



SOUTH DERBYSHIRE DISTRICT COUNCIL

STREET TRADING POLICY

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

Issue 1: November 2016

1. Introduction

- 1.1 Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”), a Council has the power to adopt the Schedule enabling them to control street trading within their District. Once this Schedule has been adopted, a Council may choose to designate any street within its areas as a prohibited, licence or consent street.
- 1.2 South Derbyshire District Council adopted Schedule 4 in April 1991. The Council choose to designate the streets within the street trading area as consent streets.

2. Purpose of the Policy

- 2.1 This Policy sets out the Council's framework for the management of street trading in the District. Through the street trading scheme, the Council aims to regulate the location and number of street traders. The scheme also aims to prevent the obstruction of the streets of Swadlincote by street trading activities. In doing so, the Council recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people in the area.
- 2.2 This Council will have regard to this Policy when determining street trading applications. Each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons will be given for doing so.
- 2.3 This Policy will also assist applicants and existing permit holders with the application process and advising how applications will be determined.
- 2.4 The Council undertakes to avoid duplication with other statutory provisions and our commitment to work in partnership with other relevant enforcement agencies.

3. Consultation

- 3.1 In determining this Policy, the Council has consulted with the following people and bodies:
- Derbyshire Constabulary;
 - Derbyshire Fire and Rescue Service;
 - Derbyshire County Council Highways;
 - All current consent holders;
 - Members of the public.
- 3.2 The following departments within the Council have also been consulted:
- Economic Development;
 - Community and Planning;
 - Environmental Health;
 - Legal and Democratic Services.
- 3.3 The views of all appropriate bodies and organisations have been considered and taken into account.

4. Review of the Policy

4.1 This Policy will be reviewed every 3 years. At the time of review, the Council will consult with the list of people detailed above. In addition to the 3 yearly review, the Council will continue to evaluate the Policy and may update it at any time. Any minor changes to the Policy have been delegated to the Legal and Democratic Services Manager.

5. Legislation and Current Provision

5.1 In 1991, the Council resolved that Schedule 4 to the Act should apply to the following streets in Swadlincote Town Centre:

- Whole of Midland Road;
- Church Street;
- Civic Way;
- Belmont Street;
- Grove Street;
- High Street;
- Hill Street;
- Market Street;
- Alexandra Road – southwards to its inter-section with Hastings Road and West Street – westwards to its junction with Civic Way.

5.2 The Council resolved to designate the above streets as 'consent streets' therefore any person trading in these streets would require a consent from the Council.

5.3 In light of the recent changes to Swadlincote Town Centre, it is resolved to increase the streets designated as consent streets to include all streets within the boundary of the Town Centre as detailed on the map attached at Appendix 1 of this Policy and as detailed below:

Civic Way, walkway to Toulmin Drive leading to Rowley Court to back of Belmont Street Industrial Estate to Belmont Street to Civic Way to back of Church Street to Hill Street to Sir Herbert Wragg Way to Coppice Side to back of Pipeworks Retail Park to back of Rink Road to Alexandra Road to back of West Street to Heathcote Road to back of Sainsburys to William Nadin Way to Darklands Lane to Darklands Road.

5.4 Any street trading that takes place in any of the areas within the boundary as marked on the map will require a street trading consent from the Council. Please note that in addition to a street trading consent, other permissions may be required from the Council in order to trade in the town centre.

5.5 Street trading is defined as 'the selling or exposing or offering for sale of any article (including a living thing) in a street.' The following are not street trading for the purposes of this Policy:

- (a) Trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1971;
- (b) Any trade 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;
- (c) Trading as a news vendor;
- (d) Trading at or adjoining a shop business as part of the business of the shop;

- (e) Offering or selling things as a roundsman. A roundsman does not include ice cream sellers or mobile catering vehicles.

5.6 A street is defined as 'any road, footway, beach or other area to which the public have access without payment and a service area as defined in section 329 of the Highways Act 1980.

6. Delegation of Functions

6.1 Applications for a consent will be determined by Officers unless representations have been received against the application or there are concerns in relation to the applicant.

6.2 In these circumstances, the application will be considered by the Licensing and Appeals Sub-Committee. The applicant will be provided with the opportunity to present oral and/or written evidence to Members for consideration.

7. General Principles

7.1 No consent will be issued for market days except for consents already in place at the time the Policy comes into force. Market days are Tuesday, Thursday, Friday and Saturday. Any consent granted will state the times and days that a licence holder is permitted to trade.

