



# **Street Trading Policy**

**Implementation Date: 21 March 2019**

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## **1.0 INTRODUCTION**

### **1.1 The Policy**

- 1.1.1. This document states Tewkesbury Borough Council's Policy on Street Trading, as defined by the Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4).
- 1.1.2. In exercising its discretion in carrying out its regulatory functions, Tewkesbury Borough Council will have regard to this Policy document and the principles set out therein.
- 1.1.3. Notwithstanding the existence of this Policy, each application will be considered on its own merits, with reference to the principles and procedures that are detailed in this Policy.

### **1.2. The Objectives of this Policy**

- 1.2.1. This Policy recognises the important service that is provided by street traders and the contribution they make to the local economy.
- 1.2.2. The objective of this Policy is to create a trading environment in which street trading complements existing premises-based retailing activities, is sensitive to the needs and concerns of residents and provides diversity in terms of consumer choice.
- 1.2.3. The Policy aims to ensure that street trading does not undermine safe and efficient passage along public highways.
- 1.2.4. This Policy aims to balance the needs of the wider community, local community and street traders, against the needs of those who may be adversely affected by the street trading activities.
- 1.2.5. The Policy aims to provide consistency and transparency in the way in which the Council deals with street trading and to ensure that street trading is fairly, appropriately and proportionately controlled, in line with the Council's Corporate Enforcement Policy.

### **1.3. The Law**

- 1.3.1. The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. This activity is defined as "*the sale and exposing or offering for sale any article, including a living thing, in a street.*" Streets are further defined as to include any road, footway, beach, or other area to which the public have access without payment.
- 1.3.2. The main purpose of this legislation is to establish an appropriate regulatory regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading. This legislation provides local

authorities with the power to designate specific areas within their administrative boundaries as either:

- Prohibited Streets: those which are not open to street traders
- Consent Streets: where street trading is prohibited without Local Authority consent
- Licence Streets: where trading is prohibited without a Local Authority licence

1.4.1 Local authorities can place conditions on any Consent or Licence granted. The Act also creates offences associated with trading in Consent or Licence streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine of up to £1000.

1.4.2 There are, however a number of exemptions provided in the Act, which are not considered to be street trading. These are detailed in Section 10 below (definition of 'Street Trading'). However it is important to note that exempted traders are still controlled by other regulatory legislation.

## **1.5 Licensing Act 2003**

1.5.1 It should be noted that should a street trader wish to sell alcohol or provide late night refreshment, additional authorisation will be needed under the terms of the Licensing Act 2003.

1.5.2 Late night refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week.

1.5.3 Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

## **2.0 DESIGNATION OF STREETS FOR THE PURPOSES OF STREET TRADING**

### **2.1 Prohibited Streets**

Listed below are the streets that have been designated by the Council as prohibited streets. These are streets in which street trading is prohibited:-

- The A438 / A46 from its easterly junction with Barton Street and Chance Street, Tewkesbury to the Teddington Hands Roundabout.
- Evesham Road / Cheltenham Road at Bishops Cleeve from the boundary with Cheltenham Borough Council to Anchor Cottage Bend, Bishops Cleeve.
- The A46 from the Teddington Hands roundabout to the County boundary with Worcestershire.
- The A4019 from the boundary with Cheltenham Borough Council at Swindon to the junction with the M5 motorway but to exclude the lay-by at the southern side of this road at Uckington.

- The A40 from the boundary with the Cheltenham Bough Council at Badgeworth Parish Council to Gloucester City Council at Innsworth Parish (i.e. the Golden Valley By-Pass).
- The A40 from the junction with the A48 at Highnam to the boundary with Gloucester City Council.
- The A46 from the boundary with Cheltenham Borough Council to the junction with Ermin Street and Cirencester Road at Brockworth.
- Hucclecote Road / Ermin Street / Cirencester Road, Brockworth from the boundary with Gloucester City Council to the junction between Cirencester Road and Green Lane
- The lay-by at the side of the B4632 at Postlip, Winchcombe.
- The B4063 from its junction with the A40 at the Golden Valley roundabout to the eastern edge of the Churchdown urban areas.
- The B4632 in Winchcombe from its junction with Corndean Lane to its junction with Silk Mill Lane.
- North Street, Winchcombe from its junction with High Street to its junction with Back Lane and Greet Road.
- The A38 Tewkesbury from the High Street and Bredon Road junction to the junction with the A438 at the Mythe.
- High Street, Barton Street, and Church Street, Tewkesbury.
- Oldbury Road, Tewkesbury from its southerly junction with Nelson Street to its northerly junction with Bredon Road.

