

Street Trading Policy

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1 Purpose

- 1.1 The Council's Street Trading Policy is to regulate street trading and 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 Street Trading Definition

- 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. A list of the designated streets is set out at appendix A.
- 2.3 The effect of this designation is that Street Trading in a Consent Street is prohibited (subject to 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.
- 2.5 It is recognised that street trading and trading as part of a market are distinct activities and the regulation of markets and market traders exists elsewhere in legislation.

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).
 - Certain activities under the Highway Act 1980
 - Selling items for charity under a Street Collection Permit
 - 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). Fixed pitch consents are suitable for traders who want to trade in the same location on a regular basis without the ability to move around the Borough.
- 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 etc) must include a list of all streets where they will be stopping to trade. Roaming consent holders will be expected to remain in one place only for a limited time i.e., not more than 30 minutes.

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, all Consent Holders will be held equally responsible for any breach of terms of conditions of a Street Traders Consent.

4.4 The fees payable for street trading consents are set annually by the Licensing Committee.

4.5 If you intend to trade on private land, you will still require street trading consent and you will need to provide evidence that the landowner has given you permission to trade as part of your application.

5 Consultation

5.1 On each application received the Licensing Team may consult the following:

- i. Police
- ii. Highway Authority
- iii. Environmental Health (Environmental Protection and Commercial Services)
- iv. Town and Parish Council covering the relevant area(s)

5.2 The Licensing Team will also consult any other person or body that is deemed necessary.

5.3 If any objections/representations are received in respect of an application, that application will be determined by authorised officers.

5.4 Consultation will normally be conducted for 10 working days. However, some consents that are only applied for 1 day will likely not be consulted on, especially in cases where there is insufficient time before the date requested to carry out consultation.

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 trading applied for would adversely affect any existing shops or traders.

6.2 When considering the effect on existing consent holders or existing shops in an area, this will be determined on a case-by-case basis. However, applicants should expect a consent to be refused where the location applied for is within 500 meters of existing traders or shops with similar offerings.

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 I, Class II or Class III Primary Distributor Road
- No advertising boards to be used other than adjacent to the vehicle, which shall not cause any obstruction to users of the street
- 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 and recycling 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
- The Council encourages Operators to recycle litter or waste where facilities are available

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.

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. Specific conditions deemed appropriate can also be applied to specific consents. This might be done to alleviate the concerns of anyone providing a consultation response.
- 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 Renewals

- 9.1 Street Trading Consents are issued for a period of up to one year.
- 9.2 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.
- 9.3 Renewal applications will be subject to a streamlined process, which will not include further consultation. However, if complaints are received concerning existing traders, investigation of whom has not warranted revocation, a consultation process will be undertaken in line with grant applications.

10 Decisions

- 10.1 Following the determination of an application the Council will notify the applicant of the decision in writing as soon as possible.
- 10.2 There is no statutory right of appeal against refusal to issue a Street Trading Consent.

11 General

- 11.1 This policy will complement and inform other Council initiatives including those on street markets and life in the public realm.
- 11.2 This policy will inform the detailed conditions attached to every Street Trading Consent.

Appendix 1 – Revised Draft Policy

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

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

Table of delegations of licensing functions

Functions relating to street trading will be dealt with as follows:

Matter under consideration	Full Committee	Sub-Committee	Officers
Policy Adoption	Environment and Communities Committee (*)		
Fee Setting	Licensing Committee (*)		
Designation of Streets	Licensing Committee (*)		
Applications for the grant or renewal of licences			All cases
Including additional conditions, amending conditions or disapplying standard conditions			All cases
Revocation of consents		When referred by officers (*)	All cases (when not referred to Sub-Committee)
Requests for officer decisions on applications or conditions to be reviewed		All cases (*)	
Application to review an officer revocation of consent		All cases (*)	

* Subject to any changes to the Council's Constitution