



**High Peak Borough Council**

*working for our community*

**Environmental Health Service**

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# **Street Trading Consent Policy**

**December 2007**

**Amended at Council Meetings May 2008 and May 2009**

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**This Policy was approved by the Council at its meeting of 18 December 2007.**

**The Policy was amended in May 2008 and May 2009.**

## **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:-
- Supporting people: to promote social inclusion and enable communities and individuals to participate in improving the quality of life in the High Peak.
  - Creating jobs and prosperity: to create a thriving local economy, which is responsive to the needs of local communities.
  - Protecting the environment: to enhance the quality of the local and global environment.
  - Improving the Council: to be considered a high-performing Council by our local community, partners and peers.

## **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 in writing on the application form provided by the Council and be accompanied by a copy of the applicants current Public Liability Insurance and the appropriate consent fee, or by agreement with the Environmental Health service a first instalment.
- 5.2 Along with the items in 5.1, proposed food businesses should 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.

#### **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 Council's town centre management staff;
  - f) the Highway Authority.

#### **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 (except in relation to a trader wishing to sell hot food, which will be considered on a site by site basis).
- g) There are any additional issues arising from Consultations, and
- h) There are any previous convictions for relevant offences (Dishonesty, Food Safety, Health and Safety, Licensing or other related issues)
- i) There has been a failure on a previous occasion to pay street trading consent fees within agreed timescales.
- j) The applicant must not be under 17 years of age.

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

## **8 Conditions applicable to street trading consents**

8.1 Conditions will normally be imposed in all cases specifying:

1. May only trade at the location stated on the licence.
2. May only trade during the dates and times specified on the licence.
3. May only sell the goods described on the licence.
4. May only use the vehicles specified on the licence.
5. Must display the Street Trading Consent and its conditions conspicuously on the vehicle.
6. Must provide satisfactory hand washing facilities if food is sold.

7. Must hold and maintain sufficient public liability insurance cover (currently £1,000,000).
8. Must refrain from the use of signage that is not an integral part of the vehicle, including fly posting and A boards.
9. 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.
10. Must remove the vehicle each day at the end of trading hours, unless agreement in writing is obtained from the Council.
11. Must comply with any reasonable request of a police officer or authorised officer of the Council.
12. Must produce to a police officer or authorised officer of the Council a copy of the consent on demand.
13. Must maintain their registration with their local Environmental Health Service for Food Hygiene purposes if food is prepared, stored or sold.
14. Must cease trading immediately upon expiry of the consent or when payments (as per any individual written arrangements with the Council) are overdue.
15. Shall not allow the vehicle to cause an obstruction to road users or to the occupiers of adjoining premises.
16. The consent holder shall not stop to trade so as to cause any interference with the normal flow of traffic.

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 Council may also impose such other conditions as it considers reasonably necessary 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, Derbyshire Fire and Rescue Service, Health and Safety Enforcing Authority) under other legislation. Where practicable, enforcement visits will be carried out with the intention of reviewing other regulatory activities which the Environmental Health service carries out.

#### **12.0 Enforcement**

12.1 Any enforcement action taken by the Council will be in accordance with its Environmental Health Service's Enforcement Policy, 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 may 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 Panel 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, applications normally dealt with by officers may be passed up for Licensing Panel determination.

13.3 All lay-bys in the borough will normally be subject to delegated authority decisions, while other streets will be subject to Licensing Panel determination.

## APPENDIX 1

Table 1 - Delegation of functions and decisions

<b>Consent Street where 1<sup>st</sup> Consent must be granted by Licensing Panel</b>		
<b>Matter to be dealt with</b>	<b>Licensing Panel</b>	<b>Officers</b>
<b>Application for Consent from a trader who has traded in the same location in the previous 12 months.</b>	If an objection by an officer or there have been complaints made by other neighbouring traders or consultees in the previous 12 month period, or if the Trader has had their consent revoked in the last 12 months from any site.  Periodic reviews of consents not less than once in every 5 year period.	If no objections are made and there have not been any complaints about the trader in the previous 12 month period.
<b>Application for Street Trading Consent by a trader who has not traded from that location in the last 12 months</b>	All cases	

<b>Consent Street Lay-bys where delegated authority to the Environmental Health Service is in place for the 1<sup>st</sup> Consent</b>		
<b>Matter to be dealt with</b>	<b>Licensing Panel</b>	<b>Officers</b>
<b>Application for Consent from a trader who has traded in the same location in the previous 12 months.</b>	If an objection by an officer or there have been complaints made by other neighbouring traders or consultees in the previous 12 month period, or if the Trader has had their consent revoked in the last 12 months from any site.  Periodic reviews of consents not less than once in every 5 year period.	If no objections are made and there have not been any complaints about the trader in the previous 12 month period.
<b>Application for Street Trading Consent by a trader who has not traded from that location in the last 12 months</b>	If an objection by an officer or there have been complaints made by other neighbouring traders in the previous 12 month period, or if the Trader has had their consent revoked in the last 12 months from any site.	If no objections are made and there have not been any complaints about the trader in the previous 12 month period.

**Table 2 - Target time scales for processing applications**

<b>Function</b>	<b>Time (Maximum)</b>
Sending renewal application forms to Existing annual consent holders.	End of January annually, or 2 months before one off event renewal.
Acknowledging receipt of Applications received	3 Working days
Referral to Licensing Panel hearing (if necessary and includes consultation with relevant bodies).	28 days for consultation period. 7 further days for any consultation response to be included in a report to the Licensing Panel. Panel hearings can be delayed.
Delegated authority decision (includes consultation with relevant persons)	28 days ending on close of consultation period.
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