## **2.2 Consent Streets**

All other streets in the Borough have been designated by the Council as “consent streets”. This means that street trading can only take place in these streets with the consent of the Council.

## **2.3 Prime Sites**

A “Prime Site” category is considered as one where an applicant seeks consent to trade in a street, and regularly occupies the same site for more than 4 hours on any one or more days, and is located within 100 metres of a shopping area as listed below.

- Lee Road and Northway Lane Shopping Centre, Ashchurch
- Church Road, The Green and Tobyfield Road, Bishops Cleeve
- Abbottswood Road, Court Road, The Parade, Usk Way, Ermin Park and Ermin Parade, Brockworth

- Blacksmith Lane, Brookfield Road, Chosen Drive and St Johns Avenue, Churchdown
- Kestrel Parade and Salvia Close, Innsworth
- Barton Street, Church Street, High Street, Mitton Way, Oldbury Road and Queens Road, Tewkesbury
- High Street, North Street and Station Road, Winchcombe

### **3.0 APPLICATIONS FOR A STREET TRADING CONSENT**

#### **3.1 Advice for New Applicants**

- 3.1.1 New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice, as well as clarifying any areas of uncertainty.
- 3.1.2 It is the responsibility of the applicant, in the first instance, to identify the location(s) in which they wish to trade as there is no designated list of street trading “pitches” that can be traded from.
- 3.1.3 The Council can also provide advice in relation to other legal requirements of a new Consent Holder, for example, planning permission or food safety requirements.

#### **3.2 Disclosure & Barring Service (DBS)**

- 3.2.1 Applicants applying for a new street trading consent will be expected to obtain a basic DBS certificate (formerly known as CRB) from the Disclosure and Barring Service, which must be no more than one calendar month old when submitted to the Council.
- 3.2.2 The DBS certificate must be in the name and address of the applicant as detailed on the application form.
- 3.2.3 The original certificate must accompany the application form.
- 3.2.4 The Council will ask for a new DBS certificate from an applicant on renewal of their consent every third year beginning with the year after the issue of a new consent.
- 3.2.5 When determining an application for the grant or renewal of a street trading consent the Council will consider all relevant information relating to the suitability of the applicant to hold such a consent. Street traders and their commercial activities are often subject to minimum levels of supervision. They interact closely with members of the public and it is important that the public, especially vulnerable people are protected from harm, and from those who may harm them, wherever possible.

#### **3.3 Suitability of Applicant**

3.3.1 The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a consent unless satisfied that the applicant is suitable. In determining this, the Council may have regard to any information, which it considers relevant including:-

- Whether the applicant has been convicted of a relevant offence;
- Refusal or neglect in paying fees due to the Council for a street trading consent, or for any other charges due for services rendered by the Council to the applicant in his capacity as the holder of a street trading consent;
- Previous failures of the applicant, without reasonable excuse, to make use, to a reasonable extent, of a previous street trading consent;
- Any previous enforcement action;
- Any previous refusal of an application for the grant or renewal of a Street Trading Consent;
- Any previous revocation of a Street Trading Consent.

3.3.2 Identification badges will be issued by the Council to demonstrate the suitability of the consent holder and any assistants who may be trading on their behalf. Other employees may not need to apply for DBS check and an identification badge as long as they are supervised at all times by a badge holder.

3.3.3 Identification badges do not reflect the street trading consent. Consent holders are still required to display their consent on their unit. Each applicant or assistant will only require one badge per person; this applies if they trade under more than one street trading consent.

### **3.4 Applications**

3.4.1 All applications for grant or renewal of a Street Trading Consent must be made on the Council's prescribed application form. A copy of the prescribed form is attached to this Policy at **Annex A**.

3.4.2 Each application must be accompanied by the prescribed application fee. An application will not be considered as duly made until the prescribed application fee has been received.

