



Street Trading Consent Policy

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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.