

<b>Body:</b>	<b>GENERAL LICENSING COMMITTEE</b>
<b>Date:</b>	<b>10<sup>th</sup> October 2011</b>
<b>Subject:</b>	<b>Review of Street Trading Policy and Facilitation of Street Markets</b>
<b>Report Of:</b>	<b>Kareen Plympton, Licensing Manager</b>
<b>Ward(s)</b>	All
<b>Purpose</b>	To present the General Licensing Committee with the draft Street Trading Policy, and to note the consultation and implementation timetable, alongside the outline operation for a street market in Eastbourne town centre.
<b>Decision Type:</b>	Policy Decision
<b>Recommendation:</b>	<ol style="list-style-type: none"><li>1. To note the contents of the draft Street Trading Policy, alongside the consultation and implementation timetable.</li><li>2. To note the proposals in relation to the provision of a regular street market</li></ol>
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## **1.0 Introduction**

- 1.1 A key Council objective is to increase the vibrancy and vitality of the town, and in particular the town centre. This is embedded in the Community Strategy in the Regeneration & Economy chapter, the Corporate Plan and the Proposed Submission Version of the Eastbourne Town Centre Area Action Plan. A common suggestion to provide extra vitality is to diversify street trading activity, and to attract a regular street market.
- 1.2 However, the current Street Trading Policy is somewhat restrictive, and does not support street trading or the creation of a regular street market, hence the matter being placed under review.
- 1.2 This report seeks to advise Members of proposals to remedy the situation, and contains a new draft Street Trading Policy. This aims to facilitate managed street trading across the Borough, alongside the delivery of street markets in various locations which offer a diverse range of products.
- 1.3 At its meeting on the 7<sup>th</sup> September 2011, Cabinet agreed that the draft Street Trading Policy be released for consultation. The consultation commenced on 30<sup>th</sup> September 2011, and concludes at 12 noon on 2<sup>nd</sup> January 2012.
- 1.4 The Council currently regulates street trading under the provisions of Schedule

4 of the Local Government (Miscellaneous Provisions) Act 1982. This permits the Council to designate streets as "consent streets" or "prohibited streets" for trading purposes. The current Policy was approved by Cabinet in February 1999, and is very restrictive.

- 1.5 It states that street trading "should not be encouraged," and only allows street trading in specific streets "when it is part of an event" which is 'unique, unusual and of high quality' and "occurs on an infrequent basis." Given these parameters, the current policy prevents a regular street market taking place, and places restrictions on other more general street trading activities which could promote diversity and regeneration in a given location.
- 1.6 Currently, when an ad hoc event includes a street market which requires a road closure, the Town Police Clauses Act 1847 is utilized. However, this can only be used on occasional basis for "special events," and should not be used in the instance of a regular street market.
- 1.7 If the Council formally adopts the new Street Trading Policy, in addition to offering additional, managed street trading activities, it would have the power provided under Schedule 4 of the Local Government (Miscellaneous Provision) Act 1982 to authorise a regular street market on public land.
- 1.8 The Street Trading Policy will not cover all types of trading on the street, as there are some exemptions, including Pedlars Certificates, which are issued by Sussex Police to individuals who "peddle" or sell their goods from a mobile unit, moving from location to location. This activity is transitory in nature, where customers approach the Pedlar as opposed to the Pedlar directly marketing their wares. Their activity is regulated under the Pedlars Act 1871, which is currently being reviewed by Central Government. Buskers are also exempt, termed as spontaneous entertainment, and are not regulated in the same manner. However, their activity can be managed to ensure that they do not cause a noise, nuisance or disturbance to the locality.

## **2.0 Draft Street Trading Policy**

### **What the Policy covers**

- 2.1 The draft Policy is attached at Appendix 1 and covers all the streets in the Borough so that applications can be made for all types of street trading in a more structured way.
- 2.2 The Policy covers the streets where trading will be permitted – 'consent streets' and those where trading will not be permitted 'prohibited streets.'
- 2.3 Prohibited streets are those identified as classified "A Roads," or where the speed limit exceeds 30 miles per hour. The consent streets, where necessary, will include the allocation of specific 'pitches' where street trading can take place to facilitate monitoring and enforcement.
- 2.4 The Policy covers the type of trading that can take place; including hours of operation. It also considers the potential impact on established businesses and residents in the area, health and safety implications, and the trading unit itself.

