

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING

Epping Forest District Council has, by the powers vested in it, resolved that for the purposes of controlling Street Trading all current and future streets (adopted or unadopted highway), Council car parks including all forecourts, road, footways or other areas adjacent to the streets referred to in this resolution be designated as 'consent streets' from 1 December 2003.

POLICY

This policy will be applied to street trading activities in the district of Epping Forest to ensure consistency in decision making. Each application will be considered on its own merits so that the individual circumstances, where appropriate, are taken into consideration.

1. **Definitions of terms used in these Guidelines**

Within the terms of Epping Forest District Council's Street Trading Consent Scheme the following definitions apply:

The Council:	Epping Forest District Council
Street Trading:	The selling or exposing or offering for sale of any article (including a living thing) on any street.
Street:	Includes: (a) Any road, footway or other area to which the public have access without payment. (b) A service area as designed in section 329 of the Highways Act 1980 and also includes any part of a street.
Consent Street:	Means a street in which street trading is prohibited without the consent of the Council.
Consent:	A consent to trade on a street granted by the Council, pursuant to paragraph 7, Schedule 4 of Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder:	The person or company to whom the consent to trade has been granted by the 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.
Prohibited Street	A street which is prohibited within the District of Epping Forest District Council.

2. **Procedure for determining Street Consent applications**

The application and approval procedure comprises of the stages as set out at Appendix 1.

3. **Submission of the application**

An application for a Street Trading Consent must be made to the Council in writing or online.

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

- (a) A completed and signed Street Trading Consent application form (in the case of online applications, a completed application would be acceptable);
- (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) Three colour photographs of the stall, van, barrow, cart etc., that will be used for the street trading activity;
- (e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks;
- (f) Photo identification i.e., Passport, photo driving licence;
- (g) Two passport type photographs.
- (h) Basic Criminal record disclosure

All applications should be marked for the attention of Licensing Section.

An applicant for an initial new Street Trading Consent should give a minimum of 60 days notice of the application.

Renewals

Applications for renewals will be considered by the Assistant Director or Licensing Manager. The application must be accompanied by the public liability insurance, to the value of £1,000,000.MOT and fee. The applicant must display a public notice on the unit. If no objections are received the renewal will be granted. If objections are received the application will be considered at licensing sub-committee.

4. **Consultation on applications made**

Before a Street Trading Consent is granted or renewed the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons are consulted.

- Essex County Council Highways area office;
- EFDC Development Control

- Essex Police
- Essex Fire and Rescue Service
- EFDC Environmental Health
- Members of the public who live in the vicinity

5. **Site Assessment**

Street Trading Consents from static locations will not normally be granted where:

- A significant effect on road safety would arise either from the situation 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 situated, or
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for harbourage of vermin, odour or fumes, or
- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes, or
- There is 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

6. **Inspection of the Street Trading Unit**

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council,

prior to the issue of any Street Trading Consent, where this is reasonably practicable. The unit to be used for the street trading activity shall comply in all respects with the legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with the following legislation:

- Health and Safety at Work etc. Act 1974 and any Regulations made under this Act
- Environmental Protection Act 1990
- Food Safety and Hygiene (England) Regulations 2013/2996
- Regulation (EC) No 852/2004 on the hygiene of foodstuffs

The consent permit must be displayed and available for inspection by a Local Authority Enforcement Officer/Police Officer at all times.

7. **Determination of the Application**

The Assistant Director of Neighbourhood Services or the Licensing Manager acting on delegated powers will use the criteria listed below in determining any Street Trading Consents. Similarly any objections received will be considered 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 objections are received, the application will be referred to the authority's licensing sub-committee. Persons or bodies making written objections will also be informed together with the appropriate Ward Councillors for the proposed street trading site.

(a) Public safety: The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction or fire hazard. The term "public" refers to both customers requesting the street trading activity, and other members of the public using the street. In particular, reference will be made to guidelines set out in section 6 on site assessment criteria.

