



## **BROMSGROVE DISTRICT COUNCIL**

### **VIRTUAL MEETING OF THE LICENSING (MISCELLANEOUS) SUB-COMMITTEE B**

**TUESDAY 8TH DECEMBER 2020 AT 6.30 P.M.**

MEMBERS: Councillors S. J. Baxter and M. Thompson (3<sup>rd</sup> Member to be determined)

Reserve Member: To be determined

### **AGENDA**

#### **LICENSING (MISCELLANEOUS) SUB-COMMITTEE B HEARING PROCEDURE** (Pages 1 - 4)

1. Election of Chairman
2. To receive apologies for absence and notifications of substitutes
3. Declarations of Interest  
  
To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
4. Application for a Street Trading Consent - The car park at Bromsgrove Rugby Club, Fininstall Road, Bromsgrove, Worcestershire, B60 3DH (Pages 5 - 42)
5. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman considers to be of so urgent a nature that it cannot wait until the next meeting.

K. DICKS  
Chief Executive

Parkside  
Market Street  
BROMSGROVE  
Worcestershire  
B61 8DA

30th November 2020

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**If you have any queries on this Agenda please contact  
Pauline Ross  
Democratic Services Officer**

**Parkside, Market Street, Bromsgrove, B61 8DA  
Tel: 01527 881406**

**e.mail: [p.ross@bromsgroveandredditch.gov.uk](mailto:p.ross@bromsgroveandredditch.gov.uk)**

# **GUIDANCE ON VIRTUAL MEETINGS**

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**Due to the current Covid-19 pandemic Bromsgrove District Council will be holding this meeting in accordance with the relevant legislative arrangements for remote meetings of a local authority. For more information please refer to the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police Crime Panels meetings) (England and Wales) Regulations 2020.**

**Please note that this is a public meeting conducted remotely by Skype conferencing between invited participants and live streamed for general access via the Council's YouTube channel.**

**You are able to access the livestream of the meeting from the Committee Pages of the website, alongside the agenda for the meeting.**

**If you have any questions regarding the agenda or attached papers please do not hesitate to contact the officer named above.**

## **Notes:**

**As referred to above, the virtual Skype meeting will be streamed live and accessible to view. Although this is a public meeting, there are circumstances when the sub-committee might have to move into closed session to consider exempt or confidential information. For agenda items that are exempt, the public are excluded and for any such items the live stream will be suspended and that part of the meeting will not be recorded.**

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# Appendix

## STREET TRADING CONSENT APPLICATION LICENSING (MISCELLANOUS) SUB-COMMITTEE

### VIRTUAL HEARING PROCEDURE

1. The Chairman will open the hearing and introduce members of the Sub-Committee and officers present.
2. The Chairman will introduce all other parties.
3. The Chairman will remind the Applicant that he/she can be represented by a legal representative at his/her own expense.
4. The Technical Officer, Worcestershire Regulatory Services will present the report.
5. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Technical Officer.
6. The Chairman will invite the Applicant and/or his/her representative to present his/her case and call any witnesses.
7. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Applicant and/or his/her representative.
8. Consultees / Interested Parties will be invited to present their representations or elect a spokesperson to speak on their behalf. New representations must not be raised.
9. The Chairman will invite Members of the Sub-Committee and all other parties present to put any relevant questions to the Consultees / Interested Parties.
10. The Consultees / Interested Parties will be invited to sum up.
11. The Applicant or his/her representative will be invited to sum up.
12. The Chairman will ask the Legal Adviser if there is any legal advice to be given.
13. At the conclusion of the hearing, ALL parties present will be placed in a virtual meeting Lobby, the Members of the Sub-Committee, the Legal Adviser and the Democratic Services Officer will remain in the virtual meeting.
14. Once the Sub-Committee has reached its decision, ALL parties will be called back into the virtual meeting with the Members of the Sub-Committee, the Legal Adviser and the Democratic

# Appendix

**Services Officer. The Sub-Committee's decision, together with the reasons for the decision, will be announced by the Chairman.**