2.5 It incorporates the application process, an overview of how decisions are made, conditions aligned to consents, and the process for enforcement. It also considers whether the individual seeking to trade is suitable to do so.

2.6 It is proposed that the setting of the fees and charges associated with this activity be delegated to the Full Licensing Committee at its meeting in January 2012.

### **3.0 Street Market for the Town Centre**

3.1 With a revised, more inclusive Policy in place, the Council can take steps to permit a regular street market and offer a more diverse experience. A key consideration is the location of a potential market.

3.2 It has been generally suggested that the most appropriate location is in Terminus Road, towards the end closest to the seafront. An attraction such as a street market would increase footfall in an area of the town centre that currently has fewer visitors than other more central parts of the town centre.

3.3 With this in mind, consideration has been given to how many market stalls could be accommodated at this location. It is anticipated that about 20 stalls between the Seafront and Seaside Road, 6 between Seaside Road and Pevensey Road, and a further 6 between Pevensey Road and Langney Road would be appropriate.

3.4 Additional locations for a street market could include: Langney Road, Bolton Road and any additional suitable locations that present within future development opportunities as part of the Town Centre Area Action Plan.

### **4.0 Size of Market**

4.1 The critical mass for a street market in Eastbourne in this location would be 20 stalls. Any fewer, and the impact would not be sufficient to generate interest, and the stalls would be too stretched out and unattractive to the shoppers. Members may recall the Christmas Magic market of 2009 where 20 stalls operated, offering a wide range of products and services. This is considered a minimum viable number which generated interest, vibrancy and a satisfactory financial return.

### **5.0 Type of Market**

5.1 It is proposed that, where possible, the goods on sale will not be the same as those on sale in local stores, so that direct competition is kept to a minimum. The market should be designed to provide colour, interest and added footfall to the area, not additional competition.

5.2 It is therefore envisaged that a food or craftwork offer such as a 'farmer's market' could be appropriate and would be supported by local businesses.

5.3 There are farmers markets on Saturdays in the following locations: Lewes, Uckfield, Heathfield, Hailsham and Brighton.

5.4 It may be that there are other types of market such as; antiques, books, arts and crafts, that would be attractive for Eastbourne and could be considered as

market “themes.”. This will be investigated as part of the consultation process.

## **6.0 Frequency**

- 6.1 The frequency of an established, regular market will be explored during the consultation process. There is the opportunity for other types of market products to be available, such as Fairtrade items, antiques, books, and crafts, which could be conducted on other days.
- 6.2 There are other farmers markets in the region on a Saturday, and Langney Shopping Centre holds a general market on Tuesday and Saturday. Saturday is already a busy trading day in the town centre. Therefore a weekly Thursday or Friday might be an appropriate day for a regular street market to take place. However, this will be explored as part of the consultation process.
- 6.3 It is envisaged that provision should be made for a weekly market, but that initially monthly or fortnightly street markets would be more appropriate, in order to scope its viability, and to build up customer usage.

## **7.0 Options for Delivery**

### **7.1 Option 1 – Direct Delivery**

This would require the Council to recruit stallholders, provide the stalls, carry out the set up and take down of stalls, inspect and enforce all conditions of operation. It would also require officer time to undertake a necessary marketing programme.

- 7.2 It would need dedicated management on every market day to ensure stall holders have consent, inspected and in the right place. It would also require the Council to administer the consents to trade, and collect the income. Following each market day the stalls would need to be moved and stored in a secure place. The total operational responsibility of the market would rest with the Council.
- 7.3 As this option is direct delivery, then there would not need to be any overall procurement. Any procurement would be for such items as stalls and perhaps works to the highway to facilitate the market.

### **7.4 Option 2 – Contract with a Market Operator**

A time limited contract would be established with a market operator that would contain a service level agreement. The market operator would provide the traders, stalls and carry out the set up and take down. The Council would issue consents to traders and undertake inspection and enforcement.