3.4.3 The following will also be required to be submitted with the application:-

- Where the proposed trading is from a fixed location, a copy of a plan at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.
- Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place providing details where possible about specific areas.
- Confirmation that an adequate level of third party public liability insurance is, or will be, in place during street trading activity.

- Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land.
- Two passport sized photographs of the applicant and any person who will be assisting with the trading on a regular basis. One of the photographs of each person must be endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, a person of standing in the community or any individual with a professional qualification.
- A basic Disclosure and Barring Service (DBS) disclosure certificate dated not more than 1 month prior to the date of the application.

3.4.4 Applications cannot be considered from anyone under the age of 17.

### **3.5 Processing an Application**

3.5.1 Applications for grant or renewal of a Street Trading Consent will be notified by the Council to the following:-

- Gloucestershire Constabulary.
- Gloucestershire Highways.
- The relevant Town/Parish Council(s).
- The Borough Councillor(s) for the Ward(s) concerned.
- Environmental Health Officers at Tewkesbury Borough Council.
- The Planning Authority.

3.5.2 Additionally, where the application is for grant of a new Consent in respect of a fixed location, the applicant must also advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 14 days beginning with the day after the application for Consent is made to the Council. The form of the Public Notice required is shown at **Annex B** to this Policy.

3.5.3 The Council will allow 28 days from the date that the application is received for people to make representations or objections in relation to the application.

3.5.4 Representations or objections will be accepted from any of the bodies listed at 3.3.1 and any other individual or business that can demonstrate that they would be materially affected by the proposed street trading activities.

### **3.6 Determining Applications with no Representations or Objections**

3.6.1 Where no representations or objections are received within 28 days of the application being received, and the application complies with the council's policy in terms of the suitability of the trading location, applicant and type of goods, officers will grant Consent to the applicant in the terms that it was applied for.



### **3.7 Determining Applications through Mediation**

- 3.7.1 Where a representation or objection is received in respect of an application, a Licensing Officer will, in the first instance, attempt to mediate between the relevant parties.
- 3.7.2 For example, it may be possible to find a compromise position in one of the following ways:-
- amending the times during which trading will take place;
  - amending the days on which trading will take place;
  - adding conditions to the Consent to address specific concerns;
  - granting Consent for a trial period to assess the impact; or
  - amending the list of articles to be sold.
- 3.7.3 Where all relevant parties agree to a compromise position, the Consent will be granted by Officers, subject to the agreed amendments.

### **3.8 Determining Applications Where Mediation Is Not Possible**

- 3.8.1 Where representations or objections are received and it is not possible to reach an agreed compromise, the application can be referred, at the applicant's request, to a Licensing Sub-Committee for determination.
- 3.8.2 The Licensing Sub-Committee will be conducted in accordance with the procedure attached at **Annex C** of this Policy.

### **3.9 Key Considerations**

- 3.9.1 Each application will be considered on its own merits.
- 3.9.2 The Council will have regard to all of the circumstances and all of the representations and objections that it receives. The Council will normally grant or renew a Street Trading Consent unless, in its opinion,:-
- a significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
  - there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
  - there would be a significant loss of amenity caused by traffic, noise (whether from trading unit or its customers), light pollution, rubbish, air quality, potential for the harbourage of vermin; or
  - there is already adequate like provision in the vicinity of the site to be used for street trading purposes; or
  - there is a conflict with Traffic Orders such as waiting restrictions; or
  - the site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
  - street trading activities would undermine the safe and efficient passage along public highways and cause congestion; or

- the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or
- the site does not allow the Consent Holder, staff and customers to park in a safe manner; or
- the trading activity would detract from the visual or other attractions of the area in which it takes place, particularly designated Conservation Areas, Areas of Outstanding Natural Beauty and Sites of Special or Scientific Interest; or
- street trading activities would conflict with the solemnity and tranquillity that can reasonably be expected at sensitive locations, such as close to a place of worship, cemetery, crematorium etc; or
- the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff; or
- a Consent has already been granted to another person to trade similar articles in the immediate vicinity.