- 15. The Sub-Committee's decision will be confirmed in writing to the Applicant and those parties who made representations.**

**There is no right of appeal against the Council's decision to refuse to grant or revoke a Street Trading Consent.**

# Appendix

**Please Note:**

- 1) ***Each application coming before the Licensing Sub-Committee will be treated on its own merits. In determining an application for a Street Trading Consent, the Council will consider the following factors:***
  - (a) ***Consultation – relevant responses from consultees***
  - (b) ***Local Government Miscellaneous Provisions Act 1982***
  - (c) ***Bromsgrove District Council's Street Trading Consent Policy***
- 2) ***The Chairman may require any person who in his/her opinion is behaving in a disruptive manner to leave the meeting, and may refuse to permit that person to return, or permit him/her to return only on such conditions as the Chairman may specify. However, such person may, before the end of the hearing, submit in writing any information which he/she would have been entitled to have given orally at the meeting had he/she not been required to leave.***
- 3) ***Decisions may be taken in the absence of the Applicant or any other party. All notices and representations received from absent parties will be considered.***
- 4) ***Questioning must not be hostile or intended to unfairly undermine the position of any party.***
- 5) ***Late evidence will only be considered with the agreement of all parties present.***
- 6) ***In cases where a decision cannot be given at the end of the hearing, a decision will be made within 5 working days.***

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## BROMSGROVE DISTRICT COUNCIL

### LICENSING SUB-COMMITTEE

TUESDAY 8<sup>TH</sup> DECEMBER 2020

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

#### CONSIDERATION OF THE GRANT OF A STREET TRADING CONSENT

<b>PUBLIC HEARING</b>	
<b>Director:</b>	<b>Head of Worcestershire Regulatory Services</b>
<b>Contact Officer:</b>	<b>Ann May Technical Officer (Licensing) 01905 822799</b>
<b>Ward(s) affected:</b>	<b>Tardebigge</b>
<b>Appendices:</b>	<b>Appendix 1 – Application Form, photograph's and location map Appendix 2 – Representation from Parish Council Appendix 3 – Representation from residential neighbour Appendix 4 – Street Trading Policy</b>

#### **1. PURPOSE OF REPORT**

- 1.1 To consider and determine an application for street trading consent in respect of the site below:

The Car Park at:  
Bromsgrove Rugby Football Club  
Finstall Road  
Bromsgrove  
Worcestershire  
B60 3DH

A copy of the application, picture of trading unit and location is attached at **Appendix 1.**

## 2. BACKGROUND

- 2.1 On 2<sup>nd</sup> October 2020 a completed application was received from Mr Ian Prust to sell hot, freshly cooked pizza from a van and covered canopy located on a privately owned car park at Bromsgrove Rugby Football Club, Finstall Road, Bromsgrove B60 3DH.
- 2.2 The proposed trading hours are each Friday 4pm to 8pm.
- 2.3 The application contained all the requisite documentation required and it can be confirmed that a public notice was displayed the location, as per the requirement of the policy.
- 2.4 In line with the Council's Street Trading Policy, the application was circulated to the various responsible authorities and the residents of properties which are close to the proposed location, were also notified of the application.

## 3. REPRESENTATIONS

### Responsible Authorities

- 3.1 One representation has been received from Finstall Parish Council and is attached at **Appendix 2**.

### Other Persons – Residents close to the proposed site

- 3.2 One representation has been received from residents and property owners adjacent to the proposed trading site. The representation have been attached at **Appendix 3**

## 4. LOCAL POLICY CONSIDERATIONS

- 4.1 The Sub-Committee should have regard to the Council's Street Trading Policy, which is attached as **Appendix 4**.

- 4.2 Members should have particular regard to the key considerations set out at section 3.7 of the Policy.

