

HIGH PEAK BOROUGH COUNCIL
REGULATORY SERVICES

Street Trading Policy 2021-2023



This policy sets out the Council’s approach for managing street trading in the district and the process for applications and making decisions.

The policy was approved by the Council’s Licensing Committee on and came into effect on.....

Black Text = current policy

Green Text = new provisions/updated guidance

Red Text = changes to reflect comments from consultation



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Purpose

The aim of the statement of street trading consent 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. It confirms the fee structure for the service, with all such fees based on a cost recovery basis.

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 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 café's operating from a fixed premise or the siting of "A" Boards on the street as this is not within the remit of the above legislation (providing 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 newsvendor.
- Trading in and around shops.
- Charity collections.
- Indoor Market Areas (Indoor market areas do not constitute street trading as they can be classed as shops which are exempt from street trading legislation).

Application Process – New Annual Consent.

- ✓ Applications must be made on the application form provided by the Council.
- ✓ All applicants must be aged 17 or over.
- ✓ Basic Disclosure obtained from the Disclosure and Barring Service (no older than 3 months).
- ✓ Map of location of intended trading with position of van, unit or stall marked on.
- ✓ A copy of the applicant's current Public Liability Insurance (minimum of 5,000,000 will be required prior to the commencement of trading).
- ✓ 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 planning 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.
- ✓ 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.
- ✓ 2 passport photographs of the applicant.
- ✓ DVLA Licence to demonstrate capacity to tow a vehicle.
- ✓ Completed declaration form of convictions (please see conviction guidelines for further information)
- ✓ Copy of planning permission if to be sited for more than 28 days (without moving) or a permanent structure.

Consultation with interested parties (Annual Consents only).

On receipt of an application for an annual consent, the Council may consult with all or selected parties (where applicable) from the list below: -

- ✓ Occupiers of premises in the vicinity of the proposed trading location.
- ✓ The Town or Parish council.
- ✓ Derbyshire Police.
- ✓ The Highway Authority at Derbyshire County Council
- ✓ Ward members.
- ✓ Other relevant council departments.
- ✓ Any other body deemed appropriate.

The application will also be displayed on the Council's website.

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 of the fee (annual consents only) is required prior to the commencement of trading and the consent being issued.

Identification Plates

For annual consents only, the Council will issue one identification plate which is included in the initial fee. The plate will need to be secured to the rear of the unit/van and remain in situ at all times whilst the Consent is valid. If lost or stolen a replacement plate can be requested from the Council but will incur additional charges.

Renewal Applications for Annual Street Trading Consents.

- ✓ Applications must be made on the application form provided by the Council.
(Please note applications will not be accepted if the agreed payment plan for the previous annual consent is in arrears).
- ✓ Renewal applications must be submitted no later than one month prior to the expiry of the current consent.
- ✓ Completed declaration form of convictions (please see conviction guidelines for further information)
- ✓ A copy of the applicant's current Public Liability Insurance (minimum of 5,000,000 will be required prior to the commencement of trading.

Application Process – Daily Consent.

- ✓ Applications must be made on the application form provided by the Council.
- ✓ All applicants must be aged 17 or over.
- ✓ Application fee.
- ✓ Map of location of intended trading with position of van, unit or stall marked on.
- ✓ Photograph of the trading unit.
- ✓ A copy of the applicant's current Public Liability Insurance (minimum of 5,000,000.
- ✓ DVLA Licence to demonstrate capacity to tow a vehicle.
- ✓ Completed declaration form of convictions (please see conviction guidelines for further information)
- ✓ Landowner's consent to trade from the location.
- ✓ 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.
- ✓ 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.

Please note failure to provide the necessary documents within the specified timescales may result in the consent not being issued.

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.*
- ❖ *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.*
- ❖ *Having received relevant representation(s) and the application is referred to the Licensing Sub-Committee for determination and subsequently refused.*

Special Events

At special events involving a number of stalls and vans in one area, 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.

Application Process – Special Event Consent.

- ✓ Applications must be made on the application form provided by the Council and **must be submitted no later than 28 days prior to the event.**
- ✓ Application fee.

- ✓ Map of location of intended trading with position of each van, unit or stall marked on (if not known at time of application **MUST** be submitted no later than 7 working days prior to the event. (Any request for additional traders after the above period will **not** be permitted).
- ✓ All individual traders must be over the age of 17.
- ✓ All individual traders must have Public Liability Insurance (minimum of 5,000,000 and must produce a copy to the event organiser and if requested an Authorised Officer of High Peak Borough Council.
- ✓ 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.
- ✓ If the business is based in the High Peak, and they are not currently registered with High Peak Borough Council, they must register with the Council.
- ✓ The event organiser must provide to the Council proof that all traders have the required food rating of 4 stars or above 7 days prior to the event. If proof is not provided the trader is not permitted to trade.