- 7.5 This option would require formal procurement. Further investigation will establish if the procurement would require the full European procedure.

### **7.6 Option 3 – Contract with a local third party**

The provision of the market could be contracted to a local third party under a contract arrangement. The Council could also delegate the issuing of consents, inspection and enforcement to the third party although this is not

recommended until the arrangement is bedded in.

- 7.7 The procurement of a local third party would be by way of seeking expressions of interest and working in partnership with a local organisation. For example in Worthing the local Chamber of Commerce manages the regular street market in the town centre.
- 7.8 All above options would include the opportunity for local businesses to have a stall in the market, providing their products meet the brief. However, it is recommended that Option 3 would provide the most benefit for the town centre and the local economy. This will be explored in more detail post consultation.

## **8.0 Business Case Overview**

- 8.1 The business case is broadly based on a case study of Worthing town centre market. All illustrated options below assume a regular street market of 26 stalls for 24 days of the year. All figures are based on estimates and are for the purposes of illustration only.

### **8.2 Option 1 – Direct delivery of a regular market**

Delivers an operational surplus to the Council that is estimated to be approximately £17,000p.a. This would be available to be reinvested in services for the town centre e.g. Town Centre Management, better facilities for market operators such as electrical supply and Christmas lights.

### **8.3 Option 2 – Contract with a market operator**

Delivers a share of the income to the Council that is estimated to be approximately £9,500 p.a. Like option 1 this would be available to be reinvested in services for the town centre. Operational responsibility remains with the market operator and income is shared (for the purposes of illustration on 50-50 basis).

### **8.4 Option 3 – Contract with local third party**

Income for the Council is restricted to the license fee estimated at £1,560 p.a. and all operational responsibility is delegated to third party under a contract/license arrangement. The Council would require the third party reinvests surplus income in services for the town centre.

A full business case regarding the delivery of a regular street market will be brought back to a future Cabinet at the conclusion of the consultation period. This will enable a detailed business case to be put to a future Cabinet, but it is recommended that the delivery of a future market is via a local third party (option 3 above) with a requirement to re-invest the excess income into funding wider town centre activities

## **9.0 Set up Costs**

- 9.1 A budget for set up costs will be required to include submission of a planning application; changes to highways regulations, press, marketing and allied signage. This is estimated at £25,000. The further report following the detailed consultation will confirm the set up costs. This will be further considered by

Cabinet in February 2012.

## **10.0 Time line for future action**

Cabinet approve policy for consultation	September 2011
Matter presented to the General Licensing Committee for consideration	October 2011
Consultation Period ends	January 2012
Redraft of final policy to Cabinet which will include operation plan for street market	February 2012
Start procurement of preferred option for delivery of the Market	February 2012
Ratification of Policy as per legal requirements	April 2012
Market starts to operate	May 2012

- 10.1 This timeline is an estimate and following the consultation, Officers will refine the timeline with a view to making it as time efficient as possible.

## **11.0 Consultation**

- 11.1 Initial discussions have already taken place with a number of key stakeholders and they are generally in favour of the principle of a regular street market. These include:

- East Sussex Highways
- Chamber of Commerce
- Eastbourne Cultural Communities Network
- Eastbourne Independent Traders Association
- Enterprise Shopping Centre
- Bus Companies
- All Emergency Services

- 11.2 A wide consultation process is being undertaken to ensure all those affected by the proposed Street Trading Policy are given the chance to respond, and the potential for a regular street market is fully explored. This will include businesses, emergency services and transport providers

- 11.3 The consultation will include the display of statutory public notices, personal contacts, questionnaires, and meetings with key stakeholders. The consultation can be found at [www.eastbourne.gov.uk/consultation](http://www.eastbourne.gov.uk/consultation). Information pertaining to the consultation will also be provided via social networking sites, including Facebook and Twitter.

## **12.0 Resource Implications**

### **12.1 Financial**

Depending on the delivery option there is an income from providing a regular street market estimated to range from £1,560 to £17,000 p.a. There will be initial set up costs amounting to an estimated £25,000 which would be required for the first year of operation.

