred by Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, 'the Act', which has been adopted by the councils. Under Schedule 4 of the Act the councils can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.
- 1.3 The councils recognise the valuable contribution that street trading can make to the local culture and economy, and the services that street traders provide to residents and visitors. Street trading can provide people with a flexible way of working, to meet the demands of the public where and when that demand arises.
- 1.4 The councils are also committed to improving the support provided to small businesses, ensuring there are no unnecessary burdens placed on them and they are provided with sufficient guidance and advice to enable them to operate safely and successfully.
- 1.5 Issues can arise where street traders do not pay due regard to their location and operation or make it dangerous for people and road users to move around them. Street trading can also result in littering and other nuisance to persons in the vicinity.
- 1.6 This document sets out the criteria the councils will use when they consider applications for street trading consents. It sets out the grounds upon which decisions are made about street trading applications and enforcement actions if required.
- 1.7 The policy supports both of the councils' commitment to work in partnership with other agencies and avoiding duplication with other statutory controls.

2 Consultation

- 2.1 In determining this policy, the councils have consulted the following:
 - Thames Valley Police
 - Oxfordshire Fire and Rescue Service
 - Oxfordshire County Council Highways
 - Oxfordshire County Council Trading Standards
 - Parish and Town Councils
 - Current street traders
 - Local business organisations
 - Residents
- 2.2 In addition the councils' regulatory and enforcement services have been consulted. These include:
 - Planning
 - Environmental health
 - Economic development
 - Parks and leisure
 - Car parks

3 Duration of policy

- 3.1 This policy will be reviewed every five years. When required, periodic updates may be undertaken.

4 Legislation and current provision

- 4.1 The Act sets out a number of definitions and provisions:

'Street Trading' is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions:

- (a) Trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
 - (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order.
 - (c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
 - (d) Trading as a news vendor.
 - (e) Trading at premises used as a petrol filling station or from a street adjoining a shop premises as part of the business of the shop.
 - (f) Offering or selling things as a roundsman.
 - (g) The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
 - (h) The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
 - (i) The doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 for charitable purposes.
- 4.2 Schedule 4 defines a street as 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.
- 4.3 A consent street is a street in which street trading can only take place if the consent of the local authority has first been obtained.
- 4.4 All streets within the councils' areas are designated as consent streets.
- 4.5 Prohibited streets are streets where no street trading may take place.
- 4.6 There are no prohibited streets within the councils' areas. The A34 and M40 are designated as a trunk road and motorway respectively. No street trading is permitted on motorways and Oxfordshire County Council Highways department will not approve any street trading applications for lay-bys or slip roads along the A34.

- 4.7 A licence street is a street that requires a formal licence before any form of street trading can take place.
- 4.8 There are no licence streets within the councils' areas.
- 4.9 Street traders that serve hot food or drink at any time between 11.00pm and 05.00am the following day will also require a premises licence that authorises late night refreshment under the Licensing Act 2003.
- 4.10 All applications for street trading consents must include written permission from the land owner for the business to operate from that location.
- 4.11 All applications for street trading consents must include written confirmation that planning permission has been granted for the business or that planning permission is not required.
- 4.12 Street traders who can demonstrate an established presence at a particular location as at 1 January 2014, with no outstanding complaints or enforcement action, will be granted a street trading consent subject to the submission of a valid application. These businesses will not be subject to the requirement for a formal consultation or associated fee provided they do not seek to vary the nature or location of the business as at 1 January 2014.

5 Licensing process and delegation of functions

- 5.1 The councils aim to provide a clear, consistent licensing service for applicants and consent holders.
- 5.2 The General Licensing Committee of the relevant council:
- recommends and reviews the street trading policy
 - determines applications for and reviews consents
- 5.3 The General Licensing Committee appoints a street trading panel to:
- determine the granting, modification or revocation of street trading consents when requested by the Head of Legal and Democratic Services.
- 5.4 The Head of Legal and Democratic Services is authorised to:
- (a) issue street trading consents and attach such conditions as are considered reasonably necessary under the Local Government (Miscellaneous Provisions) Act 1982.
 - (b) vary the conditions attached to an existing street trading consent when necessary to promote public safety and/or prevent nuisance or annoyance to affected parties.
 - (c) refuse any application for a consent that:
 - (i) in the opinion of the Head of Legal and Democratic Services does not comply with the councils' policy or consent conditions,
 - (ii) has been subject to objections from Thames Valley Police, Oxfordshire Fire and Rescue Service or Oxfordshire County Council highways on the grounds of public or highway safety.

