


HIGH PEAK BOROUGH COUNCIL
REGULATORY SERVICES

Street Trading Policy



designed by  vexels

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Purpose

The aim of this Street Trading Policy (“the policy”) is to provide a consistent and transparent approach to the method of providing street trading consents within the High Peak Borough Council area.

To achieve this aim the Council is committed to partnership working with Derbyshire Constabulary, Derbyshire County Council, the trade and local fixed premises businesses.

The policy sets out how we intend to manage the street trading consent function and how we will ensure the process is fair.

The Council has an overall aim to improve the quality of life in the High Peak. The Council has four main aims around which it has centred its ambitions for the community. These aims are to:-

- Provide Quality Services in Partnership with Communities.
- Meet Financial Challenges and Provide Value for Money
- Support Economic Development and Regeneration
- Protect and Improve the Environment

The policy recognises the importance of street trading to the Borough of High Peak and that it can add to the vibrancy and vitality of the area whilst not adding to nuisance and crime and disorder, or cause other problems.

This policy will be the subject of monitoring and review after three years.

This policy will be applied in a manner which is consistent with the Council’s equalities policies.

What is Street Trading?

Street trading means the 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 can include private land). High Peak Borough Council ("the Council") has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") which means that consent is required before trading in certain places. Other locations have prohibitions on street trading at any time.

This policy does not include activities such as placing goods for sale on the street from a shop, street cafés operating from a fixed premises or the siting of "A" Boards on the street as this is not within the remit of the above legislation, (providing that the same products/merchandise that the shop sells are being sold outside).

Exemptions from the need to obtain a Consent

Some types of trade are legally 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 rounds men e.g. milkmen
- Trade carried on at a petrol filling station
- Market created by statute or grant
- Trading as a news vendor
- Trading in and around shops
- Charity collections

Application Process

- ✓ Applications must be made on the application form provided by the Council.
- ✓ Basic Disclosure required for Annual Consents (no older than 3 months), see further below.
- ✓ Map of location with location of van or stall marked on it.
- ✓ A copy of the applicant's current Public Liability Insurance to cover the period of the date(s) of the event.
- ✓ Photograph of the trading unit.
- ✓ Size and Dimensions of the unit including any support unit or equipment which must be a moveable structure and cannot be sited for more than 28 days in one period (unless permission has been granted by the Authority for a permanent structure).
- ✓ Proposed food businesses must be registered under the Food Regulations with the Local Authority where their vehicle is based and provide evidence that they are registered. The Authority has an expectation of 4 stars or higher standard and confirmation of this is required.
- ✓ If the business is based in the High Peak, and they are not currently registered with High Peak Borough Council, they should register with the Council and be formally inspected before a Consent will be granted.
- ✓ Passport Photos of applicant (Annual Applicants only).
- ✓ DVLA Licence to demonstrate capacity to tow a vehicle.
- ✓ Declaration form for convictions (please see conviction guidelines).

Applications will be considered within the time limits set in Appendix 1 where possible.

Once a decision has been made on the application, the applicant will be notified in writing. If the applicant is successful then the 1st instalment (annual consents only) or payment in full of the consent is required prior to the consent being issued.

Transfer/Amendments

- Street trading consents are non-transferable.
- No amendments (e.g. date changes/location/type of stall or van) may be made without prior written consent of the Licensing Authority.
- Any consent which is valid but is no longer required should be surrendered to the Authority in writing.

Identification Plates

For annual consents only the Authority will issue one identification plate included in the initial fee. The plate will need to be secured to the rear of the unit/van, replacement plates will incur additional charges.

Consultation with interested parties (Annual and Special Consents only)

On receipt of an application for an annual or special consent, the Council may request further information from the applicant, depending on the circumstances of the application, which must be provided prior to any decision being made. Before determining such an application, the Council may also consult as it sees fit with:

- ✓ occupiers of premises in the vicinity of the proposed trading location (in most cases this will be in the form a public notice displayed in the vicinity of the proposed site);
- ✓ the local chamber of trade;
- ✓ the local town or parish council;
- ✓ the police;
- ✓ the Highway Authority Derbyshire County Council;
- ✓ ward members;
- ✓ other relevant Council service areas;
- ✓ any other body deemed appropriate;

The application will be displayed on the Authority's website.

