

Street Trading Policy

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1 Purpose

- 1.1 The Council's Street Trading Policy is to create a street trading environment which complements premises-based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of the local environment.

2 What is Street Trading

- 2.1 Street Trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment. This may also include private land.
- 2.2 Cheshire East Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of the Borough Area. All the streets in this area are designated as Consent Street except those streets designated as Prohibited Streets.
- 2.3 The effect of this designation is that Street Trading in a Consent Street is prohibited (subject to legal exemptions) without first obtaining a Street Trading Consent from the Council.
- 2.4 Street Trading in a Prohibited Street is not permitted at any time. Anyone found to be trading in a prohibited street may be liable to prosecution.

3 Exemptions

- 3.1 Some types of trade are exempt from the need to obtain a street trading consent. These include:
- A person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871
 - Trade carried out by a roundsman e.g. milkmen
 - Trade carried on at a petrol filling station
 - News vendors in certain circumstances
 - Trade carried out in a street adjoining a premises used as a shop; provided it is part of the business of that shop (such business must not obstruct the highway).
 - Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order.

4 Application Process

- 4.1 Street Trading application can be made for:
- a 'Fixed Pitch' nominated by the applicant (if that pitch is deemed suitable)
 - a 'Roaming Zone' (Borough wide consent when a schedule of stops/streets is included with the application, ie ice cream vans etc)
- 4.2 Applicants for 'Roaming Consent' (e.g. ice cream vendors) must include a list of all streets where they will be stopping to trade.

- 4.3 A Street Trading Consent can be held by more than one person, providing that person(s) has a business interest and authority to manage the Street Trading site. Once granted, Consentees will be held equally responsible for any breach of terms of conditions of a Street Traders Consent.

5 Consultation

- 5.1 On each application received the Licensing Team may consult the following:
- i. Cheshire Constabulary
 - ii. Highway's Authority
 - iii. Planning Authority
 - iv. Environmental Health
 - v. Cheshire East Event Safety Advisory Group
- 5.2 The Licensing Team will also consult any other person or body that is deemed necessary.
- 5.3 If any objects are received in respect of an application, that application will be determined by the Council's General Licensing Sub-Committee.

6 Site Assessment

- 6.1 In determining whether Street Trading in a particular area is appropriate the Council will have regard to:
- any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving
 - any loss of amenity caused by noise, traffic or smell
 - existing Traffic Orders e.g. waiting restrictions
 - any potential obstruction of pedestrian or vehicular access
 - any obstruction to the safe passage of pedestrians
 - the safe access and egress of customers and staff from the pitch and immediate vicinity
 - whether there are any Consents (Fixed or Roaming) already granted to a site in the vicinity
 - Whether the training applied for would adversely affect any existing shops or traders.

7 General Conditions

- 7.1 In addition to the above, the following criteria will need to be met before a Street Trading Consent will be issued:

Prevention of obstruction or danger to road users

- To be sited in accordance with highways legislation as appropriate, such that no obstruction is caused to highway users or to adjacent properties
- The position of any vehicle must be such that it does not encourage children to cross any Class 1, Class 11 or Class 111 Primary Distributor Road
- No advertising boards to be used other than adjacent to the vehicle

- Operator to cease trading, if asked to by the Highways Authority or the emergency services.

Prevention of nuisance or annoyance

- No music or other broadcasts to be made from the Consent site other than with the permission of this Authority
- Litter bins to be provided and litter collected as appropriate where litter is likely to be generated
- A refuse contract must be entered into where refuse is likely to be generated

Suitability of the applicant

- An application may be refused if the applicant is unsuitable to hold the consent.
- Consent cannot be issued to a person under the age of 18 years

7.2 The Council can issue a consent with any conditions that are deemed reasonably necessary. The full list of conditions is set out at appendix **.

8 Enforcement

- 8.1 Standard conditions may be attached to every Street Trading Consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.
- 8.2 Failure to comply with conditions may lead to revocation or non renewal of Consent.
- 8.3 Street Trading Consent can be revoked at any time. Additionally, the Conditions attached to a consent may be varied at any time.
- 8.3 It is an offence to carry out street trading without the consent of the Council and any person convicted of such an offence shall be liable to a fine not exceeding £1,000. This will include any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the certificate.