(d) refer consents granted to existing street traders to the street trading panel:

(i) when there has been a substantiated complaint about the trader or the trader has breached the conditions of his/her street trading consent.

(e) refer new applications for street trading consents to the street trading panel:

(i) when valid public objections have been received.

APPLICATIONS FOR A STREET TRADING CONSENT

5.5 All new street trading consent applications (except from peripatetic street traders) will be subject to a 28 day consultation period. The consultation will seek the views of local residents and businesses that may be directly affected and statutory agencies whose responsibilities may be impacted by the proposed business. Consideration will be given to all written objections, which are not irrelevant, frivolous, vexatious, or repetitive.

5.6 The following criteria will be considered in deciding whether or not a street trading consent will be granted and on what conditions:

(a) Public safety

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. Oxfordshire County Council Highways department will be consulted on all applications to ensure high standards of road safety for applicants, customers and other road users.

(b) Public order

Whether the street trading activity represents, or is likely to represent, a risk to public order. Thames Valley Police will be consulted on all applications regarding public order.

(c) Preventing nuisance or annoyance

Whether the street trading activity represents, or is likely to represent, a risk of nuisance or annoyance to the public from noise, odour, fumes, litter or the discharge of fluids, particularly in residential areas. The relevant council's environmental protection team will be consulted on all applications regarding the prevention of nuisance.

(d) Written objections or support from local residents or their representatives

Residents will be alerted to street trading applications via a yellow A4 notice erected at the proposed consent location. The relevant town or parish council and district ward councillor will be consulted on applications for street trading consents in their area.

(e) Proximity to schools and colleges

Street trading consents for businesses supplying hot or cold food or confectionery between 08:00 and 16:00 will not be granted for locations within 100 metres of the boundary of a school or college.

(f) Planning permission

A street trading consent will only be issued where planning permission has been granted or there is written confirmation that permission is not required.

(g) Appearance of the stall or vehicle

Any stall or vehicle from which trading is permitted must be maintained and presented to the same standard as originally manufactured. Internal and external finishes must be free from defects or damage. Any stall or vehicle must meet the criteria, including size, laid down in the standard consent conditions.

(h) Food traders

Applicants for stalls or vehicles selling food must hold a current Level 2 Food Hygiene Certificate accredited by The Chartered Institute of Environmental Health, or The Royal Society of Health, or The Royal Institute of Public Health and Hygiene. All businesses must be registered with the food safety team in the district within which the consent holder lives.

(i) Proximity of similar businesses

Objections based on the proximity of similar business will be considered but limited weight will be given to objections based solely on grounds of competition.

CONTENTS OF A STREET TRADING CONSENT APPLICATION

5.7 All applications for the grant of a new street trading consent site shall include:

- completed application form downloaded from the relevant council website
- application fee (non refundable)
- written consent of the landowner
- written confirmation of the existence or requirement for planning permission
- a copy of a map showing all streets and other public areas within a radius of 100 metres from the proposed location of the street trading site. The map shall be to a scale of 1:2500 and clearly indicate the location of the proposed site in the centre of the map, and the locations of other street traders, and shops trading in similar commodities to those proposed.
- current photographs of the vehicle/stall showing external condition and signage

5.8 The 28 day consultation period will start when a completed application has been received and acknowledged by the licensing team.

5.9 If there are no valid objections or the application can be amended or conditions set in agreement with all parties a street trading consent can be issued. In addition to the application requirements above the following will be required prior to a consent being issued:

- street trading consent fee
- electrical/gas safety certificates as required. Certificates must be less than 28 days old at time of submission
- a valid insurance certificate for £5,000,000 public liability and public indemnity cover
- food hygiene certificates (for food businesses only)

DURATION OF STREET TRADING CONSENTS

5.10 Street trading consents are issued for 12 months from the date of approval unless granted for a reduced period. Consents may be revoked at any time.

