

## **Consent Street Trading Policy - DRAFT**

### **Introduction and Scope**

Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (LG(MP) Act 1982) allows licensing authorities to control street trading activities within their area.

Stockton-on-Tees Borough Council has designated the whole of the borough as a consent area. This street trading policy is produced in accordance with the powers granted in Section 3 and Schedule 4 of the Act.

[Local Government \(Miscellaneous Provisions\) Act 1982 \(legislation.gov.uk\)](#)

This policy sets out the Councils framework and approach for the management of street trading in the borough.

Through the consent street trading scheme, the Council aims to control:

- the location of street traders;
- the number of street traders; and

The scheme also aims to:

- prevent unnecessary obstruction of the highway by street trading activities;
- sustain established shopkeepers;
- maintain the quality and add value to the townscape; and
- encourage inward investment.

In doing so, the Council recognises the importance of consent street businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause public or statutory nuisance to the people of the area.

This policy will guide the Council when it considers applications for street trading Consents and it will inform applicants of the criteria against which applications will be considered.

### **Review of the Policy**

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of street trading generally or as a result of local considerations within the borough. In any case, this policy will be reviewed within five years of adoption.

### **Legislation & Designation of Streets**

The Council has resolved that Schedule 4 to the LG(MP) Act 1982 should apply in the borough. Under Schedule 4 the Council can regulate street trading by designating streets as 'licence streets', 'Consent streets' or 'prohibited streets'. The Council has designated the entire borough as Consent streets.

A 'Consent street' is a street in which street trading can only take place if Consent from the Council has first been obtained. It is a criminal offence to engage in street trading in a Consent or prohibited street without Consent.

### **The Licensing and Determination Process**

[Application forms can be found at the website at:](#)

Applications can be made for a "Fixed Site Consent" or a "Roaming Consent" (Borough wide Consent when a schedule of stops/streets is included with the application i.e. ice cream vans etc.)

Applications can only be made by persons over 17 years of age, who have the right to reside and work in the UK. Sites can remain with the same person for a number of years on successful renewal. In the event of the Consent being revoked, surrendered or if it lapses without being renewed, the Council will accept new applications for the vacant site. This might be at any time of the year. If more than one application is received for any new or vacant site, applications will be considered in consultation and agreement with the Chair or Vice Chair of the Licensing Committee. All applications will be assessed against the Assessment Criteria.

Applications for street trading Consents are delegated to officers for determination in line with the Councils constitution. Officers will take all information into consideration including relevant objections. A relevant objection is one made by a person, business or body that is likely to be directly affected by a successful application. The objection must not be vexatious or frivolous and should concern itself only with matters likely to be affected by a successful application.

Officers will determine whether an objection is relevant according to its merit and any benefit of doubt will be given to the objector.

### **Consultation**

There are no statutory consultees on street trading applications however the police, highways authority, fire service and other responsible authorities will consult over any application and a 14-day consultation period will normally be required.

Local Ward Councillors will also be notified of an application. Public notification will be achieved through the Council's webpages.

Once the Council has accepted a valid application the applicant shall also put up a notice of the application at the proposed street trading location, advising the public how to comment on the application. (This requirement will not apply to roaming Consents such as ice cream vans).

Photographic evidence of the notice in place shall be submitted to the Council on the day the notice has been put up. The applicant shall remove the notice at the end of the consultation period.

Following the determination of an application, the Council will notify the applicant of the decision in writing.

### **Assessment Criteria**

Failure to meet conditions which would be attached to a Consent are grounds for refusal. In considering applications for the grant or renewal of a Consent, the following factors will also be considered:

#### **Suitability of the Applicant**

Applicants will be required to produce a basic DBS disclosure dated within 12 months. Previous failures, without reasonable excuse, to comply with legislation, conditions or paying fees may result in a Consent being refused, revoked or not renewed. Food traders must be registered as a food business with the relevant Council.

