

AGENDA

Meeting: Licensing Sub Committee
Place: Pitman Room, Civic Centre, St Stephens Place, Trowbridge
Date: Thursday 20 March 2014
Time: 10.30 am
Matter: **Appeal Against Refusal of a Street Trading Consent**

Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, BA14 8JN.

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Trevor Carbin
Cllr Ernie Clark

Cllr Sue Evans

AGENDA

1 **Election of Chairman**

To elect a Chairman for this meeting.

2 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

3 **Meeting Procedure** (*Pages 1 - 6*)

The Chairman will explain the attached procedure to those present.

4 **Consideration of Exclusion of the Press and Public**

To consider whether to exclude the public from the meeting for the business specified in Item no. 5 in accordance with section 100A (4) of the Local Government Act 1972 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

5 **Appeal Against Street Trading Consent Decision** (*Pages 7 - 12*)

To consider and determine an appeal against a Street Trading Consent decision.

5a **Appendix 1 - Application Form** (*Pages 13 - 18*)

5b **Appendix 2 - Refusal Letter** (*Pages 19 - 20*)

5c **Appendix 3 - Appeal Letter** (*Pages 21 - 24*)

5d **Appendix 4 - Consultation Email** (*Pages 25 - 26*)

5e **Appendix 5 - Chippenham Town Council -Objection** (*Pages 27 - 30*)

5f **Appendix 6 - SK Fruits - Objection** (*Pages 31 - 33*)

5g **Appendix 7 - Chippenham Independent traders - Objection** (*Pages 34 - 35*)

- 5h **Appendix 8 - Highways Engineer Objection** *(Pages 36 - 39)*
- 5i **Appendix 9 - Market Manager - Comments** *(Pages 40 - 41)*
- 5j **Appendix 10 - Ward Councillor Comments** *(Pages 42 - 45)*
- 5k **Appendix 11 - Fire Service Comments** *(Pages 46 - 49)*
- 5l **Appendix 12 - Principal highways Enforcement officer - Comments**
(Pages 50 - 51)
- 5m **Appendix 13 - Local Government (Miscellaneous Provisions) Act 1982 (c. 30) Schedule 4 (The Act) Text that 'does not' apply is highlighted grey.** *(Pages 52 - 63)*
- 5n **Appendix 14 - Council Guidelines for Street Trading Consents**
(Pages 64 - 83)

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STREET TRADING CONSENTS

PROCEDURAL RULES FOR THE HEARING OF APPEALS

1 Purpose

- 1.1 These rules have been prepared to facilitate proper consideration of appeals against a decision by an Authorised Officer of the Council to:-
 - 1.1.1 to refuse an application for a Street Trading Consent under paragraph 7 (2) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 ('the Act');
 - 1.1.2 to impose conditions on the grant of a Street Trading Consent under paragraph 7 (4) of Schedule 4 to the Act, or
 - 1.1.3 to revoke a Street Trading Consent under paragraph 7 (10) of Schedule 4 to the Act.
- 1.2 The rules set out a framework for how appeals are to be heard and explain the role of the participants at the hearing.

2 The Licensing Sub Committee

- 2.1 The Council has delegated authority to the Licensing Sub Committee to hear appeals relating to street trading consents. The Sub Committee comprises three members of the Council.
- 2.2 The members of the Sub Committee shall elect one of their number to chair the appeal hearing
- 2.3 In the event that a member of the Sub Committee, or his/her substitute, is not present at the time scheduled for the start of the hearing, the hearing may proceed with two members or may be adjourned to another date at the discretion of the Chairman of the Sub Committee,.

3 Parties to the Hearing

- 3.1 The parties to the hearing shall be the applicant or Consent holder (as applicable) ('the Appellant') and the officer who made the decision being challenged ('the Authorised Officer').
- 3.2 Either party may be represented by another person, if they so wish.
- 3.3 At the hearing, either party may call any other person to speak in support of their representation

4 The Hearing

- 4.1 The Hearing shall take place in public unless the Sub Committee resolve to exclude the public and press in accordance with the provisions of s.100 A Local Government Act 1972.
- 4.2 In addition to the Sub Committee members and the parties (and any representatives and/or witnesses), the following may also attend the hearing:-
- a legal adviser to the Sub Committee ('the Legal Adviser')
 - a representative from Democratic Services to take minutes of the hearing on behalf of the Sub-Committee ('Committee Manager')
- 4.3 The Sub Committee may require any person attending the hearing who, in its opinion, is behaving in a disruptive manner, to leave the hearing and may:
- a refuse to permit them to return;
 - b permit them to return only on such conditions as the Sub Committee may specify;
 - c in the event that a person is required to leave a hearing that person may, before the end of the hearing, submit to the Sub Committee in writing any information which they would have given orally.
- 4.4 At the start of the hearing, the Chairman shall advise the parties of the procedure it proposes to follow at the hearing.
- 4.5 The Sub Committee will allow the parties an equal maximum period of time in which to exercise their rights.
- 4.6 This equal maximum time may have been notified in advance of the hearing.
- 4.7 Ultimately the Chairman determines the application of these rules, having regard to any submissions being made by those present and in particular the Legal Adviser.

5 Presentation of Representations

- 5.1 The Chairman will explain the purpose of the hearing.
- 5.2 Submissions shall be made in the following order unless the Chairman directs otherwise:
- The Authorised Officer will explain to the Sub Committee the reasons why he/she determined to refuse the application/impose conditions/ revoke the Consent
 - The Appellant will explain to the Sub Committee the reasons why he/she considers that the application should be granted/conditions not be imposed/Consent be not revoked.

6 Questioning of Submissions

- 6.1 The Chairman will regulate the order in which questions are asked by Sub Committee members.
- 6.2 The Sub Committee members may question any party following the completion of their submission.
- 6.3 The Chairman will normally permit each party to ask questions of the other party.
- 6.4 The Chairman may direct that questions which are not considered to be relevant to the hearing are not formally put or answered.
- 6.5 The Chairman shall invite the Legal Adviser, if present, to advise the Sub Committee on issues of law, procedure and relevant considerations on decision making. If necessary, the Chairman may adjourn the Hearing so that advice can be given.

7 Documentation

- 7.1 Copies of all documentation to be referred to at the hearing shall be provided to the Sub Committee and to the other party at least five working days before the hearing. The Sub Committee may decline to consider documentation submitted after that time if it considers it to be appropriate to do so, having heard submissions from the parties and taken advice from the Legal Adviser.
- 7.2 No Party shall present new documentation to the Sub Committee at the hearing other than with the consent of all of the other party, unless the Sub Committee considers that such documentation should be taken into account in the interests of justice.
- 7.3 The Sub Committee may give such weight to any late documentation as it considers appropriate.

8 Failure of Parties to Attend Hearing

- 8.1 If a party has informed the Sub Committee that it does not intend to attend or be represented at a hearing, the hearing may proceed in its absence.
- 8.2 If a party has not indicated that it does not intend to attend or be represented at a hearing and fails to attend or be represented at the hearing then the Sub Committee may:
 - where it considers it be necessary in the public interest, adjourn the hearing to a specified date; or
 - hold the hearing in the Party's absence.

8.3 Where the Sub Committee holds a hearing in the absence of a party, it shall consider at the hearing the application and any written representations made by that party.

9 Closing Submissions

9.1 The Chairman shall allow first, the Authorised Officer or their representative and secondly the Appellant or their representative an opportunity to make an oral closing submission.

10 Decision

10.1 The Sub Committee and the Legal Adviser and Committee Manager, if present, shall retire so that the decision may be considered in private.

10.2 The Sub Committee's decision shall be decided by a majority. If required, the Chairman shall have a second or casting vote.

10.2 The decision of the Sub Committee, and reasons for the decision, shall normally be notified to the parties within five working days of the close of the Hearing.

Hearing Procedure Summary

1. The Chairman welcomes all those present and explains the purpose of the hearing.
2. The Chairman invites the Sub Committee members and the parties to the hearing to introduce themselves.
3. The Chairman outlines the hearing procedure.
4. The Authorised Officer presents the reasons for the proposed decision to refuse the application/ impose conditions/ revoke the Consent, calling any witnesses in support.
5. Questions to the Authorised Officer or any witness by the Appellant.
6. Questions to the Authorised Officer or any witness by members of the Sub Committee.
7. The Appellant presents their case against the proposed decision to refuse the application/ impose conditions/ revoke the Consent, calling any witnesses in support.
8. Questions to the Appellant or any witness by the Authorised Officer.
9. Questions to the Appellant or any witness by members of the Sub Committee.
10. Summing up by the Authorised Officer.
11. Summing up by Appellant.
12. Sub Committee retires with the Legal Adviser and Committee Manager (if appropriate) to consider its decision.
13. The decision will be normally be notified to the parties in writing with reasons within five working days.

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WILTSHIRE COUNCIL

LICENSING SUB COMMITTEE

20 March 2014

Appeal Against Refusal of Street Trading Consent – Mr P Balasooriya

1. Purpose of Report

- 1.1 To determine an appeal against a decision to refuse an application for a Street Trading consent in The Market Place, Chippenham made by Mr P Balasooriya.

2. Background Information

- 2.1 Under Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, attached as **Appendix 13**, the Council has designated all streets in Wiltshire as Consent Streets. This means that, subject to certain specified exceptions, any person who wishes to trade within a street in the County must obtain prior permission, known as a Street Trading Consent, from the Council. It is an offence for anyone to trade in a Consent Street without having such a Consent.
- 2.2 The Council has adopted Guidelines for the consideration of applications for Street Trading Consents, a copy of which is attached as **Appendix 14**. The Guidelines set out when such Consent will be required and the criteria that the Council will apply in assessing applications for Consents (see pages 8 and 9 of the Guidelines).
- 2.3 The Guidelines provide that, where an application is received, the Council will carry out a consultation process and will evaluate the application against the approved criteria, taking into account any representations received during the consultation process. If the application meets the criteria and no reasonable or appropriate objections are received, the Authorised Officer can issue the Consent.
- 2.4 Conditions may be applied to any Consent that is granted.
- 2.5 If the application does not meet the adopted criteria and/or there are unresolved objections, then the Authorised Officer will consider whether the concerns raised can be adequately addressed by conditions and/or variations to the Consent application. If that is not possible, then the application may be refused.
- 2.6 Where an application for a street trading Consent is refused, or where additional conditions are imposed on Consent, the Guidelines provide that there is a right of appeal to the Licensing Sub Committee. Both the Applicant

and the Authorised officer can attend the appeal to make representations in support of their case.

2.7 The options available to the Sub Committee are:-

- i) To grant the Consent as applied for, subject to the standard conditions
- ii) To grant the Consent subject to such additional conditions that the Sub Committee considers appropriate.
- iii) To refuse the application.

3. The Application

3.1. On 5 November 2013, an application for a street trading consent was received from Mr P Balasooriya and accepted as a valid application.

3.2. The application applied for is as follows:

A fruit and vegetable stall in High Street or Market Place, Chippenham.

A copy of the application is attached as **Appendix 1**.