9 Fee Structure

- 9.1 The fee for street trading consent is determined by the Licensing Committee in accordance with the Council's Constitution.
- 9.2 The current fee for the grant of a consent is £364.00.

10 Delegation of Functions

- 10.1 Applications for Street Trading Consents are delegated to the Head of Community Services.
- 10.2 Determination of applications where objections or representations have been made lies with the Council's General Licensing Sub-Committee.

10.3 Any application made that falls outside this policy or where an applicant requires removal of a condition will also be referred to the Council's General Licensing Sub-Committee for determination.

10.4 The power to designate streets or to amend the current designation of a street is reserved to the Licensing Committee.

11 Renewals

11.1 Street Trading Consents are issued for a period of up to one year

11.2 Applicants should then re-submit their application if they wish to continue to trade at least one month before the expiry of their current Consent.

12 Decisions

12.1 Following the determination of an application the Council will notify the applicant of the decision in writing as soon as possible.

12.2 There is no statutory right of appeal against refusal to issue a Street Trading Consent.

13 General

13.1 This policy will complement and inform other Council initiatives including those on street markets and life in the public realm.

13.2 This policy will inform the detailed conditions attached to every Street Trading Consent.

13.3 This policy will be applied in a manner that is consistent with the Council's equalities policies.

13.4 At all times, each application will be determined on its own merit.

14 Review of the Policy

14.1 This Policy will be reviewed every five years. As well as the five-yearly reviews, the policy will continue to be evaluated and may be updated at any time. Any changes to this policy must be agreed by the Licensing and Regulation Committee, unless this function is delegated to an appropriate officer.

15 Contacts

Licensing Team
Cheshire East Council
Westfields
Sandbach
CW11 1HZ
☎ 0300 123 5015
✉ licensing@cheshireeast.gov.uk
💻 www.cheshireeast.gov.uk/licensing

Street Trading - Street Designations

Congleton District

In March 2000 the Congleton Borough Council designated all streets within the borough with the exception of Class "A" routes as consent routes.

- All Class "A" routes are designated as "Prohibited".
- Apart from 2 lay-bys on "A" routes
- A534 near to the junction with Smethwick Lane
- A54 near to junction with Mill Lane at Browns Bank

Crewe and Nantwich District

You may apply for a consent to trade in any street within Crewe and Nantwich District area which is not prohibited.

The prohibited streets are as follows:-

All class A roads including A500, A5020, A51, A534, A532, lay-by at Crewe Green Road (A534).

Macclesfield District

With the exception of the four lay-bys set out below, which shall be consent streets, to designate all 'A' and 'B' roads together with adjoining streets for a distance of 50 metres, are designated as prohibited streets for the purposes of street trading with effect from 15th December 2008.

- Lay-by on the Macclesfield Road (A536) at Gawsorth directly adjacent to the Chain and Gate Public House;
- Lay-by on the east side of the A523 at Adlington adjacent to the Legh Arms;
- Lay-by to the west of Monks Heath on the southern side of the A537
- Lay-by on Mobberley Road (B5470) near to the Longridge Trading Estate, Knutsford.

With the exception of the roads listed below, which shall be prohibited streets, to designate all other roads within the Borough not covered by (1) as consent streets for the purposes of street trading with effect from 15th December 2008.

- Macclesfield – Market Place, Mill Street, Park Green, Chestergate, Castle Street (with the exception of an area adjacent to number 6 Castle Street), Sunderland Street, Waters Green and Albert Place;
- Wilmslow – Grove Street (with the exception of an area at the junction of Grove Street and Grove Avenue), Hawthorn Lane, Church Street;
- Knutsford – Princess Street, King Street, Tatton Street and Canute Place;
- Poynton – Park Lane
- Poynton Industrial Estate, Adlington – First Avenue (from the junction with the A523 for the remainder of its length), Second Avenue and Third Avenue.