## 5. LEGAL IMPLICATIONS

- 5.1 The Sub-Committee is obliged to determine this application in accordance with the Local Government (Miscellaneous Provisions) Act 1982. This states that upon receipt of an application for the grant of a street trading consent, the Council may grant a consent if they think fit.
- 5.2 In making its decision, the Sub-Committee is obliged to have regard to the street trading policy adopted by The Council.
- 5.3 The Sub-Committee must also have regard to the representations made and the evidence it hears.
- 5.4 The Sub-Committee must take such of the following steps as it considers appropriate:
- (a) Allow the consent to be granted
  - (b) Refuse the application
- 5.5 Paragraph 9 (3) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that a council may require that applications for the grant or renewal of licences or consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.
- 5.6 All parties to the hearing will be notified of the Sub-Committee's decision in writing within five working days of the conclusion of the hearing.
- 5.7 The Sub-Committee are advised that The Local Government (Miscellaneous Provisions) Act 1982 does not provide any direct right of appeal against a decision to revoke a street trading consent. Therefore a consent holder aggrieved by a decision to revoke a street trading consent, would only be able to challenge that decision by making an application for a judicial review
- 5.8 The hearing should be conducted in accordance with the agreed procedure.

**6. FOR DECISION**

- 6.1 The Sub-Committee must consider whether to grant or refuse the application made by Mr Ian Prust.



<b>Application for a Street Trading Consent</b>			
GRANT APPLICATION    RENEWAL APPLICATION			
Full Name Ian Richard Prust			
Full Residential Address [REDACTED]			
Telephone Number [REDACTED]		[REDACTED]	
National Insurance Number [REDACTED]			
Proposed Days/Hours of Operation			
Monday		Friday	1600-2000
Tuesday	1600-2000	Saturday	
Wednesday	1600-2000	Sunday	
Thursday	1600-2000		
Description of articles sold Wood fired pizzas from bespoke van			
If you are selling food or beverages, the Local Authority with which you are registered as a Food Business Operator Bromsgrove and Worcester regulatory Services			
Proposed trading location (please attach a map indicating the exact location) Attached			
Description of mobile unit, including dimensions and vehicle registration number if relevant Ford Transit van with enclosed wood fired pizza oven and 2.5m awning BK62DKO			

Location of mobile unit when not trading (give full address)  
[REDACTED]

<b>Declaration</b>	
I hereby apply for a Street Trading Consent to sell goods in the street as a mobile trader. I understand that any mobile unit will be inspected prior to the start of trading. I enclose the following items with this application:	
A colour photograph of the mobile unit	Yes
A recent passport-sized photograph of the applicant	Yes
Food Hygiene Training certificates (if relevant)	Yes
Certificate of inspection for any fire extinguishers	N/a
Certificates showing that electrical and gas installations have been tested and are safe.	Yes
Public liability insurance to £5 million	Yes
Plan showing proposed location of unit when trading.	Yes
Evidence of Trade Waste Agreement	Yes
Annual Consent Fee (cheques should be made payable to Bromsgrove District Council), or proof of payment	Yes

Signed I R Prust

Date 18th Sept 2020

Please return this form and supporting documents to:  
 Licensing Section  
 Bromsgrove District Council  
 Parkside  
 Market Street  
 Bromsgrove  
 Worcestershire  
 B61 8DA

# Agenda Item 4

Worcestershire Regulatory Services, Wyre Forest House, Finepoint Way, Kidderminster, Worcestershire, DY11  
7WF

Tel: 01905 822799

Email: [wrsenquiries@worcsregservices.gov.uk](mailto:wrsenquiries@worcsregservices.gov.uk)





Google

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**From:** Pizza Heaven  
**Sent:** 09 October 2020 14:08  
**To:** Ann May  
**Subject:** External Email : Pizza oven on trailer

# Agenda Item 4

Hi Ann, picture as requested. New notification up at Stoke Prior.  
Have a nice weekend  
Ian



Sent from my iPhone



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**From:** Finstall Parish Council  
**Sent:** 14 October 2020 11:30  
**To:** Ann May;  
**Subject:** External Email : Re: Proposed Street Trading Application - Bromsgrove Rugby Club

Morning Ann

Thank you for the feedback. The Parish Council would like to make a formal objection based on increased parking congestion on Finstall Road.

