



West
Northamptonshire
Council

Street Trading Policy (Draft)

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Environmental Health (Environmental Protection)	Highways England
Development Control	Parish Councils
Northamptonshire Highways	Town Councils
Environmental Crime	Current Consent Holders
Community Wardens	

Additional Comments to note

Contents

Street Trading Policy.....	1
1.0 Introduction / foreword	4
2.0 Scope	4
3.0 Street Trading Policy	4
General	4
Peripatetic Street Trading	4
General exempted street trading activities.....	5
Local exempted street trading activities.....	5
Other Activities	5
Application Processes	6
Consultations on applications made	6
Site assessment and inspections.....	7
Food Hygiene.....	7
Decision Making.....	7
Trading hours and staff requirements	8
Consent and Permit Details	8
Enforcement.....	8
Offences.....	9
Further Information.....	9
Appendices	10
Appendix A – Consent Conditions	10
Appendix B – Prohibited Streets.....	13
Northampton Area.....	13
Daventry Area.....	13
4.0 Glossary of terms.....	14

1.0 Introduction / foreword

West Northamptonshire Council aims to support business ventures and encourages the provision of street trading and cafés within the district. In towns and villages cafes in particular make a positive contribution by adding vitality, colour, life and interest to the street scene. They can help maximise the use of public spaces and aid the local economy. In more rural areas, street trading outlets enable residents, visitors and travelers to obtain refreshments when there is nothing else immediately available. Both add to the facilities offered to people who visit, live and work in the district.

2.0 Scope

This policy sets out West Northamptonshire Council's (hereafter referred to as the Council) framework for the management of street trading in the West Northamptonshire area. Through this policy the Council aims to regulate the location and number of street traders. The scheme also aims to prevent the obstruction of streets in the district by street trading activities. In doing so it recognises the importance of regulated businesses to the districts economy and the character of the district whilst trying to ensure that the activities do not cause nuisance or annoyance to people who live and work in the district.

This policy is intended to help prospective street traders to understand where trading might be encouraged. It is important however, that sites are properly administered and managed to ensure that they meet legal requirements and the high standards expected by the Council.

Anyone wishing to apply for a Street Trading Consent should read this policy, the associated guidance, and detailed conditions in order to check that their proposal meets all the criteria.

This policy will guide the Council when it considers applications for Street Trading Consents. It will inform applicants of the parameters in which the Council will make decisions and how their needs will be addressed.

It also highlights the Council's undertaking to avoid duplication with other statutory provisions and our commitment to work in partnership with other enforcement agencies.

Although each application will be considered on its own merits this policy contains key points that must be considered in every case. In order to ensure consistency of decision making, the Council will apply these

3.0 Street Trading Policy

Local Government (Miscellaneous Provisions) Act 1982.

General

Under the above legislation locations are designated as either consent, licence or prohibited streets.

West Northamptonshire Council has designated all streets within the district as either consent or prohibited streets. This means that, subject to certain legal exemptions, you will only be able to apply to trade where the consent designation applies. A list of all prohibited streets can be found at Appendix B.

- In order to trade in a consent area within the West Northamptonshire Council area you must receive consent from the Council.

Peripatetic Street Trading

Street Traders that meet the criteria laid out below will be classed as peripatetic. Ice Cream Vans and similar would typically be deemed to be mobile traders.

The criteria are as follows;

- moves from location to location
- moves at least 100 metres from the last trading location and does not return within 4 hours
- does not wait in one location for more than 20 minutes
- does not trade within 100 metres of the boundary of any educational establishment without the permission of that educational establishment.

Due to the nature of peripatetic trading there will be limited impact on any one single location so consents will be automatically granted subject to the above criteria being met and a complete application being submitted.

General exempted street trading activities

The following activities do not require street trading consent:

- pedlars authorised by a certificate granted under the Pedlars Act 1871 by the police force in which the trader resides.
- anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order
- trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
- news vendors
- trading on/from the forecourt of a petrol filling station or at a shop premises
- a roundsman (a person who delivers orders to customers by prior arrangement)
- the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway
- operating facilities for recreation or refreshment under Part VIIA of the Highways Act 1980
- doing anything authorised by regulations made under section 5 of the Police, Factories, etc, (Miscellaneous Provisions) Act 1916
- providing a service such as hair braiding, face painting, henna tattoos. The Act which governs street trading relates to the 'selling of articles' and the Councils view is that none of these or similar activities constitute street trading as defined.