4. Consultation and Representations

4.1 During the consultation process the representations at **Appendices 5 – 12** were received. Those objecting to the granting of this consent are summarised below, and were assessed as follows:

(a), Town Council - Appendix 5.

Under "Permitted Trading hours", market stalls should only be permitted on market days and as part of existing markets.

Consideration:

In line with the promotion of localism, town councils concerns have much weight. In this case Chippenham town council's planning committee indicate in their objection that they do not want traders in Chippenham, other than as part of existing regular markets on Fridays and Saturdays or the monthly Sunday farmers market.

If there were traders in the main street on all days this might undermine existing market traders and viability of the weekly community markets, which are valuable to this market town.

(b), SK Fruits - Appendix 6.

Competition would put them out of business.

Consideration:

Competition is good for customers - Dismiss objection.

(c), Independent Traders Association - Appendix 7.

Support objection made by SK fruits and Town council.

Consideration:

Competition is good for customers - Dismiss objection.

(d), Highways Engineer - Appendix 8.

Generation of Litter – this would be dealt with by consent conditions as appropriate.

Possible 'knock on' effect of more stalls on non market days forming an 'unofficial' market.

Consideration: as (a), above.

(e), Markets Manager - Appendix 9.

Should not be permitted on market days

Consideration: As (a). above

5 Reasons for Refusal

5.1 The Authorised Officer refused the application for the following reasons:

Consultees' observations -

The application would undermine existing traders and businesses.

Permitted Trading hours -

Market style stalls should be restricted to Market Days

5.2 A copy of the refusal letter is attached as **Appendix 2.**

6. Appeal

6.1 In accordance with the Guidelines, Mr Balasooriya was notified of the decision to refuse his application and informed of his right to appeal to the Licensing Sub Committee.

6.2 Consent streets are regulated under Schedule 4 of the Act, Appendix 13. It is noted that the use of "consent" streets within Wiltshire rather than "licence" streets indicates that the council wanted to provide itself with more latitude in the granting or denial of permissions to trade on Wiltshire's Streets. In terms of street trading consents, the legislation merely provides that the Council may issue a Consent if it thinks fit. There are no specific statutory grounds for refusal of an application (as there are for street trading licences). There is under the Act no requirement to provide an appeal process or limits to the council's power to refuse consent (subject to the usual public law principles) although this appeal process was built into the guidelines.

6.3 The reasons given for appeal are shown in a copy of the representation received from Mr Balasooriya attached as **Appendix 3**. These are addressed in order below:

6.3.1 The advice given by officers to Mr Balasooriya was around normal trading hours and that the consent would not normally be granted on Market days, on those days he should apply for a place on the Market. He has recently traded on the market.

The application was not rejected outright but after a proper consultation. Officers gave general advice on trading hours in good faith, but could not predict any of the objections that were later received or predict the outcome.

6.3.2 Whilst the objections from local businesses on grounds of competition were dismissed. The possibility of undermining the viability of the existing weekly community markets, the concern raised by the town council, was considered unacceptable.

6.3.3 The issues regarding payment of the fees have been dealt with separately and are not, therefore, part of this appeal process.

6.3.4 The decision was only made after consideration of the objections as prescribed by the process. Mr Balasooriya was informed of the decision shortly after it was made and the letter included information that an appeal could be made.

6.4 Schedule 4 of the Act, 7(2) the council may grant a consent “if they see fit”, no greater duty is placed on the council to grant consent or require it to specify grounds for refusal. I believe that the application was properly considered in all respects and the decision taken appropriate to the circumstances.

7. Legal Implications

7.1 The Applicant has been informed of the date, time and location of the hearing and their right to attend and be represented.

7.2 At the hearing the Applicant and the Authorised Officer are entitled to address the Sub Committee and to ask questions of each other, with the consent of the Sub Committee.

8. Right of Appeal

8.1 There is no further right of appeal against the decision of the Sub Committee, other than by way of judicial review on a point of law.

Report Author:

Paul Harris
Principal Highways Enforcement Officer
Tel: 01249 706269
Email: paul.harris@wiltshire.gov.uk

4th of March 2014

Background Papers Used in the Preparation of this Report

Appendices

No.	Description
1	Application form
2	Refusal Letter
3	Appeal letter
4	Consultation Email
5.	Chippenham Town Council –Objection
6.	SK Fruits - Objection
7.	Chippenham Independent traders – Objection
8.	Highways Engineer Objection
9.	Market Manager – Comments
10.	Ward Councillor Comments
11.	Fire Service Comments
12.	Principal highways Enforcement officer - Comments
13.	Local Government (Miscellaneous Provisions) Act 1982 (c. 30) Schedule 4 (The Act) Text that 'does not' apply is highlighted grey.
14.	Council Guidelines for Street Trading consents

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Wiltshire Council

Where everybody matters

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
APPLICATION FOR A STREET TRADING CONSENT

1. APPLICANT DETAILS	
Full Name:	BALASCOORIYA MUDIYANSELAGE PRIYANTH BALASCOORIYA
Current Residential Address:	82, FOREST ROAD MELKSHAM SN12 7AD
Telephone Number:	
Mobile Number (optional):	[REDACTED]
Email: (optional)	[REDACTED]
Date of Birth: (DD/MM/YYYY)	[REDACTED]
National Insurance Number:	[REDACTED]
Do you have any unspent convictions? If yes please state details:	Yes/No
Have you previously had any Street Trading Consent revoked or surrendered? If yes please state details:	Yes/No

2. TRADING DETAILS	
Trading Name: (if applicable)	
Address of the precise location of where you wish to Trade: (Please include names of streets)	HIGH STREET AND MARKET PLACE CHIPPENHAM
Do you have permission from the owner of the land where you wish to trade? If yes please ensure that you submit a copy of the written permission	Yes/No /
Please provide contact details for the owner of the land: (please include name, address and telephone number)	/
Please provide details of the articles which you wish to sell:	VEGETABLE AND FRUITS
Please provide a description of the stall or container you wish to use:	10 x 6 table stall
Full address of location where the stall or container will be stored when not in use:	disassemble & store at home address

3. TYPE OF CONSENT BEING APPLIED FOR	
Please state which type of street trading consent you wish to apply for: (please note that first time applications for Annual & Daily Street Trading Consents will take a maximum of 60 days to be determined)	Annual Street Trading Consent <input type="checkbox"/>
	Daily Street Trading Consent <input type="checkbox"/>
	Block Street Trading Consent <input type="checkbox"/>
Are there any other consent holders in the vicinity? If yes please give further details:	Yes/No

4. TRADING DATES AND TIMES		
Please give details of days and times in which you wish to trade:	Monday:	9.00 - 17.00
	Tuesday:	9.00 - 17.00
	Wednesday:	9.00 - 17.00
	Thursday:	9.00 - 17.00
	Friday:	/
	Saturday:	/

	Sunday:	9.00 - 15.00
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5. Deposit Fee	
10% Administration fee (non refundable) (See attached notes for fees payable)	£ 280.00 Full payment is required within 21 days of written acceptance from Wiltshire Council. Street Trading Consent will not be issued until fee has been paid in full.

6. ADDITIONAL DOCUMENTATION
<p>To apply for a Street Trading Consent you MUST submit the following documents to support your application:</p> <ul style="list-style-type: none"> • 10% of the full fee to cover administration costs which is non-refundable. • Copy of a map of at least 1:1250 scale clearly identifying the proposed site position by marking the site boundary line with a red line. (available from www.mapsworldwide.com) • Written permission from the land owner (if applicable) • Proof of Food Registration (if applicable)

7. DECLARATION
<p>The Local Government (Miscellaneous Provisions) Act 1982 offences are as follows:</p> <p>'A person who engages in street trading in a consent street without being authorised to do so, or being authorised by a consent, trades in that street</p> <p style="margin-left: 40px;">(i) from a van, cart, barrow or other vehicle, or</p> <p style="margin-left: 40px;">(ii) from a portable stall,</p> <p>without first having been granted permission to do so contravenes a condition imposed shall be guilty of an offence.</p> <p>It shall be a defense for a person charged with such an offence to prove that he took all reasonable precautions and exercised due diligence to avoid commission of the offence.</p> <p>Any person who in connection with an application for a consent makes a false statement which he knows to be false in any material respect, or which he does not have reason to believe to be true, shall be guilty of an offence.</p> <p>I declare that I have read and understood the Standard Conditions and any additional conditions which may apply. I believe that all of the above particulars are correct to the best of my knowledge.</p> <p>I understand that the administration fee I pay is non refundable and if the application I submit is incomplete or rejected for any reason my administration fee will be lost and I will be required to restart the application process.</p> <p>Applicant Signature: </p>

Print Name: B. M. P. BALASOBIYA

Date: 04-11-2013

8. APPLICATION CHECKLIST

- A completed and signed Street trading Application Form
- 10% of the full fee to cover administration costs which is non-refundable
(Cheques made payable to Wiltshire Council)
- Copy of a map of at least 1:1250 scale clearly identifying the proposed site position by marking the site boundary line with a red line
- Written permission from the land owner (if applicable)
- Food Registration (if applicable)

Where an application has been approved the following will be required prior to the issue of Street Trading Consent:

- **An original copy of a certificate of insurance covering the street trading activity for third party and public liability risks up to £5 million**
- **Two passport photos- one for their Street Trader Identity Badge and one for the council's street trading records.**

The Street Trading Consent will specify the location, times and days for which it is valid and the type of goods to be sold. Consent Holders must follow the terms of their Street Trading Consent. Failure to do so may result in the Street Trading Consent being revoked or not renewed, or in a prosecution.

The granting of a Street Trading Consent does not in any circumstances exempt the Consent Holder from the need to obtain any other licence or permission that may be required or from obligation to comply with all other general or local legislation. There may be additional costs involved in obtaining these additional licences or complying with other legal requirements.

It is the obligation of the Consent Holder to familiarise themselves and their employees with this legislation. The council may revoke a Street Trading Consent for any failure to comply with any other general or local legislation.

A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent, but it may be surrendered to the council at any time.

The council reserves the right to revoke a Street Trading Consent at any time without compensation, although some fees will be reimbursed.



** applicant is happy with any position along either the High Street or within the Market Place*

Produced 04/11/2013 from the Ordnance Survey National Geographic Database and incorporating surveyed revision available at this date. © Crown Copyright 2013

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The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.



Scale 1:1250

Supplied By: **Maps Worldwide**

Serial number: 001125720

Plot Centre Coordinates: 392113, 173269

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3rd January 2014

Mr Priyantha Balasooriya
82 Forest Road
Melksham
Wiltshire
SN12 7AD

Technical Team
Environment Services
Wiltshire Council
County Hall
Trowbridge
Wiltshire
BA14 8JN

Dear Mr Priyantha Balasooriya

**Re: Local Government (Miscellaneous Provisions) Act 1982
Refusal of a Street Trading Consent – Fruit and Veg. stall, Chippenham**

I am writing to confirm that the consultation period for your application for a Street Trading Consent has now ended. Unfortunately at this time your application for a Street Trading Consent has been refused. The reason for this is:

Consultees' observations -

The application would undermine existing traders and businesses.