12.2 A facilitation budget of £5000 has been approved by Cabinet to undertake the extensive consultation required, to include:

- Seeking feedback via the Councils Consultation Pages and social networking sites from businesses, residents, visitors and the wider public;
- Advertising the change in policy and market arrangements;
- Holding stakeholder meetings.

12.3 It is proposed that the setting of the consent fees and charges associated with street trading should be dealt with by the General Licensing Committee at its next meeting on 16<sup>th</sup> January 2011.

### **13.0 Resource Implications**

13.1 At its meeting on the 7<sup>th</sup> September 2011, Cabinet agreed to release £5000 to fund the consultation and set up costs associated with a change in policy and the proposals surrounding a regular street market.

13.2 The costs incurred will be recovered from the licence fee income once the set up costs have been recovered.

13.3 A full business case will be prepared for Cabinet to consider when the consultation process is completed.

### **14.0 Other Implications Environmental, Human Rights, Community Safety, Youth, Anti-poverty.**

14.1 There are no adverse impacts.

### **15.0 Conclusion**

15.1 There is a desire to allow for a more diverse range of street trading activity, alongside a regular street market in Eastbourne. Without an adopted Policy the Council has to rely on existing national legislation, with street trading activities being precluded unless they form part of a pre planned event, and is restrictive.

15.2 The existing Street Trading Policy does not allow a regular street market to take place, and positively discourages street trading from taking place.

15.3 It is proposed to bring a full business case to Cabinet following the consultation that will allow an informed decision on the implementation of a market in the town centre.

### **16.0 Recommendations**

16.1 Members are recommended to:

1. To note the contents of the draft Street Trading Policy, alongside the

consultation and implementation timetable.

2. To note the proposals in relation to the provision of a regular street market.

**Kareen Plympton**  
**Licensing Manager**

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**Background Papers:**

The Background Papers used in compiling this report were as follows:

Local Government (Miscellaneous Provisions) Act 1982

Licensing Act 2003

Street Trading – Eastbourne Policy 1999 – 2011

To inspect or obtain copies of background papers please refer to the contact officer listed above.

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## **STREET TRADING POLICY**

### **1 INTRODUCTION SCOPE AND PURPOSE**

Local Authorities have a legal discretion to regulate street trading in their area. If they exercise their discretion they can apply controls across the whole of their administrative boundary or just parts of it. In the early 1980's Eastbourne Borough Council adopted the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

The Council agreed to regulate street trading in certain parts of the town centre, predominantly in the central area or in other areas where street trading activity would be considered inappropriate.

The purpose of this Street Trading Policy is to provide a decision making framework for the consideration of applications for street trading consents.

This Policy aims to create a street trading environment which complements premises based trading, is sensitive to the needs of residents and businesses, provides diversity and consumer choice. It seeks to enhance the character, ambience and safety of the local environment.

Street trading can be a valuable tool to aid the regeneration of Eastbourne's retail centres. The Council's ability to regulate street trading is set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 referred to in this Policy as "the Act".

### **2. DEFINITION OF STREET TRADING**

Street Trading is defined in paragraph 1 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 as:

"the selling or exposing or offering for sale of any article (including a living thing) in a street".

The Act defines the term "street" as including:

"any road, footway, beach or other area to which the public have access without payment"; and a service area as defined in Section 329 of the Highways Act 1980".

Any part of a street is a "street" for the purposes of the Act.

The Act at paragraph 1(2) of Schedule 4 states that the following types of trade are not street trading:

(a) a pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;

- (b) anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order;
- (c) trading in a 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 carried on at premises used as a petrol filling station;
- (f) trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop;
- (g) selling things, or offering or exposing them for sale, as roundsmen

For the purposes of street trading activity, streets are designated as either **'prohibited,'** or

**'consent' streets** for the purposes of street trading. A definition of the different classifications is set out below

### **Prohibited Streets**

If a street is designated as a **"prohibited street"** then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited.

For example, the street may not be wide enough to facilitate a trader or the Council may wish to restrict trading at a particular location.

### **Consent Streets**

If a street is designated as a **"consent street,"** then street trading without a consent is a criminal offence. The Council is bound to act reasonably and consistent with its general obligations, for example those under the Human Rights Act 1998.