Please note failure to provide the necessary documents within the specified timescales may result in the consent not being issued.

Ticketed Events.

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

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.

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 10 Traders)
- Category 2 (10 to 20 Traders)
- Category 3 (Over 20 Traders)

Charitable Organisations.

If the event is a charitable event and all 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 that your organisation will need to be registered with the Charity Commission, be CIC registered, or demonstrate that it is entirely charitable in nature, 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 the Charity, but you have invited itinerant traders 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, 2 or category 3 consent.

Any trader seeking a consent for Street Trading should also seek advice from the Council if further permissions are necessary e.g. Temporary Event Notifications etc.

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 behaviour
- ❖ 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 must 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 applications 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 - general

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. **Clearing-up of all loose litter in the vicinity arising from their activities, before leaving site.**
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. Where possible the trader should seek to reduce the use of single use plastics.

15. 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).
16. Trader must retain their registration with their local Environmental Health Service for Food Hygiene purposes.
17. 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.
18. The trader may be prohibited from trading at certain times due to other extenuating circumstances.
19. 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.

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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 has been received, 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 consideration will be given to the national 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.

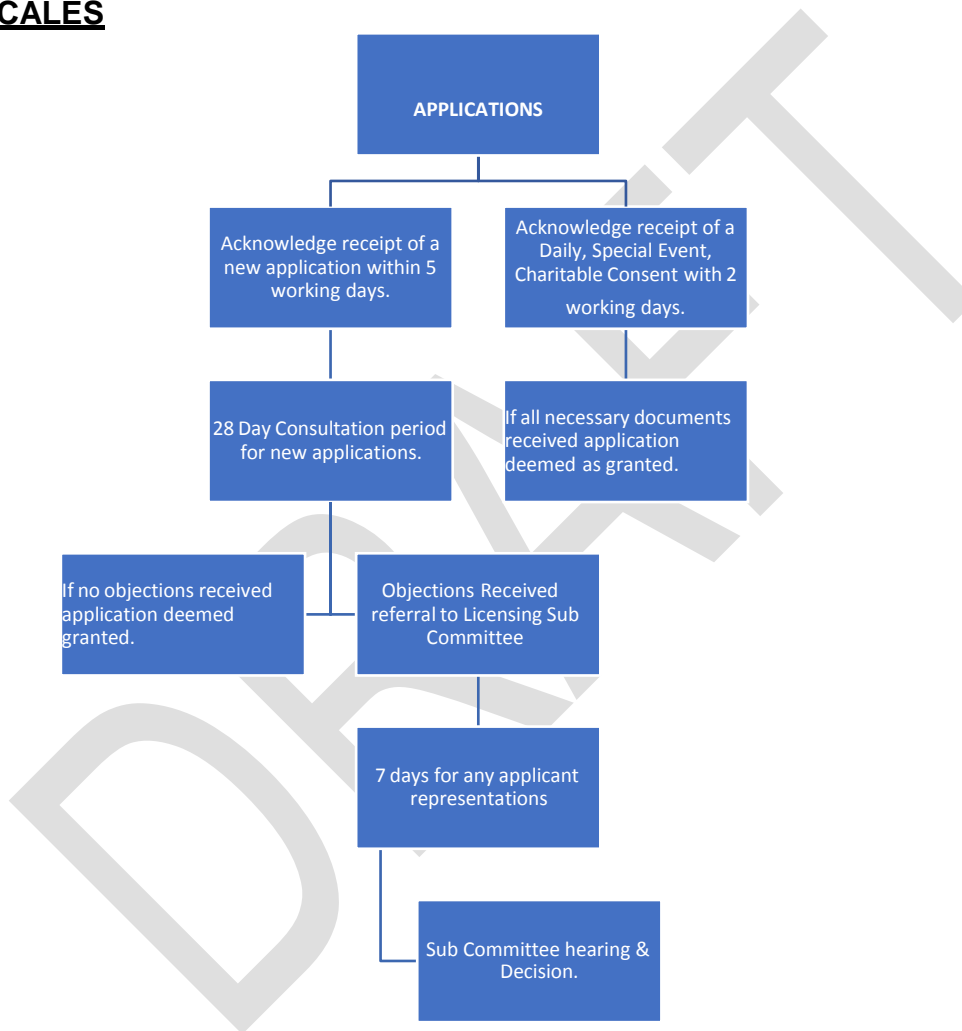
Administration, Exercise and Delegation of Functions

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

All applications will normally be subject to delegated authority decisions where no objections have been received. Where relevant representations are received these will be determined by the Licensing Sub-Committee.

APPENDIX 1 - TIMESCALES



APPENDIX 2 - DELEGATIONS