(b) Public order: The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the Essex Police will be taken into consideration.

(c) Avoidance of nuisance: The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households or businesses in the vicinity of the proposed street trading site. Observations from Council officers shall be taken into consideration.

(d) Needs of the Area: The sufficiency of other trading outlets will be taken into consideration in relation to:

1. The presence of like outlets already existing in the immediate locality of the proposed street trading site.

2. The general needs of a locality, should no comparable outlet exist.

(e) Compliance with legal requirements: The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation.

(f) Consultees Observation: Consideration will also be given to written observations from consultees and members of the public. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.

(g) Permitted Trading Hours: The Council generally will only permit street trading between 6.00am and midnight on any day. Any trading outside these hours will require approval by the Council. Street Trading outside these guideline hours will be assessed in terms of criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.

(h) Children and Young Persons: The Children and Young Persons Act 1933, as amended by the Children and Young Persons Act 1963, controls the employment of children in street trading. The Act prohibits employment of children under 17 years of age.

8. Exemptions from the need to obtain a Consent

8.1 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 pedlars' certificate granted under the Pedlars Act 1871;
- Trade carried out by rounds men e.g. milkmen;
- Trading as a news vendor;
- Trade carried on at a petrol filling station;
- Historic markets will be exempt from paying a fee to the authority but will have to satisfy the application process and need to place a public notice in the local newspaper.

8.2 The authority reserves the right to amend its decision to exempt a payment for markets. All new applications for markets will be required to pay the fee.

9. Approval of Applications

The Assistant Director of Neighbourhood Services or Licensing Manager may approve applications meeting the criteria contained within these guidelines.

On approving the application the Council will issue a Street Consent to which conditions will be attached. The Consent will also contain specific terms such as days and hours when street trading is permitted, the goods that may be sold.

A copy of the Council's standard conditions will be attached to the consent, (and are attached as appendix 2) Additional conditions may be attached if special circumstances apply to the Consent being granted by the Council. The Consent shall be issued within 21 days of the decision.

The conditions attached to the Consent form part of the approval to carry out street trading in the District. They **MUST** be complied with at all times and failure to do so could lead to the Consent being either revoked or not renewed.

Consent holders are therefore requested to familiarise themselves with the terms and conditions attached to Street Trading Consent and comply with the requirements.

10. Issue of Street Trading Consents

A Street Trading Consent for any particular site will be issued for a maximum period of one year. Shorter term consents may be issued on a daily, weekly or monthly basis. The licence must specify the street, days and times that the licence holder can trade and the items that can be sold. These particular consents will expire, unless renewed, on a date specified in the consent.

In all cases when a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases, the application will be required to go through the full consideration process outlined in these guidelines.

11. Representation to the Licensing Committee

The Council's Licensing Sub-Committees have delegated authority to consider applications and hear objections and appeals in relation to licensing matters.

The role of the Licensing Sub-Committees as regards Street Trading Consents is to hear representations from applicants in cases where the application has received objections against the application.

On receipt of a written representation, arrangements will be made to have the application heard at the next available meeting of the Licensing sub Committee.

Once arrangements have been made for the representation to be heard by the Licensing Sub-Committee the applicant will be advised in writing of the date, time and place where the representation will be heard; the person making the application is expected to attend the hearing. The applicant can be represented by a solicitor, or supported by a friend or colleague. The Licensing Sub-Committee will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.

The decision of the Licensing Sub-Committee will be confirmed in writing to the applicant within five working days of the meeting at which the application was considered.

The Licensing Sub-Committee will always adhere to the rules of natural justice when it is considering an application to ensure that all persons get a fair hearing.

12. **Refusal of Applications**

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to the refusal of Street Trading Consents. If a person aggrieved by a decision of the Council he or she may seek a Judicial Review of the decision.

13. **General Information on Street Trading Consents**

Reimbursement of Fees: 50% of the application fee will be refunded if your application is refused by the Licensing Sub-Committee.

Persons under the age of 17 years: The Council will not grant a Street Trading Consent to persons under the age of 17 years.