However, subject to this, the Council enjoys a very wide discretion with regard to the granting or refusal of street trading consents. It does not have to rely upon specific statutory grounds in order to refuse an application for grant or renewal of a consent. This may include:

- That there are sufficient traders in the locality;
- The proposed operation is likely to cause noise, nuisance or disturbance There is insufficient space for trading to take place

There is no statutory right of appeal against any Council decision made in respect of a street trading, although in theory a demonstrably unreasonable decision could be challenged by way of judicial review. A street trading consent can only be granted for a period not exceeding twelve months, and can be revoked at any time.

When granting or renewing a consent, the Council may attach any reasonable conditions to it. The Council may, at any time, vary the conditions attached to a consent.

Any such variations will be notified in writing to the named person on the application, and to whom the consent has been approved, and will take effect immediately, or on the date contained within the notification letter.

This Policy facilitates the administration of applications for street trading consents. Central to the Council's policy are a number of objectives which are set out below:-

### **Public Safety**

The proposed location of the activity should not present a significant risk to the public in terms of highway safety and obstruction. This would include the consideration of factors such as:- interference with sight lines for road users, and pedestrian access including access for the disabled. The views of the Highway Authority may also be sought in this regard.

### **Commercial Issues**

Consideration will be given to the number of other traders in the vicinity of the application site and whether the street trading proposed is for a similar type of product or offer. The Policy aims to protect against the over proliferation of street traders, and is mindful of the impact such can have in an existing retail area or other localised issues.

### **Prevention of Crime and Disorder**

The proposed activity should not present a risk to crime, disorder or give rise to anti social behaviour and related nuisance. This is likely to be more of an issue in respect of applicants wishing to trade in the later hours, or where the area is a crime hotspot or has an issue with anti social behaviour and nuisance.

### **Prevention of Public Nuisance**

Consideration will be given to measures taken to reduce the risk of nuisance from noise, refuse, vermin, fumes and smells.

### **Site Assessment**

The Council will identify suitable pitches for street trading and will also consider applications from individuals to create new pitches in specific locations if the applicant can demonstrate a clear demand for the goods or service to be provided.

Consents may be issued to mobile artists who sketch or paint, sell their work and move from location to location.

In determining whether to create a street trading pitch, the Council will have regard to:

- Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving;
- Any loss of amenity caused by noise, traffic or smell;

- Existing traffic orders;
- Any potential obstruction of pedestrian or vehicular access;
- Any obstruction to the safe passage of pedestrians;
- The safe access and egress of customers and staff from the pitch and immediate vicinity.

### **Consultation For New Pitches**

Before a new pitch is created, the Council will consult for a minimum of 28 days, and seek representations from:

- Occupiers of premises immediately adjacent and opposite the proposed location;
- Ward Councillor;
- Sussex Police;
- East Sussex County Council.

The Council will also consider any responses received in relation to public notices on the highway.

Any objections from consultees will be assessed against the criterion set out above, but this list is not exhaustive. An application will generally be determined by the Council's Licensing Manager, but may be referred to a Licensing Sub Committee for consideration.

### **Sustainability and Product Type**

The applicant should set out measures to reduce the environmental impact of the proposed activity. Typically, this could include the use of recyclable products and energy efficient processes. Consideration will also be given to the type of products sold, and the suitability of the products at the location requested, particularly where there are established outlets selling similar products.

In general, street trading consents will not be granted where the product to be traded is similar to products sold within existing outlets in the direct vicinity. Goods will normally consist of craftwork, fresh flowers and foodstuffs. Other types of trading, including the provision of services will be considered on a pitch by pitch basis.

### **Hours of Operation**

Street trading hours will normally mirror those of existing outlets in the immediate vicinity. In the case of food outlets, trading hours will be determined on a pitch by pitch basis.

In addition to these policy objectives, the Council will also consider:

### **Suitability of Trading Unit**

The vehicle, trailer or stall to be used will be of a high quality design/build, and will add to the quality of the street scene. It will be approved by the Council's Licensing Manager, and will be inspected by an Authorised Officer of Eastbourne Council prior to any consent or licence being issued. The unit shall

comply in all respects with any legal requirement relating to the trading activity proposed.