7.2 Trade of general products would normally be expected to be a part of the market.

7.3 A consent will be held by the Cultural Services Department on behalf of South Derbyshire District Council to cover events arranged for or on behalf of the Council.

8. Applications for the Grant of a Street Trading Consent

8.1 An application for a consent must be made on the Council's application form which can be found on the Council's website. The relevant fee and supporting documentation detailed on the application form must be submitted with the application form. Applications can also be submitted online via the Council's website.

8.2 On receipt of the application, the Licensing Department will send a copy of the application form via email to the following consultees:

- Derbyshire Constabulary;
- Derbyshire County Council Highways;
- Environmental Health;
- Economic Development Department;
- Cultural Services Department;
- Current holder of the market contract;
- Ward Councillors.

8.3 There will be a 28 day representation period for any representations to be received in relation to the application.

8.4 If no representations are received, the application will be granted as applied for subject to the standard conditions.

- 8.5 If any representation is received in relation to an application for consent, the application will be referred to the Licensing and Appeals Sub-Committee for determination. The Council will endeavour to hold the Licensing and Appeals Sub-Committee within 28 days of the end of the representation period.
- 8.6 Each application will be decided on its own merits. Members will determine the application based on all the information received in support of the application and representation(s).
- 8.7 In considering an application, the Council will have regard to the following matters:
- Number, nature and type of traders already in the area;
 - Public safety;
 - Public order;
 - Avoidance of public nuisance;
 - Size and appearance of the stall or vehicle;
 - Needs of the area;
 - Impact on market and town centre retailers;
 - Impact on any planned events;
 - Suitability of the applicant;
 - Environmental credentials.
- 8.8 Following the determination of the application, the applicant and people making representations will be notified of the decision and the reasons in writing within 5 working days of the date of the hearing.
- 8.9 There is no statutory right of appeal against the refusal to issue a consent.
- 8.10 Until an application has been determined, it is an offence to trade without a consent.

9. Applications to Renew a Street Trading Consent

- 9.1 Consents are issued for a period of up to one year.
- 9.2 Applications to renew a consent must be submitted at least 6 weeks before the expiry of the current consent. Once the renewal application has been received, the Council may consult further to determine if the consent holder is a cause for concern or has been subject to any complaints.
- 9.3 If a renewal application is not made before the expiry of the current consent, a new application will be required. The effect of this will be that no street trading will be permitted until the new application has been determined.
- 9.4 If a renewal application has been received prior to the expiry of the current consent, the consent holder will be able to continue to trade whilst the application is being determined.
- 9.5 In relation to the determination of the renewal application, if there have been no justifiable complaints, enforcement issues or no change in circumstances in the town centre affecting the trader and the fee has been paid, the consent will be renewed.

10. Transfer of a Street Trading Consent

10.1 A street trading consent cannot be transferred or sold to another person except that the consent may be transferred to a member of the consent holder's immediate family in the event of the consent holder's death or incapacity.

10.2 The sub-letting of a pitch is prohibited.

11. Variation of a Street Trading Consent

11.1 Any variation to the details of the consent holder must be notified to the Council in writing. The Council will issue an amended consent on payment of the relevant fee. The original consent must be returned to the Council.

11.2 Any variation to the range of goods for sale, days and/or hours of trading must be notified to the Council in writing. The Council will consider the request taking into consideration the request and the number of existing traders and retailers already offering the proposed goods for sale. Payment of the relevant fee is required. The original consent must be returned to the Council.

12. Revocation of a Street Trading Consent

12.1 If there are any concerns about the consent holder through justified complaints or evidence of breach of conditions, the Licensing Department may refer the consent holder to the Licensing and Appeals Sub-Committee for consideration.

12.2 The consent holder will be provided with the opportunity to present oral and/or written evidence to Members for consideration.

12.3 There is no right of appeal against the decision to revoke a street trading consent.

12.4 Where a consent is revoked, there will be no refund of the application fee.

13. Markets

13.1 Swadlincote Market as a Chartered Market is outside the scope of the street trading regime.

14. Special Event Consent

14.1 In order to remove the requirement for each individual trader to obtain their own consent, the Council will issue a Special Event Consent that facilitates multi-user street trading for community events.

14.2 The application form for a Special Event Consent must be accompanied by permission in principle from the Cultural Services Department.

