

## **Proposed New Council-Wide Street Trading Scheme**

### **Executive summary**

Wiltshire Council is planning to introduce a new, harmonised consent street trading scheme by adopting powers under Schedule 4 of the 1982 Local Government (Miscellaneous Provisions) Act.

In a consent street trading scheme, it is illegal to trade in a consent street without obtaining permission from the council. The council grants permission to trade, known as a Street Trading Consent, to individual street traders who pay a fee to the council and are subject to terms and conditions. The council can remove or refuse to renew a Street Trading Consent at any time if fees are not paid or the street trader does not adhere to the council's terms and conditions.

A new scheme needs to be introduced to ensure:

- all street traders in Wiltshire have the same rights, pay the same fees and are subject to the same application procedure and terms and conditions
- the council has adequate powers to remove illegal street traders to protect legal street traders and local businesses from unfair competition.

Currently the council operates three different street trading schemes in three of the former district council areas:

- In the north and west there are two different consent street trading schemes with different fees, application procedures and terms and conditions
- In the east there is a prohibited street trading scheme for a limited number of streets in town centres- street trading is banned in some specific streets in town centres

In the south there is no street trading scheme, which means the council cannot remove illegal traders.

Formal consultation on the new street trading scheme will begin in January 2011 and will finish in March 2011.

### **What the scheme will cover**

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 work on the street, advertising cars for sale on the street and the sale of Christmas trees and other festive items.

Street trading does **not** include the sale of gas, electricity or other domestic services, subscriptions to motor breakdown organisations or handing out promotional literature for goods, services or venues.

The scheme will cover **all streets in Wiltshire**. A street is any area that the public can access without payment, including private land.

**All streets will be designated as consent streets, except for a small number of highway lay-bys which will be designated as prohibited streets (where all street trading is illegal) for safety reasons.**

### **Types of Street Trading Consent**

The council will offer three types of Street Trading Consent:

- **Annual Street Trading Consent** for trading on all days of the year, including all bank holidays
- **Daily Street Trading Consent** for trading on a single day, a number of days, or a specific day for the year, including bank holidays where these fall on the days included in the consent. For example trading for a full week once a year, on all Mondays for one month, or all Saturdays throughout the year.
- **Block Street Trading Consent** for organisers of large street trading events, where the event organiser is responsible for all street traders at the event. For example farmers markets, car boot sales, fetes, carnivals and static structures on Town and Parish Council, such as kiosks in parks leased out by the Town or Parish Council.

Applications for Annual and Daily Street Trading Consents will be considered four times a year: in March, June, September and December.

**All applications will be processed within 90 days.**

Applications for Block Street Trading Consents will not be subject to the consultation procedure and will be considered as and when they are submitted.

Applications will need to be submitted with a **non-refundable deposit of ten percent of the total fee payable.**

### **How applications will be determined**

Applications will be determined by licensing officers and the licensing manager, acting on delegated powers from the Licensing Committee.

Licensing officers will assess applications against the scheme criteria and will take objections from consultees into account.

The consultees will usually include the Town or Parish Council, the local Councillor and local community area manager, members of the public, local businesses, Wiltshire police, Wiltshire fire and rescue service, environmental

health officers, food safety officers, planning officers, highways officers, and health and safety officers.

The licensing manager will decide to approve or reject applications on the basis of recommendations from licensing officers.

Where an application meets the criteria and there are no reasonable or appropriate objections the licensing officer will recommend approval of the application.

If the application does not meet the criteria or there are reasonable and appropriate objections the licensing officer will **arrange to meet with the applicant and will contact objectors in to attempt to overcome the potential reasons for refusal. This may include a consultation meeting arranged by the community area manager between the local councillor, members of the public and the licensing officer.** The licensing officer, applicant and objectors will discuss

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

Applicants who feel aggrieved by the licensing manager's decision to refuse an application or to introduce additional conditions will have the right to appeal to the Licensing Committee.

Please see the flowchart in Appendix 1 for more detail on the proposed procedure for determining applications for Street Trading Consents.

### **Fees**

There will be **two different sets of fees** for Annual and Daily Street Trading Consents:

- fees for town centre traders, and
- fees for all other traders.

**Fees for town centre traders will be higher than fees for all other traders to reflect the higher footfall and greater commercial benefit of a town centre location.**

A higher fee will be charged for Daily Street Trading Consents to trade on Saturdays.

Block Street Trading Consents will be offered to organisers of street trading events.

The council will not charge for a Block Street Trading Consent if the **proceeds from both the street trading activity and the event as a whole will go to a registered charity or will not be used for private gain.**

Please see Appendix 3 for the proposed street trading fees. The level of fees will be reviewed by the council on an annual basis.