RENEWALS

- 5.11 Applications for renewal must be submitted no later than 15 working days prior to the expiry date of the current consent. Renewal applications made after this date will not be valid and a new application will have to be made. No trading may take place until the new consent is issued.
- 5.12 All applications for the renewal of a street trading consent site shall include:
- a completed application form downloaded from the relevant council website
 - street trading consent fee
 - a valid insurance certificate for £5,000,000 public liability and public indemnity cover
 - current photographs of the vehicle/stall showing external condition and signage
 - electrical/gas safety certificates as required. Certificates must be less than 28 days old at time of submission
 - food hygiene certificates (for food businesses only)

TRANSFERS

- 5.13 A street trading consent cannot be transferred or sold to another person except that the consent may be transferred to a documented business partner or member of the consent holder's immediate family in the event of the consent holder's death or incapacity.
- 5.14 All transfers will be subject to a fee.
- 5.15 The sub letting of a street trading consent location or pitch is prohibited.

DECISIONS

- 5.16 Where an application is referred to the street trading panel, it will determine each application on its own merits. Members of the street trading panel will consider all information attached to the application.
- 5.17 Following the determination of an application, the Head of Legal and Democratic Services will notify the applicant of the decision in writing within ten working days of the decision.
- 5.18 There is no statutory right of appeal against refusal to issue a street trading consent or against conditions that may be included in a street trading consent.

DETERMINATION OF APPLICATIONS

- 5.19 The head of legal and democratic services (or officers authorised by the head of legal and democratic services) may determine an application for a street trading consent under delegated powers or may refer the application to the Street Trading Panel for consideration. Officers will evaluate applications against the criteria and consider all valid objections. Valid objections are those that relate to the criteria and aims of the street trading policy.
- 5.20 A street trading consent will be automatically granted if the application meets the criteria and there are no valid objections.

- 5.21 If the application does not meet the criteria, or there are valid objections the relevant council may contact the applicant and objectors to discuss changes that could be made to the proposed location, goods or trading hours and/or additional conditions that could be introduced.
- 5.22 If changing the application and/or introducing additional conditions can resolve the objections and/or criteria failures a street trading consent will be issued.
- 5.23 If making changes to the application or introducing additional conditions cannot resolve the objections and/or criteria failures a street trading consent will not be issued.

APPROVAL OF APPLICATIONS

- 5.24 The applicant will be advised by letter that their application for a consent has been granted. Applications may be approved subject to additional conditions. Additional conditions form part of the street trading consent and must be complied with at all times.

REFUSAL OF APPLICATIONS

- 5.25 Where the council refuses an application the applicant will be informed in writing of the reasons for not granting the application.
- 5.26 There is no right of appeal to the Magistrates Court.
- 5.27 A person aggrieved by a decision of the council may make an application to the high court for judicial review of the decision. For further information on potential grounds for judicial review applicants should seek advice from an independent solicitor as soon as they receive notice of the decision.

6 Markets

- 6.1 Markets and temporary markets held in the market towns of both districts are outside the scope of the street trading policy.

7 Peripatetic Street Trading

- 7.1 Street traders that meet the conditions below will be classed as peripatetic. Ice cream vans and mobile sandwich sellers would typically be deemed to be peripatetic street traders.
- 7.2 Traders must meet all of the below conditions to be classed as peripatetic.
- move from location to location
 - move at least 50 metres from the last trading location and do not return to that location within four hours
 - do not wait in one location for more than 20 minutes
 - do not trade within 100 metres of any entrance to any educational establishment (without formal invitation from the establishment)

7.3 Due to the nature of their trade over a wide geographical area and their limited impact upon a single location peripatetic street traders will automatically be granted a street trading consent subject to meeting all the above conditions and submitting a complete application.

7.4 All applications for the grant or renewal of a new peripatetic street trading consent site shall include:

- a completed application form downloaded from the relevant council website
- street trading consent fee
- a copy of a map showing the proposed area of trading
- current photographs of the vehicle/stall showing external condition and signage
- a valid insurance certificate for £5,000,000 public liability cover

8 Community and charity events

8.1 Traders at an event organised and run by a registered charity or recognised community association or other not for profit organisation for public benefit will be exempt from the requirement to obtain a street trading consent for that location, subject to the following restrictions:

- Traders cannot remain at the location more than 48 hours or return to the location more frequently than once in any four week period
- Traders must be invited to trade at the event by the organisers
- Hot food traders operating after 23:00 must submit a Temporary Event Notice prior to the event, meeting the requirements of the Licensing Act 2003.