#### **Appearance of the Unit or Vehicle**

Trading units must enhance the visual appearance of the street and street scene rather than detract from it and be constructed in a suitable scale, style and using appropriate materials. The unit should also be designed to be fully accessible for all customers and advertising material must be limited e.g. the name of the unit, the type of product sold and a simple price list suitably designed and printed.

The Council will generally not permit trading units where the unit fully, or substantially, blocks lines of sight to established retailers in the vicinity.

### **Public Nuisance**

The street trading activity must not present a substantial risk of nuisance to the public, or properties in the vicinity, from noise, misbehaviour, emissions, smells etc. Particular regard to this will be had in respect of Consents in predominantly residential areas and due regard will be made to the character of the neighbourhood.

### **Public Safety**

The street trading activity must not present a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

Any street trading operation which negatively impacts public access by walking, cycling or public transport will generally be refused. The Council would expect a minimum of (1.5m) of unobstructed highway/walkway on at least one side of the proposed trading unit/location.

Overcrowding of the site/area. Overcrowding in the area is also considered and includes the capacity of the street trading area having regard to the potential maximum attendance on the site by the public, and the consequent risk of over congestion impacting adjacent roads to the site.

The activity must not present a risk to public order, this is likely to be more of an issue in respect of applicants wishing to trade at later hours.

### **Needs of the Area**

The retail offer of each individual unit will be considered, the goods should complement and not conflict with the goods sold by other established retailers within vicinity. This criterion permits the Council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The Council does however recognise that the surrounding retail offer is subject to change, therefore, it will apply this criterion to applications for new and renewal applications.

An applicant for the new grant of street trading Consent shall provide a copy of a map or plan showing all streets and other public areas within a radius of half a mile (800 metres) from the proposed location of the site. The map or plan shall be an Ordnance Survey map or similar standard, to a scale of 1:5000. It shall clearly indicate the position of the proposed site and indicate the locations of other street traders and outlets already trading in similar commodities to those proposed for sale.

The applicant must deliver notices to traders and premises identified and to the nearest six premises (being residential, commercial or otherwise) to the proposed site giving details of the application. Evidence of notices delivered to traders and premises shall be submitted to the Council.

Where any proposed trading is within 50 metres of a school entrance, the Council will seek the views of the school.

### **Environmental Credentials**

The Council will expect applicants to submit environmental statements setting out how the applicant will operate in an environmentally sustainable way. The application shall outline the impact of the proposed operation on the local environment, including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation and recycling, waste disposal and waste created by customers.

The Council will encourage the use of sustainable products and will consider the trader's environmental credentials in respect of these when considering whether or not to approve applications.

### **Renewals**

Consents are normally issued for a set date or dates or for a period of up to one year. Consent holders should re-submit their application if they wish to continue to trade at least one month before the expiry of their current Consent. As a matter of convenience, the Council will send renewal reminders to Consent holders via electronic contact details given at the time of application.

However, the Council is clear that it remains the Consent holder's responsibility to ensure that their Consent is renewed in time. If, without reasonable excuse, a renewal application is not made before the expiry of the current Consent it will expire and the site will become available.

A new application must be submitted in accordance with the new application procedure.

1. The Council may consult further to determine if the street trader is a cause for concern or has been the subject of complaints. Where a renewal application has been made and if:
2. there have been no significant complaints or enforcement issues;
3. all fees have been paid on time; and
4. there has been no significant change to the retail environment in the vicinity of the trading location the Consent will normally be renewed.

Food traders must be registered as a food business with the relevant Council. On renewal of the Consent, proof of the last programmed inspection must be provided.

Renewal forms, including a renewal fee are available on the [website at:](#)

### **Transfers**

An issued Consent can be transferred, transfer forms including a transfer fee are available on the [website at:](#)

### **Variations**

Holders of a Consent may wish, from time to time, to vary it - for example by requesting a change of trading hours or goods, variation forms including a variation fee are available on the [website at:](#)

A request to vary the location of the Consent will be treated as a new application for the new location.

### **Appeals**

The governing legislation does not allow for appeals and grounds for refusal need not be given.