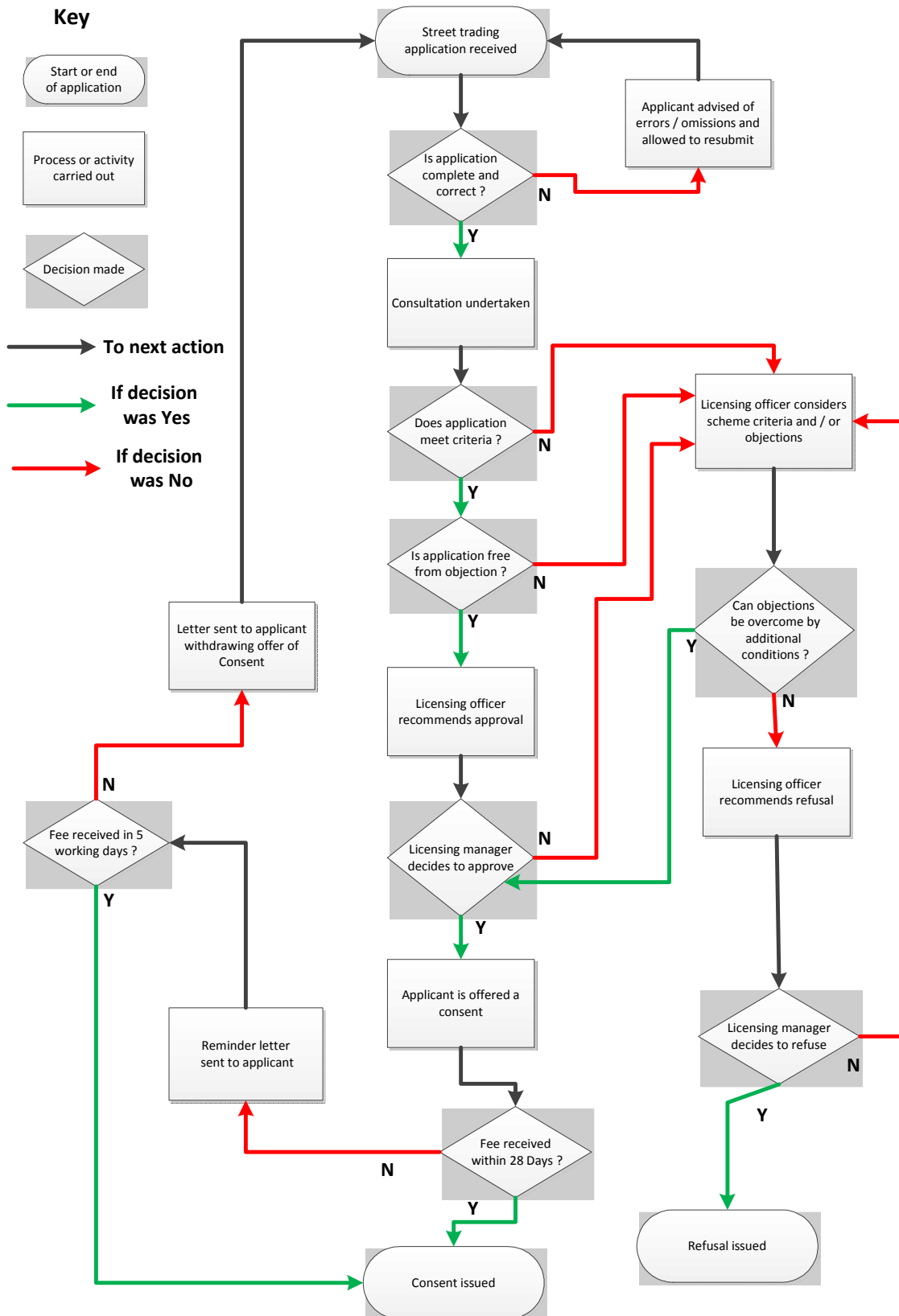
### **Appendices**

Appendix 1: Proposed procedure for determining applications for Street Trading Consents

Appendix 2: Proposed criteria for determining applications for Street Trading Consents

Appendix 3: Proposed street trading fees

## Appendix 1: Proposed Procedure for determining applications for Street Trading Consents



## **Appendix 2: Proposed criteria for determining applications for Street Trading Consents**

The licensing 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 and fire hazard. The street trading activity should not present a significant risk of nuisance from noise, smells or fumes to households and businesses in the vicinity. 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 or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from council officers and residents will be taken into consideration.
- **Needs of the area.** Applicants will have to demonstrate the need for the proposed street trading activity in relation to:
  - (i) the presence of other like outlets already existing in the immediate locality of the street trading site, and
  - (ii) the general needs of a locality if no comparable outlets already exist.
- **Compliance with legal requirements.** The proposed street trading unit should comply with all the relevant legislation. Observations from officers on the requirements of food safety, health and safety, environmental health and fire safety legislation will be taken into consideration. In addition, for those applying to sell food the result of the unit inspection will be taken into consideration.
- **Consultees observations.** Consideration will be given to written objections from consultees. Objections and recommendations will be assessed by the licensing 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 require a separate application under the Licensing Act 2003.
- **Planning Permission.** No Street Trading Consent shall be issued where planning permission is required but has not been applied for or granted. Observations from Wiltshire Council planning officers will be taken into consideration.
- **Suitability of the applicant to hold a consent.** 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 500 metre walk using the public highway of a school or sixth form college.

All the criteria will need to be satisfied and equal weight will be applied to all criteria.

### Appendix 3: Proposed street trading fees

#### Town centre traders

Type of Street Trading Consent	Fee
<b>Annual Street Trading Consent</b> – all days of the year, including all bank holidays.	£ 2800
<b>Daily Street Trading Consent-Sunday to Friday</b> , including bank holidays where these fall on the days included in the consent.	£ 20 per day
<b>Daily Street Trading Consent-Saturday.</b>	£ 40 per day
<b>Block Street Trading Consent-events for private gain</b>	£ 40 per day
<b>Block Street Trading Consent-events where the proceeds will not be used for private gain or will go to a registered charity</b>	No charge

#### All other traders

Type of Street Trading Consent	Fee
<b>Annual Street Trading Consent</b> – all days of the year, including all bank holidays.	£ 1400
<b>Daily Street Trading Consent</b> -including bank holidays where these fall on the days included in the consent.	£ 10 per day
<b>Block Street Trading Consent-events where the proceeds will be used for private gain</b>	£ 40 per day
<b>Block Street Trading Consent-events where the proceeds will not be used for private gain or where the proceeds will go to a registered charity.</b>	No charge