9 Fees

9.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the administrative cost of issuing the consent and the cost of enforcement officers to ensure compliance with the conditions in the consent.

9.2 Fees will be set for initial processing of applications, issue and compliance of consents and transferring or amending consents.

9.3 Where trading ceases during the term of a street trading consent, refunds will not be given for any outstanding period of less than three months. Details of the current fees can be found on the council's website or on application to the licensing team. Fees must be paid in full and in advance.

10 Conditions

10.1 The councils will apply standard conditions to all street trading consents.

10.2 The standard conditions applied to street trading consents are attached to this policy as Annexe 1. The standard conditions applied to peripatetic street trading consents are

attached to this policy as Annexe 2. These lists are not exhaustive and other conditions may be added to individual consents as required to meet the policy criteria.

- 10.3 Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. The council must approve any changes to or replacement of the stall or vehicle.

11 Enforcement

- 11.1 The councils are committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues.
- 11.2 The licensing team aims to work closely with other enforcement authorities when dealing with issues related to street trading.
- 11.3 Where licensable activities are conducted without the benefit of a street trading consent or where conditions are breached, the council will gather evidence and take enforcement action as required.

12 Contacts

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ANNEXE 1

Generic conditions for annual street trading consent

1. No trading to which the attached consent relates shall take place except between the dates of:
2. The operational hours shall be:
Between the hours of and on Mondays
Between the hours of and on Tuesdays
Between the hours of and on Wednesdays
Between the hours of and on Thursdays
Between the hours of and on Fridays
Between the hours of and on Saturdays
Between the hours of and on Sundays
3. The street trading consent relates to the following area/site only:
4. The street trading consent relates to the following vehicle/stall only:
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. The relevant council must approve any changes to or replacement of the stall or vehicle.
6. The consent holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent holders must pay particular attention to the requirements of the Health & Safety at Work Act 1974, the Food Safety Act 1990 and associated regulations, The Food Hygiene (England) Regulations 2006 and the Environmental Protection Act 1990. Advice on these requirements is available from the relevant council.
7. All businesses selling food must be registered with the environmental health team in the district where the business address is located.
8. The consent holder shall not be the cause of any nuisance or annoyance to any other user of the highway or the occupier of any adjacent land or building. Consent holders shall have special regard to and must take positive action to prevent excessive noise.
9. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade to a licensed waste carrier. The consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The consent holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times.
10. The consent holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The street trading consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
11. The consent holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and possess a current MOT certificate.
12. The consent holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the location/s for which the street trading consent is issued. All goods must be displayed on the stall/vehicle and no freestanding racks or displays

are permitted. If a consent holder or operator/assistant is requested to move the vehicle/stall by a licensing officer or Police officer they shall immediately comply with that request.

13. The consent holder's vehicle or stall shall not exceed 3.5 metres in height nor occupy an area greater than 8m x 3m.
14. The consent holder must take adequate precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment. Where the vehicle or stall has a 240 volt electrical system an annual electrical safety certificate is required. A serviceable fire blanket and suitable fire extinguisher/s shall be provided at all times.
15. All hot food vans/trailers are required to carry a basic first aid kit. The consent holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vans should have access to a minimum of one mobile phone that must be serviceable at all times.
16. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal institute of Public Health and Hygiene.
17. A street trading consent cannot be transferred or sold to another person except that the consent may be transferred to business partner or a member of the consent holder's immediate family in the event of the consent holder's death or incapacity on payment of a fee.
18. The sub letting of a street trading consent location is prohibited.
19. The consent holder must be the principal operator and have day-to-day control of the stall/vehicle. The consent holder may employ any other person to assist in operating the stall/vehicle.
20. The consent holder may terminate a street trading consent by written notice to the relevant licensing team. A refund of the portion of the fee equal to the remaining full months (not less than three months) may be payable.
21. The consent holder shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.
22. A copy of the consent shall be clearly displayed by the operator when trading and must be produced on demand to a licensing officer or Police Officer.
23. The consent holder shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. Proof of cover must be produced to a licensing officer as required.
24. These general conditions, which apply to all street trading consents, may be varied, having regard to a particular location. Additional conditions may be required and will be displayed and listed on the street trading consent.
25. Annual fees must be paid in advance.

