

AGENDA

Meeting: Licensing Committee
Place: Committee Room III - County Hall, Trowbridge
Date: Tuesday 5 April 2011
Time: 10.30 am

Please direct any enquiries on this Agenda to Anna Thurman, of Democratic and Members' Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718379 or email anna.thurman@wiltshire.gov.uk

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 Desna Allen	Cllr Jon Hubbard
Cllr Richard Beattie	Cllr George Jeans
Cllr Peggy Dow	Cllr Bill Moss
Cllr Rod Eaton	Cllr Nina Phillips
Cllr Jose Green	Cllr Bill Roberts
Cllr Mark Griffiths	Cllr Jonathon Seed

Substitutes:

Cllr Allison Bucknell	Cllr Jacqui Lay
Cllr Trevor Carbin	Cllr Howard Marshall
Cllr Bill Douglas	Cllr Pip Ridout

AGENDA

1. **Apologies**

2. **Minutes** *(Pages 1 - 4)*

To confirm the minutes of the meeting held on 17 January 2011 (copy attached).

3. **Chairman's Announcements**

4. **Declarations of Interest**

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

5. **Public Participation**

The Council welcomes contributions from members of the public.

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named above for any further clarification.

Members of the public wishing to ask a question should give written notice (including details of any question) to the officer named above by 5.00pm, Wednesday 30th March.

6. **Minutes of the Licensing Sub Committees** *(Pages 5 - 30)*

To receive the minutes of the following Licensing Sub Committees:

Western Area

06.01.2011

24.02.2011

Southern Area

06.01.2011

01.02.2011

7. **Improving Communications Between Town Centre Licensed Premises**

Sgt Allan George from Wiltshire Police will give an update on the implementation of radios for door staff in Chippenham.

8. **Consultation Responses to Proposed Street Trading Scheme** *(Pages 31 - 118)*

The report of Alissa Davies (National Management Trainee, Licensing Team North and West) seeks to inform Members of the results of public consultation on a single, council-wide street trading scheme.

9. **Urgent Items**

Any other items of business, which in the opinion of the Chairman should be taken as a matter of urgency.

Urgent items of a confidential nature may be considered under Part II of this agenda.

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LICENSING COMMITTEE

DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 17 JANUARY 2011 AT COMMITTEE ROOM 1, BRADLEY ROAD OFFICES, TROWBRIDGE, WILTSHIRE.

Present:

Cllr Desna Allen, Cllr Trevor Carbin (Reserve), Cllr George Jeans, Cllr Jacqui Lay (Reserve), Cllr Bill Moss, Cllr Nina Phillips and Cllr Bill Roberts

Also Present:

23. **Apologies**

Apologies were received from Councillors Richard Beattie, Peggy Dow, Rod Eaton, Jose Green, Mark Griffiths, Jon Hubbard and Jonathon Seed. Councillor Jacqui Lay was substituting for Councillor Eaton and Councillor Trevor Carbin for Councillor Hubbard.

24. **Minutes**

The minutes of the meeting held on 30 November 2010 were presented.

Resolved:

To approve as a correct record and sign the minutes of the meeting held on 30 November 2010.

25. **Chairman's Announcements**

The Chairman made an announcement as follows:

As a result of the recent council-wide management review there has been a change in staffing in the licensing team managers. Kate Golledge remains the Licensing Manager for the North and West hubs. Sam Colley will be leaving the Council at the end of January, and Rob Draper has been appointed as the Licensing Manager for the South and East hubs. Rob was previously Environmental Protection Team Manager for the South and East hubs.

26. **Declarations of Interest**

There were no declarations of interest.

27. **Public Participation**

The Chairman briefed members of the Committee and public present on the rules on public participation.

There was one member of the public wishing to speak in relation to item 7 of the agenda, and who was invited to do so before the item was discussed and determined by the Committee.

28. **Minutes of the Licensing Sub-Committees**

The Committee received the Minutes of the Northern Area Licensing Sub-Committee held on 23 November 2010.

Resolved:

To approve as a correct record and sign the minutes of the meeting of the Northern Area Licensing Sub-Committee held on 23 November 2010.

29. **Increase of Taxi Tariff North Zone**

Kate Golledge (Licensing Manager, North and West) introduced her report which set out the responses to the proposed increase of the taxi tariff in the North area of Wiltshire Council following public consultation.

Key points raised included:

- Current disparities in tariffs between Northern and other areas;
- Last revision to Northern area tariff was in 2008, with significant increases in fleet running costs subsequently, e.g. fuel prices, VAT;
- Rationale for the proposed tariff in its present form;
- Consultation undertaken in developing the proposal;
- Long-term aim of harmonising the four areas' tariff systems; and
- Risk of legal challenge to Council if no solution reached by March 2011.

