



High Peak Borough Council

working for our community

Regulatory Services

Street Trading Consent Policy

March 2018

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1.0 Introduction

- 1.1 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”) for Consent is required before trading in certain places. Other locations have prohibitions on Street Trading at any time.
- 1.2 This policy does not include activities such as placing goods for sale on the street, street café’s 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.
- 1.3 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:-
- 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

2.0 Aim of High Peak Borough Council’s Statement of Street Trading Consent Policy

- 2.1 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 consent
- 2.2 To achieve this aim the Council is committed to partnership working with Derbyshire Constabulary, Derbyshire County Council, the trade and local fixed premises businesses.
- 2.3 The policy sets out how we intend to manage the street trading consent function and how we will ensure the process is fair.

3.0 Scope of the Policy

- 3.1 The Council’s policy is concerned with the administration of the Street Trading Consent functions the Local Government (Miscellaneous Provisions) Act 1982.

4.0 Interpretation

- 4.1 Any words or expressions in this policy have the meanings assigned to them under the 1982 Act or regulations made thereunder or, in absence, guidance issued by the Secretary of State or guidance

produced by the Council. Nothing in the policy can be regarded or interpreted so as to prejudice the 1982 Act.

5.0 Application Process

- 5.1 Applications must be made on the application form provided by the Council and be accompanied by a copy of the applicants current Public Liability Insurance and a photograph of the trading unit.
- 5.2 Along with the items in 5.1, 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. 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 before a Consent will be granted.
- 5.2 Applications will be considered within the time limits set in Appendix 1.
- 5.3 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 or payment in full of the consent is required prior to the consent being issued.

6.0 Consultation with Interested Parties

- 6.1 On receipt of an application, the Council may request further information, depending on the circumstances of each individual application. Prior to determining an application, the Council will consult with such persons and in such manner as it sees fit. This may include consultation with:
 - a) occupiers of premises in the vicinity of the proposed trading location;
 - b) the local chamber of trade;
 - c) the local town or parish council;
 - d) the police;
 - e) the Highway Authority Derbyshire County Council
 - f) ward members
 - g) other relevant council departments
 - h) any other body deemed appropriate

7.0 Consideration of Applications

- 7.1 The Council will consider each individual application on its merits and will normally grant a street trading consent unless, in its opinion:
 - a) 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.

- b) There are already enough traders trading in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade.
- c) There is undue concentration of traders trading in the street in which the applicant desires to trade.
- d) 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.
- e) 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.
- f) The proposed trading hours are outside the usual business hours of shops in the vicinity.
- g) There are any additional issues arising from Consultations.

7.2 The grounds for refusing an application for a Street Trading Consent are as follows:

- a) Previous convictions for relevant offences (Dishonesty, Food Safety, Health and Safety, Licensing or other related issues)
- b) Failure on a previous occasion to pay street trading consent fees within the agreed timescales.
- c) The applicant must not be under 18 years of age and any employees under the age of 18 must be supervised at all times and any local bye laws adhered to.

7.3 Any applications for Street Trading Consent on a site where is already a Consent granted, there are competing applications or an application for renewal has been received will be determined by the Licensing Sub Committee.

7.4 If the event is charitable and all of the profit from these stalls or units will be donated to the charity then a Charitable Street Trading Consent can be applied for. Please apply at least 21 days prior to the event taking place. There will be no charge for these consents. Your charity will need to be registered with the Charity Commission to qualify for this consent, or you will need to supply a detailed account of donations to registered charities within six weeks of the event

7.5 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 these traders will need their own Street Trading Consent.

8 Conditions applicable to street trading consents

8.1 Conditions will normally be imposed in all cases specifying:

- a) The place in which the consent holder is permitted to trade.
- b) The days and times at which the consent holder is permitted to trade
- c) A description of the types of articles in which they are permitted to trade.
- d) The nature, size and type of stall, stand etc which is to be used.
- e) That the street trading consent notice issued by the Council must be conspicuously displayed on the stall.
- f) If food is to be sold, that there are satisfactory handwashing facilities in line with the food premise registration.
- g) That the trader is not to trade from the stall unless he holds and maintains sufficient public liability cover (currently 5,000,000)
- h) 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)
- i) That a suitable receptacle for litter must be provided and removed daily at the close of trading.
- j) That the location must be kept in a clean and tidy condition at the end of trading hours each day.
- k) 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.
- l) That the trader must comply with any reasonable request of a police officer or authorised officer of the Council.
- m) 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).
- n) Trader must retain their registration with their local Environmental Health Service for Food Hygiene purposes.
- o) 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.
- p) The trader may be prohibited from trading at certain times due to other extenuating circumstances.
- q) The trader is responsible for advising the Council of any change of name or address.

8.2 The Council considers that each of the above conditions will be reasonably necessary in relation to the majority of consents granted for the purposes of protecting public safety and the prevention of nuisance and annoyance to local residents, businesses in the locality and members of the public using the streets concerned. The Licensing Sub Committee may also impose such other conditions as it considers reasonably necessary and relevant in any particular case.

9.0 Promotion of Racial Equality

9.1 The Council recognises that the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places an obligation on all public authorities to have regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons and different racial groups.

9.2 It is the responsibility of the trader to comply with the requirements of the Disability Discrimination Act and the council promotes the use of facilities which can accommodate customers with disabilities.

10.0 Human Rights Act 1998

10.1 The Council will implement the 1982 Act in a manner consistent with the Human Rights Act 1998.

11.0 Avoidance of Duplication with other regulatory regimes

11.1 The Council acknowledges the efforts and responsibilities of other regulators (for instance Derbyshire Constabulary, Derby County Council, Derbyshire Fire and Rescue Service, Health and Safety Enforcing Authority) under other legislation

12.0 Enforcement

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

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

12.3 Failure to keep up agreed payments under any agreement or invoice may result in revocation of a Consent.

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

13.0 Administration, Exercise and Delegation of Functions

- 13.1 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.
- 13.2 At the officers' discretion, any applications normally dealt with by officers may be passed up for Licensing Sub Committee determination.
- 13.3 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.

APPENDIX 1

Table 1 - Delegation of functions and decisions

| Renewal of Street Trading Consents | | |
|---|--|--|
| Matter to be dealt with | Licensing Sub Committee | Officers |
| Renewal application for Consent from a trader who has traded in the same location in the previous 12 months. | If any objections or complaints have been received by the Council in the preceding 12 month period | If no objections are made and there have not been any complaints about the trader in the previous 12 month period. |
| Application for a permanent Street Trading Consent for all new locations | All cases | |
| Applications for Street Trading Consent by new customers in previously approved pitches | | All cases |
| Ad hoc applications for consents less than 7 consecutive days | | All cases |

Table 2 - Target timescales for processing applications

| Function | Time (Maximum) |
|---|--|
| Sending renewal application forms to Existing annual consent holders. | Upon approval of fees at full council |
| Acknowledging receipt of new Applications received | 3 Working days |
| Referral to Licensing Panel hearing (if necessary and includes consultation with relevant bodies). | 28 days for consultation period. 15 further days for any consultation response to be included in a report to the Licensing Panel. Panel hearings can be delayed. 15 days for sub committee decision where no objection have been received. |
| Notification to applicant following decision and/or production and sending of Consent on receipt of consent fee or agreed part of consent fee | 3 working days |