Failure to comply with these conditions

If the consent holder fails to comply with any of the conditions attached to a street trading consent, the consent may be revoked. The consent holder may also be prosecuted for trading outside of the location or times specified in the street trading consent.

ANNEXE 2

Generic conditions for annual peripatetic street trading consent

1. No trading to which the attached consent relates shall take place except between the dates of:
2. The operational hours shall be:
 - Between the hours of and on Mondays
 - Between the hours of and on Tuesdays
 - Between the hours of and on Wednesdays
 - Between the hours of and on Thursdays
 - Between the hours of and on Fridays
 - Between the hours of and on Saturdays
 - Between the hours of and on Sundays
3. The street trading consent relates to the following area:
4. The street trading consent relates to the following vehicle:
5. The vehicle must move from location to location within the above area.
6. The vehicle must move at least 50 metres from the last trading location and must not return to that location within four hours.
7. The vehicle must not wait in one location for more than twenty minutes.
8. The vehicle must not trade or park within 100 metres of any entrance to any educational establishment (without formal invitation from the establishment).
9. Street trading can only be carried out from the vehicle identified under the conditions of the consent. The relevant council must approve any changes to or replacement of the vehicle.
10. The consent holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent holders must pay particular attention to the requirements of the Health & Safety at Work Act 1974, the Food Safety Act 1990 and associated regulations, The Food Hygiene (England) Regulations 2006 and the Environmental Protection Act 1990. Advice on these requirements is available from the relevant council.
11. All businesses selling food must be registered with the environmental health team in the district where the business address is located.
12. The consent holder shall not be the cause of any nuisance or annoyance to any other user of the highway or the occupier of any adjacent land or building. Consent holders shall have special regard to and must take positive action to prevent excessive noise.
13. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade to a licensed waste carrier. The consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property.
14. The consent holder's vehicle shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The street trading consent bearing the name of the consent holder shall be displayed conspicuously on the vehicle so that members of the public can clearly see it during hours of business.

15. The consent holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and possess a current MOT certificate.
16. If a consent holder or operator/assistant is requested to move the vehicle by a licensing officer or Police officer they shall immediately comply with that request.
17. The consent holder's vehicle shall not exceed 3.5 metres in height nor occupy an area greater than 8m x 3m.
18. The consent holder must take adequate precautions to prevent the risk of fire at the vehicle. All hot food vehicles are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment. Where the vehicle has a 240 volt electrical system an annual electrical safety certificate is required. A serviceable fire blanket and suitable fire extinguisher/s shall be provided at all times.
19. All hot food vehicles are required to carry a basic first aid kit. The consent holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vehicles should have access to a minimum of one mobile phone that must be serviceable at all times.
20. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal institute of Public Health and Hygiene.
21. A street trading consent cannot be transferred or sold to another person except that the consent may be transferred to business partner or a member of the consent holder's immediate family in the event of the consent holder's death or incapacity on payment of a fee.
22. The consent holder must be the principal operator and have day-to-day control of the vehicle. The consent holder may employ any other person to assist in operating the business.
23. The consent holder may terminate a street trading consent by written notice to the relevant licensing team. A refund of the portion of the fee equal to the remaining full months (not less than three months) may be payable.
24. The consent holder shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.
25. A copy of the consent shall be clearly displayed by the operator when trading and must be produced on demand to a licensing officer or Police Officer.
26. The consent holder shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle and any additional equipment under their control. Proof of cover must be produced to a licensing officer as required.
27. These general conditions, which apply to all street trading consents, may be varied. Additional conditions may be required and will be displayed and listed on the street trading consent.
28. Annual fees must be paid in advance.

Failure to comply with these conditions

If the consent holder fails to comply with any of the conditions attached to a street trading consent, the consent may be revoked. The consent holder may also be prosecuted for trading outside of the location or times specified in the street trading consent.