Access by the Council and Police Officers: Consent holders should allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

Street Trading Consents: The conditions attached to all Street Trading consents stipulate that a consent holder shall not assign, sub-let or part with his interest or possession of Street Trading Consent.

Variance of conditions: The Council may at any time vary the conditions of a Street Trading Consent.

The consent granted is specific to the person to whom it is issued and is **non-transferable and there can be no sub-letting.**

Ice Cream Vans Any ice cream van trading within Epping Forest District Council will require a Street Trading Consent. The Consent will allow trading to take place throughout the whole District, however the van can only remain static in any one location for a maximum of 20 minutes.

14. **Enforcement of Street Trading**

The Council will actively enforce the provisions of the Street Trading legislation within its area in a fair and consistent manner.

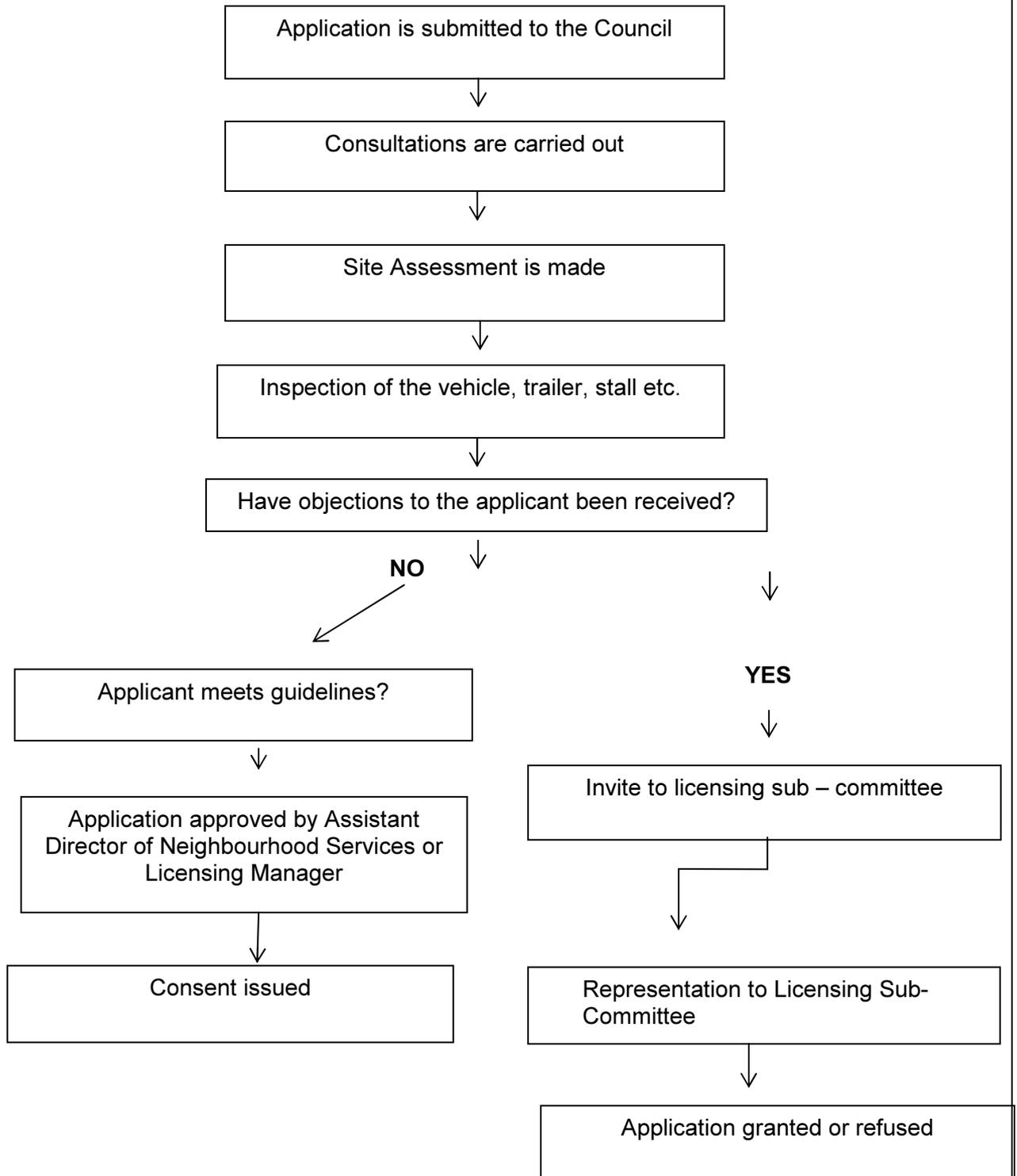
15. **Complaints against the Service**

The Council has a Corporate Complaints Procedure, copies of which are available from the Council Offices or on the Council's website.

APPENDIX 1

PROCEDURE FOR DETERMINING STREET TRADING CONSENT APPLICATIONS

The application and approval procedure comprises of the following stages:



APENDIX 2

LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING CONSENT



1. **CONSENT HOLDER:**
 2. **LOCATION:**
 3. **DESCRIPTION OF FOOD:**
 4. **DURATION:**
 5. **COUNCIL ON BEHALF OF THE COUNCIL** _____ - _____
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1. This Consent is valid from _____ to _____ and no right to its renewal by the Council can be assumed or is implied.
 2. The Consent Holder shall at all times comply with the law. Particular attention should be paid to the requirements of the Health and Safety at Work etc Act 1974 The Food Safety Hygiene (England) Regulations 2013/2996 and the Food Safety Act 1990.
 3. The Consent Holder shall not cause any nuisance.
 4. No recorded or amplified music or radio, shall be played by the Consent Holder or any employee at the stall to the annoyance of any member of the public, local resident or occupier of nearby premises, except in the case of ice-cream vans who may use amplified chimes during permitted hours.
 5. No water, rubbish or waste material shall be discharged or deposited on the highway or any adjacent property or into any surface water inspection chamber or gully.