Permitted Trading hours -

Market style stalls should be restricted to Market Days

If you feel aggrieved by this decision the "Guidelines for Street Trading consent" set out the appeal process. An appeal must be submitted in writing to the above address no later than 10th January 2014.

Should you have any queries regarding this matter, please do not hesitate to contact me on the number below.

Yours sincerely

Paul Harris
Principal Highways Enforcement Officer
Tel. 01249 716674/676
Email: streettrading@wiltshire.gov.uk

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Priyantha balasooriya
82, Forest Road,
Melksham,
Wiltshire.

Mr.Paul Harris,
Principal Highways Enforcement Officer.
Environment services,
Wiltshire Council
Trowbridge,
Wiltshire,

Date : 07 / 01/ 2014

Dear Sir,

Refusal of a street trading consent i.n.o. Priyantha Balasooriya

Please accept this as written notification of my intention to appeal the above decision and the retention of fees associated with the application. Although it is a fairly well known fact that an e-mail constitutes a written notification, I will also be sending a copy of this, by Royal Mail.

I reserve my right to take legal advice on this matter.

I am sure you have specific procedures you would like me to use and therefore, I await the necessary forms being sent to me.

Yours,



P.Balasooriya.

APPEAL AGAINST STREET TRADING CONSENT DECISION

Email: paul.harris@wiltshire.gov.uk

Name First Name Surname

Address

Company Name	_____
Address	<u>NO 82,</u> <u>FOREST ROAD,</u> <u>MELKSHAM</u>
Post Code	<u>SN12 7AD</u>
Tel No:	<u>[REDACTED]</u>

Street Trading request Location chippenham

The letter informing you of the decision to refuse, revoke or alter the conditions of the consent stated the criteria and reasons for the decision. Please set out below the specific reasons why you believe the decision was incorrect and any other reason for your appeal.

PLEASE SEE ATTACHMENT - 01
NO OF PAGE PAG-01

Priyantha Balasooriya,
No 82,
Forest Road,
Melksham,
SN127AD

Date : 31/01/2014

Refusal of street trading

Hi Priyantha, the form that the council has sent is not interactive, so I can't fill it out for you, but I will tell you what to put on there.

Firstly, fill in all your personal details that they ask for, then, in the box that asks for reasons for the appeal, type the following-:

1. The trading hours which I applied for, were based on advice given to me, by your own advisor and I believe they have not been viewed as they were intended. If I am advised by a member of your staff, I do not expect to have my application rejected, outright.

2. You give, as a second reason, the fact that someone is already trading in the same goods. We have a monopolies commission in this country and competition is welcomed as a means to achieve better value for customers. You cannot operate your own exclusions in this regard.

3. I object that you have retained fees, even though it was your own advisor who assisted me in the application. Incompetence on your behalf is no excuse to retain these fees.

4. I object strongly, that although your reasons seem cut and dried (to you), the application was allowed to stand for the full duration allowed by yourselves before being addressed, thereby preventing me from exploring the reasons for refusal AND being able to use monies that should have been returned, in alternative pursuits.

best regards !

Priyantha balasooriya

A blacked-out redaction mark covering the signature area.

Date 24/01/2014

Technical support
Environment Services
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Mr Priyantha Balasooriya
82 Forest Road
Melksham
Wiltshire

Your ref:
Our ref : ST/A/1

Dear Mr Balasooriya

STREET TRADING CONSENT – APPEAL PROCESS

The Council's Guidelines for Street Trading consents set out the right for a trader to appeal to the Licensing sub- committee where an officer has decided to:

- Refuse an application
- Introduce additional conditions or
- Revoke a Street Trading consent.

The section of the guidelines, Appeal to the Licensing Sub-Committee, which explains the process is attached. The full guidelines are available online at www.wiltshire.gov.uk, in the A-Z, go to Licensing and click on the link for Street Trading Consent; or on request from this office.

Your appeal should be set out in writing on the form overleaf. Please complete and return the form and any attachments to:

Principal Highways Enforcement officer
Technical support, Environment Services
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

You will be contacted once the hearing date and location has been set.

Should you have any questions please do not hesitate to call me.

Yours sincerely,



PN Harris
Principal Highways Enforcement Officer
Direct line: 01249 706269

From: Plumley, Paula
Sent: 05 November 2013 15:47
To: 'enquiries@chippenham.gov.uk'; Douglas, Bill; Brett, Anna; 'Chamber of Commerce'; DevelopmentmanagementNorth; Harris, Paul; Ince, Tom; Northern Highways; Oliver, Kevin; 'Parking Services'; PLO Central; 'Police Licensing'; Thomson, Jenny; White, Peter; 'Wiltshire Fire & Rescue'
Cc: Neate, Stephen; Davis, Victoria
Subject: Street Trading Application - High Street or Market Place, Chippenham
Attachments: Criteria for determining applications.docx; Map.pdf

Dear Sir/Madam

**Re: Local Government (Miscellaneous Provisions) Act 1982
Application for Street Trading Consent**

I have received the below application for a street trading consent and am forwarding to you for consultation.

Trading Name: **Ref: WK/201324326**
Articles for sale: Fruit & Vegetables
Proposed Trading Location: High Street or Market Place, Chippenham
Proposed trading times: Monday-Thursday 09.00 - 17.00, Sunday 09.00 - 15.00

Please also find attached a copy of the map provided by the applicant which details where they wish to trade.

Please send your response via email by **4th December 2013** to streettrading@wiltshire.gov.uk stating whether or not you wish to make any representations which must be relevant and specific.

I attach a copy of our criteria for determining applications for you to consider.

Please can the Parish Council notify all neighbours who are directly affected by this requesting that any comments are sent to the Parish Council.

If you have any queries regarding the above please do not hesitate to contact myself on 01225 716676 or Vicki Davis 01225 716674.

Paula Plumley
Technical Support Officer
Environment Services
Wiltshire Council
Phone: 01225 716676
Email : paula.plumley@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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Harris, Paul

From: Ann Chard [ann.chard@chippenham.gov.uk]
Sent: 25 November 2013 15:17
To: Plumley, Paula
Subject: FW: Street Trading Application - High Street or Market Place, Chippenham

Dear Paula

Thank you for consulting the Town Council on this application for street trading. It was considered at a meeting of the Town Council's Planning Committee on 21 November and the following comments made:

“RESOLVED that the Town Council objects to this application under the Permitted Trading Hours clause contained in the criteria for determining applications. This is a market stall so should only be allowed on days when markets are held in the Town, i.e. Fridays, Saturdays and Sundays (in conjunction with the Farmers Market). Otherwise this stall would be in conflict with other traders.”

Best regards
Ann

Ann Chard
Office Manager
Chippenham Town Council

*The Town Hall, High Street
Chippenham
Wiltshire SN15 3ER*

| ☎:01249 446699 | ☎:01249 467703 | 📠:01249 443145 | ✉:achard@chippenham.gov.uk |
www.chippenham.gov.uk



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From: Enquiries
Sent: 05 November 2013 15:52
To: Ann Chard
Subject: FW: Street Trading Application - High Street or Market Place, Chippenham

From: Plumley, Paula [<mailto:Paula.Plumley@wiltshire.gov.uk>]
Sent: 05 November 2013 15:47
To: Enquiries; Douglas, Bill; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Ince, Tom; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; Wiltshire Fire & Rescue
Cc: Neate, Stephen; Davis, Victoria
Subject: Street Trading Application - High Street or Market Place, Chippenham

Dear Sir/Madam

**Re: Local Government (Miscellaneous Provisions) Act 1982
Application for Street Trading Consent**

I have received the below application for a street trading consent and am forwarding to you for consultation.

Trading Name: **Ref: WK/201324326**
Articles for sale: Fruit & Vegetables
Proposed Trading Location: High Street or Market Place, Chippenham
Proposed trading times: Monday-Thursday 09.00 - 17.00, Sunday 09.00 - 15.00

Please also find attached a copy of the map provided by the applicant which details where they wish to trade.

Please send your response via email by **4th December 2013** to streettrading@wiltshire.gov.uk stating whether or not you wish to make any representations which must be relevant and specific.

I attach a copy of our criteria for determining applications for you to consider.

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Phone: 01225 716676
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S K FRUITS LIMITED

Registered in England No: 1753653

Administrative Office:
6 Narrow Wine Street
Trowbridge
Wiltshire
BA14 8EN

Tel: 01225 777676
Fax: 01225 777672



Warehouse:
Unit 97 Wholesale Fruit Centre
Albert Crescent
St Philips
Bristol BS2 0YH

Tel: 07976 560997
Fax: 01179 773070

25 November 2013

Miss Vicki Davis
Environment Services
Wiltshire Council
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Dear Miss Davis

With reference to an Application for Street Trading Consent WK/201324326 Fruit & Vegetables, we hereby write to strongly object to the granting of this consent.

We have had a fruit and vegetable shop in Chippenham for over 20 years and have in the past few years struggled to keep the shop going with all of the competition from the supermarkets, high rents and rate demands we have had to endure.

We feel that if this market stall goes ahead it will be the final nail in the coffin for our shop and we will have no choice but to close down. We cannot keep trading when no-one is willing or prepared to help us when times are very difficult.

Please inform me of your decision as soon as possible.

Yours sincerely

A dark, handwritten signature, likely of N P Brown, written in ink on a white background.

N P Brown
Director

VAT Registration No: 398 8693 59

Registered Office: Woodmarsh Cottage 18 Woodmarsh North Bradley Wiltshire BA14 OSB

Directors: S K Brown N P Brown

This page is intentionally left blank



Representing 74 Independent Businesses in Chippenham Town Centre

Vicki Davis
 Environmental Services
 Wiltshire Council
 County Hall
 Bythesea road
 Trowbridge
 BA14 8JN

Sandie Webb
 CITA
 c/o 66 New Road
 Chippenham
 Wiltshire
 SN15 1ES

27th November 2013

Dear Miss Davis

STREET TRADING CONSENT
 Trading Name Ref: WK/201324326 (Fruit & Vegetables)

In behalf of Chippenham Independent Traders Association I would like to strongly object to the above application for Street Trading Consent.

As you will be aware, trading conditions in Chippenham, and throughout the country, are extremely difficult with many small and medium businesses struggling to afford the rises in Utility prices and general increases in costs alongside further growing demands from councils and government in relation to rates and various other taxes.

Our members continue to meet these obligations while giving employment to local people, who in turn put money into the local economy thereby contributing to the continuation of the slow and tenuous recovery in our town centre.

We understand that you have received a strongly worded letter from one of our members who would be most affected by this application, S K Fruits, but the wider membership are also mindful that should this application be successful it may also open up other trades applying to set up in our high street throughout the week.

While the permanent rate paying businesses of the town have learned to live with the expansion of the weekly market, which now operates on both Friday and Saturday's (together with a Sunday Farmers market), it is quite clear that any other ad hock traders in the town centre could well act as the final catalyst that leads to closures of some established businesses who are already trying to survive with little or no assistance from Wiltshire council or any government organisations.

