



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 7TH SEPTEMBER 2009, AT 6.00 P.M.

COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors Mrs. R. L. Dent (Chairman), Mrs. C. J. Spencer (Vice-Chairman), Dr. D. W. P. Booth JP, Miss D. H. Campbell JP, Mrs. J. M. L. A. Griffiths, D. Hancox, Ms. J. A. Marshall, D. McGrath, S. P. Shannon, Mrs. M. A. Sherrey JP, C. B. Taylor, L. J. Turner and P. J. Whittaker

AGENDA

1. To receive apologies for absence
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 18th May 2009 (Pages 1 - 4)
4. Licensing Act 2003 Minor Variations Report (Pages 5 - 8)
5. Sub-Committees of the Licensing Committee (Pages 9 - 14)
6. Statement of Gambling Policy (Pages 15 - 32)
7. Street Trading Consent (Pages 33 - 54)
8. 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, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

24th August 2009

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Agenda Item 3

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 18TH MAY 2009 AT 6.00 P.M.

PRESENT: Councillors Dr. D. W. P. Booth JP, Miss D. H. Campbell JP, Mrs. R. L. Dent, D. Hancox, Ms. J. A. Marshall, D. McGrath, S. P. Shannon, Mrs. M. A. Sherrey JP, Mrs. C. J. Spencer, L. J. Turner, R. D. Smith and P. J. Whittaker

Invitees: Inspector D. Shaw and PC J. Willetts

Observers: Councillor P. M. McDonald

Officers: Mrs. S. Sellers, Mrs. S. Smith and Ms. P. Ross

1/09 ELECTION OF CHAIRMAN

RESOLVED that Councillor Mrs. R. L. Dent be elected Chairman of the Committee for the ensuing municipal year.

2/09 ELECTION OF VICE-CHAIRMAN

RESOLVED that Councillor Mrs C. J. Spencer be elected Vice-Chairman of the Committee for the ensuing municipal year.

3/09 APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Mrs. J. M. L. A. Griffiths.

4/09 DECLARATIONS OF INTEREST

No declarations of interest were received.

5/09 MINUTES

The minutes of the meeting of the Licensing Committee held on 23rd February 2009 were submitted.

RESOLVED that the minutes be approved as a correct record.

6/09 DESIGNATED PUBLIC PLACES ORDER - COFTON HACKETT

Members were asked to consider an application from the County Councillor representing the Electoral Division for Beacon to introduce a Designated Public Places Order which would prevent, when requested, the consumption

of alcohol in the Cofton Hackett area in an attempt to reduce anti-social behaviour and drinking in these public places.

The report provided updates and additional evidence from West Mercia Constabulary, Neighbourhood Watch, PACT Meetings and Birmingham City Council, as requested by the Committee at its meeting held on 23rd February 2009 when the matter had been previously considered.

The Principal Licensing Officer introduced the report which also detailed the published Home Office Guidance relating to Designated Public Places Orders (DPPOs) for Local Authorities in England and Wales. The Committee was informed that the document set out guidance for local authorities on the issue of evidence required to justify the making of a DPPO as follows:

“The evidence you will require for a DPPO is that there is an alcohol related nuisance or annoyance to the public in the proposed area/s. You should make an assessment as to the likelihood that the problem will continue unless these powers are adopted. In addition, you must have a belief that the problem could be remedied by the use of these powers. Evidence should be based not just on information you have obtained, but also from the police and members of the local community who have reported incidents of alcohol-related anti-social behavior or disorder. Evidence of alcohol-related nuisance could for example include litter related to the consumption of alcohol (e.g. bottles and cans) as well as police information and residents’ complaints.”

The Chairman invited Members to put any relevant questions to the Principal Licensing Officer. In response, the Principal Licensing Officer asked Members to note that no DPPO application had been granted without the agreement and support of the police and that no response had been received from Cofton Hackett Parish Council.

The Chairman invited Members to put any relevant questions to Inspector D. Shaw and PC J. Willetts, West Mercia Constabulary. In response, Inspector Shaw informed Members that, currently, there had been insufficient evidence and data to support the introduction of a DPPO and that not all anti-social behaviour reported in the area concerned was alcohol related. PC Willetts explained that Cofton Hackett Neighbourhood Watch had distributed 800 leaflets asking local residents for their views on a Designated Public Places Order for the Cofton Hackett area with 19 responses being received. PC Willetts also asked Members to note that the issue had remained as one of the top 3 PACT (Partners and Communities Together) priorities due to it being unresolved and no agreement being reached.

At the Chairman’s discretion, Councillor P. M. McDonald, County Councillor representing the Electoral Division for Beacon, addressed the Committee and spoke in favour of introducing a DPPO in this area. In doing so, he stated that it had been raised as a 'top issue' during PACT (Partners and Communities Together) meetings and, in addition, over four hundred people had been contacted, as stated during the Licensing Committee meeting held on 23rd February 2009.

Following further discussion and at the suggestion of Officers from West Mercia Constabulary it was agreed that the Local Policing Team conduct a 'face-to-face' survey in the area surrounding the proposed DPPO within the next 4 weeks and provide the results of the survey to the Principal Licensing Officer.

RESOLVED:

- (a) that the request for the creation of a Designated Public Places Order in the Cofton Hackett area, Bromsgrove be deferred until the next meeting of the Licensing Committee; and
- (b) that the Principal Licensing Officer be tasked to issue a report on the results of the West Mercia Constabulary 'Face to Face' survey to the next meeting of the Licensing Committee.

7/09

DPPO - PUBLIC PARTICIPATION AT COMMITTEE MEETINGS

Members were asked to consider a report on proposals to introduce a new procedure for public speaking at meetings of the Licensing Committee in respect of applications for Designated Public Places Orders.

Members were informed that, currently, there was no procedure to enable public speaking at meetings of the Licensing Committee at which a DPPO was to be considered. Members had requested that officers consider whether a procedure could be introduced in order to enable police officers, residents or any other consultees to speak at the Licensing Committee meetings to give relevant evidence in order to assist the Committee in making an informed decision.

RESOLVED:

- (a) that the introduction of public speaking at meetings of the Licensing Committee on applications for Designated Public Places Orders be agreed, and
 - (i) that the police be requested to attend meetings of the Committee at which an application for a DPPO is to be considered;
 - (ii) that the person, body or organisation applying for the DPPO be invited to ask one or more individuals who live or work in the area which the DPPO is proposed to cover and who may have been directly affected by alcohol-related nuisance or annoyance to attend and address the Committee meeting and answer any questions the Committee may have;
 - (iii) that any parish council consulted as part of the consultation process be invited to attend and address the Committee meeting to give evidence of alcohol-related nuisance or annoyance and answer any questions the Committee may have;
 - (iv) that the holder of any premises licence, club premises certificate or Temporary Event Notices (TENs) in the area which may be affected by the DPPO be invited to attend and address the Committee on the effect a DPPO may have on the licensed premises or on the TEN and to answer any questions the Committee may have;

- (v) that the applicant be allowed to address the Committee for 10 minutes to explain the reasons for the application;
 - (vi) that 10 minutes be allocated to all individuals who live or work in the area which the DPPO is proposed to cover and who have been directly affected by alcohol-related nuisance or annoyance (or a spokesman on their behalf) who wish to address the Committee - if more than one individual wishes to address the Committee the time must be allocated between them;
 - (vii) that 10 minutes be allocated to the police to address the Committee;
 - (viii) that 10 minutes be allocated to all parish councils wishing to address the Committee - if more than one wishes to address the Committee, the time should be allocated between them;
 - (ix) that 10 minutes be allocated to the holders of any premises licenses, club certificates or TENs who wish to address the Committee - if more than one individual wishes to address the Committee the time should be allocated between them;
 - (x) that the Chairman be given a discretion to extend these times with the consent of the Committee;
 - (xi) that the Committee be entitled to ask questions of any person, body or organisation giving evidence and, for the avoidance of doubt, these questions should not form part of the allocated 10 minutes;
 - (xii) that the Committee delegate authority to the Senior Solicitor, in consultation with the Chairman and Vice-Chairman of the Committee, to prepare written guidance and a hearing procedure; and
- (b) that the Committee should not reconsider an application for a DPPO for the same or substantially the same area as a previous unsuccessful application for at least 12 months from the date of the previous application unless the Committee is satisfied that circumstances have substantially changed since the matter was previously considered.