It includes the following legislation, and any subsequent revisions:-

- (a) Food Premises (Registration) Regulations 1991
- (b) Food Safety Act 1990
- (c) Food Premises (Registration) Regulations 1991
- (d) Food Safety Act 1990
- (e) Food Safety (General Food Hygiene) Regulations 1995 (as amended)
- (f) The Food Safety (Temperature Control) Regulations 1995
- (g) Health and Safety at Work etc Act 1974 and any regulations made under this Act.
- (h) Environmental Protection Act 1990
- (i) Licensing Act 2003

### **Suitability of Applicant**

When determining an application for the grant or renewal of a street trading consent, the Council will consider all relevant information relating to the suitability of the applicant to hold such a permission. Applicants are advised to familiarise themselves with the Street Trading Relevant Offences Policy before making an application or renewing a consent.

All applicants and trading staff will be subject to a police check to establish that they are "fit and proper" to be issued a licence.

Any convictions or proven criminal behaviour will be assessed against our Relevant Offences Policy. In summary, the Council will consider a number of factors including:

- (a) whether the applicant has been convicted of any relevant offence;
- (b) persistent refusal or neglect in paying fees due to the Council for a street trading consent, or licence, or for any other charges due for services rendered by the Council to the applicant in his/her capacity as the holder of a street trading consent or licence. Examples of such services include collection of refuse and cleansing of streets.
- (c) previous failures of the applicant, without reasonable excuse, to make use, to a reasonable extent, of a previous street trading consent or licence.
- (d) Complaints regarding the conduct and behaviour of the consent holder.

### **3. SUBMITTING AN APPLICATION**

Application forms are available from

The Licensing Team  
1 Grove Road  
Eastbourne  
BN21 4TW  
[eastbourne.gov.uk/licensing](http://eastbourne.gov.uk/licensing)

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

- (a) A completed and signed application form.
- (b) The application fee.
- (c) Where the proposed activity will take place at a fixed position a map of at least 1:200 scale should be submitted clearly identifying the proposed location by marking the site boundary with a red line.
- (d) Two colour photographs of the trading unit illustrating different elevations of the unit.
- (e) A copy of the certificate of insurance covering third party and public liability risks to the level of £5 million.
- (f) 2 colour passport photographs of the applicant.

#### **4 WHO WILL THE COUNCIL CONSULT?**

Before any consent is granted, the Council will normally consult with the following agencies or persons. A period of **twenty eight days** will be allowed for comments to be received.

- (a) Sussex Police
- (b) Planning Department (Eastbourne Borough Council) (EBC)
- (c) Highways Department (East Sussex County Council ESCC)
- (d) Health and Environment Noise Team (EBC)
- (e) Food Safety Team (EBC)
- (f) Ward Councillors (EBC)

#### **5. HOW THE COUNCIL MAKES ITS DECISION**

If, when undertaking consultation on an application, if no adverse representations are received, or where representations can be resolved by way of mediation, then the application will usually be decided by the Council's Licensing Manager.

Where representations are received and remain unresolved, the application may be heard by a Licensing Sub Committee. The applicant will be advised in writing of the date, time and place when the application will be heard. The Council will follow its standard Licensing Sub Committee procedure.

#### **6. DURATION OF PERMISSIONS AND FEES**

Street trading consents and licences will normally be issued for one of the following periods:

- (a) Daily
- (b) Weekly
- (c) Monthly
- (d) Quarterly
- (e) 6 months
- (f) Annual (a maximum of 12 months)

Permissions for more than one day's duration will normally be issued for a maximum of xxx days per week, unless an alternative arrangement has been agreed with the Council.

All fees must be paid in full in advance, otherwise the application will be deemed invalid. A list of the fees and charges is included at Appendix A

If a permission is revoked or surrendered, no refund of the fee will be made. Failure to maintain payments may result in the consent or licence not being renewed, or the consent being withdrawn/ deemed to have lapsed.

Where a consent has been approved for a particular individual or operation, this does not set a precedent, nor create an entitlement that that individual will be granted a permission for that, or another location within a consent street.

