



Blaby District Council

# **STREET TRADING POLICY**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

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## 1. Introduction

District Councils have the power to adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to enable them to control Street Trading within their District.

Blaby District Council adopted Schedule 4 in 2012.

Once this schedule has been adopted a District Council may choose to designate any street within its district as a prohibited licence or consent street.

A Consent Scheme was adopted by Blaby District Council and this policy details that scheme.

This Policy will be applied to street trading activities within Blaby to ensure consistency in decision making. Each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

This policy has been considered in relation to the Services Directive and is deemed to comply with the requirements of that Directive and the Provision of Services Regulations 2009 (S.I. 2009/2999).

## 2. Definitions

“Council “ - means Blaby District Council.

“ District”- means all areas within the boundaries of Blaby District Council

“Authorised Officer” - An officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

“Street “ - means any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the public without payment within the distance of 30 metres from the centre of those streets which are part of the public highway.

“Street Trading” - means the selling or exposing or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this policy:-

- (a) Trading by a person acting as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871;
- (b) 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;
- (c) trading in trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- (d) trading as a news vendor

(e) trading which –

- (i) is carried on at premises used as a petrol filling station; or
- (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;

(f) selling things, or offering or exposing them for sale, as a roundsman.  
(A roundsman does not include Ice cream sellers (Kempin V Brighton & Hove Council) and mobile catering vehicles these will require a trading consent)

(g) the use for trading under Part V11A of the Highways Act 1980 of an object or structure placed on, in or over a highway;

(h) the operation of facilities for recreation or refreshment under Part V11A of the Highways Act 1980;

(i) the doing of anything authorised by regulations made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916;

(j) Residents wishing to sell items from the pavement outside their home address on a temporary basis. (Concessionary consent may be sought in these circumstances).

(k) fetes, carnivals or similar community based and run events, for example Christmas lights switch on events, special markets.

“Prohibited Street” - Means a street on which street trading is prohibited.

“Consent” – Means consent to trade on a prohibited street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

“Consent Street” - Means a street in which street trading is prohibited without the consent of the Council.

“Consent Holder” - means the person or company to whom the consent to trade has been granted by the Council.

“Trader” - means not only the consent holder but also his/her assistants

“Services Directive” – Means the Service Directive (Directive 2006/123/EC)

### **3. Objectives of the policy**

The over-riding objectives of this policy are to

- to protect public health,
- to ensure public safety
- to protect the environment through the control of street trading within the District of Blaby.

In particular this policy is designed:

- To improve standards of food safety, health and safety and environmental management and enhance the image of the district;
- To ensure that traders operate within the law and act fairly in their dealings with the public;
- To prevent and detect statutory nuisance, unsafe practices and anti social behaviour;
- To protect the amenity of the district, particularly in areas whose character or appearance should be protected.

All decisions relating to consents will be made on the merits of the individual case, having regard to this policy as part of the decision making process.

#### **4. Fees**

The fees charged by the Council for consents to trade should cover the cost of administering the service.

- The fees will be reviewed annually.
- If ownership of a business changes or the location of the trading site a new consent will be required.
- If the consent holder wishes to vary the consent (this does not include moving to a new trading site) at any time during the authorised period an administration fee will be charged. Details of the current administration fee can be found in the table of fees on the Council's website.
- Where a trading consent is surrendered during the life of the consent the Council will refund the fee paid on a pro rata basis as determined appropriate less an administration fee.
- The full fee will be required at the time of application for all new applications. However in exceptional circumstances the fee may be paid by instalments. The non-payment of any application fee and or instalment which relates to the grant of the consent will be grounds for immediate revocation.
- In the event that an application is refused the fee, minus an administration fee will be refunded

It is possible for the Authority to charge different fees for consents that are for different durations or locations such as a pro rata rate for occasional consents or concessionary consents in certain circumstances.

The current fee table can be found on the Council's Street Trading web page.

## 5. Conditions

Conditions on a street trading consent are important in setting the parameters within which the holder can lawfully operate. Consent conditions

- Must be appropriate for the promotion of the policy objectives;
- Must be precise and enforceable
- Must be unambiguous and clear in what they intend to achieve;
- Should not duplicate other statutory requirements;
- Should be proportionate, justifiable and be capable of being met;
- Cannot seek to manage the behaviour of customers once they are beyond the direct management of the consent holder and/or their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter and leave;
- Should be written in a prescriptive format.