Further to this, on the 21st November 2013 it was **RESOLVED** that the Town Council objects to this application under the Permitted Trading Hours clause contained in the criteria for determining applications. This is a market stall so should only be allowed on days when markets are held in the Town, i.e. Fridays, Saturdays and Sundays (in conjunction with the Farmers Market). Otherwise this stall would be in conflict with other traders.

The local businesses do not want it, the local council does not want it, and so to consent to this street trading application would clearly be contrary to the expressed views of those working to keep Chippenham a vibrant and sustainable market town.

Yours sincerely



Sandie Webb
 Spokesperson for Chippenham Independent Traders Association

This page is intentionally left blank

From: Bollen, Paul
Sent: 13 December 2013 10:05
To: Neate, Stephen
Cc: Clark, Christopher
Subject: RE: Street trading

Hi Stephen

At this moment of time, I am going to say “no” , as firstly, fruit and veg stalls generate a rubbish, although you have stated it’s a small stall which trading on a non market day, extra refuse collections are not arranged, and if we grant one permission this may have a knock on effect where other stalls may start appearing and Chippenham will start having a second “Unofficial” market. 6 days a week.

I hope the photograph in the original email is not in my area.

Regards

Paul

Paul Bollen
Area Engineer

Chippenham And Corsham Area Boards

Local Highways & Streetscene
Highways and Transport
36 Lancaster Road, Bowerhill
Melksham, Wiltshire
SN12 6QT
01225 712810
Email: paul.bollen@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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From: Neate, Stephen
Sent: 12 December 2013 10:07
To: Bollen, Paul
Subject: Street trading
Importance: High

Good morning Paul,

Would you have any highwas objections to a fruit and veg stall trading in the Market Place, Chippenham?

It's a small stall that wouldn't be trading on Market Days.

Trading Name: Ref: WK/201324326
Articles for sale: Fruit & Vegetables
Proposed Trading Location: High Street or Market Place, Chippenham
Proposed trading times: Monday-Thursday 09.00 - 17.00, Sunday 09.00 - 15.00



Regards

Stephen Neate
Highways Enforcement Officer
Enforcement
Environment Services
Wiltshire Council
Tel: 01380826340

Fax: 01380 729012
Email: Stephen.Neate@wiltshire.gov.uk
Website: www.wiltshire.gov.uk

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Agenda Item 5i

From: Ince, Tom

Sent: 06 November 2013 10:46

To: Plumley, Paula; enquiries@chippenham.gov.uk; Douglas, Bill; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; Wiltshire Fire & Rescue

Cc: Neate, Stephen; Davis, Victoria

Subject: RE: Street Trading Application - High Street or Market Place, Chippenham

Hi Paula,

We run Markets on a Friday and Saturday in the High Street and Market Place which include fruit & veg stalls so the trader could not trade then. I would also raise concerns on how he was going to set up as the road is not closed until 9.30am on weekdays and he could block the road.

Do you have the traders details, we might be able to offer him a pitch on the Saturday market or markets in other locations or at least get him on our waiting lists.

Regards

Tom

Tom Ince

Amenity Partnership Team Leader

Enforcement

Environment Services

Wiltshire Council

Tel; 0300 456 0100

Mob: 07899 924 219

Email: Tom.ince@wiltshire.gov.uk

Website: www.wiltshire.gov.uk

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Harris, Paul

From: Douglas, Bill
Sent: 06 November 2013 18:03
To: Ince, Tom; Plumley, Paula; enquiries@chippenham.gov.uk; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; Wiltshire Fire & Rescue
Cc: Neate, Stephen; Davis, Victoria
Subject: RE: Street Trading Application - High Street or Market Place, Chippenham

Hi Tom

He has not applied for Friday or Saturday and I do not think, under Street Trading Applications Conditions, we can stop him opening, provided he does so after 9.30am, if he wants on the High St. The Market Place will not be affected by this time restriction. Perhaps this application is due to the success of our weekend Markets, and is another welcome step towards us becoming, once again, truly a Market Town.

From: Ince, Tom
Sent: 06 November 2013 10:46
To: Plumley, Paula; enquiries@chippenham.gov.uk; Douglas, Bill; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; Wiltshire Fire & Rescue
Cc: Neate, Stephen; Davis, Victoria
Subject: RE: Street Trading Application - High Street or Market Place, Chippenham

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Regards

Tom

Tom Ince
Amenity Partnership Team Leader
Enforcement
Environment Services
Wiltshire Council
Tel; 0300 456 0100
Mob: 07899 924 219
Email: Tom.ince@wiltshire.gov.uk
Website: www.wiltshire.gov.uk

From: Plumley, Paula
Sent: 05 November 2013 15:47
To: enquiries@chippenham.gov.uk; Douglas, Bill; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Ince, Tom; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; Wiltshire Fire & Rescue
Cc: Neate, Stephen; Davis, Victoria
Subject: Street Trading Application - High Street or Market Place, Chippenham

Dear Sir/Madam

**Re: Local Government (Miscellaneous Provisions) Act 1982
Application for Street Trading Consent**

I have received the below application for a street trading consent and am forwarding to you for consultation.

Trading Name: **Ref: WK/201324326**

Articles for sale: Fruit & Vegetables

Proposed Trading Location: High Street or Market Place, Chippenham

Proposed trading times: Monday-Thursday 09.00 - 17.00, Sunday 09.00 - 15.00

Please also find attached a copy of the map provided by the applicant which details where they wish to trade.

Please send your response via email by **4th December 2013** to streettrading@wiltshire.gov.uk stating whether or not you wish to make any representations which must be relevant and specific.

I attach a copy of our criteria for determining applications for you to consider.

Please can the Parish Council notify all neighbours who are directly affected by this requesting that any comments are sent to the Parish Council.

If you have any queries regarding the above please do not hesitate to contact myself on 01225 716676 or Vicki Davis 01225 716674.

Paula Plumley

Technical Support Officer

Environment Services

Wiltshire Council

Phone: 01225 716676

Email : paula.plumley@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

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Harris, Paul

From: Douglas, Bill
Sent: 05 November 2013 19:19
To: Plumley, Paula; enquiries@chippenham.gov.uk; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Ince, Tom; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; Wiltshire Fire & Rescue
Cc: Neate, Stephen; Davis, Victoria
Subject: RE: Street Trading Application - High Street or Market Place, Chippenham

Follow Up Flag: Follow up
Flag Status: Flagged

Paula,

We have stalls on Fridays and Saturdays in these Areas, therefore after carefully checking that all the conditions are being observed, I can see no reasons to refuse this application.

From: Plumley, Paula
Sent: 05 November 2013 15:47
To: enquiries@chippenham.gov.uk; Douglas, Bill; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Ince, Tom; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; Wiltshire Fire & Rescue
Cc: Neate, Stephen; Davis, Victoria
Subject: Street Trading Application - High Street or Market Place, Chippenham

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Paula Plumley
Technical Support Officer

Environment Services
Wiltshire Council
Phone: 01225 716676
Email : paula.plumley@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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Agenda Item 5k

From: PantallA [mandy.pantall@wiltsfire.gov.uk]
Sent: 27 November 2013 07:54
To: Plumley, Paula
Subject: [NPM] RE:Street Trading Application - High Street or Market Place, Chippenham

Follow Up Flag: Follow up
Flag Status: Flagged

NOT PROTECTIVELY MARKED

Dear Paula

Thank you for the below information.

I don't have any concerns about this application providing that the required access width for an Emergency Appliance is maintained at all times.

Many thanks
Best wishes

Mandy Pantall
Technical Fire Safety Administrator – Service Delivery (Protection)
Wiltshire Fire & Rescue Service,
Tel: 01225 756517
Web: www.wiltsfire.gov.uk

From: Plumley, Paula [<mailto:Paula.Plumley@wiltshire.gov.uk>]
Sent: 05 November 2013 15:47
To: enquiries@chippenham.gov.uk; Douglas, Bill; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Ince, Tom; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; PantallA
Cc: Neate, Stephen; Davis, Victoria
Subject: Street Trading Application - High Street or Market Place, Chippenham

Dear Sir/Madam

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If you have any queries regarding the above please do not hesitate to contact myself on 01225 716676 or Vicki Davis 01225 716674.

Paula Plumley

Technical Support Officer

Environment Services

Wiltshire Council

Phone: 01225 716676

Email : paula.plumley@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

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Agenda Item 51

From: [Harris, Paul](#)
To: [Plumley, Paula](#)
Cc: [Ince, Tom](#); [White, Peter](#)
Subject: RE: Street Trading Application - High Street or Market Place, Chippenham
Date: 05 November 2013 16:36:36
Attachments: [image001.png](#)
[image002.png](#)

Hi

My own view is that the stall should not be permitted in the High Street location. Whilst we make use of High street for Markets that is a community event, this would be a daily stall and therefore too much of an obstruction.

IT could go into the Market Place, but the Area highways engineers opinion of the placement would be most important due to the traffic that can enter the area for access and deliveries.

Regards

Paul

Paul Harris
Principal Highways Enforcement Officer
Enforcement
Environment Services
Wiltshire Council
Tel: 01249 706269
Mob: 07766440627
Email: paul.harris@wiltshire.gov.uk
Website: www.wiltshire.gov.uk
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From: Plumley, Paula
Sent: 05 November 2013 15:47
To: enquiries@chippenham.gov.uk; Douglas, Bill; Brett, Anna; Chamber of Commerce; DevelopmentmanagementNorth; Harris, Paul; Ince, Tom; Northern Highways; Oliver, Kevin; Parking Services; PLO Central; Police Licensing; Thomson, Jenny; White, Peter; Wiltshire Fire & Rescue
Cc: Neate, Stephen; Davis, Victoria
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Paula Plumley

Technical Support Officer

Environment Services

Wiltshire Council

Phone: 01225 716676

Email : paula.plumley@wiltshire.gov.uk

Web: www.wiltshire.gov.uk

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Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government (Miscellaneous Provisions) Act 1982. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4

STREET TRADING

Annotations:

Modifications etc. (not altering text)

- C1** [Sch.4](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), [reg. 2\(1\)](#), [Sch. 4](#) applied (with modifications) *prosp* by [2000 c. viii, ss. 3, 4](#)

Interpretation

1 (1) In this Schedule—

“consent street” means a street in which street trading is prohibited without the consent of the district council;

“licence street” means a street in which street trading is prohibited without a licence granted by the district council;

“principal terms”, in relation to a street trading licence, has the meaning assigned to it by paragraph 4(3) below;

“prohibited street” means a street in which street trading is prohibited;

“street” includes—

(a) any road, footway, beach or other area to which the public have access without payment; and

(b) a service area as defined in section 329 of the ^{M1}Highways Act 1980,

and also includes any part of a street;

“street trading” means, subject to sub-paragraph (2) below, the selling or exposing or offering for sale of any article (including a living thing) in a street; and

“subsidiary terms”, in relation to a street trading licence, has the meaning assigned to it by paragraph 4(4) below.