## **7. CONDITIONS AND ENFORCEMENT**

Standard conditions are contained at Appendix B. These will usually be attached to every consent. These conditions include details regarding the holder's responsibility to maintain public safety, prevent nuisance, and to preserve local amenities.

Further conditions may also be attached, limiting the days and the hours when street trading is permitted, the goods which may be sold, the size of the trading pitch or any other matter the Council deems appropriate.

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

Persons engaging in street trading (as defined in the Act) without a consent or licence or who fail to comply with the conditions will be liable to prosecution under paragraph 10 of Schedule 4 of the Act.

Decisions regarding enforcement action will be made in accordance with the Licensing Enforcement Policy adopted by the Council.

## **APPENDIX A**

### **GENERAL CONDITIONS THAT WILL NORMALLY BE ATTACHED TO STREET TRADING CONSENT**

1. The consent may not be transferred to any other person or business.
2. The consent holder shall not permit any person to exercise the consent in his/her absence, unless that person is directly employed by the consent holder, and is at least 17 years of age. That person must be duly authorised in writing by the consent holder, and of whom the Council has been informed, and the appropriate checks undertaken to ensure that person is suitable prior to them undertaking street trading activity.
3. The consent holder shall only trade on the days and between the times stated on the consent.
4. The consent holder shall only trade using the appropriate stall, barrow or basket or other receptacle or vehicle in any street, which is specified in the consent, and which has been duly inspected and authorised by the Council's Licensing Manager. This must be removed from the specified site at the end of each trading day for store age at a location that is not the public highway.
5. The consent holder shall not sell, expose or offer for sale any articles other than those specified on the consent.
6. The consent holder shall not carry on business on any street so as to cause noise, nuisance, obstruction, noxious smells, or cause danger to people/vehicles using the street complying with all highway safety and access requirements.
7. The consent holder shall not carry on business from any vehicle or erect or place any stall or other structure in any street except in the area specified in the consent.
8. The consent holder shall on all occasions, when carrying on business, be strictly sober, and conduct him/herself in a proper, civil and courteous manner. He/she shall not carry on his/her business in such a way as to cause annoyance to the occupier or person in charge of any shop, business, resident, or any person using the street in the vicinity of the pitch.
9. The consent holder shall at all times conduct his/her business and position any vehicle used by him/her in connection with his/her business in such a manner that no danger is likely to arise to persons trading or intending to trade.
10. The consent holder shall at all times conduct his/her business in a clean and tidy manner.
11. The consent holder shall ensure that a copy of the consent available for inspection on request by an Authorised Officer of the Council or Sussex Police. It must also be displayed on the stall/vehicle at all times trading is taking place.



12. The consent holder shall not permit any person to assist him/her in his/her trading unless the details of that person have been supplied to the Licensing Authority. Any such person shall be issued with an identification badge by the Licensing Authority, Eastbourne Borough Council.
13. The Trader shall at all times whilst trading wear in a prominent position an identity badge provided by Eastbourne Borough Council.
14. The Trader shall be insured against any claim in respect of a third party liability whilst trading under a consent. No consent will be issued until a current and valid public liability policy has been produced to the Council Licensing Manager to the value of £5 million. This insurance must also be made available on request to an Authorised Officer of the Council.
15. If, during the currency of any consent there is any material change in the facts of particulars and information contained in, or given along with, the application for the consent, the holder of the consent shall report such changes to the Licensing Authority within 72 hours of that change.
16. Any motor vehicle used for the purpose of street trading shall at all times be in a roadworthy condition and have the relevant documents i.e insurance, tax and MOT to make the use of that vehicle on a road legal. These documents will be produced by the consent holder to any Police Officer or Authorised Officer of the Council.
17. Neither the consent holder, nor any assistant shall display merchandise which is likely to cause offence or distress to any other person or which would be deemed an offence under any other legislation.
18. A consent holder selling food shall at all times comply with any food hygiene regulations in force at that time, and when required by the Licensing Authority, shall produce appropriate food handling certificates.
19. The Council reserves the right to alter or amend these conditions at any time.
20. The sub-letting of any consent is prohibited.
21. The consent holder shall be responsible for the temporary storage of refuse, liquid and other material accumulated or created whilst trading and its subsequent removal from the site. The removal and disposal must be to the satisfaction of the Council.
22. The consent holder shall ensure that there are adequate fire safety measures in place.