### **3.10 Options Available to Licensing Sub-Committee**

3.10.1 When determining an application for grant or renewal of a Street Trading Consent, a Licensing Sub-Committee can take any of the following steps as is considered desirable with a view to meeting the objectives of this Policy:-

- (a) grant consent to the applicant as applied for;
- (b) grant consent to the applicant subject to modifications to any of the following matters:
  - (i) the days on which trading can take place;
  - (ii) the times during which trading can take place;
  - (iii) the location(s) where trading can take place;
  - (iv) the articles that can be traded;
  - (v) the conditions attached to the Consent;
  - (vi) the duration of the Consent.
- (c) refuse to grant Consent.

3.10.2 In the interests of transparency, reasons will be given for any decision taken by a Licensing Sub-Committee.

## **4.0 DURATION OF STREET TRADING CONSENTS**

### **4.1 Duration**

4.1.1 A Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.

4.1.2 The holder of a Street Trading Consent may at any time surrender their Consent to the Council, and it shall then cease to be valid

- 4.1.3 A Street Trading Consent will normally be granted for 6 or 12 months, in accordance with the applicant's wishes, and will then expire.
- 4.1.4 The Council will consider granting a Street Trading Consent for a shorter duration than 6 months on application.
- 4.1.4 A Street Trading Consent may be granted for a shorter period as determined either through the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee. Consents lasting less than 6 months may be granted to provide a "trial period" during which any adverse impact of the trading can be assessed.

## **4.2 Renewal**

- 4.2.1 Applications to renew an existing Street Trading Consent must be made at least 28 days prior to the expiry of the existing Consent.
- 4.2.2 If applications for renewal are not received at least 28 days prior to the expiry of the existing Consent, applications from other prospective traders wishing to trade at the relevant location will be considered.

## **5.0 CONDITIONS ATTACHED TO CONSENTS**

### **5.1 Standard Conditions**

- 5.1.1 When granting or renewing a Street Trading Consent, the Council may attach such conditions to it as they consider reasonably necessary.
- 5.1.2 Street Trading Consents will usually be granted subject to the standard conditions detailed in **Annex D** to this Policy.

### **5.2 Additional Conditions**

- 5.2.1 Additional conditions, over and above the standard conditions, may be imposed on a Street Trading Consent on a case by case basis. Additional conditions may be attached either as a result of the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee when granting Consent.

## **6.0 APPEALS**

### **6.1 Refusals / Attached Conditions**

- 6.1.1 The Act does not provide an applicant with any direct right of appeal against a decision to refuse the grant or renewal of a Street Trading Consent, the revocation of a Street Trading Consent, or against any restrictions or conditions imposed on a Street Trading Consent.

## **7.0 COMPLAINTS AND ENFORCEMENT**

### **7.1 General Principles**

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.
- 7.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

## **7.2 Offences**

- 7.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-
- engaging in street trading in a prohibited street;
  - engaging in street trading in a consent street without Consent;
  - contravention of a condition in relation to trading location; and
  - contravention of a condition in relation as to the times between which or periods for which a Consent Holder can trade.

## **7.3 Complaints**

- 7.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.
- 7.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:-
- verbal warning;
  - written warning;
  - simple caution;
  - prosecution; or
  - referral of the Consent Holder to a Licensing Sub-Committee.
- 7.3.3 If an existing Consent Holder is referred to a Licensing Sub-Committee, the Licensing Sub-Committee may take any of the following steps as are deemed desirable to meet the objectives of this Policy:-
- take no further action;
  - give a warning to the Consent Holder;
  - amend the days on which trading can take place;
  - amend the times during which trading can take place;
  - amend the location(s) where trading can take place;
  - amend the articles that can be traded;
  - amend the conditions attached to the Consent;
  - amend the duration of the Consent; or
  - revoke the Consent.
  -

## **8.0 AMENDMENTS TO THIS POLICY**

- 8.1 Any significant amendment to this Policy will only be implemented after further consultation with the trade and the public.

For the purpose of this section, any significant amendment is defined as one that:-

- a) is likely to have a significant financial effect on licence holders;
- b) is likely to have a significant procedural effect on licence holders; or
- c) is likely to have a significant effect on the community.