Local exempted street trading activities

In addition to the above legal exemptions West Northants Council has determined that the below activities are also exempt from requiring a Street Trading Consent within the West Northants district:

- Car boot sales on private property
- Goods from working farms sold within the curtilage of the farm where they were produced.
- Trading at fetes, carnivals or similar community events.
- Sales of articles by residential occupiers within the curtilage of their properties or land contiguous with it if articles are sold from a stall or receptacle which does not exceed one metre in length or width or two metres in height, occupy a ground area exceeding 0.25 square metres or stand on the carriageway of a street.

Other Activities

There are several other activities that take place in the streets of the West Northants area that are not governed by this policy. These include:

- Awareness – people, groups or organisations such as radio stations, television stations or the armed forces may wish to raise awareness by handing out leaflets or undertaking promotional activities.
- Busking – street performance is the practice of performing in public places for gratuities.
- Market research – this type of activity includes mail order companies, insurance companies and national questionnaires.
- Markets – these are dealt with by separate policies.
- Pedlars – they are required to hold a certificate issued by the police force in the area that they reside. They are able to travel to trade within the area. They must only stop to trade when approached by a customer. They must not remain stationary after the sale has been made.
- Petitions – people or organisations asking members of the public to support their cause, such as political groups, welfare or ecological groups.
- Charitable Street collections – these are authorised under separate legislation.

If you are unsure of any of the above, please contact the Council.

Application Processes

Street Trading

You can apply through the Council's website, where current fee information is also available.

When making an application you will need to provide the following:

- the correct fee;
- a map/street plan or aerial photograph clearly identifying the proposed site position (for static street traders);
- specified areas of trade (for non-static traders);
- proposed trading times;
- photographs of the vehicle, stall, cart, etc, that will be used for the street trading activity (in the case of a vehicle, exterior and interior views are required);
- evidence of public liability insurance;
- other associated permissions i.e. planning and any appropriate licences under the Licensing Act 2003;
- Details of a commercial waste agreement
- Proof of identity, and address of the applicant, such as a passport or DVLA photo card driving licence;
- Details of neighbours, business or otherwise, within the immediate vicinity of the specified trading area
- Basic DBS disclosure obtained through Disclosure England <https://www.gov.uk/request-copy-criminal-record>

For food outlets, the Council also requires:

- (if using gas) a gas safety certificate issued by a GAS SAFE registered engineer;
- (if using electricity) an electrical safety certificate issued by a NICEIC registered contractor or equivalent;
- copies of certificates to confirm all food handlers have undertaken a satisfactory level of food hygiene training;
- confirmation the business is registered under article 6, paragraph 2 of Regulation EC No 852/2004

Consultations on applications made

Before a street trading consent or a pavement permit is granted for the first time, the council will carry out a consultation process over a period of 14 days. We will consult with one or more the following:

- Northamptonshire Police;

- West Northamptonshire Council Highways or Highways England (depending on the location);
- West Northamptonshire Council Development Control;
- West Northamptonshire Council Health Protection;
- West Northamptonshire Council Environmental Protection;
- the appropriate parish or town council;
- all businesses or properties within a minimum radius of 100m of the proposed site (but this may vary on a case by case basis) *

**Note: It is the applicant's responsibility to notify these owners/occupiers by delivering the form (part B of the application) to the relevant property/business. If they fail to do so the application will be refused.*

Site assessment and inspections

The site will be assessed by an authorised officer of the Council. The assessment may require a site visit where a decision cannot be made on the information provided with an application. Consents or permits will not normally be granted where:

- a significant effect on road safety could arise, either from the siting of the trading activity, from customers visiting or leaving the site, or from inadequate light or visibility.
- there is a conflict with traffic orders such as waiting restrictions.
- there is already adequate provision of similar trading facilities in the vicinity.
- there would be a significant loss of amenity caused by traffic, noise, odour, etc.

Food Hygiene

Additionally, in the case of street trading food or drink, the vehicle, trailer, stall or other device to be used for the proposed trading activity will be inspected by a Health Protection Officer prior to the issue of consent. New food businesses must register with the local authority that covers the area in which the van/stall is stored overnight and at least 28 days before they intend to start trading. Proof of registration will be required at the time of application. Businesses that are registered but awaiting inspection will not be prevented from gaining a consent however they will be required to provide evidence of their rating once issued and following all subsequent inspections.