However, if more than one application is received for any new or vacant site, or a high number of objections against an application are received, these applications will be considered in consultation and agreement with the Chair or Vice Chair of the Licensing Committee. All applications will be assessed against the Assessment Criteria and to ensure the process is open, fair and transparent, if an application is refused full and clear written reasons will be given.

### **Charity / Special / Community Events**

These applications would typically, but not exclusively, include:

- Local charity events
- Community fairs and craft events

- International markets
- Events celebrating local or national anniversaries
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Street trading associated with charity / special / community events will require individual Consent applications from individual traders or the event operator can act as an agent for individual traders by submitting a single application on behalf of all the traders. This policy is aimed at promoting and supporting such events and encouraging traders to attend.

The Consent will relate to the duration of the special event and may include specific conditions, in addition to standard Consent conditions, according to the individual merits of the event.

### **Enforcement**

The Council has a responsibility to regulate street trading in the borough and is therefore committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies. All enforcement action will be undertaken in accordance with the Councils adopted enforcement policy. [Webpage](#)

Obtaining a Consent does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Planning Controls, and organisers should ensure all such permissions, etc. are in place.

Where street trading activities are conducted without appropriate Consents the Council will look to gather evidence and take appropriate enforcement decisions on a case-by-case basis in accordance with its enforcement policy.

If the Council feels there is an issue with public order or threat to public safety in any particular instance it may call for assistance from Cleveland Police and may call for assistance from appropriate CCTV recordings when dealing with such issues.

### **Conditions**

Consents will carry standard conditions in all cases in order to promote public safety and avoid obstructions, nuisance and annoyance. In addition, the Council can impose additional conditions including operating hours and goods offered, where it is deemed appropriate and will be relevant to the category of Consent issued and the nature of the local environment.

“Consent” means this Street Trading Consent issued pursuant to Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.

“Consent holder” means the person named in this Consent and for the purpose of enforcing these conditions includes any other person engaged by them to assist in trading (including any Nominated Assistant(s) named in this Consent).

‘Consent Street’ means a street in which street trading is prohibited without a Consent from Stockton-on-Tees Borough Council.

“Council” or “the Council” means Stockton-on-Tees Borough Council.

“Site” means the site identified in this Consent.

“Unit” means the unit described in this Consent.

## STANDARD CONDITIONS (TO BE USED ON ALL CONSENTS ISSUED)

### The Site

<b>CST1</b>	The Site cannot be used for any purpose other than the operation of the Unit as described within the Consent and plan attached to the Consent.
<b>CST2</b>	Adjacent areas to the site (except the carriageway if open for vehicular use) shall be kept free of litter and refuse at all times whilst on site.
<b>CST3</b>	The Consent holder must provide facilities for the collection of all waste, refuse or litter arising as a result of the activity. The refuse storage must be of a substantial construction, suitable covered containers. All must be removed from the site at the end of each day's trading and properly disposed of, or if the amount of waste and refuse warrants it, when the container is full – whichever is the sooner.
<b>CST4</b>	Clear routes of access to the site will be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people.
<b>CST5</b>	The Consent holder shall ensure that the activities do not: <ul style="list-style-type: none"> <li>a. prevents traffic, other than vehicular traffic, from— <ul style="list-style-type: none"> <li>i. entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),</li> <li>ii. passing along the relevant highway, or</li> <li>iii. having normal access to premises adjoining the relevant highway</li> </ul> </li> <li>b. prevents any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,</li> <li>c. prevents statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or</li> <li>d. prevent the operator of an electronic communications code network having access to any electronic communications apparatus kept in united for the purposes of that network under, in, on or over the highway.</li> </ul>
<b>CST6</b>	Statutory and Emergency services will be permitted 24hr emergency access – without notice. The Council may temporarily revoke the Consent where an alternative use for the highway is required for example emergency highway maintenance, emergency scaffold access or use of the highway during events that are supported by the local authority. The local authority will not be liable for any loss of earnings arising from the suspension of the Consent.
<b>CST7</b>	The site must retain access for residents, disabled and accessibility – at all times.