Consideration of Applications

The Council will consider each individual application on its merits and in most cases grant a street trading consent unless, in its opinion:

- ❖ *There is not enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street.*
- ❖ *There are already enough traders trading in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade.*
- ❖ *There is undue concentration of traders trading in the street in which the applicant desires to trade.*
- ❖ *The consent, if granted, will result in nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which will be caused by granting the consent.*
- ❖ *The size, nature or appearance of the proposed stall (and any associated equipment) is inappropriate for the proposed location in terms of amenity or public or highway safety.*

- ❖ *The proposed trading hours are outside the usual business hours of shops in the vicinity.*
- ❖ *The applicant has previous convictions for relevant offences (Dishonesty, Food Safety, Health and Safety, Licensing or other related issues).*
- ❖ *Failure on a previous occasion to pay street trading consent fees within the agreed timescales.*
- ❖ *There are any additional issues arising from consultations or otherwise.*

Special Events

At special events in the Borough the Council will issue one consent only to the person organising the event, rather than to each individual trader and that person or company shall be responsible for all traders under their consent and for ensuring that all traders are complying with the conditions of the consent.

The Council will require that the organiser produces a complete list of the individual traders 7 days before the trading day (any additional traders received after 7 days will not be accepted) and applies for the consent at least 28 days prior to the event, including a plan of where the stalls will be positioned.

The Council will require all individual traders trading under the consent to hold insurance certificate covering their activities to value of £5,000,000 and they must all be over 17 years of age.

If the event is ticketed on private land then no consent is required but if the event is on private land and accessible to the public then a consent will be required and the applicant must produce a written authorisation from the land owner to the Council with their application.

Fee Structure

The fee structure is available on the Council's website and is updated and reviewed annually.

For special consents the number of traders covered is as follows:

- Category 1 – Up to 20 traders
- Category 2 – Over 20 traders

If the event is charitable and all of the profit from the stalls or units will be donated to charity then a Charitable Street Trading Consent can be applied for. There will be no charge for this consent. Please note your charity will need to be registered with the Charity Commission or CIC registered to qualify for this consent, and you will need to supply a detailed account of donations to registered charities within six weeks of the event.

If the event is charitable and all of the profits go to charity, but itinerant traders are invited to come to the event to provide food and refreshments to persons attending the event, then you will have to apply for either a category 1 or category 2 consent.

Guidelines relating to the relevance of convictions

General Policy

It should be advised that the Council will take relevant prior convictions into account when it decides whether to grant a street trading consent.

Each case will be decided on its own merits.

The Council will assess whether an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent.

In considering the previous convictions of the applicant, the council will consider the following:

- ❖ Whether the conviction is relevant;
- ❖ The seriousness of the offence;
- ❖ The length of time since the offence occurred;
- ❖ Whether there is a pattern of offending behavior;
- ❖ Whether that person's circumstances have changed since the offence occurred; and
- ❖ The circumstances surround the offence and the explanation offered by that person.

Offence Types

The following is a description of the Council's general approach to certain categories of offences.

Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest tradesman or assistant to take advantage of the public.

Members of the public using a street trading outlet expect the holder and his/her assistant to be honest and trustworthy.

For these reasons a serious view will be taken on any conviction involving dishonesty. In general, an application for the grant or renewal of a street trading consent is unlikely to be granted a street trading consent where the

application is made within 3 to 5 years of a conviction or the date of release from jail depending upon the nature and seriousness of the offence.

Violence

As street traders and their assistants have close contact with the public, a robust approach will be taken with applicants that have convictions for violence. In cases where the commission of an offence involves loss of life, a street trading consent will normally be refused. In other cases, a period of 3 – 10 years free of conviction from the date of conviction or the date of release from jail where a custodial sentence has been imposed, depending upon the nature and seriousness of the offence, will generally be required before an application is likely to be considered favourably.

Drugs

Where an applicant has a conviction for an offence that relates to the supply or importation or possession of drugs and the date of the conviction or the release from jail, where a custodial sentence has been imposed, is less than 5 to 10 years before the date of the application, an application will normally be refused. After 5 years from a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a suitable person to hold a street trading consent will be taken into consideration.

Sexual and indecency offences

As the holders of street trading consents and their assistants, and in particular those who sell ice cream, have access to children, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a street trading consent. Where an applicant has a conviction for a sexual offence such as indecent exposure they will normally be refused a street trading until they can show a substantial period, usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a suitable person to hold a street trading consent. In cases where the Council considers that information shows an applicant is not a suitable person, it will normally require a period of not less than 5 years free of such incidents from the date on which the incident occurred or, if more than one from the date of the last incident.