(2) The following are not street trading for the purposes of this Schedule—

(a) trading by a person acting as a pedlar under the authority of a pedlar’s certificate granted under the ^{M2}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 a trunk road picnic area provided by the Secretary of State under section 112 of the ^{M3}Highways Act 1980;

(d) trading as a news vendor;

(e) trading which—

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- (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;
 - (g) the use for trading under Part VIIA 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 VIIA of the Highways Act 1980;
 - (j) the doing of anything authorised by regulations made under section 5 of the ^{M4}Police, Factories, etc. (Miscellaneous Provisions) Act 1916.
- (3) The reference to trading as a news vendor in sub-paragraph (2)(d) above is a reference to trading where—
- (a) the only articles sold or exposed or offered for sale are newspapers or periodicals; and
 - (b) they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not—
 - (i) exceed one metre in length or width or two metres in height;
 - (ii) occupy a ground area exceeding 0.25 square metres; or
 - (iii) stand on the carriageway of a street.

Annotations:

Marginal Citations

M1 1980 c. 66. **M2**
 1871 c. 96. **M3**
 1980 c. 66. **M4**
 1916 c. 31.

Designation of streets

- 2 (1) A district council may by resolution designate any street in their district as—
- (a) a prohibited street;
 - (b) a licence street; or
 - (c) a consent street.
- (2) If a district council pass such a resolution as is mentioned in sub-paragraph (1) above, the designation of the street shall take effect on the day specified in that behalf in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).
- (3) A council shall not pass such a resolution unless—
- (a) they have published notice of their intention to pass such a resolution in a local newspaper circulating in their area;
 - (b) they have served a copy of the notice—
 - (i) on the chief officer of police for the area in which the street to be designated by the resolution is situated; and
 - (ii) on any highway authority responsible for that street; and
 - (c) where sub-paragraph (4) below applies, they have obtained the necessary consent.

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- (4) This sub-paragraph applies—
- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
 - (b) where the resolution designates as a licence street any street maintained by a highway authority;
- and in sub-paragraph (3) above “necessary consent” means—
- (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and
 - (ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.
- (5) The following are relevant corporations for the purposes of this paragraph—
- (a) the British Railways Board;
 - (b) the Commission for the New Towns;
 - (c) a development corporation for a new town; ^{F1}and]
 - (d) an urban development corporation established under the ^{M5}Local Government, Planning and Land Act 1980; . . .
 - ^{F2}(e)
- (6) The notice referred to in sub-paragraph (3) above—
- (a) shall contain a draft of the resolution; and
 - (b) shall state that representations relating to it may be made in writing to the council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.
- (7) As soon as practicable after the expiry of the period specified under sub-paragraph (6) above, the council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.
- (8) After the council have considered those representations, they may, if they think fit, pass such a resolution relating to the street as is mentioned in sub-paragraph (1) above.
- (9) The council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area.
- (10) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- (11) Where a street is designated as a licence street, the council may resolve—
- (a) in the resolution which so designates the street; or
 - (b) subject to sub-paragraph (12) below, by a separate resolution at any time, that a street trading licence is not to be granted to any person who proposes to trade in the street for a number of days in every week less than a number specified in the resolution.
- (12) Sub-paragraphs (3)(a) and (6) to (10) above shall apply in relation to a resolution under sub-paragraph (11)(b) above as they apply in relation to a resolution under sub-paragraph (1) above.
- (13) Any resolution passed under this paragraph may be varied or rescinded by a subsequent resolution so passed.

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Annotations:

Amendments (Textual)

- F1** Word in Sch. 4 para. 2(5)(c) inserted (1.10.1998) by 1998 c. 38, s. 29, **Sch. 15 para. 5** (with ss. 131(1), 137(1), 139(2), 143(2)); S.I. 1998/2244, **art. 4**
- F2** Sch. 4 para. 2(5)(e) and word “and” immediately preceding repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 143(2)); S.I. 1998/2244, **art. 4**

Marginal Citations

- M5** 1980 c. 65.

Street trading licences

- 3 (1) An application for a street trading licence or the renewal of such a licence shall be made in writing to the district council.
- (2) The applicant shall state—
- his full name and address;
 - the street in which, days on which and times between which he desires to trade;
 - the description of articles in which he desires to trade and the description of any stall or container which he desires to use in connection with his trade in those articles; and
 - such other particulars as the council may reasonably require.
- (3) If the council so require, the applicant shall submit two photographs of himself with his application.
- (4) A street trading licence shall not be granted—
- to a person under the age of 17 years; or
 - for any trading in a highway in relation to which a control order under section 7 of the ^{M6}Local Government (Miscellaneous Provisions) Act 1976 (road-side sales) is in force, other than trading to which the control order does not apply.
- (5) Subject to sub-paragraph (4) above, it shall be the duty of the council to grant an application for a street trading licence or the renewal of such a licence unless they consider that the application ought to be refused on one or more of the grounds specified in sub-paragraph (6) below.
- (6) Subject to sub-paragraph (8) below, the council may refuse an application on any of the following grounds—
- that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
 - that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
 - that the applicant desires to trade on fewer days than the minimum number specified in a resolution under paragraph 2(11) above;
 - that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

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- (e) that the applicant has at any time been granted a street trading licence by the council and has persistently refused or neglected to pay fees due to them for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder;
- (f) that the applicant has at any time been granted a street trading consent by the council and has persistently refused or neglected to pay fees due to them for it;
- (g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence.

- (7) If the council consider that grounds for refusal exist under sub-paragraph (6)(a), (b) or (g) above, they may grant the applicant a licence which permits him—
- (a) to trade on fewer days or during a shorter period in each day than specified in the application; or
 - (b) to trade only in one or more of the descriptions of goods specified in the application.

- (8) If—
- (a) a person is licensed or otherwise authorised to trade in a street under the provisions of any local Act; and
 - (b) the street becomes a licence street; and
 - (c) he was trading from a fixed position in the street immediately before it became a licence street; and
 - (d) he applied for a street trading licence to trade in the street, his application shall not be refused on any of the grounds mentioned in sub-paragraph (6) (a) to (c) above.

Annotations:

Marginal Citations

M6 1976 c. 57.

- 4 (1) A street trading licence shall specify—
- (a) the street in which, days on which and times between which the licence-holder is permitted to trade; and
 - (b) the description of articles in which he is permitted to trade.
- (2) If the district council determine that a licence-holder is to confine his trading to a particular place in the street, his street trading licence shall specify that place.
- (3) Matters that fall to be specified in a street trading licence by virtue of sub-paragraph (1) or (2) above are referred to in this Schedule as the “principal terms” of the licence.
- (4) When granting or renewing a street trading licence, the council may attach such further conditions (in this Schedule referred to as the “subsidiary terms” of the licence) as appear to them to be reasonable.
- (5) Without prejudice to the generality of sub-paragraph (4) above, the subsidiary terms of a licence may include conditions—
- (a) specifying the size and type of any stall or container which the licence-holder may use for trading;

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- (b) requiring that any stall or container so used shall carry the name of the licence-holder or the number of his licence or both; and
 - (c) prohibiting the leaving of refuse by the licence-holder or restricting the amount of refuse which he may leave or the places in which he may leave it.
- (6) A street trading licence shall, unless previously revoked or surrendered, remain valid for a period of 12 months from the date on which it is granted or, if a shorter period is specified in the licence, for that period.
- (7) If a district council resolve that the whole or part of a licence street shall be designated a prohibited street, then, on the designation taking effect, any street trading licence issued for trading in that street shall cease to be valid so far as it relates to the prohibited street.
- 5 (1) A district council may at any time revoke a street trading licence if they consider—
- (a) that, owing to circumstances which have arisen since the grant or renewal of the licence, there is not enough space in the street for the licence-holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street;
 - (b) that the licence-holder is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (c) that, since the grant or renewal of the licence, the licence-holder has persistently refused or neglected to pay fees due to the council for it or charges due to them under paragraph 9(6) below for services rendered by them to him in his capacity as licence-holder; or
 - (d) that, since the grant or renewal of the licence, the licence-holder has without reasonable excuse failed to avail himself of the licence to a reasonable extent.
- (2) If the council consider that they have ground for revoking a licence by virtue of sub-paragraph (1)(a) or (d) above, they may, instead of revoking it, vary its principal terms—
- (a) by reducing the number of days or the period in any one day during which the licence-holder is permitted to trade; or
 - (b) by restricting the descriptions of goods in which he is permitted to trade.
- (3) A licence-holder may at any time surrender his licence to the council and it shall then cease to be valid.
- 6 (1) When a district council receive an application for the grant or renewal of a street trading licence, they shall within a reasonable time—
- (a) grant a licence in the terms applied for; or
 - (b) serve notice on the applicant under sub-paragraph (2) below.
- (2) If the council propose—
- (a) to refuse an application for the grant or renewal of a licence; or
 - (b) to grant a licence on principal terms different from those specified in the application; or
 - (c) to grant a licence confining the applicant's trading to a particular place in a street; or
 - (d) to vary the principal terms of a licence; or
 - (e) to revoke a licence,
- they shall first serve a notice on the applicant or, as the case may be, the licence-holder—

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- (i) specifying the ground or grounds on which their decision would be based; and
 - (ii) stating that within 7 days of receiving the notice he may in writing require them to give him an opportunity to make representations to them concerning it.
- (3) Where a notice has been served under sub-paragraph (2) above, the council shall not determine the matter until either—
- (a) the person on whom it was served has made representations to them concerning their decision; or
 - (b) the period during which he could have required them to give him an opportunity to make representations has elapsed without his requiring them to give him such an opportunity; or
 - (c) the conditions specified in sub-paragraph (4) below are satisfied.
- (4) The conditions mentioned in sub-paragraph (3)(c) above are—
- (a) that the person on whom the notice under sub-paragraph (2) above was served has required the council to give him an opportunity to make representations to them concerning it, as provided by sub-paragraph (2)(ii) above;
 - (b) that the council have allowed him a reasonable period for making his representations; and
 - (c) that he has failed to make them within that period.
- (5) A person aggrieved—
- (a) by the refusal of a council to grant or renew a licence, where—
 - (i) they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 3(6)(d) to (g) above as the only ground on which their decision would be based; or
 - (ii) they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs; or
 - (b) by a decision of a council to grant him a licence with principal terms different from those of a licence which he previously held, where they specified in their notice under sub-paragraph (2) above the ground mentioned in paragraph 3(6)(g) above as the only ground on which their decision would be based; or
 - (c) by a decision of a council—
 - (i) to vary the principal terms of a licence; or
 - (ii) to revoke a licence,in a case where they specified in their notice under sub-paragraph (2) above one of the grounds mentioned in paragraph 5(1)(b) to (d) above as the only ground on which their decision would be based or they specified more than one ground in that notice but all the specified grounds were grounds mentioned in those paragraphs,
- may, at any time before the expiration of the period of 21 days beginning with the date upon which he is notified of the refusal or decision, appeal to the magistrates' court acting for the petty sessions area in which the street is situated.
- (6) An appeal against the decisions of a magistrates' court under this paragraph may be brought to the Crown Court.