### The Unit

<b>CST8</b>	The dimensions and appearance of the Unit at all times accord with the details agreed by the Council upon the issue of this Consent.
<b>CST9</b>	At all times while trading the Consent issued by the Council must be displayed in a conspicuous position on the Unit. For community/ special events the Consent will be displayed in at least two conspicuous places – typically these shall be attached to the first and last units.

<b>CST10</b>	The Unit cannot trade or operate in such a way as to cause obstruction of the street or cause danger or annoyance to persons using the street.
<b>CST11</b>	The Unit shall be clean and tidy and securely erected, is of such material and design, and so constructed and maintained that it is not liable to cause injury to any person present on the Site or otherwise.
<b>CST12</b>	The Consent Holder shall ensure that liquefied petroleum gas is not used without the express permission of the Council and any equipment using this gas shall have only flexible and approved armoured hoses complying with the relevant British Standard Specification or equivalent.
<b>CST13</b>	The Consent holder will ensure that the use and storage of liquefied petroleum gas complies with any relevant codes of practice.
<b>CST14</b>	The Consent holder shall ensure that goods may not be of an inflammable, corrosive or otherwise dangerous nature.
<b>CST15</b>	The Consent Holder shall ensure that no mobile generators are used without the express permission of the Council. Where permission is granted, generators shall be so positioned that they do not present a danger to the public, do not present a fire or similar hazard to the unit, goods displayed thereon, or adjoining premises and do not cause any contamination, noise or fume nuisance.
<b>CST16</b>	The Consent Holder shall ensure that a competent person in units all generators and documentation must be provided to show that the generators have been maintained in accordance with the manufacturer's instructions.
<b>CST17</b>	The Consent Holder shall ensure that no combustible materials are to be stored in the vicinity of a generator and suitable first aid firefighting appliance(s) must be immediately available.
<b>CST18</b>	The Consent Holder shall ensure that any equipment, such as a generator, is in a safe working condition and suitably cordoned off to ensure that the general public do not have access to the equipment.
<b>CST19</b>	All electric power supplied must be protected by residual current devices. Any appliance is to be separated from the supply outlet by a fuse of suitable rating.
<b>CST20</b>	All electrical cables or flexes, which are suspended over the public footway or carriageway shall be adequately supported. All electrical cables or flexes, which run along the ground and are in a position where the public could come into contact with them, they must be fitted with rubber cable protecting mats.
<b>CST21</b>	Authorised vehicles must be roadworthy, have current relevant documentation and internal and external appearance of vehicles &/or units shall be maintained in a clean, neat and tidy condition.
<b>CST22</b>	Any unit or vehicle used for street trading must be immediately removable at all times in the event of an emergency, or at any other time, be removed at the request of any officers of the emergency services or officer of the Council.
<b>CST23</b>	No unit or vehicle shall remain situated for longer than one hour after the authorised trading time(s).