**N.B This consent is issued without prejudice to any other statute, by-law or regulation. This consent does NOT over-ride any regulations regarding parking, food hygiene, obstruction, etc**

## **APPENDIX B**

### **Street Trading Policy**

#### **GUIDELINES ON THE RELEVANCE OF CONVICTIONS**

Eastbourne Borough Council has a duty to ensure that a person is deemed suitable to operate as a street trader. The applicant must declare all convictions and cautions at the time of application or renewal. Failure to do so may result in the application being refused.

The Council will consult with Sussex Police and other Partners as appropriate in determining whether the street trader is suitable to carry out a business in the Borough. This Policy is a guide to the matter the Council will consider when determining an application, but it is not an exhaustive list. Applicants are advised to seek independent legal advice as appropriate.

#### **General Principles:**

1. Each case will be decided on its own merits. However, the Council may refuse to grant or renew a street trading consent on any of the following grounds:
  - (i) There has been a conviction/caution for an offence involving dishonesty, indecency, certain sexual offences, violence or drugs;
  - (ii) There has been a conviction/caution for an offence under the relevant licensing legislation;
  - (iii) Any other reasonable grounds.
2. If a period of imprisonment, community sentence or Court Order is imposed, the applicant must show a minimum of 3 years without further convictions from the end of imprisonment or sentence, not the reduced sentence.
3. A person with an unspent conviction as defined in The Rehabilitation of Offenders Act 1974, for serious crime need not be permanently barred from registration, but should be expected to remain free of conviction for 3 to 5 years, according to the circumstances, before an application is entertained.
4. Some discretion may be appropriate if the offence is isolated, and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.
5. The following examples afford a general guide on the action to be taken where convictions are disclosed, or admitted, but it does not form an exhaustive list:
6. Where an individual's suitability is called into question, the Licensing Manager will normally determine the matter. In exceptional cases, the matter may be referred to a Licensing Sub Committee for determination, whose decision is final.

### **Offences involving violence**

- It is imperative that applicants with convictions for offences involving violence are considered carefully. When applicants have convictions for causing grievous bodily harm, wounding or assault, or other more serious offences involving violence, at least five years should elapse before an application is considered.

### **Drug- related offences**

- An isolated conviction for a drug offence, whether for unlawful possession only or involving the supply of controlled drugs need not necessarily debar an individual from registration, providing the applicant has at least three years free of convictions/cautions or five years since detoxification if he/she was an addict.

### **Indecency offences**

- Applicants with indecency or sexual offences would normally be debarred. However, this will depend upon the age and circumstances of the offence, along with any registration on the Sex Offenders Register.

### **Theft & Dishonesty**

- Convictions for isolated minor offences would not normally debar an applicant, but in cases involving serious theft or fraud at least three years should elapse before an application is considered. When offences of dishonesty have been accompanied by violence, it is considered that at least five years should elapse before an application is submitted.

## **Appendix C**

### **Street Trading Policy**

#### **Consent & Prohibited Streets in the Borough**

All of the streets in the Borough of Eastbourne are designated as "consent streets," where, subject to the necessary licence consent being in place, street trading is permitted.

The Town Centre is the area bounded by the red line on Appendix C, and mirrors the area defined in the Town Centre Area Action Plan, With the exception of authorised street markets/events taking place in the Town Centre, the Council has designated a maximum number of "pitches" from which street trading can take place. These locations are:

Pitch 1	Terminus Road, Bankers Corner.
Pitch 2	Langney Place Cultural Crescent.
Pitch 3	Terminus Road, corner of Langney Road, opposite the Cultural Crescent

(Plans to be prepared to delineate locations)

"Prohibited Streets," are identified as those which are designated as a classified "A Road," and/or where the speed limit for that road exceeds 30 miles per hour. It also includes the seafront promenades, and the beach up to high tide mark. In "prohibited streets," street trading is not permitted.

Where a street is awarded consent status, any applications will be considered within the context of the broader Street Trading Policy.