## **9.0 FEES AND CHARGES**

- 9.1 The fees charged by the Authority for Consents to trade should at least cover the cost of administering and enforcing the service.
- 9.2 The fees will be reviewed at least on an annual basis and published on the Council's website.
- 9.3 It is possible for the Authority to charge different fees for Consents that are for different durations or locations. Different fees can also be charged depending on the nature of the articles being sold and depending on whether the trading takes place at a single location or on a mobile basis.
- 9.4 Street trading fees may be waived at the discretion of the relevant Corporate Head of Service, acting in consultation with the Chairman and Vice-Chairman of the Licensing Committee. Fees may only be waived in relation to charitable or community events, or events of a similar nature. Each event will be judged on its own merits.

## **10.0 DEFINITIONS**

<b>TERM</b>	<b>DEFINITION</b>
Authorised Officer	An Officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Consent	A Consent to trade on a street granted by the Council, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder	The person or company to whom the consent to trade has been granted by the Council.
Consent Street	A street in which street trading is prohibited without the consent of the Council.
Council	Tewkesbury Borough Council
Days	Refers to consecutive or calendar days unless specified otherwise.
Prohibited Street	A street in which street trading is prohibited
Prime Site	A "Prime Site" category is one where an applicant seeks

consent to trade in a street, and regularly occupies the same site for more than 4 hours on any one or more days, and is located within 100 metres of a shopping area as listed.

Street	Any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the public without payment, within the distance of 30 metres from the centre of those streets which are part of the public highway.
Street Trading	<p>The selling or exposing, or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this Policy:-</p> <ul style="list-style-type: none"> <li>• a pedlar with a Pedlar's Certificate;</li> <li>• anything done in a Market or Fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an Enactment or Order;</li> <li>• trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980;</li> <li>• trading as a newsvendor selling only newspapers/magazines;</li> <li>• trading which is carried out at premises used as a petrol filling station, or at premises used as a shop, or in a street adjoining premises so used, and as part of the business of the shop;</li> <li>• selling things, or offering or exposing them for sale, as a rounds man;</li> <li>• the use for trading, under Part VIIA of the Highways Act 1980, of an object or structure placed on, in or over a highway;</li> <li>• the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;</li> <li>• the doing of anything authorised by regulations made under Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916.</li> </ul>
Street Trading Assistant	<p>A person engaged by the Consent Holder to assist them with their trading.</p> <p>A street trading assistant will be deemed to be assisting a Consent Holder on a regular basis if they will be engaged to assist them on more than 14 days per calendar year.</p>



## ANNEX A



**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT  
1982**

**SCHEDULE 4**

**TEWKESBURY BOROUGH COUNCIL**

Licensing Section, Council Offices, Gloucester Road, Tewkesbury, GL20 5TT

**APPLICATION FOR A STREET TRADING CONSENT**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

**1. Type of Application**

<b>Grant</b>		<b>Renewal</b>	
<b>12 Month Consent</b>		<b>6 Month Consent</b>	
<b>Other period (please specify)</b>			

**2. Personal Details of Applicant**

<b>Full Name</b>					
<b>Permanent Address</b>					
<b>Age</b>		<b>Date of Birth</b>		<b>NI Number</b>	



Contact Telephone Number	
--------------------------	--

Are you eligible to work in the United Kingdom?

**YES / NO**

**3. Details of any person(s) who will be assisting with the street trading on a regular basis?**

Full Name					
Permanent Address					
Age		Date of Birth		NI Number	

Is this person eligible to work in the United Kingdom?

**YES / NO**

Full Name					
Permanent Address					
Age		Date of Birth		NI Number	

Is this person eligible to work in the United Kingdom?

**YES / NO**

5. **Will the trading be carried out:**

From a single fixed location		From a number of locations on a “mobile” basis	
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6. **Where is it proposed that the trading will take place? (see Guidance Notes)**

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If this location is on private land, can you provide documentary evidence that you have the landowners' permission to trade from their land?

**YES / NO**

7. **Trading Hours**

During which hours do you wish to trade on the following days?