**Local Government (Miscellaneous Provisions) Act 1982 –
Schedule 4**

APPLICATION FOR A STREET TRADING CONSENT

I/We HEREBY MAKE APPLICATION for the (grant) (renewal) of a Street Trading Consent in accordance with Section 3 and Schedule 40 to the Local Government (Miscellaneous Provisions) Act 1982

Personal Details: Applicant No. 1

| | | | |
|---------------------------------|--|---------------|--|
| Surname | | | |
| First Name(s) | | | |
| Home Address | | | |
| Postcode | | Date of Birth | |
| Home / Mobile Telephone Numbers | | | |

Personal Details: Applicant No. 2

| | | | |
|---------------------------------|--|---------------|--|
| Surname | | | |
| First Name(s) | | | |
| Home Address | | | |
| Postcode | | Date of Birth | |
| Home / Mobile Telephone Numbers | | | |

Do you intend to trade from a fixed pitch or roam an approved area?

Fixed Pitch (see sections 13-17) ☐

Roaming (see sections 23-27) ☐

Trading Location Details (Fixed Consent):

| | |
|---|--|
| Trading Site (give street name and precise location including map) | |
| Trading Name (if applicable) | |
| Trade Days | |
| Trade Times | |
| Goods to be Sold – state type, standard and method of presentation of goods | |

Trading Location Details (Roaming Consent):

| | |
|---|--|
| Trading Site (give Area eg Congleton or Macclesfield and provide details of the route to be undertaken) | |
| Trading Name (if applicable) | |
| Trade Days | |
| Trade Times | |
| Goods to be Sold – state type, standard and method of presentation of goods | |

Vehicle / Stall / Unit Details:

| | |
|---|--|
| Type of vehicle / stall / unit | |
| If mobile unit, state vehicle registration number | |
| Vehicle / stall / unit - height | |

| | |
|--|--|
| Vehicle / stall / unit - width | |
| Vehicle / stall / unit – length | |
| Address of base used for storage of goods for sale | |
| Details of refuse storage and disposal | |

Have you ever been refused a Street Traders Licence or Consent by this or any other local authority? If yes, give dates and details YES / NO

Do you intend to engage assistants, if yes, please state how many _____

I declare that to the best of my knowledge and belief, the answers given are true and I realise that information disclosed in this application form may be made available to other authorised agencies.

If a Consent is granted, I undertake to comply with the conditions attached to the grant of the licence, and also comply with the Food Safety Act 1990, where appropriate, and to any Regulations made thereunder.

Signed:

Date:

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING CONSENT – CONDITIONS

The Operator shall at all times observe and perform to the satisfaction of the Council the conditions set out below:

- The Operator shall not transfer or attempt to transfer a Street Trading Consent to any other person.
- No class or classes of articles or things may be sold or exposed or offered for sale other than those specified in the consent.
- The trading unit used for street trading shall not obstruct the street or cause any danger to persons using the street.
- The trading unit shall be kept in a clean and tidy condition at all times.
- Nothing shall be placed on or in the trading unit in connection with street trading or otherwise which emits fumes odours or smoke to the annoyance of persons using the street or occupying premises in the street.
- Any property building or structure in or adjacent to any street to which street trading is carried out shall not be defaced or interfered with or any placards posters signs or otherwise placed thereupon.
- No unreasonable noise by the Operator or persons assisting the Operator which may cause annoyance to persons using the street or occupying premises in the street in which trading is carried out.
- The trading unit shall be immediately removed for so long a period as may be necessary to allow building works/demolitions, statutory undertakers works, or Local Authority works to take place either in the street or to premises adjoining or in the street.
- The trading unit shall be immediately removed for so long a period as may be necessary from the space in front of any premises where the trading unit unduly obstructs or hinders the access or egress from such premises by any persons or vehicles.
- If required by a Constable or Fire Officer or a duly authorised officer of the Council in the event of an emergency or in the exercise by the Council of any of its powers and its duties the trading unit and goods used for street trading shall be removed.