14.3 The consent will be issued for the duration of the specified event only and will be to a named individual. Where the application is made by an organisation, they must nominate a named individual who will be responsible for managing the use of the consent.

14.4 The consent holder will be responsible for ensuring compliance with the conditions attached to the consent at all times whilst the consent is being used to facilitate street trading.

14.5 The consent holder will be required to keep records of all traders that use the Special Event Consent including the date, trading location, name and company name, address, vehicle registration, contact telephone numbers and items for sale.

14.6 Special Event Consents provide exclusive control over trading in the designated area. Individuals are still able to apply direct to the Council for a consent. Licence holders of an annual consent will not be able to trade during a special event unless written permission has been granted from the Council.

15. Fees

15.1 Fees will be set and reviewed annually on a full cost recovery basis. Details of the current fees can be found on the Council's website.

15.2 The initial application fee for the grant of a consent is payable on application. Arrangements can be put in place to enable the renewal fee to be paid quarterly in advance.

15.2 Where trading ceases during the term of a consent, written notice must be provided to the Council. The consent must be returned with the notification. Any refund due will be issued on a pro rata basis for the number of whole months remaining on the consent.

16. Conditions

16.1 On the grant of a consent, the standard conditions will apply to the consent. The standard conditions are not exhaustive and other conditions may be attached to individual consents where appropriate. A copy of the standard conditions can be found at Appendix 2 of this Policy.

16.2 Street trading can only be carried out from the stall or vehicle authorised on the consent. Any changes to or replacement of the stall or vehicle must be approved by the Council.

17. Compliance and Enforcement

17.1 Each consent holder must comply with the standard conditions at all times. To ensure compliance with the conditions, the Licensing Officer may visit traders during the term of the licence.

17.2 The Council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies to provide consistent enforcement on licensing issues.

17.3 Where unlicensed street trading takes place or conditions attached to a consent are breached, the Council will gather evidence and take the necessary enforcement action in line with the Environmental Health and Licensing Enforcement Policy.

17.4 Consent holders selling hot food and/or beverages between 11pm and 5am must be authorised by way of a premises licence under the Licensing Act 2003.

18. Contacts

18.1 The Licensing Department can be contacted on the following details:

In writing: South Derbyshire District Council
Council Offices
Civic Way
Swadlincote
Derbyshire
DE11 0AH

Telephone: 01283 595 716 / 890

Email: licensing@south-derbys.gov.uk

DOCUMENT HISTORY

Issue No	Issue Date	Approved by
1	November 2016	Council

Appendix 1

Map of Street Trading Area

Appendix 2

Conditions attached to a Street Trading Consent

1. Street trading can only be carried out from the stall or vehicle authorised under the consent. Any changes to or replacement of the stall or vehicle must be approved by the Licensing Authority.
2. The consent holder shall not be the cause of any nuisance, obstruction or annoyance to any other user of the highway, the occupier of any land or building or the Council. Consent holders shall have special regard to and must take positive action to prevent excessive noise.
3. The consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property.
4. The consent holder shall ensure that the area in the vicinity of the stall or vehicle is kept clear of all refuse at all times.
5. The consent holder's stall or vehicle shall be kept in a clean, safe and well maintained condition and be of a presentable appearance.
6. The street trading consent bearing the name of the consent holder shall be prominently displayed on the stall or vehicle so that that it is clearly visible to members of the public during trading hours.
7. The consent holder's vehicle shall be maintained in a roadworthy condition with continuous insurance, tax and MOT certificate.
8. Adequate fire-fighting equipment shall be provided in the stall or vehicle at all times.
9. Where gas cylinders are used, an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment.
10. All stalls or vehicles selling hot food or drinks are required to carry a first aid kit.
11. All staff involved in the preparation of food shall hold a current Level 2 Food Safety Certificate.
12. A street trading consent cannot be transferred or sold to another person except that the consent may be transferred to a member of the consent holder's immediate family in the event of the consent holder's death or incapacity.
13. Sub-letting of pitches is prohibited.
14. The consent holder must be the principal operator and have day to day control of the stall or vehicle. The consent holder may employ any other person to assist in the operating of the stall or vehicle and shall notify the Licensing Authority of the name and address of that person.

15. The consent holder shall have and maintain an insurance policy against public liability and third party risks. The insurance certificate should be produced to the Authorised Officer on request.
16. The consent holder shall at all times obey all tariff regulations in force in the consent area.