Conditions - generally

Conditions will be imposed as the Council considers reasonably necessary and relevant in any particular case. The usual conditions to 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 are as follows:

1. The place in which the consent holder is permitted to trade.
2. The day(s) and times at which the consent holder is permitted to trade.
3. A description of the types of articles in which they are permitted to trade.
4. The nature, size and type of stall, stand etc which is to be used.
5. That the street trading consent notice issued by the Council must be conspicuously displayed on the stall.
6. If food is to be sold, that there are satisfactory handwashing facilities in line with the food premise registration.
7. Any employees under the age of 17 must be supervised at all times.
8. That the trader is not to trade from the stall unless he holds and maintains sufficient public liability cover (currently £5,000,000).
9. Restrictions on the means the trader may use to attract custom to their stall (could include restrictions on the use of A Boards/amplified music etc).
10. That a suitable receptacle for litter must be provided and removed daily at the close of trading.
11. That the location must be kept in a clean and tidy condition at the end of trading hours each day.
12. That the stall must be removed each day at the end of trading hours, unless agreement in writing is obtained from High Peak Borough Council.
13. That the trader must comply with any reasonable request of a police officer or authorised officer of the Council.
14. That the trader must produce to a police officer or authorised officer of the Council a copy of the consent on demand (as per condition e).
15. Trader must retain their registration with their local Environmental Health Service for Food Hygiene purposes.
16. Operators must cease trading immediately upon expiry of a consent or when payments (as per individual written agreements) are overdue or when asked to do so by an officer of the Council or police officer.
17. The trader may be prohibited from trading at certain times due to other extenuating circumstances.
18. The trader is responsible for advising the Council of any change of name or address.

Conditions – Ice Cream Vans

1. May only trade at the locations stated on the consent.
2. May only trade during the dates and times specified on the consent.
3. Must not trade within 200 metres of any schools.
4. May only sell the goods described on the consent.
5. May only use the vehicle specified on the consent.
6. Must display the Street Trading Consent and its conditions conspicuously on the vehicle.
7. Must provide satisfactory hand washing facilities if food is sold.
8. Must hold and maintain sufficient public liability insurance cover (currently £5,000,000).
9. Must refrain from the use of signage that is not an integral part of the vehicle, including fly posting and A boards.
10. Where food is sold, must provide a suitable receptacle for litter and dispose of such litter with the business's trade waste and the location must be left in a reasonably clean and tidy condition at the end of the trading hours each day.
11. Must remove the vehicle each day at the end of trading hours, unless agreement in writing is obtained from the Council.
12. Must comply with any reasonable request of a police officer or authorised officer of the Council.
13. Must produce to a police officer or authorised officer of the Council a copy of the consent on demand.
14. Must maintain their registration with their local Environmental Health Service for Food Hygiene purposes if food is prepared, stored or sold.
15. Must cease trading immediately upon expiry of the consent or when payments (as per any individual written arrangements with the Council) are overdue.
16. Shall not allow the vehicle to cause an obstruction to road users or to the occupiers of adjoining premises.
17. The consent holder shall not stop to trade so as to cause any interference with the normal flow of traffic.
18. The consent holder shall comply at all times with the Code of Guidance on Noise from Ice-Cream Van Chimes in England 2013.
19. Must have a full driving licence.

Conditions – Special Events

As well as the usual conditions applying to a street trading consent, conditions may also be imposed where reasonably necessary to control and maintain access to the area by emergency services and access by other vehicles during the event, employment of marshals, provision of WC's and additional conditions relating to removal of debris/waste from the area.

Competing for Sites

If any application is received on a site where an existing consent has already been granted, or where there are competing applications for an application for renewal, in all cases these will be determined by the Licensing Officer. Normally the Council will give priority to the first application or existing consent holder but there may be occasions when it is appropriate to deviate from that general approach where the Council considers it is appropriate.

Enforcement

Any enforcement action taken by the Council will be in accordance with the Council's Enforcement Policies, and will take into account the Government's Enforcement Concordat.

Failure to comply with the conditions may lead to suspension, revocation or non-renewal of the Consent.

Failure to make one agreed payment under any written agreement or invoice may result in revocation of a Consent.

Any person found trading without consent in a Consent Street or in a Prohibited Street will be subject to enforcement action by the Council and may be prosecuted.