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- (7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.
- (8) Subject to sub-paragraphs (9) to (11) below, it shall be the duty of the council to give effect to an order of the magistrates' court or the Crown Court.
- (9) The council need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (6) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (10) If a licence-holder applies for renewal of his licence before the date of its expiry, it shall remain valid—
- (a) until the grant by the council of a new licence with the same principal terms; or
 - (b) if—
 - (i) the council refuse renewal of the licence or decide to grant a licence with principal terms different from those of the existing licence, and
 - (ii) he has a right of appeal under this paragraph,
 until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal; or
 - (c) if he has no right of appeal under this paragraph, until the council either grant him a new licence with principal terms different from those of the existing licence or notify him of their decision to refuse his application.
- (11) Where—
- (a) a council decide—
 - (i) to vary the principal terms of a licence; or
 - (ii) to revoke a licence; and
 - (b) a right of appeal is available to the licence-holder under this paragraph,
- the variation or revocation shall not take effect until the time for bringing an appeal has expired or, where an appeal is duly brought, until the determination or abandonment of the appeal.

Street trading consents

- 7 (1) An application for a street trading consent or the renewal of such a consent shall be made in writing to the district council.
- (2) Subject to sub-paragraph (3) below, the council may grant a consent if they think fit.
- (3) A street trading consent shall not be granted—
- (a) to a person under the age of 17 years; or
 - (b) for any trading in a highway to which a control order under section 7 of the ^{M7}Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.
- (4) When granting or renewing a street trading consent the council may attach such conditions to it as they consider reasonably necessary.
- (5) Without prejudice to the generality of sub-paragraph (4) above, the conditions that may be attached to a street trading consent by virtue of that sub-paragraph include conditions to prevent—

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- (a) obstruction of the street or danger to persons using it; or
 - (b) nuisance or annoyance (whether to persons using the street or otherwise).
- (6) The council may at any time vary the conditions of a street trading consent.
- (7) Subject to sub-paragraph (8) below, the holder of a street trading consent shall not trade in a consent street from a van or other vehicle or from a stall, barrow or cart.
- (8) The council may include in a street trading consent permission for its holder to trade in a consent street—
- (a) from a stationary van, cart, barrow or other vehicle; or
 - (b) from a portable stall.
- (9) If they include such a permission, they may make the consent subject to conditions—
- (a) as to where the holder of the street trading consent may trade by virtue of the permission; and
 - (b) as to the times between which or periods for which he may so trade.
- (10) A street trading consent may be granted for any period not exceeding 12 months but may be revoked at any time.
- (11) The holder of a street trading consent may at any time surrender his consent to the council and it shall then cease to be valid.

Annotations:

Marginal Citations

M7 1976 c. 57.

General

- 8 The holder of a street trading licence or a street trading consent may employ any other person to assist him in his trading without a further licence or consent being required.
- 9 (1) A district council may charge such fees as they consider reasonable for the grant or renewal of a street trading licence or a street trading consent.
- (2) A council may determine different fees for different types of licence or consent and, in particular, but without prejudice to the generality of this sub-paragraph, may determine fees differing according—
- (a) to the duration of the licence or consent;
 - (b) to the street in which it authorises trading; and
 - (c) to the descriptions of articles in which the holder is authorised to trade.
- (3) A council may require that applications for the grant or renewal of licences or consents shall be accompanied by so much of the fee as the council may require, by way of a deposit to be repaid by the council to the applicant if the application is refused.
- (4) A council may determine that fees may be paid by instalments.

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- (5) Where a consent is surrendered or revoked, the council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.
- (6) A council may recover from a licence-holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as licence-holder.
- (7) Where a licence—
- (a) is surrendered or revoked; or
 - (b) ceases to be valid by virtue of paragraph 4(7) above,
- the council may remit or refund, as they consider appropriate, the whole or a part—
- (i) of any fee paid for the grant or renewal of the licence; or
 - (ii) of any charges recoverable under sub-paragraph (6) above.
- (8) The council may determine—
- (a) that charges under sub-paragraph (6) above shall be included in a fee payable under sub-paragraph (1) above; or
 - (b) that they shall be separately recoverable.
- (9) Before determining charges to be made under sub-paragraph (6) above or varying the amount of such charges the council—
- (a) shall give notice of the proposed charges to licence-holders; and
 - (b) shall publish notice of the proposed charges in a local newspaper circulating in their area.
- (10) A notice under sub-paragraph (9) above shall specify a reasonable period within which representations concerning the proposed charges may be made to the council.
- (11) It shall be the duty of a council to consider any such representations which are made to them within the period specified in the notice.

Offences

- 10 (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 licence; 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 defence 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.

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- (3) 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.
- (4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding [^{F3}level 3 on the standard scale].

Annotations:

Amendments (Textual)

F3 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**

Savings

- 11 Nothing in this Schedule shall affect—
- (a) section 13 of the ^{M8}Markets and Fairs Clauses Act 1847 (prohibition of sales elsewhere than in market or in shops etc.) as applied by any other Act; (4 & 5 Eliz. 2).
- (b) [^{F4}section 56 of the Food Act 1984](prohibition of certain sales during market hours).

Annotations:

Amendments (Textual)

F4 Words substituted by [Food Act 1984 \(c. 30, SIF 53:1\)](#), s. 134, **Sch. 10 para. 34**

Marginal Citations

M8 1847 c. 14.

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 4 applied (with modifications) by 2004 c. 5 s. 4
- Sch. 4 applied (with modifications) by 2006 c. 2 s. 4
- Sch. 4 applied (with modifications) by 2006 c. 3 s. 4
- Sch. 4 applied (with modifications) by 2006 c. 4 s. 4
- Sch. 4 applied (with modifications) by 2010 c. 2 s. 4
- Sch. 4 applied (with modifications) by 2010 c. 3 s. 4 5
- Sch. 4 applied (with modifications) by 2013 c. 1 s. 4
- Sch. 4 applied (with modifications) by 2013 c. 2 s. 4
- Sch. 4 applied (with modifications) by 2013 c. 3 s. 4 5
- Sch. 4 applied (with modifications) by 2013 c. 4 s. 4 5
- Sch. 4 para. 2(5A) inserted by 2008 c. 17 Sch. 8 para. 34(3)
- Sch. 4 para. 2(5)(ba) inserted by 2011 c. 20 Sch. 22 para. 8
- Sch. 4 modified by S.I. 2009/2999 reg. 45(2)(3)
- Sch. 4 para. 1(2)(j) substituted by 2006 c. 50 Sch. 8 para. 66
- Sch. 4 para. 2(5A)(a) words inserted by 2011 c. 20 Sch. 19 para. 9
- Sch. 4 para. 2(5)(b) words substituted by 2008 c. 17 Sch. 8 para. 34(2)

Commencement Orders yet to be applied to the Local Government (Miscellaneous Provisions) Act 1982:

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/1115 art. 3 commences (2002 c. 32)
- S.I. 2003/1718 art. 4-6 Sch. commences (2002 c. 32)
- S.I. 2003/2938 art. 7(a) commences (2003 c. 26)
- S.I. 2003/2961 art. 5 6 7 Sch. Pt. 2 3 4 commences (2002 c. 32)
- S.I. 2003/3034 art. 2 commences (2003 c. 26)
- S.I. 2004/2304 art. 2 commences (2004 c. 21)
- S.I. 2004/2917 art. 2 commences (2004 c. 21)
- S.I. 2005/3056 art. 2(2) commences (2003 c. 17)
- S.I. 2005/3495 art. 2 commences (2005 c. 15)
- S.I. 2008/917 art. 2-5 commences (2007 c. 28)
- S.I. 2008/3068 art. 2-5 commences (2008 c. 17)
- S.I. 2009/1604 art. 2 commences (2005 c. 4)
- S.I. 2009/3318 art. 2-4 commences (2009 c. 20)
- S.I. 2010/722 art. 3 commences (2009 c. 26)
- S.I. 2010/862 art. 2 commences (2008 c. 17)
- S.I. 2010/1375 art. 2 3 commences (2009 c. 26)
- S.I. 2011/3019 art. 3 Sch. 1 commences (2011 c. 13)
- S.I. 2012/628 art. 2-8 commences (2011 c. 20)

Harmonised Street Trading Scheme

Controlling the sale of goods in the Wiltshire Council area.

All streets in Wiltshire have been designated as consent streets. It is illegal to trade in a consent street without first obtaining a Street Trading Consent from the council.

Guidelines

How to apply for a Street Trading Consent

Glossary

The council. Means Wiltshire Council.

The applicant. The trader who has submitted an application for a Street Trading Consent.

Consent Holder. An individual that holds a Street Trading Consent.

Trading area. All street traders in town centres must trade within an area not exceeding 4 metres by 3 metres. This is known as the trading area. The pitch size for traders outside of town centres will be decided on a case by case basis at the discretion of the Authorised officer.

Street trading. The selling, exposing or offering of articles for sale in a street, excluding the exemptions listed in the legislation and on pages 5 to 6 of this policy.

A Street. Includes-any road, footway, beach or other area to which the public have access without payment, this does not include privately run shopping centres.

Consent street. A street in which street trading is prohibited without the consent of the council.

Street Trading Consent. A permission to trade, which is granted by a council subject to conditions and the payment of a fee.

Block Street Trading Consent. One Street Trading Consent issued to an individual who organises a street trading event with five or more traders. The holder of a Block Street Trading Consent is responsible for all individual trading activities.

A roundsman. An individual who visits a 'round' of customers and delivers the orders of those customers, for example a milkman. Ice-cream vans are not classed as rounds men.

A pedlar. To operate legally as a pedlar you must

- keep moving, stopping only to serve customers at their request
- move from place to place and not circulate within the same area
- carry all goods for sale and not use a trolley or stall
- hold a valid pedlar's certificate, issued by a Chief Constable of Police.

Authorised officer. An officer employed by Wiltshire Council and authorised by the council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

Licensing Sub-Committee. Elected Wiltshire councillors who have received special training on licensing matters. The Licensing Sub-Committee is supported by a clerk

and a solicitor and meets on a regular basis. Sub-Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature. The role of the Licensing Sub-Committee is to consider any appeals against decisions by Authorised officers.

The Sub-Committee. The Licensing Sub-Committee.

A town: A location that has a town council as opposed to a parish council.

Town trader: A street trader within the boundaries of a town council area.

Purpose

Wiltshire Council's street trading policy aims to:

- create a street trading environment that complements premises based trading
- promote fairness and consistency across the county
- improve the local environment
- be sensitive to the needs and concerns of residents
- involve local communities in street trading decisions
- control street trading through a fair and proportionate enforcement procedure

What is street trading?

Street trading is selling, exposing or offering articles for sale in a street.