Mr Michael Simpkins, owner of 24/7 Taxis, based in Corsham, spoke in support of the proposed new tariff.

Members of the Committee then asked technical questions and a discussion ensued regarding the information contained in the agenda pack, subsequent public representations on the issue, further information from the Licensing Manager and the public speaker's comments on the day.

The motion to approve the officer's recommendation in its unchanged form was put to the vote and it was,

Resolved:

That the Committee agree to implement the revised tariff detailed below to take effect from 4 March 2011, with an implementation date of 14 February 2011

For journeys starting	Vehicles up to 4 seats		Vehicles with more than 4 seats carrying more than 4 passengers		
0700 hours – 2159 hours	Tariff 1		Tariff 2		
2200 hours – 0159 hours And all day on Sundays, Bank Holidays, Public Holidays and Easter Sunday and after 8pm Christmas Eve & New Years Eve	Tariff 2		Tariff 4		
0200 hours – 0659 hours And all day on 25 December, 26 December and 1 January	Tariff 3		Tariff 5		
	Tariff 1	Tariff 2	Tariff 3	Tariff 4	Tariff 5
Journeys up to 528 yards (3/10 mile)	£2.60	£3.75	£4.90	£6.30	£8.20
Subsequent 176 yards (1/10 mile)	20p	25p	30p	35p	40p
Waiting time	30p per minute				
Soiling charge	£100 (minimum)				

30. **Urgent Items**

There were no urgent items.

(Duration of meeting: 10.30 - 10.50 am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic & Members' Services, direct line 01225 713015, e-mail lisa.pullin@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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WESTERN AREA LICENSING SUB-COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON 6 JANUARY 2011 AT COMMITTEE ROOM III - COUNTY HALL, TROWBRIDGE IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE AT TROWBRIDGE CRICKET CLUB, THE COUNTY GROUND, LOWER COURT, TROWBRIDGE.

Present:

Cllr Desna Allen, Cllr Trevor Carbin and Cllr Mark Griffiths

Also Present:

Maggie Jones, Wiltshire Council Licensing Officer
Guy Sharp, Wiltshire Council Environmental Health Officer
Chris Marsh, Wiltshire Council Democratic Services Officer
Duncan Milne, Barrister acting on behalf of Wiltshire Council

11. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was,

Resolved:

To elect Councillor Trevor Carbin as Chairman for this meeting only.

12. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

13. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency and drew attention to the following updates to the agenda:

- Amendment to the hours of live music applied for – Licensing Officer's report should read: "2000 to 0130 Friday" and "2000 to 0200 Saturday"

- Withdrawal of objection received from Mr and Mrs M Shroll, who had subsequently expressed support for the application
- Substitution of Wiltshire Council solicitor Paul Taylor for barrister Duncan Milne, owing to Mr Taylor's previous involvement in the appeal against a Noise Abatement Order issued against Trowbridge Cricket Club on 13th May 2010.

The Chairman announced that further material had been produced on the day by the applicant for consideration by the Sub-Committee. In line with procedure, the objector present was asked whether he consented to the submission of this material. The individual objected to the material being submitted and as such it was,

Resolved:

That the additional material be withdrawn and the meeting proceed with the evidence previously available.

14. **Declarations of Interest**

There were no interests declared.

15. **Licensing Application**

Application by Mr Brian Scrine and Miss Christine Davies for a Premises Licence at Trowbridge Cricket Club

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by Mr Colin Poplett of Trowbridge Cricket Club were:

- Clarification of the live music times applied for and anticipated frequency of their use;
- Acceptance by the Club of previous nuisance caused by events;
- Ongoing consultation with neighbours to resolve or mediate disturbance;
- Intentions to monitor and limit noise levels emanating from the clubhouse;
- No objections to application from police and no record of related antisocial behaviour;
- Unavoidable use of the cricket pitch for landing by the Air Ambulance Service;
- Parking problems caused by the vehicles of the probation service are not related to the club and are therefore beyond their control;

- The licence is required in order to ensure the financial viability of the club, as it receives no grant or external funding; and
- The club has an excellent record in child protection and inclusivity, demonstrating a commitment to the community.

Key points raised by the Interested Party, Mr Martin Aldam, were:

- Objection to the hours proposed as per the application form, should the applicant elect to exercise these in full;
- Encouraged by the applicants' intention to utilise all permitted hours rarely, but would suggest that this would warrant more limited hours;
- Concern over the potential for increased disturbance and antisocial behaviour associated with the club and its operating hours;
- Effect of hosting live music events on the first, rather than ground, floor and extent of noise travel and disturbance associated;
- The existing Noise Abatement Order previously served to the club;
- Encouraged by proposal for noise limiter but suggests that this should be a condition of recorded, as well as live, music;
- Suggestion that identical conditions should be imposed for the limits to alcohol sales and recorded and live music noise on both the ground and first floors.