Monday		Tuesday	
Wednesday		Thursday	
Friday		Saturday	
Sunday			

8. **Description of the articles to be sold or offered for sale**

--

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If selling foodstuffs, are you registered with the relevant Local Authority to carry on a food business? **YES / NO**

**9. Description of any van, cart, barrow, portable stall of other vehicle used for trading including (if applicable) the vehicle registration number**

--

**10. Address where any van, cart, barrow, portable stall of other vehicle used for trading will be kept when not being traded from**

--

**12. Previous Applications / Licences / Consents**

Have you ever been refused a Street Trading Licence or Consent or had such a Licence or Consent revoked? **YES / NO**

If yes give details (continue on a separate sheet if necessary)

--

**13. Declaration (See Guidance Notes at the end of this form)**

I declare that I have checked the information given on this application form and to the best of my knowledge and believe it is correct.

I understand that I must now advertise my application in accordance with Tewkesbury Borough Council's Street Trading Policy.

I have enclosed all of the following:-

- The relevant fee.
- A plan (where necessary) showing the location where I wish to trade.
- Two passport sized photographs of myself and any regular assistant.
- A copy of my third party public liability insurance.
- Documentary evidence of the landowners permission to trade from their land (where necessary)

I understand that if I fail to comply with the above, my application will be rejected.

**Signed** \_\_\_\_\_

**Date** \_\_\_\_\_

**Print Name** \_\_\_\_\_

<b>For Office Use Only</b>	
Police response received	

## **Application Form - Guidance Notes**

### **False Statements in Connection with Applications**

Any person who, in connection with an application for the grant or renewal of a Consent under this Schedule, makes a false statement which they know to be false in any material respect, or which they do not believe to be true, shall be guilty of an offence. This offence carries a maximum penalty of £1000

### **Giving Public Notice of the Application**

Where the application is for grant of a new Consent in respect of a fixed location, the applicant must advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 14 days beginning with the day after the application for Consent is made to the Council.

### **Plans / List of Parishes**

Where the proposed trading is from a fixed location, a copy of a plan must be provided at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.

Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place must be provided along with details where possible about the specific areas in which the trading will take place.

### **Trading from Private Land**

Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land must be provided.

### **Prevention and Detection of Fraud**

This Authority is under a duty to protect the public funds it administers and to this end, may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information see [www.tewkesbury.gov.uk/NFI](http://www.tewkesbury.gov.uk/NFI).

## ANNEX B

## NOTICE OF APPLICATION FOR GRANT OF A STREET TRADING CONSENT

Name of Applicant	
Location	
Summary of application (hours of trading, articles to be sold, etc):          	
<p><b>NOTICE IS HEREBY GIVEN</b> that an application has been made to Tewkesbury Borough Council for a Consent to carry out street trading at the above location</p> <p>Copies of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a Consent) and of the application may be inspected at Tewkesbury Borough Council, Council Offices, Gloucester Road, Tewkesbury, GL20 5TT between 9.00 am and 4.00 pm (Monday to Friday except public holidays).</p> <p>Any representations or objections in respect of the above application must be made in writing to the council at the above address by</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">(28 days after the date of the application)</p>	

## **ANNEX C – HEARINGS PROCEDURE**

# **TEWKESBURY BOROUGH COUNCIL**

## **Licensing Sub-Committee (Street Trading)**

### **Procedure**

1. The Chairman will ask everyone present to introduce themselves.
2. The Chairman will briefly explain the procedure to members of the public.
3. The Licensing Officer will open the hearing with an outline of the relevant details of the application.
4. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Sub-Committee.
5. The Sub-Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Members of the Sub-Committee may ask questions of all those present.
6. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
7. At the conclusion of the hearing, the stage at which the Sub-Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information or clarification all parties at the hearing must be invited to return.
8. When the Sub-Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence/Consent.

**ANNEX D**

# **STREET TRADING CONSENT** **STANDARD CONDITIONS**

## **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

Street Trading Consents are issued by this Council subject to the following Standard Conditions, in so far as they do not conflict with, or are amended by, any special conditions imposed on the grant of a Consent:-