The meeting closed at 6.54 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

7TH SEPTEMBER 2009

LICENSING ACT 2003 MINOR VARIATIONS – DELEGATED AUTHORITY

Responsible Portfolio Holder	Councillor Peter Whittaker
Responsible Head of Service	Dave Hammond, Head of Planning & Environment Services

1. SUMMARY

- 1.1 This report updates members on the Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 which came into force on 29 July 2009 and recommends that, as a result of these Regulations, the Scheme of Delegation be revised.

2. RECOMMENDATION

It is recommended that:

- 2.1 Members note the new process by which minor variations to Premises Licences and Club Premises Certificates can be determined; and
- 2.2 Authority be delegated to the Head of Planning & Environment Services to determine applications for minor variations to Premises Licences and Club Premises Certificates as defined by the Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009.

3. BACKGROUND

- 3.1 Until now, a Premises Licence holder who wished to make a minor amendment to a Premises Licence was required, in most cases, to make an application to vary the licence, however minor the proposed amendment. This follows a very similar procedure to that that required for an application for a new Premises Licence and, in the case of very minor amendments, was found to be disproportionately cumbersome and costly.
- 3.2 The Licensing Act 2003 (Premises Licences and Club Premises Certificates) (Miscellaneous Amendments) Regulations 2009 (“the Regulations”) now provide that minor variations that do not impact adversely on the licensing objectives can be made under a simplified ‘minor variations’ process. Under this process:

- the applicant is not required to advertise the variation in a newspaper or circular or copy it to responsible authorities but must display it in a specified form for a period of ten working days;
- on receipt of an application, the licensing authority must consider whether the variation could impact adversely on the licensing objectives;
- in considering the application, the licensing authority must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision, but in many cases the licensing authority may be able to make a decision without consultation;
- interested parties may make representations within 10 working days and these must be taken into account by the licensing authority; and
- the licensing authority must wait until the 10 working day period has elapsed before determining the application, but must do so at the latest within 15 working days, and the licensing authority may either:
 - grant the minor variation; or,
 - refuse the application.

3.3 Minor variations will generally fall into four categories:

- minor changes to the structure or layout of a premises;
- small adjustments to licensing hours;
- the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and
- the addition of certain licensable activities.

In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

3.4 Detailed guidance has been produced by the Department of Culture, Media and Sport to assist local authorities in deciding these applications, including guidance on what might constitute a minor variation. This guidance also recommends that authority be delegated to an appropriate officer to determine applications for minor variations, and it is recommended in this report that such authority be delegated to the Head of Planning & Environment Services.

4. FINANCIAL IMPLICATIONS

4.1 None

5. LEGAL IMPLICATIONS

5.1 Applications for Premises Licences are made in accordance with the requirements of the Licensing Act 2003 and the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 and 2009.

5.2 Section 182 of the Licensing Act 2003 requires licensing authorities to take into account any guidance issued by the Secretary of State when making decisions, and the s182 guidance has been updated to include guidance on the minor variations process introduced by the Regulations.

6. COUNCIL OBJECTIVES

6.1 N/a

7. RISK MANAGEMENT

No significant risks arising from this report have been identified, but any minor risks arising are being managed as follows:

Risk Register: *Planning & Environment Services*

Key Objective Ref No: 8

Key Objective: *Effective, efficient and legally compliant Licensing Service*

8. CUSTOMER IMPLICATIONS

8.1 The recommendations will ensure that applications for minor variations can be taken efficiently and within the required timescales without the need to convene emergency meetings of the Licensing Sub-Committee.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 None

10. VALUE FOR MONEY IMPLICATIONS

10.1 None

11. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
Chief Executive	No
Executive Director - Partnerships and Projects	<u>No</u>
Executive Director - Services	<u>No</u>
Assistant Chief Executive	<u>No</u>
Head of Service	<u>Yes</u>
Head of Financial Services	<u>No</u>
Head of Legal, Equalities & Democratic Services	<u>Yes</u>
Head of Organisational Development & HR	<u>No</u>
Corporate Procurement Team	<u>No</u>

13. WARDS AFFECTED

All wards

14. APPENDICES

None

15. BACKGROUND PAPERS

None

CONTACT OFFICER

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BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

7TH SEPTEMBER 2009

SUB-COMMITTEES OF THE LICENSING COMMITTEE

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services

1. SUMMARY

- 1.1 This report suggests changes to the Licensing Committee's sub-committee structure.

2. RECOMMENDATION

It is recommended that:

- 2.1 The Taxi Licensing Sub-Committee be restructured and renamed with extended terms of reference.
- 2.2 Two fixed membership, politically balanced sub-committees be established with terms of reference as follows: "To determine applications relating to:
- private hire and hackney carriage driver, operator and vehicle licensing;
 - street trading consents;
 - sex shop applications;
 - pet shop licences;
 - animal boarding licences;
 - riding establishment licences; and
 - charitable collections"
- to be called the Licensing (Miscellaneous) Sub-Committees A and B, to be chaired by the Chairman of the Licensing Committee (or the Vice Chairman in his or her absence), to sit in strict rotation. Substitutes will be permitted provided they have met the training requirements determined by the Member Development Steering Group.
- 2.3 Public speaking be permitted at such Sub-Committee meetings, and authority be delegated to the Head of Legal, Equalities and Democratic Services in consultation with the Chairman and Vice-Chairman of the Licensing Committee to determine the procedure.
- 2.4 The terms of reference for the Licensing Sub-Committee be revised as follows: "To consider and determine applications and hearings arising from the Licensing Act 2003 and the Gambling Act 2005."

3. BACKGROUND

- 3.1 The Licensing Committee is responsible for the exercise of all powers and duties of the Council in licensing and for enforcement of licensing requirements. Some of those functions have been delegated by the Licensing Committee to its 2 sub-committees, the Licensing Sub-Committee and the Taxi Licensing Sub-Committee, and the functions delegated to the sub-committees relate to determination of certain types of applications relating to individuals or particular premises. However, at present there is an anomaly in that some applications relating to individuals or individual premises continue to be determined by the parent committee.
- 3.2 This anomaly has been brought to light in the context of the review of the street trading policy. It is considered likely that in future as a result of the proposed change in policy there will be substantially more applications for street licensing consents which will need to be determined, and convening meetings of the parent committee for such applications may prove to be cumbersome. Members are therefore requested to consider if such applications (and indeed any other applications currently determined by the parent committee) might be more appropriately dealt with by a sub-committee rather than by the parent committee. This would then leave the parent Licensing Committee which comprises 13 members with responsibility for strategy and policy and wider issues such as Designated Public Places Orders.
- 3.3 The current situation is as follows.
- 3.4 The Licensing Act 2003 requires the Council to have a Licensing Sub-Committee to determine certain applications and other types of hearing under the Licensing Act 2003 (such as applications for Premises Licences if relevant representations are received, or reviews of Premises Licences) in accordance with procedures set out in Regulations made under that Act. In addition, it is required to determine certain applications and other types of hearing under the Gambling Act 2005, again in accordance with procedures set out in Regulations made under that Act. This sub-committee is excluded from the usual rule that sub-committees must be politically balanced, and the Regulations provide that its membership may not exceed 3. The Licensing Sub-Committee does not deal with any other types of licensing applications.
- 3.5 The Taxi Licensing Sub-Committee carries out the functions of the Licensing Committee in determining applications relating to private hire and hackney carriage driver, operator and vehicle licensing, and enforcement of such licensing. It comprises 5 members of the Licensing Committee, is required to be politically balanced and is chaired by either the Chairman or Vice-Chairman of the parent committee.
- 3.6 Other types of licensing applications relating to street trading consents, sex shop, pet shop, animal boarding, riding establishment licences and

charitable collections, are currently referred to the parent Licensing Committee.