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### The Consent Holder

<b>CST24</b>	The Consent holder shall provide Public Liability insurance cover for the unit and site and shall indemnify the local authority against all claims in respect of injury, damage or loss arising out of the granting of permission, (e.g. damage to the highway or highway furniture) to a minimum value of £5,000,000 unless such claims arise out of the local authorities' own negligence. Insurance applies to individual applicants and event organisers.
<b>CST25</b>	The Consent holder must adequately manage the street trading activity so as not to cause a statutory or public nuisance e.g. from noise, fumes and odour to any other person, whether that person is using the street or otherwise, or to the occupier of any building in proximity to the Consent site.
<b>CST26</b>	The Consent holder must pay the Council the cost of carrying out any works, including cleansing of the highway or making good any damage , that is required due to the Consent Holder's use of the Unit and Site. The permanent surface reinstatement shall be carried out to the satisfaction of the local authority.
<b>CST27</b>	The Consent holder will observe all statutory and other provisions and regulations for the time being in force which relate to the Consent Holder's use of the Site.
<b>CST28</b>	The Consent holder will be required to take responsibility for and supervise their licensed areas and so far as is reasonable to ensure that patrons or customers of the site conduct themselves in an orderly manner.
<b>CST29</b>	Where authorised by a Consent issued under the Licensing Act 2003, alcohol must only be served in polycarb or plastic containers.
<b>CST30</b>	The Consent holder will inform the Council in writing of the details of any change in the operation or staffing of the Unit (including changes in details of Nominated Assistants) or the sale or transfer of the Consent Holder's business to another party.
<b>CST31</b>	The Consent Holder(s) shall notify the Council's Licensing Section within 72 hours of any convictions or proceedings arising out of the use or enjoyment of the Consent.
<b>CST32</b>	The Council may at any time vary the conditions of a street trading Consent or revoke / suspend this Consent in the event of: <ul style="list-style-type: none"> <li>• The breach by the Consent Holder, their servants or agents (including Nominated Assistants) of any of the conditions herein or any supplemental/additional conditions imposed by the Council;</li> <li>• Work being carried out in, under or over the highway on which the Unit is located;</li> <li>• Change in Council Policy which necessitates termination of this Consent;</li> <li>• Circumstances outside the Council's control which necessitate termination of this Consent forthwith.</li> </ul>
<b>CST33</b>	The trader shall not place on the street or in a public place any furniture or equipment other than as permitted by the Consent and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.



<b>CST34</b>	No Consent holder shall trade at his / her authorised location on dates when road closure directives are in place for special events otherwise than with the permission of the organisation applying for same.
<b>CST35</b>	Failure to comply with any conditions attached to the Consent may result in the revocation of such Consent.
<b>CST36</b>	The Consent holder is encouraged to use sustainable packaging and adopt an environmentally friendly approach throughout the operation of the business to minimise the impact on the environment

**EXAMPLE ADDITIONAL CONDITIONS (THIS LIST IS NOT EXHAUSTIVE)**

- The Consent holder for a special / community event shall keep records of each unitholder present, to include the unit's site, name (and company name), address, vehicle registration and contact telephone number. This must be produced on the request of an officer from the Council.
- There shall be no available means of attracting attention for the purposes of trading or any stands or signs away from the Consent site
- The Consent holder must not permit the sale of offensive weapons including imitation firearms, firearms, airguns, swords and crossbows
- The Consent holder must not sell a knife to anyone under 18.
- The Consent does not imply or give any other permission, Consent, Consent or authorisation to trade in any other products other than those granted on application or renewal
- The trader shall not exhibit on the site any advertising signs, posters or such like except as may be approved by the Council
- No animal shall be present on any unit or vehicle save assistance dogs in accordance with the Equality Act 2010
- The trader is not permitted to hold any auction or like sale
- There shall be no discharge of wastewater or other liquid waste onto the Consent site or surrounding areas
- No form of amplified music shall be permitted.
- Mobile food traders shall have a minimum FSA Food Hygiene Rating Score of level 3 or above.

**SPECIAL CONDITIONS FOR MOBILE ICE CREAM TRADERS**

- Trading prohibited both sides of the road in any direction, during the period half an hour before school opening to 1 hour after closing (during school terms).
- Trading prohibited within 75 metres of the gates of all schools.
- The Consent holder shall not, without the prior permission of the Council, trade in any particular location for more than 30 minutes at any one time and shall not return to that particular location, or any position in the immediate vicinity thereof (which expression shall be as interpreted by the Council), within 2 hours of leaving it.
- The Consent holder shall comply with all traffic regulations, rules, orders and directions which apply to the public highways on which he trades.
- The Consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re-enactment thereof.

**Fees**

Fees will be made on application. Fees are reviewed annually and published on the Council's website. The Council is able to recover the costs associated with the Consent scheme and are set and at the discretion of Council. In arriving at fees, the Council may charge a lesser amount for charity/special/community event applications in order to promote and support such activities.