 6. The Consent Holder's stall shall be kept in a clean, safe and well maintained condition, to the satisfaction of the Council and its authorised Officers.
 7. The Consent Holder shall provide and maintain, at his own expense, adequate refuse receptacles for litter and waste and its disposal.
 8. A notice stating the name of the Consent Holder and an address for complaints, shall be displayed in a conspicuous position on the stall at all times when trading is being carried on at the stall.

9. If the Consent Holder or any employee is requested to move the stall by an authorised Council Officer or a Police Officer, he/she shall immediately comply with that request.
10. The Consent Holder shall ensure that disable people can be served at the stall.
11. Failure to comply with these conditions will put the Consent Holder at risk of having the Consent revoked and/or of prosecution.
12. The Consent Holder shall take out and maintain at all times third party insurance cover with a maximum liability of at least £1,000,000.
13. 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.
14. No business other than that of the sale of food and drink shall be carried on at the stall.
15. Litter and trade waste arising from the activities of the consent holder in and around the stall, shall be removed from the site on a daily basis and disposed of in an approved manner
16. The consent holder shall ensure adequate provision for pest control.
17. (Ice cream vendors) Vans may not be parked in any one location for more than 20 minutes and must not visit the same location more than twice a day.

THE CONSENT DOES NOT:

1. Permit trading outside the terms of Consent.
2. Indicate that planning permission has been granted or is not required.

Please note:

- That the requirement to obtain planning permission applies to all streets, whether they have been designated Consent Streets or not.
- That the grant of one or more Street Trading Consents does not give the trader immunity from control.
- Indicate that the unit is exempt from business rates.
- Over ride parking restrictions or any other traffic regulations.

- Imply approval from the Highway Authority or any other person or Authority.

DELEGATION OF FUNCTIONS

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for a Street trading consent		If an objection	If no objection made
All policy matters except the formulation of the licensing policy	All cases		