- 3.7 Members are requested to consider whether it would be more appropriate for the Taxi Licensing Sub-Committee to be restructured and renamed, with revised terms of reference to enable it to determine applications relating to:
- private hire and hackney carriage driver, operator and vehicle licensing;
 - street trading consents;
 - sex shop applications;
 - pet shop licences;
 - animal boarding licences;
 - riding establishment licences; and
 - charitable collections.

It is suggested that there would be 2 fixed membership, politically balanced sub-committees, each chaired by the Chairman (or in his or her absence the Vice-Chairman) of the Licensing Committee which would sit strictly in rotation to consider such applications. Substitutes would be allowed provided they have met the training requirements determined by the Member Development Steering Group. The suggestion of fixed membership of 2 sub-committees which will hear applications on a strict rotation basis is to ensure that all members are given the same number of opportunities to hear such applications.

- 3.8 It is suggested that this sub-committee might be more called the Licensing (Miscellaneous) Sub-Committee but members may consider another name more appropriate. The same public speaking rights would apply as are currently afforded in respect of other licensing matters, and it is recommended that authority be delegated to the Head of Legal, Equalities & Democratic Services in consultation with the Chairman and Vice-Chairman of the Licensing Committee to draft the public speaking rules appropriately.
- 3.9 It is not recommended that applications of the type referred to in paragraph 3.6 are referred to the current Licensing Sub-Committee which is constituted in accordance with the requirements of the Licensing Act 2003 and the procedures of which are set out in Regulations.
- 3.10 It is not proposed that there should be any changes to the Licensing Sub-Committee. However, the terms of reference for that sub-committee need to be updated to reflect the fact that it is responsible for dealing with applications and hearings arising from the Gambling Act 2005, and so members are requested to approve that revision to its terms of reference.

4. FINANCIAL IMPLICATIONS

- 4.1 None

5. LEGAL IMPLICATIONS

5.1 Section 102 of the Local Government Act 1972 as amended gives local authorities the power to appoint committees, and to committees to appoint sub-committees.

6. COUNCIL OBJECTIVES

6.1 N/a

7. RISK MANAGEMENT

7.2 No significant risks arising from this report have been identified, but any minor risks arising are being managed as follows:

Risk Register: Legal, Equalities and Democratic Services
Key Objective Ref No: 2
Key Objective: Effective ethical governance

8. CUSTOMER IMPLICATIONS

8.1 The recommendations will have little impact on customers.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 None

10. VALUE FOR MONEY IMPLICATIONS

10.1 None

11. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
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Chief Executive	No
Executive Director - Partnerships and Projects	<u>No</u>
Executive Director - Services	<u>No</u>
Assistant Chief Executive	<u>No</u>
Head of Service	<u>Yes</u>
Head of Financial Services	<u>No</u>
Head of Legal, Equalities & Democratic Services	<u>Yes</u>
Head of Organisational Development & HR	<u>No</u>
Corporate Procurement Team	<u>No</u>

13. WARDS AFFECTED

All wards

14. APPENDICES

None

15. BACKGROUND PAPERS

None

CONTACT OFFICER

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BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

7TH SEPTEMBER 2009

STATEMENT OF GAMBLING POLICY

Responsible Portfolio Holder	Cllr. Peter Whittaker
Responsible Head of Service	David Hammond

1. SUMMARY

- 1.1 This report seeks members' views on the draft revised Statement of Gambling Policy.

2. RECOMMENDATION

- 2.1 That, subject to any responses received during the consultation period, the Committee recommends to Council that the revised Statement of Gambling Policy be adopted.

3. BACKGROUND

- 3.1 The Gambling Act 2005 requires the Council to carry out a review of its Statement of Gambling Policy, which is used to determine all applications made under the terms of the Act, every three years.
- 3.2 Further to its initial adoption in January 2007, it is now necessary to carry out a review of the current document by consulting with all interested parties, ensuring that it continues to reflect the local balance between the commercial interests of the licensed trade and the communities they serve and impact upon. The consultation period commenced on 29th June and is scheduled to close on 21st September 2009.
- 3.3 Attached is a copy of the draft revised Policy document, which has been updated to reflect the revised Guidance issued by the Gambling Commission. The Council has also worked with the other Council's in the County in reviewing this policy to produce a joint policy so that a consistent approach across the County is taken, and the draft revised Policy reflects that joint approach.
- 3.4 During the consultation period, no comments have been received from interested parties to date.

- 3.5 Once the consultation period has closed, any responses will be reported to Cabinet and Council where they will be evaluated in conjunction with the other district Councils in the County and incorporated, where necessary, into the revised policy.
- 3.6 The policy document will be submitted to Cabinet on 4th November 2009 which is expected to make its recommendations to Council at its meeting on 18th November 2009.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications.

5. LEGAL IMPLICATIONS

- 5.1 The Council's Legal, Equalities and Democratic Services Department have been consulted on the proposed Policy and their comments have been incorporated.
- 5.2 Section 349 of the Act requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies.
- 5.3 The Statement of Policy will last for a maximum of three years, but can be reviewed and revised by the authority at any time. The statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349 of the Act. An order of the Secretary of State means that licensing authorities have to publish their second statement of policy by 14th January 2010.
- 5.4 In addition to the requirements set out by the regulations, the Guidance issued by the Gambling Commission set out certain information that the Commission considers should be included in all licensing authority Statements of Policy.
- 5.5 Before publishing a revision of the policy, the regulations require authorities to publish a notice of their intention to publish a revised statement of policy in a local newspaper and on the Council's website at least four weeks before it takes effect.

6. COUNCIL OBJECTIVES

- 6.1 These guidelines contribute to the Council's objectives "Sense of community and well being" and "Improvement".

7. RISK MANAGEMENT

- 7.1 The main risk associated with the detail included in this report is:

- To ensure that the Council has effective policies in place to assist in decision-making and to maintain the consistency of any decisions made.

7.2 This risk is being managed as follows:

Risk Register: Planning and Environment Services

Key Objective Ref No. 7

Key Objective: Effective, efficient and legally compliant Licensing Service

8. **CUSTOMER IMPLICATIONS**

8.1 The draft revised policy will be made available on the Council's website.

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 An Equality Impact Assessment has been undertaken.

10. **VALUE FOR MONEY IMPLICATIONS**

10.1 There are no value for money implications.

11. **OTHER IMPLICATIONS**

Procurement Issues None
Personnel Implications None
Governance/Performance Management None
Community Safety including Section 17 of Crime and Disorder Act 1998 None
Policy
Environmental None

12. **OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	Yes
Chief Executive	No
Executive Director (Partnerships and Projects)	No
Executive Director (Services)	No
Assistant Chief Executive	No

Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards are affected.