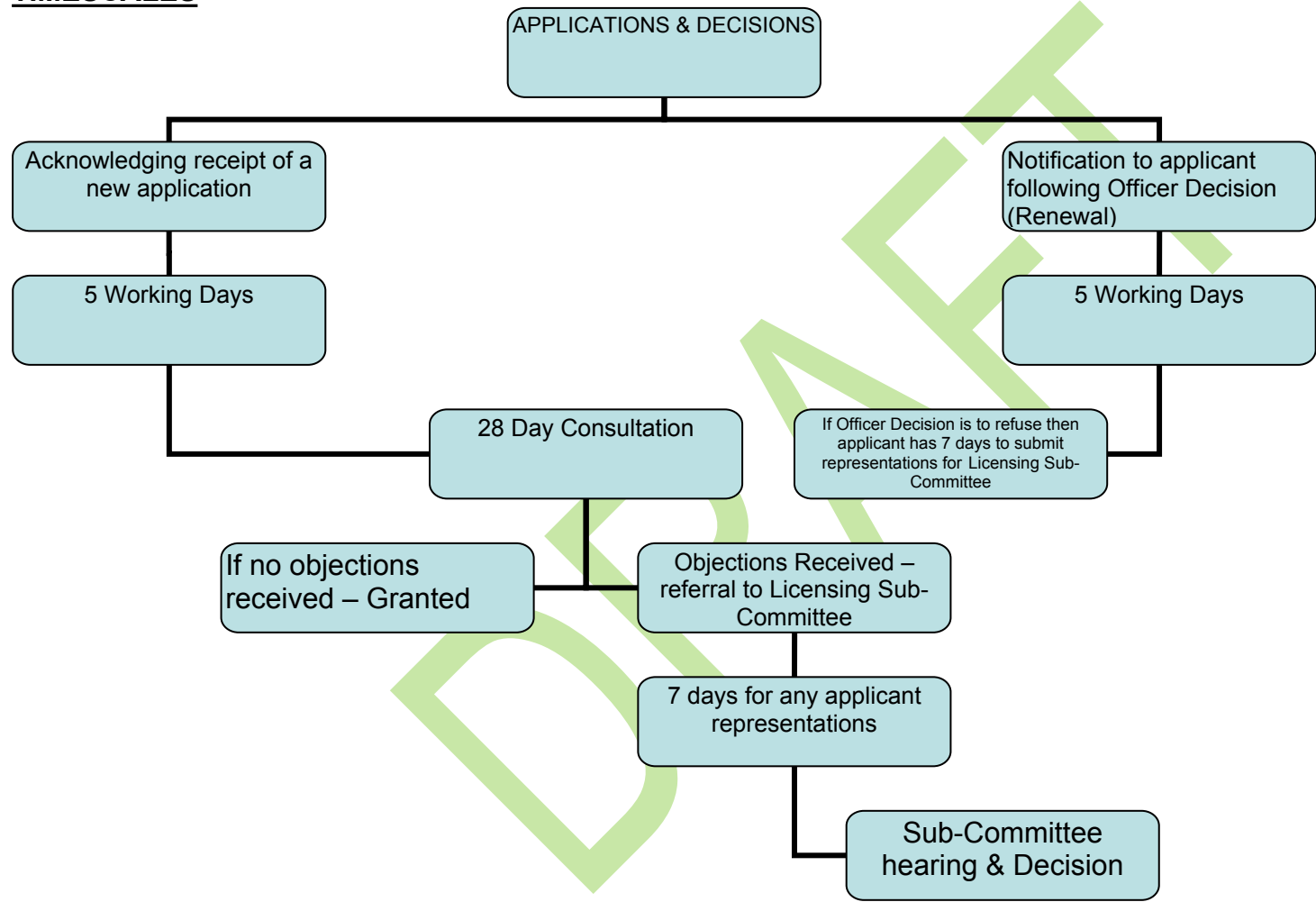
Administration, Exercise and Delegation of Functions

The powers and duties of the Council with regard to Street Trading Consent may be carried out by the Licensing Sub Committee or by officers acting under delegated authority. Since many of the functions are administrative or compliance monitoring based in nature, in the interests of speed, efficiency and cost-effectiveness, the Council supports the principle of delegating routine matters to officers. Appendix 1 sets out the delegation of functions and decisions.

At the officer's discretion, any applications normally dealt with by officers may be passed up for Licensing Sub Committee for determination.

All lay-bys in the Borough will normally be subject to delegated authority decisions where no objections have been received, while all other streets will be subject to Licensing Sub Committee determination.

TIMESCALES



DELEGATIONS