Kind regards

[Get Outlook for iOS](#)

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**From:** Ann May  
**Sent:** Thursday, October 8, 2020 11:43:08 AM  
**To:** 'Finstall Parish Council'  
**Subject:** RE: Proposed Street Trading Application - Bromsgrove Rugby Club

Good Morning,

Thank you for your email. My understanding is that the Rugby Club invites various food vendors to 'foodie Friday' events. There is various advertising information on the clubs facebook pages.

Street trading consent is required for any vendor selling directly to the public and I have attached the Council's Policy for your information. Parking/traffic flow and public safety does form part of the decision making process and should any objections be received the application will be referred to the Council's Licensing Sub Committee for determination.

Regards  
Ann

**From:** Finstall Parish Council  
**Sent:** 07 October 2020 19:51  
**To:** Ann May  
**Subject:** External Email : Re: Proposed Street Trading Application - Bromsgrove Rugby Club

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**This email originated from outside of the organisation**

**STOP : Were you expecting this email? Does it look genuine?**

**THINK : Before you CLICK on any links or OPEN any attachments.**

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Hi Ann

Having forwarded the proposal to Finstall Parish councillors, the main concerns are where would people visiting the pizza van would park, will the rugby club car park be available for parking as there are notoriously problems with parking on the road.

There is a concern around whether allowing one would result in there being large numbers of street vendors in the future

If you can offer any insight it would be appreciated

Best wishes

[Redacted signature]

FINSTALL PC

**From:** [REDACTED]  
**Sent:** 03 November 2020 16:13  
**To:** Ann May  
**Subject:** External Email : Proposed Street Trading at the Bromsgrove Rugby Club

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**This email originated from outside of the organisation**

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Dear Mrs May,

With regard to the proposed Street Trading at the Bromsgrove Rugby Club

We live at no [REDACTED] which is directly opposite to the gates of the Rugby Club and looks out over the entrance and the carpark.

We do not object to the Pizza Van per se but we have many misgivings about the organisation of it, in particular.

The Van has been parked at the end of the Car Park, on the right hand side, for a couple of days. It could not be more obvious from our property unless it was on our drive! It is hardly an attractive van, in fact I would go so far as to call it an eyesore. If it was parked at the bottom of the Car Park, by the Club House, where the other eateries are placed then it would be less of an irritation. Also if it is at the top of the Drive how will people queue for their food? Queuing in the Car Park would not be a very safe place, especially for children, buggies etc and would probably take up at least three spaces in the seriously overcrowded Car Park.

This brings me to our major concern. The Car Park is massively overcrowded on Match Days and Public Events such as the Beer Festival. This leads to parking along Finstall Road, most of which is illegal and downright dangerous.

People park on both sides of the road all the way from The Rugby Club to, and beyond, the blind bend in the road. This makes Finstall Road virtually a one way street with cars approaching from the Alcester Road being unaware of vehicles approaching them in the middle of the road.



The cars park half on the road and half on the pavement, making it very difficult to walk down the footpath, especially with a pushchair. They take no notice of the single or double white lines and park nose to tail which makes it very difficult for Residents to get on or off their drives safely.

The cars parked on the other side of the Rugby Club park on the pavement again and go all the way around the bend up to the approach to the bridge. They also park outside the Graveyard, where the footpath is already narrow. As you can imagine, this makes it very dangerous for people to cross the road in both directions, again especially children and pushchairs, wheelchairs etc. Also there is nowhere for Resident's visitors to park.

As there is no lighting in Fininstall Road the dangers of this parking are magnified during the winter.

In the Summer, when the weather is good, I am sure that the Friday Evening will be very popular, with families especially. Also it will lead to the Clubhouse being open and so people will spend their afternoon and night at the Club.

It would be SO much safer, and much less annoying to the Rugby Club Neighbours, if the overspill cars parked on the Station Car Park. Especially if the footpath from St Godwalds Rd to Fininstall Road was upgraded. This would also improve things for commuters approaching the Station too.

A number of years ago the Residents got together and protested to the Rugby Club about the parking, and a noise element at that time, and something was done and the club put out 'no parking cones' on both sides of the road. Since then, the situation has slipped because people know that they are not placed by the Police and so just move them and park in between them. As a result the Club have taken to not bothering to put out the Cones much any more.