14. APPENDICES

Appendix A Draft Revised Statement of Gambling Policy

15. BACKGROUND PAPERS

Revised Guidance issued by the Gambling Commission

CONTACT OFFICER

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Gambling Act 2005

Draft Statement of Principles

Draft Policy
**25th June
2009**



Bromsgrove
District Council

www.bromsgrove.gov.uk



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Statement of Principles – Gambling Act 2005

1.0 Introduction

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 88,000 and in terms of area it covers approximately 84 square miles. 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. 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. A map showing the extent of the Council's boundary is attached at Appendix 'A'.

1.2 Bromsgrove District Council's overall vision is "an attractive, clean, healthy, safe and prosperous District where an improving quality of life is enjoyed equally by all." This statement accords with that vision in seeking to promote the licensing objectives set out in the Act, which are central to the regulatory regime created by the Act. These are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.3 We have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted. We consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between July and September 2009 in line with HM Government Code of Practice on Consultation. A full list of comments made and considered by the Council is available at www.bromsgrove.gov.uk. The policy was approved at a meeting of the Full Council on 18th November 2009. Should you have any comments as regards this policy statement please send them via email or letter to: licensing@bromsgrove.gov.uk

This statement must be published at least every three years. The statement may also be reviewed from 'time to time' and any amended parts re-consulted upon.

1.4 We intend that this document should provide information and guidance on the general approach that we will take to licensing. A series of advice sheets with more specific guidance is available from our web site or will be sent on request; advice tailored to individuals is available by phone or to personal callers.

1.5 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

2.0 Gambling Act 2005

2.1 This policy reflects our key priorities to be an efficient and effective Council; to provide a clean, safe and attractive environment; to foster and sustain a strong and expanding economy; to provide sustainable culture and leisure opportunities; and to work with the public and our partners.

2.2 The Act provides for gambling to be authorised in a number of different ways. Our main functions are to:

- licence premises for gambling activities, including the issue of provisional statements,
- regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
- regulate gaming and gaming machines in alcohol licensed premises,
- grant permits to family entertainment centres for the use of certain lower stake gaming machines,
- grant permits for prize gaming,
- receive and endorse notices given for the temporary use notices,
- receive occasional use notices for betting at tracks,
- register small societies lotteries,
- Maintain public registers, and
- Provide information to the Gambling Commission on issued licences.

2.3 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. Spread betting is regulated by the Financial Services Authority. The “National Lottery” is regulated by the National Lottery Commission.

3.0 Authorised Activities

3.1 ‘Gambling’ is defined in the Act as gaming, betting, or taking part in a lottery.

- gaming means playing a game of chance for a prize,
- betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not, and
- a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

4.0 General Statement of Principles

4.1 In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we will generally aim to permit the use of premises for gambling as long as it is considered to be :-

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any relevant Guidance issued by the Gambling Commission
- in accordance with this Statement of Principles, and
- reasonably consistent with the licensing objectives.

- 4.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 4.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 4.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Department.
- 4.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 4.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 4.7 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.
- 4.8 This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

5.0 Preventing gambling from being a source of crime and disorder

- 5.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 5.2 In view that we will not issue a premises licence to someone who does not hold an operator's licence, we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 5.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for SIA registered door supervisors.

5.4 Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

5.5 "Disorder" is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.

5.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

6.0 Ensuring gambling is conducted in a fair and open way

6.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.

6.2 Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

7.0 Protecting children and vulnerable people from being harmed or exploited by gambling

7.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are 'adult-only' environments.

7.2 Codes of Practice, including advice about access by children and young persons may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.

7.3 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.

7.4 When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.

7.5 In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may

not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

7.6 We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.

8.0 Premises licences

8.1 A premises licence can authorise the provision of facilities at the following :

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

8.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.

8.3 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place. We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. We will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

8.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.

8.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The District of Bromsgrove has not been identified as a suitable location for a casino, consequently we will be prevented from granting a Casino Premises Licence.

8.6 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.

- 8.7 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 8.8 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 8.9 We are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 8.10 We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made.
- 8.11 We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
- should the premises be permitted to be used for gambling;
 - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place.
- 8.12 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 8.13 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 8.14 We will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9am until 5pm.

9.0 Responsible authorities

9.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below, contact details for each of the responsible authorities identified are available on our website www.bromsgrove.gov.uk, and will be sent on request.

- The Gambling Commission
- The Chief of Police for the area
- Fire & Rescue Service
- Bromsgrove District Council Planning Department
- Bromsgrove District Council Environmental Services Department

- Worcestershire Safeguarding Children Board
- Bromsgrove District Council Licensing Department
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, British Waterways Board, Secretary of State.
- HM Revenue and Customs

9.2 Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

10.0 Interested Parties

10.1 An interested party is someone who :

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

10.2 We will generally require written evidence that a person/body 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representations is sufficient. Whilst this may not apply to those elected ward members or MP or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal 'minority'.

10.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, we will take into account, among other things :

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complainant
- the potential impact of the premises

10.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things :

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

10.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

10.6 We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider :

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises an issue relevant to the licensing objectives, or
- whether it raises issues specifically to do with the premises which are the subject of the application.

11.0 Licence conditions

11.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale and type of premises and reasonable in all other respects. We will not have recourse to a pool of standard conditions.

11.2 We will also ensure that where category C or above machines that are on offer in premises to which children are admitted are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance; the designated area is supervised and observed by staff or the licence holder.

11.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. We will also expect the applicant to offer their own suggestions as to way in which the licensing objectives can be promoted effectively.

11.4 We will not seek to control those matters specified in the Act with conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,
- relating to gaming machine categories or method of operation,
- which specify that membership of a club or other body is required, or
- in relation to stakes, fees, winnings or prizes.

11.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

12.0 Gaming Machines

12.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.

12.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

12.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including :

- casinos
- bingo premises

- betting premises, (including tracks)
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

12.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.

12.5 We will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

13.0 Temporary Use Notices

13.1 These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. We would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

13.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

14.0 Occasional Use Notices

14.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

15.0 Lotteries

15.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission - unless they are 'exempt' lotteries as defined by the Act. One of those exemptions is for "small societies lotteries," which we will allow, after registration. We will maintain a register of small societies lotteries.

15.2 A society will be allowed to register with us if it is 'non-commercial', in other words, if it is established and conducted :

- for charitable purposes ;

- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity; or
- for any other non-commercial purpose other than for private gain.

16.0 Exchange of Information

- 16.1 To ensure the licensing objectives are met, we will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.
- 16.2 Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Officer.
- 16.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Information Management Officer or via the Council's website www.bromsgrove.gov.uk.
- 16.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council's website.
- 16.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

17.0 Enforcement Protocols

- 17.1 The main enforcement and compliance role for us in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.
- 17.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises.

A lighter touch will be applied to those premises which are shown to be well managed and maintained.

17.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.

17.4 We will also be mindful of future developments as regard the work of the Better Regulation Executive whilst carrying out our regulatory functions.

17.5 We will endeavour to be proportionate; accountable; consistent; transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.

18.0 Reviews

18.1 A review of a premises licence can be made by interested parties or responsible authorities, however, we will decide if the review is to be carried out on the basis of the following:

- In accordance with any relevant Code of Practice and/or guidance issued by the GC
- Consistent with the licensing objectives
- In accordance with our statement of principles.

18.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.