This includes:

- trading from mobile and static structures, including kiosks
- the sale of food and drink
- ice-cream vans
- mobile artists and musicians who sell their recorded work on the street
- the sale of Christmas trees and other festive items

This does not include:

- the contractual sign up of gas, electricity or other domestic services
- subscriptions to motor breakdown organizations
- handing out promotional literature for goods, services or venues.

Exempted street trading activities

Some types of street trading are legally exempt from the need to obtain a Street Trading Consent.

A Street Trading Consent is **not required** if you are:

- a pedlar with a valid pedlar's certificate issued by a chief constable of police
- trading in a charter market or a statutory market
- trading in a trunk road picnic area under the Highways Act 1980
- trading as a newsvendor within a maximum area of 0.25 square metres and only sell newspapers and periodicals
- trading as a roundsman
- undertaking a permitted street collection
- trading on premises used as a petrol station or on the street adjoining premises used as a petrol station and you own the shop or petrol station
- trading in a kiosk placed on a highway under the Highways Act 1980
- operating refreshment facilities under the Highways Act 1980.

As a matter of Council policy a Wiltshire Council Street Trading Consent will **not** be required for the following activities:

- trading on private land (including land owned, leased or maintained by a town/parish council) where this is **not** a road, road lay-by, car-park or industrial estate with public vehicular/foot access or within 10 metres of any road, road lay-by, car-park or industrial estate with public access
- trading in a market run by Wiltshire Council. A list of current markets run by the council can be obtained from the council's web site or our markets team.
- trading in a market run by a town/parish council
- trading from a motorised ice-cream van that keeps moving from street to street not stopping in one place for longer than fifteen minutes
- fetes, carnivals or similar community based and run events, for example Christmas lights switch-on events and non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity or political/ educational organisation
- sales of articles by householders on land within the curtilage of their property, for example garage sales
- goods from working farms or smallholdings sold at the premises where they were produced

- trading in privately run shopping centres or *covered mall walkways*, for example *Emery Gate and Borough Parade in Chippenham and the Martingate centre in Corsham*
- *trading as part of a travelling fair where permission for the event has already been granted by the Wiltshire Council*
- *pavement cafes where payment takes place outside (a Highway Amenity Licence will be required for this activity)*
- *farmers markets organised by the Wiltshire Farmers Market Association.*

What is a street?

A street is any area which the public can access without payment, including private land. This does not include privately run shopping centres.

This street trading policy covers all streets in Wiltshire. All streets in Wiltshire have been designated as consent streets. (i.e. streets where consents are needed to trade)

A Street Trading Consent is required to trade in the following locations:

- roads and walkways
- lay-bys and verges
- footpaths
- car-parks
- residential streets
- industrial estates
- any other publically controlled highway or land owned, leased or maintained by Wiltshire Council
- unenclosed land within 10 metres of any of the above.

What is a Street Trading Consent?

A Street Trading Consent is a permission to trade. It is granted by Wiltshire Council subject to conditions and usually involves the payment of a fee.

It can be withdrawn at any time or not renewed if conditions are not complied with or the required fee is not paid.

A Street Trading Consent is specific to the person it is issued to and is non-transferable.

Who can apply for a Street Trading Consent?

To apply for a Street Trading Consent **you must be:**

- over the age of 17

- a named individual (two people can apply jointly on the same consent). A company or body corporate can apply for a Street Trading Consent, but it must be issued to a named individual. An additional Consent badge can be applied for at the cost of £10.00.
- legally entitled to live and work in the UK.

A Street Trading Consent **cannot be issued**:

- to trade on a highway controlled by the Highways Agency (at present the M4, A419, A36 and A303) without the permission of the Highways Agency
- for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply. (This provision prevents trading on a Highway where such trading represents a danger to road users or it impedes the flow of traffic.)

Prohibited goods

A Street Trading Consent will **not** normally be granted for the sale of the following items:

- Alcohol except:
 - sales of mulled wine and similar at street fairs or community events. No sale will be permitted to anyone under the age of 18.
 - for consumption with a sit down meal at the premises.

Note that any sale of alcohol will require a separate permission under the Licensing Act 2003.

- Firearms and replica firearms
- Knives
- Offensive weapons and replica weapons
- Tobacco products
- Fireworks
- Articles that would typically be sold in sex shops
- Animals

Types of Street Trading Consents

Wiltshire Council will accept applications for the following types of street trading consents:

- **Annual Street Trading Consent.** Consent to trade on all days of the year.
- **Daily Street Trading Consent.** Consent to trade for a maximum of 14 single days, 28 consecutive days (for seasonal events selling seasonal goods such as Christmas stock), or a specific day for the year, including bank holidays where these fall on the days included in the consent.
- **Block Street Trading Consent.** Consent for organisers of street trading events with five or more traders. The event organiser in receipt of a Block Street Trading Consent is responsible for all individual trading activities and must ensure that street traders at their event comply with the Standard Conditions and any Additional Conditions. A copy of the Standard Conditions is available at Appendix 1. Regular event organisers can apply Block Street Trading Consents on an annual basis for up to ten events per year.

The size of the trading area will be decided on an individual basis at the discretion of council officers. The size of the trading area will be specified on the Street Trading Consent.

Procedure for determining applications for Street Trading Consents

How to submit the application

An application for a Street Trading Consent must be made to Wiltshire Council **in writing**.

Applicants must seek advice from Wiltshire Council planning department for any planning permission requirements.

To apply for a Street Trading Consent you need to submit the following:

- A completed and signed Street Trading Application Form
- 10% of the full fee to cover administration costs which is non-refundable.
- 1 copy of a map of at least 1:1250 scale. This should clearly identify the proposed site position by marking the site boundary with a red line.
- Written permission from the land-owner (if applicable)

- If you intend to sell food, you must demonstrate that you are registered with the Wiltshire Council Food Safety Team, or another local authority. If you are already registered with another local authority then you will not need to register with Wiltshire Council, but you will need to provide proof of this registration. If you are not currently registered, you should complete a separate Application to Register a Food Business Establishment Form.
- First time applications for Annual and Daily Street Trading Consents will take a **maximum of 60 days** to be determined.

Consultation on applications

Officers will carry out a consultation process with relevant interested persons and groups before a street trading application is considered.

This may include:

- Wiltshire Council environmental protection, food and health and safety team, planning department, neighbourhood services (including the parking operations manager and highway enforcement officers) and trading standards
- The appropriate town or parish council *
- Wiltshire Police
- Wiltshire Fire and Rescue Service
- Ward Councillors*
- The land owner if you are applying to trade on private land
- The local Chamber of Commerce

Written observations and recommendations will be taken into consideration when the application is determined.

*Affected local neighbours to make objections through these channels

Full consultation will not take place on applications for Block Street Trading Consents for community events, although if necessary the Authorised officer may informally approach any of the consultees.

Criteria for determining applications

The Authorised officer will assess applications for Street Trading Consents against the following criteria:

- **Site safety.** The location should not present a substantial risk to the public in terms of road safety, obstruction or fire hazard. Observations from council officers will be taken into consideration.
- **Public order.** The street trading activity should not present a risk to public order in the locality in which it is situated. Observations from Wiltshire police and council officers will be taken into consideration.
- **Avoidance of nuisance.** The street trading activity should not present a substantial risk of nuisance from noise, smells, fumes, litter or the discharge of fluids to households or businesses in the vicinity of the proposed street trading site. Observations from council officers, residents and businesses will be taken into consideration.
- **Consultees' observations.** Consideration will be given to written objections from consultees. Objections and recommendations will be assessed by the Authorised officer for reasonableness and appropriateness before they are taken into consideration.
- **Permitted trading hours.** In town centres street trading hours will normally mirror those of shops in the immediate vicinity. However, the council will consider each application on its merits before agreeing permitted trading times. The council retains the right to specify permitted trading hours that are less than those applied for. Any trading involving hot food between 11pm and 5 am will also require a separate application under the Licensing Act 2003.
- **Suitability of the applicant.** The council may take relevant unspent convictions, complaints received about the applicant's previous street trading activity and any previous revocation or surrender of a Street Trading Consent into account.
- **Proximity to schools and colleges.** No Street Trading Consents will be granted for trading at locations within a 200 metre walk using the public highway of a school or sixth form college, unless otherwise agreed in writing by Wiltshire Council.
- **Proximity to existing consent holders.** Consideration will be given to the number of existing consent holders in the area.

Objections

The consultees listed will be asked to respond in writing **within 30 days**.

Officers will assess the reasonableness and appropriateness of all objections before they are taken into consideration.

How applications will be determined

All applications will be determined by the Authorised officer acting on delegated authority.

Officers will evaluate applications against the criteria and then consider all reasonable and appropriate objections. Reasonable and appropriate objections are those that relate to the criteria and aims of this street trading policy.

The officer will approve the application if it:

- meets the criteria and
- there are no reasonable and appropriate objections.

If the application:

- does not meet the criteria, or
- there are reasonable and appropriate objections

the officer may contact the applicant and objectors to attempt to resolve the potential reasons for refusal.

The officer, applicant and objectors may discuss:

- changes that could be made to the proposed location, goods or trading hours and
- additional conditions that could be introduced.

If the applicant refuses the offer of a meeting the officer will either introduce additional conditions or refuse the application.

If the objections and failure to meet scheme criteria **can** be resolved by changing the application and/or introducing additional conditions the officer will **approve the application**.

If the objections and failure to meet scheme criteria **cannot** be resolved by making changes to the application or introducing additional conditions the officer will **refuse** the application.

Approval of applications

The applicant will be advised by letter that their application has been successful and they **need to accept the offer of a Street Trading Consent and make a full payment within 21 days**.

After that time a letter will be sent to the applicant reminding them of the need to make a full payment.

If the fee is still not received within five working days the offer will lapse and the applicant will need to make a new application to the council and pay another ten percent administration fee.

A Street Trading Consent will not be issued until the street trading fee has been paid in full.

Applications may be approved subject to additional conditions. **These additional conditions form part of the Street Trading Consent and must be complied with at all times.**

Refusal of applications

Where the council refuses an application the applicant will be informed **in writing** of the reasons for not granting the application.

The ten percent administration fee is non-refundable and will not be refunded to the applicant if their application is refused or withdrawn.

A waiting list will be kept in cases where an application has been refused where another trader is already trading in the location applied for.

Applicants who feel aggrieved by the officer's decision to refuse an application or to introduce additional conditions may appeal to the Licensing Sub-Committee. Please see '**Appeal to the Licensing Sub-Committee**' for more details.

Note that trading will not be permitted during the appeal period when an application has been refused and can only take place within the conditions of any street trading consent that has already been granted where the appeal relates to conditions that have been imposed.

There is no right of appeal to the Magistrates Court .

A person aggrieved by a decision of the Licensing Sub-Committee may make an application to the high court for judicial review of the decision. For further information on potential grounds for judicial review applicants should seek advice from an independent solicitor as soon as they receive notice of the decision.

Issue of Street Trading Consents

Where approved, before the Street Trading Consent is issued the applicant will need to provide:

- An original copy of a certificate of insurance covering the street trading activity for third party and public liability risks up to £5 million
- Two passport photos- one for their Street Trader Identity Badge and one for the council's street trading records.