If we Neighbours do not make a stand about the Pizza Van and the Parking now, then when it becomes popular in the Summer and the



parking becomes a problem, it will be too late for us to have a Caveat put in place when the Planning stage is past.

We would plead that, when considering this Planning Request, you would stipulate that the road becomes a No Parking Zone during Rugby Club activities, or at least park on just the Rugby Club side of the Road and cut down how far down the road they can go. Drivers can drop off their passengers and picnic stuff and then go and park their car.

If the Police became more proactive about the illegal parking it would make a big difference. If we complain to the Police they just ignore us.

We are not 'Anti Rugby Club', in fact we are Social Members, but we are worried that this very popular night will lead to more dangerous parking and more discarded food, plates, cutlery etc looking unsightly and encouraging rats, which of course always live along the sides of the Railway, to spread onto the Rugby Club, with easy living and ample food.

We are not against the Pizza Van as long as Parking is controlled and removal of discarded food etc is completed after each session. We would hope that these could be made compulsory and that someone is known to enforce it.

Kind Regards,

[Redacted]

[Redacted]

[Redacted]



# Bromsgrove District Council

[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

## Street Trading Policy



Approved to take effect on 1<sup>st</sup> December 2017

## CONTENTS

<b>SECTION</b>	<b>Page Number</b>
1 Introduction	3
2 Designation of Streets	6
3 Applications	7
4 Duration of Consent	12
5 Conditions of Consent	13
6 Appeals	14
7 Complaints and Enforcement	15
8 Amendments to Policy	16
9 Fees and Charges	17
10 Definitions	18