18.3 We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

18.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:

- Add, remove or amend a licence condition;
- Remove or amend a default condition, such as opening hours;
- Suspend the premises licence for a period not exceeding 3 months;
- Revoke the licence.

List of Consultees

All Responsible Authorities

District Councillors

Parish Councils

Premises Licence Holders under Licensing Act 2003

Club Premises Certificate Holders under Licensing Act 2003

Representatives of the Gaming Industry, including suppliers of Gaming facilities and machines

Existing permit holders under the Gaming Act 1968 and Lotteries and Amusements Act 1976

Voluntary organisations, such Citizens Advice Bureau and GamCare.

BROMSGROVE DISTRICT COUNCIL

LICENSING COMMITTEE

7TH SEPTEMBER 2009

STREET TRADING CONSENT

Responsible Portfolio Holder	Cllr. P. Whittaker
Responsible Head of Service	Dave Hammond

1. SUMMARY

- 1.1 To consider reviewing the Council's policy including the fee structure in respect of street trading consent and extending the designated area to cover the boundary of Bromsgrove district, with the exception of Bromsgrove High Street and its immediate environs.

2. RECOMMENDATION

- 2.1 That members approve:

- (a) the extension of the designated consent streets area to cover the whole of Bromsgrove, with the exception of those streets set out at Appendix 1;
- (b) that the streets shown in Appendix 1 be designated as prohibited streets;
- (c) the revised Street Trading Policy including model conditions in respect of Street Trading Consents as set out at Appendix 3;
- (d) That applications for Street Trading Consents which do not fall within the Street Trading Policy or those in respect of which objections are received are determined by the Licensing Applications Sub-Committee;
- (e) That consideration to revoke a Street Trading Consent be determined by the Licensing Applications Sub-Committee;
- (f) That public speaking be introduced at the Licensing Applications Sub-Committee on contested applications for Street Trading Consents and that authority is delegated to the Head of Legal, Equalities and Democratic Services in consultation with the Chairman and Vice-Chairman of Licensing Committee and the Principal Licensing Officer to prepare a hearing procedure and guidance to reflect paragraph 3.16 below.

2.2 That members recommend to Council:

(a) That the proposed fee structure be adopted.

(b) That the scheme of delegation be revised in respect of street trading as follows:

(i) "To authorise the Head of Planning and Environment Services to be responsible for inspections of premises to ensure compliance with street trading consent legislation, Council policy and any conditions attached to a consent; and

(ii) "To authorise the Head of Planning & Environment Services to determine applications for consents for street trading in consent areas designated by the Council" .

3. BACKGROUND

3.1 A number of options are available to local authorities in respect of street trading. Authorities may decide to designate part of or all of their area as a "Consent Street" which means that street trading is prohibited without the consent of the local authority. Alternatively, authorities may decide to designate part or all of their area as a "Licence Street" which means that street trading is prohibited without a licence having been granted by the local authority. Authorities may also designate part or all of their area as a "Prohibited Street" which means that no street trading can take place at all. Finally, a local authority may choose not to designate any area in which case street trading is permitted and the local authority has no control over it.

3.2 The following are not deemed to be street trading:

- Trading by a pedlar;
- Anything done in a market or fair established by a grant, enactment or order;
- Trading in a trunk road picnic area;
- Trading as a news vendor (subject to certain conditions);
- Trading carried on as part of the business of the shop;
- Roundsman business;
- Trading from an object or structure placed on the highway which is licensed under the Highways Act 1980; and
- Recreation and/or refreshment facilities operated by a council on a highway.

3.3 As Members are aware this Council's existing Street Trading Policy designates the High Street and parts of surrounding streets as outlined in Appendix 2 as Consent Streets. This means that no street trading is permitted in that designated area without the specific consent of the Council. With regard to the remainder of the district, these areas were never designated and therefore we currently have no control over any street trading activity outside of the High Street area.

- 3.4 At present the Council's policy is not to grant Street Trading Consents except in the most exceptional circumstances. The only permits which are now granted are (a) for the regular Farmer's Market, (b) for the annual Elizabethan Street Market and (c) for the hot dog stall which trades in conjunction with the Christmas Lights switch-on.
- 3.5 It is proposed that the whole district (other than the High Street and surrounding streets as outlined in Appendix 1) should be designated as a Consent Street and that the High Street and the surrounding area as shown in Appendix 1 should be designated as a Prohibited Street.
- 3.6 Should Members be minded to approve Consent Street status across the whole district, this will mean that all existing highway traders and any new traders will have to obtain consent from the Council following implementation of the revised policy. This will give the Council greater control over these mobile units in terms of ensuring that they comply with all relevant legislation governing food hygiene, litter, noise nuisance and pollution and public safety. Furthermore, enforcement action can be taken against a trader if they are found to be in breach of any of the conditions attached to a Consent, in line with the Council's Enforcement Policy. If it was felt necessary to consider revoking a Consent, the matter would be referred to the Council's Licensing Applications Sub Committee to determine and the Consent holder would be invited to attend the hearing.
- 3.7 Those traders that are currently operating from lay-bys will be given a transition period of three months to submit an application.
- 3.8 If Members decide to designate the High Street and surrounding areas as shown on Appendix 1 as a Prohibited Street, the effect is that no street trading can be permitted. This will not prevent the Council from holding the regular market or any themed Markets as the right to hold this has been granted by Charter and therefore is specifically excluded from the street trading regime. Furthermore, it would not prevent the Council from operating facilities for recreation or refreshment on the High Street, perhaps as part of its street entertainments programme. In drawing up the list of Prohibited Streets, full consultation has taken place with the Council's Economic Development Manager, who is fully supportive of this view as he feels that this will not detract from the market and is a positive step in revitalising the High Street area.
- 3.9 A notice of intention to pass a resolution designating all streets as Consent Streets (with the exception of those outlined in Appendix 1) has been published and consultation has taken place with the Police Authority and the Highways Authority. No representations were received during the 28 day consultation period.

3.10 As part of the revision to the existing Street Trading Policy, Members may wish to consider adopting a more comparative fee structure. At present the Council currently charges £15.00 per application.

3.11 The fees charged by neighbouring authorities are as follows:

Wychavon District Council	Hot Food	£564 per annum
	Cold Food	£396 per annum
	Non food	£564 per annum
	Renewal fee	£206 per annum
	Occasional consent up to one calendar month	10% of appropriate charge
Worcester City Council	Single Unit 10x10	£3168 per annum
	Single unit over 10x10	£5884 per annum
	Day fee	£58 plus £16 per additional trading day
	Mobile traders	£87 per annum
Wyre Forest District Council	Mobile traders	£572 per annum
Redditch Borough Council	Mobile traders (They have not issued an annual consent)	£84 plus VAT per trading day

3.12 It is proposed that the following fees will apply:

Annual Street Trading Consent - £552.00 per annum

Occasional Street Trading Consent - £25 per day

3.13 Should a consent be refused, surrendered or revoked, the Council is under a duty to remit or refund the whole or part of any fee paid. It is proposed that any refund of the application fee is pro-rata depending on the remainder of the term left on the consent, less an administration fee of £25.00.

3.14 The Scheme of Delegation currently delegates authority to the Head of Planning & Environment Services to determine applications for street trading licences in consent areas. It is proposed that in practice that delegation will only be exercised if those applications fall within the Street Trading Policy and provided no objections are received during the consultation period from the individuals and organisations whom it is proposed should be consulted on each application. It is proposed that applications for Street Trading Consents which do not fully comply with the Street Policy or in respect of which representations are received during the consultation period will be referred to the Council's Licensing Applications Sub-Committee for determination.