When granting or renewing a trading consent the authority may attach such conditions as considered necessary to the individual application and appropriate for the promotion of the policy objectives.

Each set of conditions will be specific to the trading consent issued and will specify the trading location and times of trading.

The Council retains the right to vary the conditions of a street trading consent at any time.

## 6. Application & Determination Process

All applications for a street trading consent must be made using the Councils' prescribed application form and submitted to the Licensing Team. Application forms are available on the Councils website. Only fully completed application forms, the appropriate fee and the necessary supporting documentation will be accepted.

The following will be required to be submitted with the application:

- (a) A completed and signed Street Trading Consent Application Form;
- (b) The full fee as appropriate for the periods of trading applied for;
- (c) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line;
- (d) Four colour photographs of the stall, van, trailer or barrow to be used for the trading activity should be submitted either as hard copy photos or electronically. The images should show the exterior front, side and rear and also the interior of the trading vehicle – please note that an application will not be accepted without the required photos of the trading unit. Only the trading unit shown in the accompanying photos will be given consent. Should the unit differ/change or be altered in any way prior to consent being given the Council will require new photos to be submitted and the determination of the application process will re- start and the consultation period will begin again.

- (e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks. If the application is the first one submitted, rather than a renewal, then the applicant can indicate their intention to obtain the appropriate insurance, if the consent is granted. Please note an application that has been granted will not be processed until appropriate insurance documents have been supplied and accepted.

On receipt of the application form an acknowledgment will be sent to the applicant. An officer may visit the applicant and inspect the vehicle, barrow, cart, van, portable stall or other vehicle or premises which the applicant intends to trade from.

Where the proposed site is deemed suitable, Blaby District Council will carry out a 21 day consultation. Details of consultees can be found in section 9.

All applications will be determined within 28 days of receipt.

Until the application has been determined it is an offence to trade in areas requiring a consent to trade

If an enquiry or application is received that requests trading consent from a site never previously used for street trading, confirmation that the site is considered appropriate for street trading must be obtained before the application and fee is accepted and before the 21 day consultation period commences.

Where a proposed site is deemed unsuitable the applicant will be informed and the enquiry will not proceed any further.

The Council will normally grant a street trading consent unless, in its opinion:-

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes, or
- Where the mobile vehicle is proposed to trade within a conservation area and its location, size, colour or appearance would adversely affect the amenity of that area, or
- There is a conflict with Traffic Orders such as waiting restrictions, or
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- The trading unit obstructs the safe passage of users of the footway or carriageway, or

- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the Consent Holder, staff and customers to park in a safe manner, or
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff, or
- There is a history of poor levels of food safety, health and safety or environmental management compliance associated with the applicant, or
- There is a history of poor levels of compliance with quality, compositional or fair trading issues by the applicant, or
- The appearance of the street trading vehicle or stall is such that it would adversely affect the visual amenity of the area, or
- Any other reasonable matter relating to public safety, public health or the protection of the environment that should be taken into consideration by the Council.

The application will either be:

- 1) Granted and a trading consent will be issued with or without conditions attached, or
- 2) Refused and the fee will be refunded to the applicant (minus the administration fee).

Trading consents will be valid for a maximum period of 12 months.

The grant or refusal of an application is a matter for the District Council to determine having regard to any consultation responses and any other relevant considerations.

There is no right of appeal against the variation of a condition, a refusal to grant or renew a trading consent. The Council will give full reasons for any variation of condition or refusal and these will be communicated to the applicant.

There is a right of challenge; this is by way of judicial review of the Council's decision where it is considered unreasonable.

Additional visits may be made to holders of trading consents throughout the consent period to assess compliance with the conditions or to undertake any other duty that the authority has, such as food hygiene inspections.

Trading consents are granted to individuals. The person who is the consent holder is required to be present at the vehicle, barrow, cart, van, portable stall or other vehicle or premises during trading hours. The consent holder may nominate an assistant to cover in their absence. Advice on this should be sought from the Licensing Section



## **7. Renewal of Trading Consents**

The Council will send out renewal invitations 2 months prior to the expiry of the trading consent.