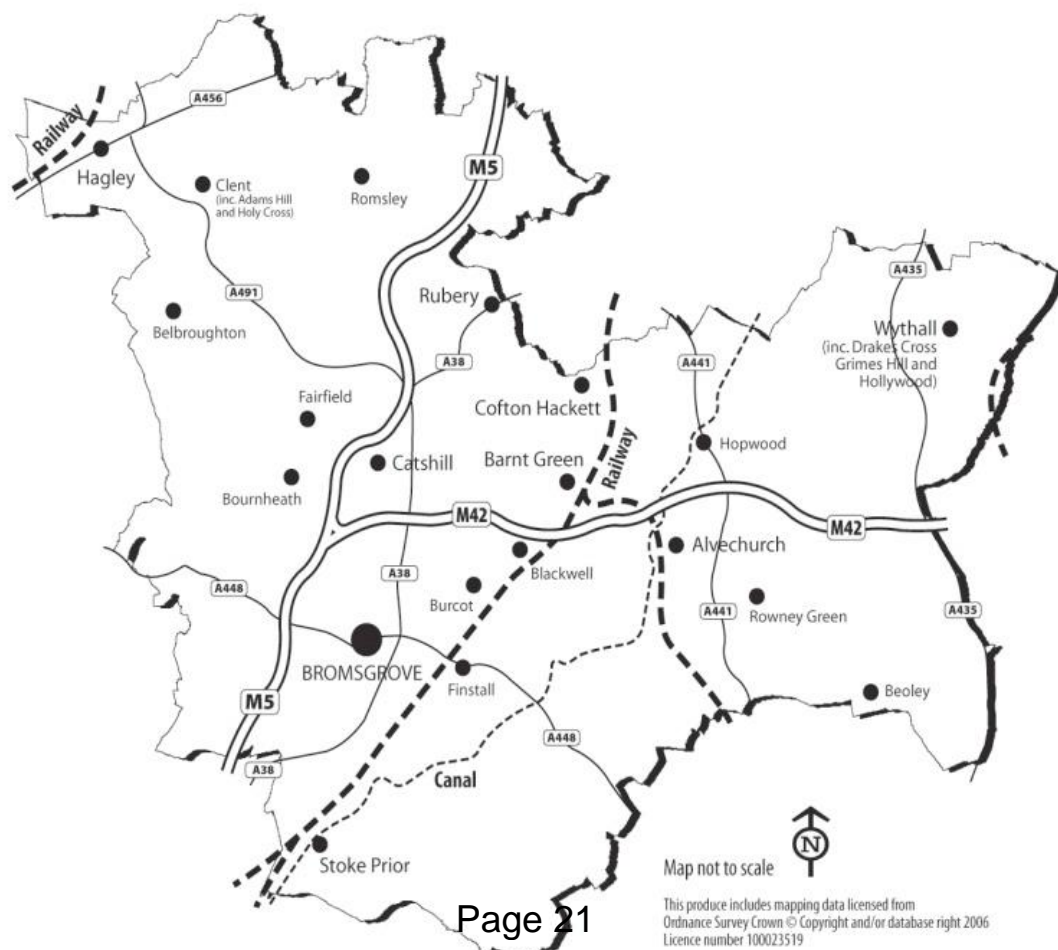
## **ANNEXES**

A Form of Public Notice	20
B Standard Conditions	21

## 1.0 INTRODUCTION

### 1.1 Bromsgrove District

- 1.1.1 Bromsgrove District Council is situated in the County of Worcestershire, which contains six District Councils in total. The Council area has a population of approximately 93,600 and in terms of area it covers approximately 84 square miles.
- 1.1.2 The Council area is mainly rural in character (90% of the area is classed as Green Belt) with two central urban areas of Bromsgrove Town and Rubery.
- 1.1.3 Whilst it is only 14 miles from central Birmingham, the Clent and Lickey Hills provide an important dividing line between the industrial Midlands and the rural landscape of North Worcestershire.
- 1.1.4 Bromsgrove District Council's overall vision is "working together to build a district where people are proud to live and work, through community leadership and excellent services." This policy statement accords with this overall vision and attempts to help further the Councils strategic purposes, which are:
- Keep my place safe & looking good.
  - Help me run a successful business
  - Help me to be financially independent
  - Help me to live my life independently
  - Help me find somewhere to live in my locality
  - Provide good things for me to see, do & visit



## 1.2 The Policy

- 1.2.1 This document states Bromsgrove District Council's Policy on Street Trading, as defined by the Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4).
- 1.2.1 In exercising its discretion in carrying out its regulatory functions, Bromsgrove District Council will have regard to this Policy document and the principles set out therein.
- 1.2.2 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.

## 1.3 The Objectives of this Policy

- 1.3.1 This Policy recognises the important service that is provided by street traders and the contribution they make to the local economy.
- 1.3.2 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.
- 1.3.3 The Policy aims to ensure that street trading does not undermine safe and efficient passage along public highways.
- 1.3.4 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.
- 1.3.5 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 Regulator's Code.

## 1.4 The Law

- 1.4.1 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.
- 1.4.2 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

1.4.3 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.

1.4.4 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 Consent Streets**

- 2.1.1 Bromsgrove District Council has resolved to designate all streets in the District (as existing at the time of the making of the resolution and in the future) as consent streets with effect from 1<sup>st</sup> December 2017.



## **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 Applications**

- 3.2.1 All applications for grant or renewal of a Street Trading Consent must be made on the Council’s prescribed application form.
- 3.2.2 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.
- 3.2.3 The following will also be required to be submitted with the application form:-
  - 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 colour photograph of any trailer, stall or other vehicle from which the street trading activities are proposed to take place.

- Food hygiene certificates (where relevant)
- Proof of registration as a food business (where applicable)
- Satisfactory certificates confirming the safety of any gas or electrical installations within the trailer, stall or vehicle from which the street trading activities are proposed to take place.
- Certificates to confirm that any fire fighting equipment within the trailer, stall or vehicle from which the street trading activities are proposed to take place have been appropriately serviced and maintained.
- If a vehicle is to be used as part of the street trading activities, registration details of the vehicle including confirmation of the registered keeper of the vehicle and their address.
- Proof of the applicant's address and of their right to live and work in the United Kingdom.