The food business must achieve and maintain an FSA Food Hygiene Rating of 3 or more. Businesses rated 0, 1 or 2 will not be granted a consent and any current consents will be revoked in line FSA appeals process.

New businesses can register through the following link <https://www.gov.uk/food-business-registration>.

Decision Making

In considering applications for the grant or renewal of Street Trading Consents, the following will be taken into consideration;

- Public Safety – whether the activity represents or is likely to represent a substantial risk to the public. Factors considered will include obstruction, fire hazard, unhygienic conditions or a danger that may occur when a trader is accessing the site.
- Public Order – whether the activity represents, or is likely to represent, a substantial risk to public order. All traders will conduct themselves in a professional manner.
- Public Nuisance – whether the activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise and/or odour particularly in residential areas.
- Appearance – the stall / vehicle / tables and chairs must be maintained in good condition and be of smart appearance. The general appearance will be considered in order to determine that the business will not have a detrimental impact on the surrounding area.

If the application meets the Council's requirements and no representations are received the consent / permit will be granted as applied for.

If valid representation(s) are made during the consultation period, then the application will be considered at a hearing by the Council's Licensing Sub-Committee.

Applications will normally be determined within two months of receipt and may be either:

- granted, whereby the consent or permit will be issued with conditions attached, or
- refused, whereby the fee will be refunded (as appropriate) to the applicant.

The reasons for the decision will be communicated to the applicant, but it should be noted that the Act does not provide a right of appeal against any decision made in relation to the grant or refusal of a street trading consent.

Trading hours and staff requirements

Provision of hot food and drink after 11.00pm requires a premises licence under the Licensing Act 2003

Trading consents are granted to individuals. The consent holder does not have to be present at the site during trading hours but must nominate a person aged 17 or over to cover in their absence, and if selling food must hold a Food Hygiene Certificate.

In approving consents or permits, the Council will have regard to an applicant's previous record of compliance with the conditions attached to any previously held consents or permits.

Consent and Permit Details

Every consent or permit issued will show specific details and carry conditions which must be complied with. The consent or permit must be clearly displayed and/or produced for inspection by an authorised officer of the Council or a police officer.

Street trading consents will specify:

- the trader's/business name;
- their address;
- a description of items to be sold;
- details of the trading location/s, days and times.

In addition, any conditions considered necessary to individual applications may also be attached. The Council retains the right to vary the conditions at any time.

Enforcement

General

This section of the policy details the Council's commitment to enforcing the provisions contained within the appropriate legislation. It also highlights the Council's commitment to work in partnership with other enforcement agencies, in order to provide consistent enforcement on licensing issues.

Licensing officers aim to work closely with other enforcement authorities when dealing with issues on the street. We will enforce the provisions of all appropriate legislation and will ask persons causing a nuisance to cease the activity that they are conducting and leave the area.

Authorised officers from the Council will visit street traders to assess compliance with the conditions or to undertake any other duty that the authority has, such as food hygiene inspections.

Where licensable activities are conducted without the benefit of a consent, we will gather evidence and take enforcement action as appropriate in line with the Council's own Enforcement Policy and the Regulators Code. We may call for assistance from the Police when dealing with such issues.

If an officer is of the opinion that the holder of the trading consent has contravened any conditions, the consent may be revoked.

If a Street Trader also holds a Premises Licence issued under the Licensing Act 2003 then failure to pay the fee associated to that licence will lead to the consent being revoked.

Offences

1. A person who -
 - (a) engages in street trading in a prohibited street; or
 - (b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule; or
 - (c) contravenes any of the principal terms of a street trading consent; or
 - (d) being authorised by a street trading consent to trade in a consent street, trades in that street -
 - (i) from a stationary van, cart, barrow or other vehicle; or
 - (ii) from a portable stall, without first having been granted permission to do so under paragraph 7(8) above; or
 - (e) contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.
2. It shall be a defense for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
3. Any person who, in connection with an application for a street trading consent or licence makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
4. A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Further Information

For further details please visit the Councils Website.