- Copies of Gas, Electric safety Certificates and recent records Periodic Inspection Reports to BS7671.

The applicant will also need to read and sign a copy of the Street Trading Consent, including the Standard Conditions and any additional conditions.

The Street Trading Consent will specify the location, times and days for which it is valid and the type of goods to be sold. **Consent Holders must follow the terms of their Street Trading Consent. Failure to do so may result in the Street Trading Consent being revoked or not renewed, or in a prosecution.**

All Street Trading Consents are issued subject to a set of Standard Conditions. The council may attach additional conditions to the Standard Conditions. Any appeal against the additional conditions will be dealt with by the Licensing Sub-Committee. Please see '[Appeal to the Licensing Sub-Committee](#)' for more details.

All conditions attached to the Street Trading Consent **must be complied with at all times. Failure to comply with either Standard Conditions or additional conditions may lead to the consent being revoked or not renewed.** Consent Holders are requested to familiarise themselves and their employees with the conditions attached to their Street Trading Consent.

The granting of a Street Trading Consent does not in any circumstances exempt the Consent Holder from the need to obtain any other licence or permission that may be required or from obligation to comply with all other general or local legislation. There may be additional costs involved in obtaining these additional licences or complying with other legal requirements.

It is the obligation of the Consent Holder to familiarise themselves and their employees with this legislation. The council may revoke a Street Trading Consent for any failure to comply with any other general or local legislation.

A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent, but it may be surrendered to the council at any time.

The council reserves the right to revoke a Street Trading Consent at any time without compensation, although some fees will be reimbursed.

If the Consent Holder wishes to alter any of the terms of the Street Trading Consent, an Application to Alter Terms and Conditions must be submitted to the council in writing. Any changes to the terms and conditions of a Street Trading Consent will be subject to the payment of an administration fee.

Reimbursement of fees

Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Street Trading Consent to the council or have their Street Trading Consent revoked by the council.

Any refunds will be made from the date that:

- the Street Trading Consent is surrendered to Wiltshire Council
- the Street Trading Consent is revoked by Wiltshire Council.

Refunds will be based on the number of complete months remaining minus the current administration fee.

Business rate payers

Consent Holders who can demonstrate that they have paid business rates will be eligible for a refund of part of their street trading fees. This refund will be calculated on the following formula:

The street trading fees paid by the Consent Holder minus the business rates paid by the Consent Holder **less** the current administration fee.

Where the Consent Holder has paid more in business rates than in street trading fees, the council will refund the whole of the street trading fees less the current administration fee.

Appeal to the Licensing Sub-Committee

The role of the Licensing Sub-Committee (the Sub-Committee) is to consider any appeals against decisions by the officer.

The applicant can appeal to the Licensing Sub-Committee where the officer has decided to:

- refuse an application
- introduce additional conditions or
- revoke a Street Trading Consent.

The right to appeal to the Licensing Sub-Committee does not apply if the Street Trading Consent has been revoked because the Consent Holder has not paid street trading fees.

The Licensing Sub-Committee consists of elected Wiltshire councillors who have received special training in licensing issues. The Sub-Committee is supported by a clerk and a solicitor and meets on a regular basis. Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

Once arrangements have been made for the appeal to be heard by the Sub-Committee, the applicant will be informed in writing of the time, date and place where the appeal will be heard. The council will endeavour to hear all appeals as quickly as possible.

The applicant will be expected to attend the hearing and can be represented by a solicitor or supported by a friend or colleague. The Sub-Committee will follow a set procedure. The applicant will be notified of this procedure before the hearing, along with any officer reports that will be presented at the hearing.

In assessing the manager's decision the Sub-Committee will consider representations from the applicant and the officer. Both the applicant and the officer may call witnesses. Supporting documentation may be submitted to the Sub-Committee in advance of the hearing for consideration.

The Sub-Committee will consider all the evidence presented during the hearing and may ask questions of the applicant and manager.

After hearing the evidence presented to it the Sub-Committee will retire and come to a decision on the appeal. When a decision has been reached the Sub-Committee will inform the applicant of their decision and the reasons for reaching that decision.

The Sub-Committee's decision will be confirmed to the applicant **in writing** within 5 working days of the hearing.

The Licensing Sub-Committee will always strive to ensure that all persons get a proper and fair hearing by:

- considering each appeal on its merits
- using these guidelines to assess officer decisions to refuse the application or introduce additional conditions
- being impartial and balanced throughout the appeal
- ensuring that rules of natural justice are applied at all times
- giving the applicant and officer sufficient opportunity to present their case, ask questions of officers and members of the Sub-Committee and present information for consideration in support of their case.

Renewals

All Street Trading Consents will be renewed automatically unless:

- there have been any complaints from members of the public, or
- concerns raised by consultees` or council officers, or
- consent conditions have been breached.

In these circumstances a full or revised application process may be used at the discretion of the officer.

If a renewal offer is not accepted or payment has not been made within 21 days, this offer will be withdrawn and the trader will need to make a new application. Priority will be given to the next relevant person on the waiting list.

Enforcement

The council may revoke a Street Trading Consent at any time and shall not be liable to pay compensation to the Consent Holder, although some fees will be reimbursed. Please see Issue of Street Trading Consents for more details on the reimbursement of fees.

The following principles will be applied to all enforcement action:

- **Openness and transparency.** Council officers will discuss all problems, including failure to comply with conditions, clearly and in plain language. The council will be open about how it enforces street trading legislation and will inform interested parties of what they can expect from the enforcement procedure.
- **Consistency.** Council officers will seek to take a similar approach in similar circumstances and will carry out their duties in a fair and equitable manner.
- **Proportionality.** The council will ensure that the action taken is proportionate to the risks involved or the seriousness of the breach of conditions.
- **Helpfulness.** The council will provide advice on the relevant legislation and assist with compliance. Council officers will provide a courteous and efficient service.

The Local Government (Miscellaneous Provisions) Act 1982 offences are as follows:

‘A person who engages in street trading in a consent street without being authorised to do so, or being authorised by a consent, trades in that street

- (i) from a van, cart, barrow or other vehicle, or
- (ii) from a portable stall,

without first having been granted permission to do so or so contravenes a condition imposed shall be guilty of an offence.

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

Any person who in connection with an application for a consent makes a false statement which he knows to be false in any material respect, or which he does not have reason to believe to be true, shall be guilty of an offence.

A person guilty of an offence shall be liable on summary conviction to a fine. The maximum fine is level 3 on the standard scale, currently £1000.'

Appendices

Appendix 1: Standard conditions for all Consent Holders

Appendix 2: Street trading fees

Appendix 1: Standard conditions for all Consent Holders

General conditions for all traders

1. The Consent Holder shall wear the Street Trader Identity Badge during all trading hours.
2. **The consent holder must be on site during all trading hours.**
3. Trading may only take place on the days and during the times specified on the Street Trading Consent, unless special authorisation has been given by Wiltshire Council in writing.
4. The Consent Holder shall pay all Street Trading Consent fees in advance.
5. The Consent Holder shall at all times maintain a valid insurance policy covering the street trading activity for third party and public liability risks up to £5 million. The Consent Holder must produce a valid certificate for this insurance at any time on the request of an authorised council officer.
6. Once a Consent has been granted it is anticipated that the Consent Holder will regularly trade in the designated trading area.
7. The Consent Holder must have written permission from the owner of the land to trade on private land which is not part of the public highway.
8. Consent Holders shall not trade outside of the designated trading area.
9. The trading area must be located:
 - In the general area specified in the street trading consent

- At least 3 metres away from any ground floor window, door or other opening of any premises, except where those premises are occupied by the person holding the street trading consent unless agreed in writing by Wiltshire Council
 - At a place which does not obstruct access to any other premises by vehicles or pedestrians
 - At any exact location specified by an officer of the Licensing Authority.
10. The Consent Holder will vacate the pitch upon request ,and for as long as necessary, to enable highway inspections, repairs, street works and highway improvements to be undertaken, or if the pitch is required to facilitate temporary traffic and/ or pedestrian management arrangements. **No compensation will be paid to the Consent Holder for lost trading days as a result of the above or for any loss of business as a result of unforeseen occurrences on the highway network.**
11. The siting of the street trading vehicle or stall shall not impede the access of emergency vehicles. The street trading activity shall not obstruct any street furniture, signs or lighting.
12. All activities of storage and display and any temporary structure such as a stall or tables and chairs, must be contained within the trading area specified on the Street Trading Consent.
13. The Consent Holder must not cause or allow anyone to cause damage to the street surface, street furniture, lighting and landscaping within the trading area and will be responsible for making good any such damage.
14. A clear pedestrian route of at least 2 metres shall be maintained along the highway, adjacent to the building line. A minimum distance of 2 metres width should be kept between the edge of the trafficked route and the street trading unit boundary. The street trading activity shall not impede any existing driver or pedestrian sight lines.
15. The Consent Holder shall not do anything that is likely to cause danger, nuisance, annoyance, obstruction, damage or inconvenience to the council, adjacent/ neighbouring premises, road users or members of the public. This includes noise, smoke, fume or odour.
16. A rubbish bin must be provided in the Trading Area where goods are sold that are for immediate use or consumption. Waste must not be placed in litter bins provided for public use. Any waste arising from the trading activity within 100m of the stall in any direction must be removed and properly disposed of at the end of each trading day.

17. Consent Holders and their employees should have access to suitable and sufficient sanitary accommodation at all trading times.
18. No live or recorded music shall be played at any time.
19. Advertisements or other notices must not be placed outside of the trading area.
20. The use of generators is not permitted, unless permission has been specifically granted by an authorised council officer.
21. Consent Holders and their employees shall not trade under the influence of any illegal or intoxicating substance.
22. **A Street Trading Consent does not relieve the Consent Holder, or any person employed to work on the stall, of any obligation to comply with all other general or local legislation, such as the Road Traffic Act, Highways Act 1980, the Food Safety Act 1990, the Town and County Planning Acts, the Control of Pollution Act 1974, the Environmental Protection Act 1990, the Licensing Act 2003. It is the obligation of the Consent Holder to familiarise themselves and their employees with this legislation. The Council may revoke a Street Trading Consent for any failure to comply with general or local legislation.**
23. **A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent.**

Appendix 2: Street trading fees

Town traders

Type of Street Trading Consent	Fee
Annual Street Trading Consent – all days of the year, including all bank holidays.	£ 2800
Daily Street Trading Consent- All days of the week including bank holidays where these fall on the days included in the consent.	£ 35 per day
Block Street Trading Consent	£ 35 per day

All other traders

Type of Street Trading Consent	Fee
Annual Street Trading Consent – all days of the year, including all bank holidays.	£1400
Daily Street Trading Consent- all week days including bank holidays	£15 per day
Block Street Trading Consent	£40 per day

Fees can be paid by cheque, debit or credit card:

- Online at www.wiltshire.gov.uk
- By telephone on 0300 456 0100
- In person to the Technical Support team at County Hall Trowbridge

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