3.15 It is proposed that the wording in the Scheme of Delegation be revised to read, "To authorise the Head of Planning & Environment Services to determine applications for consents for street trading in consent areas designated by the Council" as this better reflects the wording of the

legislation. It is suggested that in order to retain flexibility to determine applications at short notice that the Scheme of Delegation is not revised to specifically exclude the Head of Planning & Environment Services from determining applications which fall outside policy or where objections are received, although in practice that will be the case.

3.16 In order to ensure that applicants and objectors have the opportunity to fully put forward their case and as part of the Council's policy of increasing public participation, it is proposed that public speaking should be permitted if applications are to be determined by the Licensing Applications Sub-Committee. If Members approve public speaking at the Sub-Committee, all parties concerned would be invited to attend the meeting and put forward their case and would operate along similar lines to the public speaking at Licensing Act 2003 hearings and taxi licensing hearings, namely:

- (i) The applicant and or his representative will be invited to attend the meeting to address the Sub-Committee and answer any questions the Sub-Committee may have;
- (ii) Those consultees/interested parties who have made representations will be invited to attend the meeting to address the Sub-Committee and answer any questions the Sub-Committee may have;
- (iii) The applicant and/or his representative will be allowed 10 minutes to explain the application. If any questions are put to the applicant and or his representative these will not form part of the allocated 10 minutes;
- (iv) 10 minutes will be allocated to consultees/interested parties to put forward their representations. If any questions are put to the consultee/interested party these will not form part of the allocated 10 minutes;
- (v) The Chairman be given a discretion to extend these times with the consent of the Sub-Committee.

3.17 It is recommended that the Head of Legal, Equalities and Democratic Services in consultation with the Chairman, Vice-Chairman and Principal Licensing Officer develop a hearing procedure and guidance for applicants and objectors.

4. FINANCIAL IMPLICATIONS

- 4.1 The cost of implementing the decisions contained in this report will be met from existing budgets.
- 4.2 The income generated from licensing existing traders could amount to approximately £19,000, which would be additional income for 2010/11.

5. LEGAL IMPLICATIONS

- 5.1 The Local Government Miscellaneous Provisions Act 1982 section 3 empowers local authorities to designate all or part of their areas for the

purposes of street trading. Schedule 4 of that Act specifies the procedure for resolving to designate streets, and for issuing Street Trading Consents. Paragraph 7 of Schedule 4 of the Act permits the Council to grant a Street Trading Consent if they think fit and to attach conditions to it as they consider reasonable necessary to prevent obstruction of the street or danger to persons using it; or nuisance or annoyance (whether to persons using the street or otherwise).

- 5.3 Paragraph 8 of Schedule 4 of the Act, further permits the Council to include in a Street Trading Consent permission for its holder to trade in a Consent Street from a stationary van, cart, barrow or other vehicle or from a portable stall.
- 5.4 Paragraph 10 of Schedule 4 of the Act states that a Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.
- 5.5 There is no right of appeal against the refusal to grant a Street Trading Consent.
- 5.6 In respect of making changes to the designated area, the Council must publish a notice of their intention to in a local newspaper circulating in their area and consult with the Police Authority and Highways Authority.
- 5.7 The Council must consider any representations relating to the proposed resolution.
- 5.8 A District Council may by resolution designate any street in their district as:
 - (a) a prohibited street;
 - (b) a licence street; or
 - (c) a consent street.
- 5.9 If members approve the extension to the designated area, the Council will be required to publish a notice stating that the Council has passed such a resolution in two consecutive weeks in a local newspaper.
- 5.10 Should the Council wish to rescind a designation or re-designate a street the same procedure must be followed.

6. COUNCIL OBJECTIVES

- 6.1 This proposal contributes to the Council's objective "Sense of community and well being".

7. RISK MANAGEMENT

- 7.1 The main risks associated with the details included in this report are:
 - *Inability to regulate unlicensed traders*

7.2 These risks are being managed as follows:

- Inability to regulate unlicensed traders:

Risk Register: *Planning and environment Services*

Key Objective Ref No: 6

Key Objective: *Effective, efficient and legally compliant Licensing Service*

8. CUSTOMER IMPLICATIONS

8.1 Application packs will be sent to all existing traders informing them of new Council Policy. Whereafter they will be given a period of three months to apply for a licence should they wish to continue to trade. Information will be made available on the website.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 Each application will be considered on its own individual merits.

10. VALUE FOR MONEY IMPLICATIONS

There are no value for money implications.

11. OTHER IMPLICATIONS

Procurement Issues - None
Personnel Implications - None
Governance/Performance Management - None
Community Safety including Section 17 of Crime and Disorder Act 1998 - None
Policy – If members approve the revised policy, it will supersede all existing policies relating to Street Trading Consents.
Environmental – The impact of possible increased litter has been addressed in the Policy and conditions will be placed on any consents granted that each trader must ensure hold a current trade waste contract to dispose of any business related waste and all waste must be removed from the site by close of trade. They will also be responsible for ensuring all litter resulting from their trade is cleared prior to them vacating the site. Any waste or litter left behind at the close of trade will be dealt with through the appropriate enforcement channels (Environmental

Protection Act 1990 and Clean Neighbourhood and Environment Act 2005).

12. **OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	Yes
Chief Executive	No
Executive Director (Partnerships and Projects)	Yes
Executive Director (Services)	Yes
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	Yes
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. **WARDS AFFECTED**

All wards will be affected.

14. **APPENDICES**

Appendix 1 Proposed list of Prohibited Streets
Appendix 2 List of streets currently designated as Consent Streets
Appendix 3 Draft Policy for Street Trading Consents

15. **BACKGROUND PAPERS**

None

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List of Proposed Prohibited Streets

Worcester Road	All parts
Hanover Street	All parts
St. John Street	All parts
Chapel Street	All parts
Mill Lane	All parts
Market Street	All parts
Church Street	All parts
Station Street	All parts
High Street	All parts

Appendix 2

List of Existing Designated Consent Streets

Stourbridge Road (part)	From High Street in a northerly direction to its junction with Market Street.
Birmingham Road (part)	From High Street in a northerly direction for a distance of approx. 30 metres.
High Street (part)	Between its junction with Stourbridge Road, and Birmingham Road and its junction with Stratford Road. Between its junction with New Road and its junction with St. John Street. Between its junction with Stratford Road and its junction with New Road.
Worcester Road (part)	Between its junction with St. John Street and its junction with Hanover Street.
Hanover Street	All parts.
St. John Street	All parts.
Chapel Street (part)	Between its junction with High Street and its junction with Windsor Street.
Mill Lane	Between its junction with High Street and the service road off Market Street.
Church Street (part)	Between its junction with High Street and Market Street.
Market Street (part)	From its junction with High Street in a south-westerly direction for a distance of approximately 90 metres.
Parkside	All parts.



Street Trading Consent Policy

Draft
29th July 2009



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Bromsgrove
District Council

www.bromsgrove.gov.uk


EQUALITY
FRAMEWORK
FOR LOCAL
GOVERNMENT
ACHIEVING

Introduction

1. Purpose of the Policy

- 1.1 It is the Council's intention to create a street trading environment which complements the area of trading, is sensitive to the needs of residents and nearby businesses, which promotes consumer choice whilst ensuring the safety of the public and prevents nuisance being caused. This policy is designed to promote those aims.

2. Summary of the Policy

- 2.1 In order to promote the above purpose the Council has designated:
- the entire district of Bromsgrove (other than the High Street [and certain adjoining streets]) as Consent Streets which means that street trading is only allowed if the Council grants a Street Trading Consent; and
 - the High Street [and certain adjoining streets shown on the enclosed plan] as Prohibited Streets which means that no street trading is allowed on the High Street/those streets.
- 2.2 This policy aims to assist in achieving consistency in determining applications for Street Trading Consents.