- The Consent shall be valid for the period specified in the Consent, but this period shall not exceed 12 months.
- The Consent may be revoked by the Council at any time.
- A Consent shall be required for each trading unit (e.g. each vehicle or stall).
- A Consent shall not be assigned or transferred.
- Street trading must only be carried on by the Consent Holder or by a person engaged by the Consent Holder to assist in their trading.
- The Consent Holder must provide the name, address and date of birth of any person assisting them with their trading on a regular basis.
- Consent Holders, and any person assisting them on a regular basis, shall at all times, clearly and visibly display a valid identification badge. The badge is to be issued by the Council.
- The Council may vary or make additions to the Conditions or a Consent at any time.
- The Consent shall be limited to the days of the week, and between the hours each day, as stated on the Consent.
- The Consent Holder and/or his assistants shall only sell, or offer for sale, those goods specified in the Consent granted to the Consent Holder.
- The Consent Holder, and/or his assistants, shall only trade at the location(s) specified in the Consent.
- The Consent Holder, and/or his assistants, must not cause an obstruction of any street or endanger any person using it.
- The Consent Holder, and/or his assistants, must not cause nuisance (whether from noise, smell, litter or light) or annoyance by reason of the street trading activity, whether to persons using or living in the street or otherwise. In particular, but without prejudice to the generality of the foregoing, the Consent Holder shall ensure that his customers or patrons conduct themselves in an orderly manner.



- Where a trader trades from a fixed location, at least one refuse container must be provided for use by customers.
- When leaving a site the trader shall ensure that the locations in the immediate vicinity of where he has been trading are clear of refuse and waste arising from the trading.
- Traders must arrange the removal and disposal of waste arising from their trading in a lawful manner.
- No waste matter shall be discharged onto a street or be allowed to enter a highway drain.
- The use and storage of liquefied petroleum gas shall comply with all current, relevant legislation and Codes of Practice.
- No television, radio, tape player or other device used for the entertainment of the Operator, shall be audible outside, or beyond, the trading unit.
- All signs advertising the business must be no more than 50 metres from the trading unit.

**NOTE:** The requirements as to signs advertising the business do not imply the right to display such signs which may require a necessary planning permission.

- At the end of each trading period the trader shall remove any signs advertising the business, with the exception of those attached to the vehicle or stall used for the purposes of the Street Trading Consent.
- No television, radio, tape player or other device used for the reproduction or amplification of sound during trading shall be at a level which causes nuisance or annoyance to persons using or living in the street.
- Any vehicle, stall or container used by the Consent Holder in the course of street trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council, the Police and Highway Authorities as to its construction, safety and appearance.
- The Consent Holder shall, at all times, maintain a valid Third Party Public Liability Insurance Policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised Officer of the Council.
- The Consent Holder, and/or assistants, shall not trade whilst intoxicated and should behave in a civil and orderly manner at all times when trading.
- Consent holders, and any/or assistants, should wear clean and appropriate clothing.
- The Consent Holder must notify the Council within 7 days if any of the information provided when applying for the consent changes.

A Street Trading Consent does not operate as a consent for any purpose other than to permit the holder to trade on a Consent Street in accordance with any conditions imposed. The Consent Holder must ensure that he has obtained any other consent, approval or registration required under any other statutory provision relevant to his trade.

In these conditions "Consent" means a consent issued under Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; "Consent Holder" means the person named on the Street Trading Consent issued by the Council and any person employed by him to assist in his trading; "Council" means the Tewkesbury Borough Council.

## **ADDITIONAL CONDITIONS APPLICABLE TO MOBILE FOOD VENDORS**

### **USE OF LOUDSPEAKERS TO ATTRACT BUSINESS<sup>1</sup>**

Chimes should not be sounded:

1. For longer than 4 SECONDS at a time.
2. More often than ONCE every 3 MINUTES.
3. When the vehicle is stationary.
4. Except on approach to a selling point.
5. When in sight of another ice-cream van which is trading.
6. When within 50m of schools (during school hours), hospitals, and places of worship (on Sundays and any other recognised days of worship).
7. More often than ONCE every 2 HOURS in the same street.
8. Louder than 80 dB(A) at 7.5m (Contact your Local Authority for advice).
9. As loudly in quiet areas or narrow streets as elsewhere.

### **REMEMBER - IT IS AN OFFENCE TO SOUND YOUR CHIMES**

1. Before 12 noon and after 1900 hours.
2. At any time in a way which gives reasonable cause of annoyance.

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<sup>1</sup> Based on the Control of Noise (Code of Practice on Noise From Ice-Cream Van Chimes etc.) Order 1982

**Annex E**

## **Guidelines on the Suitability of Applicants**

**General Principles**

The primary aim of this policy is public protection. To help in achieving that aim, the council will consider the suitability of applicants to be authorised as street traders. Street traders and their commercial activities are often subject to minimum levels of supervision. They interact closely with members of the public and it is important that the public, especially vulnerable people are protected from harm and from those who may harm them, where ever possible.