Appendices

Appendix A – Consent Conditions

The following conditions will be attached to relevant consents:

General Conditions

1. The Consent Holder (which expression where appropriate includes joint holders of this Consent) and any person employed by him to assist him in his trading shall produce the Consent on demand when so required by a duly authorised officer of the West Northamptonshire Council, or by a Police Officer.
2. A copy of this Consent shall be kept onsite by the holder and available for inspection by an authorised officer of the Council, or a Police Officer.
3. The Consent Holder shall notify the Licensing Officer of the Council immediately of any convictions or proceedings arising out of the use or enjoyment of the Consent.
4. The Consent Holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but may surrender it to the Council at any time. The Consent Holder shall observe and comply with any directions in relation to the use of the street or public place by a duly authorised officer of the Council.
5. Nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent.
6. The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy for a minimum of £2million and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
7. A statutory undertaker, including the County Council, can require the street trading unit to be removed at any time in connection with carrying out its duties.
8. The Consent holder is required to provide the Council with proof of their food business registration and their food hygiene rating when requested and following any inspection by a Food Safety Officer.
9. The Consent holder is liable to pay the relevant fee within the time frame stipulated on the invoice.
10. The Council may vary the Conditions attached to the Consent at any time.

Site Conditions

11. The Consent Holder when operating on a static site shall have access to suitable and sufficient sanitary accommodation for both the Consent Holder, and any persons employed in the street trading activity. The sanitary accommodation arrangements shall be approved by the local authority.
12. The Consent Holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever except with the previous consent in writing from the Council.
13. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without the approval of the Council. The Consent Holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street, or place or fix equipment of any description in the said surface except with the previous consent from the Council in writing.
14. The Consent Holder 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.
15. The Consent Holder shall keep his trading position to a distance of 50 meters either side of the vehicle/stall in a clean and tidy condition during the permitted hours and also leave the same in a

clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.

16. The Consent Holder shall provide and maintain at his own expense refuse receptacles adequate for all litter generated from the trading activity.
17. Litter and Trade Waste arising from the activities of the Consent Holder shall be removed from the site on a daily basis and disposed of in an approved manner. Proof shall be required in the form of Duty of Care notes for the waste disposed of.
18. The Consent Holder shall provide such provision as is necessary to prevent the deposit in any street or public place of solid or liquid refuse and shall not discharge any water or effluent from the street trading activity to street surface drainage or the watercourse.

Trading Conditions

19. The Consent Holder shall not carry out street trading activities other than those permitted by the Consent.
20. The Consent Holder shall not trade outside the time and days permitted by the Consent.
21. The Consent Holder shall display on any van, cart, barrow or other vehicle or stall in a conspicuous position that is visible to members of the public the street trading consent certificate that has been issued by the Council.
22. The Consent Holder shall not trade in such a way that is likely to cause undue obstruction to any part of any street or public place.
23. The Consent Holder shall not trade in such a way that is likely to cause any injury to any person using the street or public place.
24. The Consent Holder shall not trade in such a way that is likely to cause damage to any property in the street or public place.
25. The Consent Holder shall not trade in such a way as to cause a nuisance to persons using the street or public place, or occupiers of premises in the vicinity.
26. Static Street trading units, vehicles or other equipment associated with the street trading activity shall be removed from the site at the cessation of trading each day.
27. Any Consent Holder who wishes to employ an assistant who will be left solely in charge of the street trading site during the course of a day's trading shall be required to:
 - a. Obtain written permission from the Council
 - b. Provide the name, age and address of such an assistant.
28. The Consent Holder shall at all times conduct his business in a clean, honest, civil and business-like manner without interfering with the business of other Traders and Consent Holders.
29. Where a Consent is issued to a mobile van, where a jingle or chime is used to attract custom, the Consent holder must ensure compliance with [Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013](#).
30. Where the Consent is issued in relation to a mobile trader, the trader is not permitted to wait in one location for more than 20 minutes or return to a similar location within 4 hours.
31. Food Businesses must achieve and maintain a FSA Food Hygiene Rating of Level 3.

Legal Provisions

32. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his employees or agents from any legal duty or liability.
33. At all times the Consent Holder shall comply with the legislation in force. Particular attention, where appropriate, should be paid to the Food Safety Act 1990, Food Premises (Registration) Regulations 1991, Food Hygiene (England) Regulations 2006, Health and Safety at Work etc. Act 1974, and any

Regulations made thereunder, Health Act 2006, and any Regulations made thereunder, and the Environmental Protection Act 1990.