- All litter and refuse from and around the trading unit arising from street trading shall be removed from the Site by the Operator and properly disposed of. The Operator shall leave no refuse or litter in any litter bins in the street or any adjoining streets.
- The Operator shall display the consent notice on the trading unit where it may be visible to members of the public.
- Any person found engaging in street trading shall, on being requested to do so by a Police Officer or a duly authorised officer of the Council, produce for inspection his/her street trading consent and shall provide his/her name and address.
- If the Operator changes his/her place of residence he/she must notify the Council of the new address within three weeks of the date of the change.
- Notwithstanding any time specified for street trading contained within the consent, the Operator is not authorised to trade at any time in contravention of any statutory enactment.
- Before commencing to trade, the Operator shall ensure that the trading unit and his goods comply with all statutory requirements and regulations for time being in force, and that any consents or permissions relating thereto remain valid throughout the period of the consent. Any Operator who sells food is required to be registered as a food business with the Council's Environmental Health Department. All Operators shall comply with the requirements of the Health and Safety at Work etc Act 1974.
- The Operator shall ensure before commencing to trade, that all notice or advertisements have received the necessary approvals in accordance with the Town and Country Planning Act 1990 and associated regulations and that all such approvals remain valid throughout the period of the consent and no other advertisements shall be displayed in relation to the trading unit at any time.
- Notwithstanding the above, no notices, adverts, placards, signs or otherwise shall be placed on or attached to the trading unit or any proximate area thereto without the written approval of the Council
- The Operator may, in writing, at any time surrender this Consent to the Council and it shall then cease to be valid.
- The Operator hereby indemnifies the Council and any successor local authority from and against all claims, costs, charges or expenses arising from or out of any loss, damage or injury to any persons or property occasioned in the exercise of trading under this Consent. The

Operator shall throughout the duration of this Consent hold appropriate public liability insurance at a level approved by the Council.

- The Operator shall only trade in respect of the purpose set out in the consent and at the location, days and hours specified on the consent. Outside the hours the specified the trading unit shall be removed from the Site to a location approved by the Council. Notwithstanding the days and hours of trading stated on the consent, the Council reserves the right to approve in writing other days and hours of trading.
- The consent is valid for twelve months from the date of issue and may be revoked by the Council at any time for breach of any of the conditions contained herein
- The Operator undertakes not to use the grant of this Consent as a defence to any enforcement action under the Town and Country Planning Act 1990.
- The Council reserves the right to cancel and/or vary and/or impose additional conditions upon giving one week's notice in writing to the Operator at the address stated above or any new address provided by the Operator.
- The Consent is only valid so long as the location referred to on the consent is available for use by the public and may be taken out of use for so long as may be necessary by the Council (or any successor local authority) for maintenance storage safety or any other reason or purpose.
- No compensation for loss of trade or disturbance will be payable in relation to any conditions hereof.
- The position of the trading unit as shown edged red on the attached plan shall not be altered without the consent in writing of the Council.
- The Operator shall only use a trading unit approved by the Council.
- A refund of the annual consent fee shall not be considered in the circumstances that the Consent is brought to an end by the Council revoking the Consent for reason of the Operator's non-compliance with these conditions.

Consent holders trading within Town Centres are required to comply with all foregoing conditions and also to:

- Prior to commencing trading written detail of the Operators method and place of disposal of litter and refuse shall be provided by the Operator to the Council's Town Centre Manager.

- Provide litter bins of a type approved by the Council if required to do so by the Council's Town Centre Manager in the locations stated.

Consent holders operating catering units parked at particular fixed locations, such as lay-bys, to be required to comply with foregoing conditions and also to:

- Obtain formal planning consent for use of the land as a site for the catering unit
- Operate on a strictly takeaway basis only, serving food for consumption away from the unit, unless specifically authorised in the consent to have seating for customers
- Restrict hours of operation to between sunrise and sunset, in accordance with 'lighting up' times
- Remove stall or vehicle from the consent site at the end of the approved trading time each day
- Provide adequate integral sanitary accommodation including closet and wash hand basin with hot and cold water, to be made accessible from outside the unit only, or arrange for access to be available to such facilities at an immediately adjoining premises
- Maintain the site and adjoining verges in a clean and tidy condition and to be responsible for the removal of all litter