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

### **3.3 Processing an Application**

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

- West Mercia Police
- Worcestershire County Council (Highways)
- Highways England
- The relevant Parish Council(s)
- The District Councillor(s) for the Ward(s) concerned
- Environmental Health Officers at Worcestershire Regulatory Services
- The Planning Authority
- Safer Bromsgrove
- Bromsgrove District Council Environmental Services
- North Worcestershire Economic Development and Regeneration (NWEDR) team
- Trading Standards
- The owners / occupiers of any residential and/or business properties in the vicinity of the proposed location of any static trading site.
- Any other relevant organisation

3.3.2 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 21 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 A** to this Policy.

3.3.3 The Council will allow 28 days from the date that the application is received and confirmed as valid, for people to make representations or objections in relation to the application.

3.3.4 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.

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

3.4.1 Where no representations or objections are received within 28 days of the application being received, Officers will grant Consent to the applicant in the terms that it was applied for.

## **3.5 Determining Applications through Mediation**

3.5.1 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.

3.5.2 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.

3.5.3 Where all relevant parties agree to a compromise position, the Consent will be granted by Officers, subject to the agreed amendments.

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

3.6.1 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 the next available Licensing Sub-Committee for determination.

3.6.2 The Licensing Sub-Committee will be conducted in accordance with the Council's standard procedure.

## 3.7 Key Considerations

3.7.1 Each application will be considered on its own merits.

3.7.2 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.
- the proposed consent holder is not considered to be a suitable person to be granted a street trading consent for any reason.

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

3.8.1 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.

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

## **3.9 Grant of Consent**

3.9.1 The grant of a street trading consent does not guarantee the holder of the Street Trading Consent unimpeded access to the location(s) where they are permitted to trade.

3.9.2 There may be occasions where the trading location(s) specified on the Street Trading Consent may be unavailable to the holder of the Street Trading Consent for reasons beyond the control of the Council.

## **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 12 months and will then expire.
- 4.1.4 The Council will consider granting a Street Trading Consent for a shorter duration than 12 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 12 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 B** 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 taken in accordance with the Regulator's 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	Bromsgrove District Council
Days	Refers to consecutive or calendar days unless specified otherwise.
Prohibited Street	A street in which street trading is prohibited
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 roundsman;</li></ul>

# Agenda Item 4

- the use for trading, under Part VIIA of the Highways Act 1980, of an object or structure placed on, in or over a highway;
- the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- the doing of anything authorised by regulations made under Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916.

Street Trading  
Assistant

A person engaged by the Consent Holder to assist them with their trading.

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.

**ANNEX A**

## **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 Bromsgrove District 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 the Customer Contact Centre, Parkside, Market Street, Bromsgrove, Worcestershire, B61 8DA 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 B

### 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:-

Nothing herein contained shall prejudice the rights, powers, duties and obligations of the Council or any other enforcing authority under any public or private statutes, orders, regulations or byelaws.

- 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, including as a result of a breach of these conditions.
- 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 details and proof of the name, address, date of birth and a photograph of any person assisting them with their trading on a regular basis.
- The Consent Holder must notify the Council of any change to their address or the address of any person assisting them with their trading on a regular basis.
- Any person assisting a Consent Holder on a regular basis must be at least 17 years of age.
- 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.

# Agenda Item 4

- The Consent Holder, and/or his assistants, shall only trade at the location(s) specified in the Consent.
- The Consent Holder or their assistants must allow Council officers to inspect their trading facilities and should offer all reasonable assistance to them.
- 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 and produce evidence of any relevant trade waste agreement when required by an Authorised Officer or the Council.
- 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 75 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



# Agenda Item 4

reasonable requirements of the Council, the Police, Fire Officer and Highway Authorities as to its construction, safety and appearance and any changes to vehicles used in the course of trading must be notified to the Council.

- The Consent holder or his employee must move his trailer, vehicle, stall or any signage associate with their trading or vacate the site immediately upon the instruction of a Police Officer or Authorised Officer of the Council.
- 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 must ensure any gas and electrical installations are properly maintained and the relevant safety certificates must be produced on request from 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 Bromsgrove District Council.

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