Revocation of Consent

34. This Consent may be revoked by the Council at any time for failure to comply with the above conditions or for any other reason not listed. The Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
35. The holder shall return this Consent to the West Northamptonshire Council immediately on revocation or surrender of the Consent.
36. There is no mechanism for the suspension of a Consent.

Appendix B – Prohibited Streets

Northampton Area

The following roads and streets including any forecourts, roads, footways, laybys or other areas adjacent thereto within a distance of 10 metres shall be designated as prohibited streets for the purposes of Schedule 4 to the Local Government (Miscellaneous Provisions) Act, 1982.

A. The Central Area

Abington Street, Albert Place, Albion Place, Angel Street, Bradshaw Street, Bridge Street, Broad Street, Campbell Square, Campbell Street, Castilian Street, Castilian Terrace, Cheyne Walk, Church Lane, College Street, Commercial Street, Dergate, The Drapery, Dychurch Lane, Fetter Street, Fish Street, Foundry Street, Gas Street, George Row, Gold Street, Greyfriars, Guildhall Road, Hazelwood Road, Horsemarket, Horseshoe Street, King Street, Kingswell Street, Lady's Lane, Lower Mounts, Mayorhold, Mercers Row, Newland, Notre Dame Mews, Regent Street The Ridings, St Giles Square, St Giles Street, St Giles Terrace, St James Place, St James Street, St Johns Street, St Katherine's Street, St Peters Way, Sheep Street, Silver Street, Spencer Parade, Spring Gardens, Swan Street, Upper Mounts, Victoria Gardens, Victoria Promenade, Victoria Street, Wellington Street, Wood Hill, Woolmonger Street, York Road.

B. Radial Routes

- A508 London Road, Cotton End, Bridge Street, A43 Towcester Road, Southern Approach
- A45 Weedon Road (except for the layby on the south side thereof at Upton), Spencer Bride Road, Grafton Street, Grafton Square.
- A428 Harlestone Road, St James Road, Westbridge, Black Lion Hill.
- A50 Welford Road
- A508 Harborough Road, Kingsthorpe Road, Barrack Road.
- A43 Thorpeville Road, Booth Rise, Kettering Road North, Kettering Road, Abington Square.
- A4500 Wellingborough Road
- A428 Bedford Road

C. Other parts of the Highway Network

Upton Way, Danes Camp Way, Mereway, Nene Valley Way, Tollgate Way, Bants Lane, Mill Lane, Kingsthorpe Grove, Kingsley Road, Abington Grove, Abington Avenue, Park Avenue North, Rushmere Road.

Park Avenue South, (other than the East side thereof from a point 139 metres (457 feet) north of its junction with Christchurch Road for a distance of 10 metres (33 feet) northwards).

St Andrews Road, Burleigh Road, Holly Lodge Drive, Red House Road, Talavera Way, Great Billing Way (except for the layby on the east side thereof at Rectory Farm). Lumbertubs Way.

Daventry Area

A43; A508; A50; A5; A45; A361, A425 and the lay-by to the east of the A43 near the Hannington Crossroads, which is a 60mph speed limit.

4.0 Glossary of terms

Use this section to give definitions to any words that require explanation – especially if this is a public document. If you can't avoid jargon or technical terms, this is the place to explain them.

Term	Definition
Authorised Officer	an officer employed and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Consent	consent to trade on a street within the Council's area
Consent Holder	the person or company to whom the consent to trade has been granted by the Council.
Consent Street	a street in which street trading is prohibited without a street trading consent.
FSA Food Hygiene Rating	Food Standards Agency Hygiene Rating as issued by a traders home authority Food Safety Officer
Peripatetic trader	a trader who moves from street to street but trades for less than 20 minutes at any one point and does not return to a similar trading position within 4 hours
Prohibited Street	a street in which street trading is prohibited
Static street trader	a trader granted permission by the Council to trade from a specified position.
Street trading	<p>the selling of or exposing or offering for sale any article (including a living thing) in any street. A Street includes:</p> <ul style="list-style-type: none"> • any road, footway, beach or other area to which the public have access without payment • a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street