The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a licence unless satisfied that the applicant is suitable, in determining this, the authority may have regard to any information, which it considers to be relevant, in particular:

- Whether the applicant has been convicted of any relevant offence;
- Whether the applicant has been the subject of any relevant enforcement action;
- Any previous refusal of an application for the issue or renewal of a street trading consent (and the reasons for the refusal);
- Any previous revocation of a street trading consent (and the reasons for the revocation)

For the purposes of this policy, relevant offences include unspent convictions and cautions, for offences involving dishonesty, the use and supply of controlled drugs, violence and offences of a sexual nature, which are less than 3 years old from the date of application, will be included in the consideration of whether the applicant is a suitable person to hold a licence.

A person with a conviction for a relevant offence will be expected to have remained free of conviction for a period of time, before an application is granted. Some discretion may be exercised if the offence is isolated, minor in nature and there are mitigating circumstances. However, the overriding consideration will always be the protection of the public.

Notwithstanding the above, the Council is aware of its duty not to restrict its discretion and it shall permit representations from the applicant explaining why it may nevertheless, be appropriate to receive consent.

**Guidelines on the relevance of convictions**

Each case will be decided on its own merits.

(1) The Council will assess whether:

- (a) an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent,
- (b) a person who wishes to be registered as an assistant to a street trading consent holder or to continue to be registered as an assistant to a street

trading consent holder is a suitable person to be registered as an assistant to a street trading consent holder.

In making that assessment, the Council consider the previous convictions of such persons.

- (2) In considering the previous convictions of those persons mentioned in paragraph 1 the Council will consider the following:-
  - (a) whether the conviction is relevant;
  - (b) the seriousness of the offence;
  - (c) the length of time since the offence occurred;
  - (d) whether there is a pattern of offending behaviour;
  - (e) whether that person's circumstances have changed since the offence occurred;
  - (f) the circumstances surrounding the offence and the explanation offered by that person.
- (3) The following examples provide a general guide on the action to be taken where relevant convictions and cautions are evident

**(a) Offences involving Violence**

Applicant with convictions for offences involving violence will be considered carefully. Depending on the nature and seriousness of the offence, when applicants have convictions for causing grievous bodily harm, wounding, assault, or even more serious offences involving violence. In general, a period of three to ten years free of convictions should elapse before an application will be granted.

**(b) Drug related offences**

An isolated conviction for a drug offence, whether for unlawful possession only or involving the supply of controlled drugs, will not necessarily prevent an applicant from obtaining a street trading consent, provided the applicant has at least three years free of convictions.

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than 5 years before the date of the application.

**(c) Sexual offences**

Applicants with any unspent sexual related offences will not normally be granted a street trading consent.

**(d) Dishonesty**

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public. Members of the public using a street trading outlet expect the holder and his assistant to be honest and trustworthy. For these reasons a serious view will be taken of any conviction involving dishonesty.

Convictions for isolated minor offences will not necessarily prevent an applicant from obtaining a street trading consent but in cases involving serious theft or fraud, at least three years should elapse before an application is granted. When offences of

dishonesty have been accompanied by violence, at least five years free of conviction should elapse before an application will be granted.

**(e) Motoring Convictions**

In most cases, motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent or to be registered as an assistant to the holder of a street trading consent is a suitable person. However, there may be instances where the offences are of a very serious nature. In those cases, an applicants would be expected to show a period of at least 3 years free of any such convictions from the date of conviction or the date of release from jail, where a custodial sentence has been imposed.

**(f) Formal Cautions and fixed penalty notices.**

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

In all cases, each individual application will be decided on its own merits.

**Disclosure and Barring (DBS)**

All application forms must be accompanied by an enhanced disclosure as the Council must be satisfied that he applicant is a suitable person.

If any unspent convictions or cautions are declared, depending on their nature, then the Council may as part of the application process hold a hearing to determine whether the applicant is a suitable person to hold a street trading consent. The application will not proceed until the suitability of the applicant has been determin~~ed~~.