Renewal applications must be accompanied by the completed application form, appropriate fee and all relevant documentation.

There is no right of appeal against the decision to refuse to renew a street trading consent.

## **8. Revocation of a Trading Consent**

If an authorised officer of the authority is of the opinion that the holder of the trading consent has contravened the conditions attached to the consent a revocation of the consent may be sought.

The authorised officer will present a report to the Regulatory Services Group Manager who will consider this in consultation with the Legal Services Manager. Comments from the consent holder would be sought to accompany the report.

Any decision made by the Regulatory Services Group Manager will be communicated to the applicant in writing giving full reasons for the decision made.

## **9. Consultation on Applications**

Prior to a Street Trading Consent being granted or renewed the Council will carry out a consultation process. In particular the following organisations or persons will be consulted.

Leicestershire County Council Highways – area office;

Leicestershire Constabulary;

Leicestershire Fire & Rescue Service;

Blaby District Council Environmental Health Team

The Parish Council(s) for the area(s) where the trader proposes to trade;

Ward Councillors.

If the application site is within a Conservation Area then the Council's Development Control Team will also be consulted.

Written observations from the above organisations will be sought and taken into consideration when determining an application.

Where the Council considers it appropriate to the application submitted, it may consult additional organisations or individuals.

## **10. Decision Making Process**

The Senior Licensing Officer and/or Licensing Officer acting on delegated powers will use the criteria listed above (paragraph 6) in determining applications and renewals for any Street Trading Consents. Similarly any objections received will be considered by the Environmental Services Manager against these criteria. All should normally be satisfied, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

If an application for consent is either refused or conditions are imposed, then reasons for the refusal or imposition of conditions will be included with the decision.

There is no right of appeal available against the Council's decision to refuse or attach conditions to the consent.

## **11. Amendments or Variations to Trading Consents**

In certain circumstances, the Council may wish to add, alter or amend the conditions on a trading consent. If this is the case then the authorised officer will notify the consent holder of their intention and the consent holder will be given the chance to make representations against this variation of the trading consent.

The authorised officer will present a report to the Regulatory Services Group Manager for consideration which will include the representations made. The Decision of the Regulatory Group Services Manager will be given to the applicant in writing with full reasons.

All applications to vary an existing consent must be made in writing. All applications will be considered by the Senior Licensing Officer.

The Senior Licensing Officer is not required to consult prior to making a decision, however they may choose to consult, this will be dependent on the variation request details.

There is no right of appeal against the Council's decision to refuse to amend or vary a consent.

## **12. Complaints**

All complaints received relating to street trading will be investigated. The outcome of a complaint investigation may result in:

- No action being taken;
- Existing conditions being amended and/or removed;
- Additional conditions being placed on the consent;
- A change to the designated trading area;
- Revocation of the consent;
- Prosecution / Caution;

## 13. Offences

Under the Local Government (Miscellaneous Provisions) Act 1982, a person who:

- Engages in street trading in a consent street without being authorised to do so;
- 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; or

- Contravenes a condition imposed in agreeing to permit street trading;

shall be guilty of an offence. A person found guilty of an offence shall be liable on summary conviction to a fine not exceeding level 3 on standard scale.

The only conditions that we can impose in relation to trading from a vehicle or stall that would lead to the commission of an offence relate to the location of the trader and hours of trading.

It shall be a defence for a person charged with an offence above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Any action taken by the authority with regard to the above offences will have regard to the Environmental Health & Licensing Enforcement Policy.

Any person who, in connection with an application for a street trading licence or for a street trading consent, 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.

## 14. Further Information

For further information in relation to street trading visit our website [www.blaby.gov.uk](http://www.blaby.gov.uk) or alternatively please contact:

Licensing Section  
Blaby District Council  
Council Offices  
Desford Road  
Narborough  
Leicestershire  
LE19 2EP

Email: [licensing@blaby.gov.uk](mailto:licensing@blaby.gov.uk)

Telephone: 0116 272 7783 or  
0116 272 7782

## **Street Trading Policy - Schedules**

### **Schedule A - List of those Roads where a consent is required to trade**

All roads within the District of Blaby except those listed below which are designated as Prohibited Streets (Schedule B).

### **Schedule B – List of those Roads/streets which are designated as prohibited Streets and street trading will not be allowed.**

**None**