3. Background

- 3.1 Street trading means the selling, exposing for sale, or offering for sale of any article (including a living thing) in any street, road, footway or other area to which the public have access without payment in the district of Bromsgrove.
- 3.2 There are some types of trade that are exempt from the definition of street trading. These include:-
- acting as a pedlar under a pedlar's certificate granted under the Pedlars Act 1871;
 - markets or fairs established by Charter;
 - trading in a trunk road picnic area;
 - trading as a news vendor;
 - trading at a petrol filling station;
 - trading on premises used as a shop or in the street adjoining a shop, as part of the business of the shop;
 - Selling things as part of the business of a roundsman e.g. a milkman (but not ice cream vans) ; and
 - facilities for recreation and refreshment operated by the Council.
- 3.3 A Street Trading Consent must be obtained from the Council before street trading can take place in Consent Streets.

4. Criteria for Street Trading Consents

4.1 In determining an application for a Street Trading Consent, the Council will consider the following factors:

- (a) **Public Safety** – does the location of the proposed trading site represent or is it likely to represent, a substantial risk to the public and users of the highway? The Council will consider things like important sight lines for CCTV cameras, requirements of emergency vehicles, fire hazards, hygiene and the safety of access to or from the trading site.
- (b) **Public Order** – does the street trading activity represent, or is it likely to represent, a substantial risk to public order?
- (c) **The avoidance of public nuisance** – does the street trading activity represent, or is it likely to represent, a substantial risk of nuisance to the public from noise, smell, litter or late night disturbance?
- (d) **Needs of the area** – are there enough other trading outlets to serve the needs of the area? A Street Trading Consent will not be granted where it is considered that there are already enough traders trading in the vicinity (from shops or other stalls) in goods in which the applicant wishes to trade, or if there is an existing concentration of street traders in the street in which the applicant wishes to trade.
- (e) **Consultation** - relevant responses from consultees.

4.2 In addition the Council will consider the following general criteria:

- the trader will be expected to provide a service which is a benefit to the public and which enhances the area by bringing in new products or adding to the vitality of the area;
- the Trading Unit, including any associated equipment must be of good quality and complimentary to the character of the area;
- each application will be judged on the general needs of the locality; a Street Trading Consent will not normally be granted where there is already adequate similar provision in the immediate area;
- the effect on road safety caused by the siting of the Street Trading Unit or by customers visiting or leaving the Street Trading Unit;
- the effect of any loss of amenity caused by noise, traffic or smell;
- any existing Traffic Regulation Orders e.g. waiting restrictions; and
- any potential obstruction of pedestrian or vehicular access.

- 4.3 **Note:**
Suitcase salesmen and similar traders will not be issued with a Street Trading Consent.
- 4.4 Any proposal to sell hot food and drink between 11pm and 5am also requires a Premises Licence issued under the Licensing Act 2003.

5. Environmental Issues

5.1 Street Traders must comply with all legislative requirements relating to Environmental Health and Trading Standards. Failure to observe these requirements may result in a Street Trading Consent being revoked, or a trader might be prosecuted for more serious offences.

5.2 Some of the key environmental points are listed below:

- It will be the responsibility of the trader to keep the area clean and free from litter during the consented/operational hours;
- All waste generated must be disposed of in accordance with the requirements of the Environmental Protection Act 1990;
- Traders whose street trading activity includes the provision of food in any form must comply with the provisions of current food safety and health and safety legislation;
- All food traders must be registered as a food business with a local authority environmental health department where the unit is kept prior to trading;
- The Trading Unit may be inspected by an authorised officer of the local authority at all reasonable times; and
- Visits may be made to holders of Street Trading Consents throughout the consent period to check whether conditions are being complied with or to carry out any duty the Council has, such as food safety inspections.

6. Fees

6.1 The Council reviews the fees for Street Trading Consents each year. The current fees are :

Annual street trading consent	£552 per annum
Occasional street trading consent	£25 per day

6.2 Fees must be paid in full in advance.

6.3 If any cheque is dishonoured by a bank, the Council will insist that payment is made in cash or other cleared funds within 5 working days at the Customer Service Centre, School Drive, Bromsgrove, tel: 01527 881288. If such payment is not made within 5 days the Council will revoke the Street Trading Consent (if the fee is for renewal of a Street Trading Consent) or will refuse to issue a new Street Trading Consent.

6.4 If an application for a Street Trading Consent is refused the Council will refund the fee in full.

- 6.5 If a Street Trading Consent is surrendered or revoked before the end of the consent period, the Council will refund the whole or part of any fee paid as applicable in proportion to the length of consent period which has elapsed. Any refund of a consent fee will be dependant on the remainder of the term left on the consent less an administration fee of £25.00.

7. Applying for a Street Trading Consent

- 7.1 An application for the grant or renewal of a Street Trading Consent should be made to:

Licensing Section
Planning and Environment Services
Bromsgrove District Council
Burcot Lane
Bromsgrove
Worcestershire
B60 1AA.

- 7.2 All applicants must be over 17 years of age.

- 7.3 The application must be accompanied by the following:

- a completed application form;
- the fee;
- an ordnance survey map (or equivalent) to a minimum scale of 1:1250 clearly indicating the location of the proposed street trading site;
- a current photograph of the applicant;
- three colour photographs of the Trading Unit with full details of any van, barrow, other vehicle or portable stall which the applicant intends to use; and
- where food is to be sold the application must include details of the local authority where the trader is registered as a food business.

- 7.4 Once the application has been received, the Council will make arrangements for the van, barrow, vehicle or stall to be inspected by one of its authorised officers.

- 7.5 The Council will consult with the following:

- the Highways Authority – Worcestershire County Council;
- the Chief Officer of Police;
- the Council's Environmental Health team;
- the Council's Street Scene and Community Services team;
- the Council's Economic Development team;
- Trading Standards;
- the Parish Council (if any) in which the Trading Unit is to be located;
- the Ward Councillors; and

- the owners/occupiers of any properties near to the proposed location of the trading site.
- 7.6 The criteria set out in this Policy will be used to determine the application. Each application will be assessed on its merits and individual circumstances. Applications are decided within **28 days**, unless advised otherwise.
- 7.7 If no objections are received during the consultation period and the application complies with the requirements of this Policy the Street Trading Consent will be granted.
- 7.8 If any relevant objections are received during the consultation period, the applicant will be notified of any objection and will be given the opportunity to respond to such objections.
- 7.9 If the application does not comply with the requirements of this policy or if relevant objections are received, the application will be referred to the Council's Licensing (Applications) Sub-Committee for consideration.
- 7.10 If the application is referred to the Sub-Committee, the applicant and any objectors will be invited to attend the meeting to put forward their case. The applicant may be legally represented or supported by a friend. If the applicant does not attend the Sub-Committee meeting, the application can be determined in their absence.
- 7.11 The application and any objections from consultees will be assessed by the Licensing (Applications) Sub-Committee against the criteria set out above. The Council will aim to resolve any objections by attaching appropriate conditions to the Street Trading Consent. If conditions cannot overcome the objections, the application may well be refused. The applicant will be notified in writing within **5 working days** of the decision to refuse the application or revoke the Street Trading Consent. There is no right of appeal against the Council's decision to refuse to grant or revoke a Street Trading Consent.
- 7.12 A Street Trading Consent will be issued for a maximum period of 12 months. Shorter term consents may be issued on a daily or monthly basis. These particular consents will expire, unless renewed, on the date specified in the Street Trading Consent.
- 7.13 Once issued, the consent holder cannot sell, give away, sub-let or part with all or part of the Street Trading Consent or any rights conferred by it.
- 7.14 A Street Trading Consent may be revoked by the Council at any time or surrendered by the consent holder at any time.

8. Conditions

81. Conditions are attached to Street Trading Consents to ensure public safety and the prevention of nuisance and annoyance to local residents and businesses. These conditions are set out at Appendix 'A'. The Council may also impose other conditions as it considers reasonably necessary in any particular case.

9. Display of the Street Trading Consent

- 9.1 A copy of the Street Trading Consent must be prominently displayed at the trading site to which it relates to so that it can be clearly seen and read.
- 9.2 The size and location of a Trading Unit shall be clearly shown and identified on the Street Trading Consent.

10. Variations to Street Trading Consents

- 10.1 In certain circumstances, the Council may wish to vary a Street Trading Consent it has granted by adding to, altering or removing one or more of the conditions attached to it. In those circumstances the Council will notify the consent holder of its intention and the consent holder will be given the chance to respond to the proposed variation of the Street Trading Consent.
- 10.2 Consent holders may also ask for conditions to be added to, altered or removed. This is done by completing a new application form and submitting the appropriate fee. There is no right of appeal against the Council's decision to refuse to vary a Street Trading Consent.
- 10.3 If the Council varies a Street Trading Consent, the consent holder must surrender the original consent.

11. Insurance

- 11.1 Every consent holder must produce the original of a relevant policy for Third Party Liability Insurance with a minimum level of cover of £5 million before the Street Trading Consent can be issued, or before a Street Trading Consent can be renewed.

12. Trade Waste

- 12.1 If the street trading activity involves or requires the removal of waste from the trading site the consent holder must produce evidence of a waste removal scheme, such as a Trade Waste Agreement with a licensed waste carrier, before a Street Trading Consent will be issued, or before a Street Trading Consent will be renewed.

13. Enforcement

- 13.1 Any person who carries on street trading in a Consent Street without the appropriate consent, or in a Prohibited Street and who is not exempt commits an offence and may be prosecuted and liable on conviction to a fine not exceeding £1,000.

- 13.2 Failure to comply with the conditions attached to a Street Trading Consent may lead to suspension, revocation or non-renewal of the Street Trading Consent.
- 13.3 The street trading activity must at all times comply with the legal requirements relating to that type of street trading activity and action may be taken by the authority responsible for regulating that activity. In particular traders whose street trading activity includes the provision of food in any form must comply with the provisions of current food safety and health and safety legislation.
- 13.4 It is recommended that advice be sought on detailed compliance with this legislation from the Commercial Team at Bromsgrove District Council on 01527 881434 at the earliest opportunity. The trading unit will be subject to routine inspection to assess compliance.

14. Trading from Lay-bys

- 14.1 Only lay-bys which are separated from the main carriageway, for example by a grassed or tarmac verge, will normally be considered by the Council as being suitable sites.

15. Equality & Diversity

- 15.1 In determining applications the Council will give take account of its Inclusive Equalities Scheme.

16. Review

- 16.1 This policy will be monitored and reviewed from time to time.

Model Conditions

General

1. You may only carry out street trading activities between the times and/or on the days permitted by the Street Trading Consent.
2. You must not trade in any location other than the location permitted by the Street Trading Consent.
3. You must at all times whilst trading, display in a prominent position the Street Trading Consent issued by the Council.
4. You must not sell any type of food, goods or merchandise other than that specified in the Street Trading Consent.
5. Any breach of these conditions may lead to the Street Trading Consent being suspended or revoked.
6. The Council may vary the conditions attached to this Street Trading Consent at any time.

Prevention of obstruction or danger to highway users

7. The Trading Unit shall be placed in such a position so that no obstruction is caused to nearby shop entrances to the satisfaction of the Council's authorised officer.
8. No vehicle shall be in attendance for the purpose of delivering or collecting stalls, goods, etc., between the hours of 10.30 a.m. and 3.30 p.m.
9. You must ensure that access for emergency vehicles is available at all times, and that access for any vehicles is available before 10.30 a.m. and after 3.30 p.m.
10. You will be responsible for any damage to the highway or otherwise resulting from the trading activity.
11. You must not park vehicles or place structures in the vicinity of a trading site so as to obstruct street parking facilities available for the public.
12. Advertisements or other notices must not be placed outside the street trading site without the approval of the Council.
13. You or any other person at the trading site must move the vehicle/stall or vacate the site immediately when asked to do so by a Police Officer or an authorised officer of the Council.

Prevention of nuisance or annoyance

14. You are responsible for the disposal of all refuse and waste from the site and, at the end of trading, you must ensure that the site is cleansed and left entirely free of obstruction.
15. If you damage or fail to cleanse the trading site remedial action will be taken by the Council and the cost charged to you or if appropriate, enforcement action may be taken under Environmental Protection Act 1990 and Clean Neighbourhood and Environmental Act 2005.
16. You must not carry on your trade in such a way so as to cause a nuisance and must take all reasonable steps to prevent substantial risk of nuisance from noise, odour or fumes to residents, members of the public and businesses in the vicinity.
17. You must not use any television, tape recorder or other device for the reproduction of sound while trading without the permission of the Council.
18. You must not use strobe lights without the permission of the Council.
19. You must confine and sell goods and merchandise within the area of the trading site as approved and must not sell or erect additional tables, awnings or any other structure.
20. You must ensure that the Trading Unit does not cause interference to vehicles servicing nearby shops, houses or other premises.
21. You must ensure that you do not deposit in any street any solid or liquid refuse arising from the trading activity and you must not discharge any waste water to the street surface or to the surface water drains.

Type of vehicle

22. Any vehicle used for the provision of food in any form must comply with the provisions of current food safety and health and safety legislation. Vehicles may be inspected by an authorised officer of the Council at all reasonable times to ensure compliance with legislation.

Safety Measures

23. You are responsible for any connection to electrical supply and this must be carried out in accordance with the current good electrical practice by a competent person. The Trading Unit must not be connected to the Council's Christmas display circuit.
24. The use and storage of liquid petroleum gas shall comply with the requirements of the Fire Officer.

Liability

25. You are responsible for all and any claims for loss, damage or injury howsoever arising from the erection of the Trading Unit including any associated equipment, the erection or siting of any van, barrow,

vehicle or portable stall any and/or the carrying out of street trading activities, or any other activities carried on by you at the trading site.

Suitability of Applicant

26. You must maintain a high degree of personal cleanliness and shall wear suitable, clean and where appropriate, protective clothing. Where food is to be sold this must include compliance with current food safety legislation.
27. You are expected to be in regular attendance at the site as Street Trading Consents are granted to individuals. The person who is the consent holder is required to be present at the vehicle, barrow, cart, van, portable stall or other vehicle or premises from which the street trading activity takes place during trading hours. The consent holder may nominate an assistant to cover in their absence. Advice on this should be sought from the Licensing Team.
28. You must at all times conduct your business in a clean, honest, polite and business-like manner without interfering with the business of other traders and consent holders.
29. You must ensure that you have obtained any other approval or registration required under any other statutory provisions relevant to your trade.
30. You must be 17 years of age or over and shall be responsible at all times for the control of the stall. Any persons assisting on the stall must be 17 years of age or over.
31. The Street Trading Consent is personal to the trader named within it and shall not be assigned, sub-let or transferred to any other person, firm or company.

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