Key points raised by the Wiltshire Council Environmental Health Officer, were:

- Explanation of the function and mechanism of the noise limiting device and its potential application at the club;
- Reasoning for different licensing conditions for each floor at the club, resultant of where the cause of problems and complaints are considered to be;
- Proposed conditions on the use of a noise limiter and responsibilities of the senior staff in controlling disturbance caused by the club.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Licensing Officers. A debate ensued in which the Sub Committee discussed:

- The potential impacts on the surrounding properties should the licence be granted;
- The conditions proposed by the applicants, interested party and Environmental Health Officer;
- The club's record in dealing with problems arising from hosting licensable activities; and
- The nature and principle of the licence as applied for.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the appointed barrister and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 11.00am
The Hearing reconvened at 11.50am

Following the deliberations of the Sub-Committee Members, the appointed barrister made a statement of material legal advice given in closed session as follows:

- That the Sub-Committee had to be satisfied that any conditions were necessary and proportionate to achieving the licensing objectives;
- That certain mandatory conditions had to be imposed; and
- That the Sub-Committee had to give sufficient reasons for their decision to ensure natural justice for both parties.

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

Resolved:

That the Application for a Premises Licence at Trowbridge Cricket Club be granted as detailed below

Sale of Alcohol	1100 to 2300 Monday to Thursday 0900 to 0100 Friday 0900 to 0130 Saturday 1100 to 2400 Sunday	On sales
Live Music	2000 to 2330 Sunday - Thursday 2000 to 0130 Friday 2000 to 0200 Saturday Special Events inc New years Eve (time not specified)	Indoors
Recorded Music	1000 to 2300 Sunday to Thursday 1930 to 0130 Friday 1930 to 0200 Saturday Special Occasions/events	Indoors

	Inc New Years Eve (time not specified)
Anything of a similar Description/Provision of facilities for making music & dancing	1930 to 2300 Monday to Wednesday 1930 to 2330 Thursday to Sunday
Late Night Refreshment	2300 to 0100 Friday 2300 to 0130 Saturday 2300 to 2400 Sunday

And subject to the following conditions:

- 1) That an additional CCTV camera is installed at the club premises oriented along Lower Court.

Reason: In the interests of public safety and the prevention of crime and disorder.

- 2) The conditions agreed to be added to the operating schedule, pursuant to the licensing objectives and namely:
 - i. A noise limiting device shall be fitted on the first floor and all live music provided on this floor shall be played through this device. The noise limiter shall be connected to the mains supply and prior to any live music being provided, the limiter shall be set at a level agreed with officers from the Environmental Protection Department of Wiltshire Council. This level shall not be altered and once agreed, access to the limiter shall be restricted to senior members of staff only for resetting purposes;
 - ii. The applicant shall submit a noise management plan. The plan shall include a suitable monitoring regime when live music is being provided on the first floor, including exact locations, frequency and documentary evidence that monitoring is being carried out. The plan shall be agreed by the Council's Environmental Protection Department in writing before any regulated entertainment takes place at the premises. Any minor alterations to the noise management plan shall be submitted to and agreed in writing, by the Council;
 - iii. Live music on the first floor shall be limited to two events per calendar month; and

iv. Live music on the first floor shall cease at 23.30 hours.

Reason: Management of noise emanating from the premises is necessary and proportionate to prevent public nuisance.

3) That the application section headed 'Anything of a similar Description/Provision of facilities for making music & dancing' be subject to the same hours and locations as those applied for in Section A of the application form.

Reason: For the avoidance of doubt.

4) In addition, Mandatory Conditions will be imposed in accordance with s.19 of the Licensing Act 2003.

Reasons:

The Sub-Committee heard evidence from the applicant, who accepted there had been a problem with noise nuisance in the past. The Sub-Committee was satisfied they had taken internal steps to address such nuisance but are satisfied it is necessary and proportionate to promoting the licensing objective of preventing public nuisance that the aforementioned conditions are imposed. Additionally, the Sub-Committee was satisfied that the installation of a CCTV camera orientated along Lower Court is necessary and proportionate to achieving the licensing objectives of ensuring public safety and preventing crime and disorder. The Sub-Committee was satisfied that the licensing objectives would not be offended by the licensable activities being carried out at the times specified in the Operating Schedule, save that live music on the first floor is to cease at 23.30 hours. In particular, the Sub-Committee noted that there has been no objection by the police to the application.

(Duration of meeting: 10.00 - 11.55 am)

The Officer who has produced these minutes is Chris Marsh, of Democratic & Members' Services, direct line 01225 713 597058, e-mail chris.marsh@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

WESTERN AREA LICENSING SUB-COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON 24 FEBRUARY 2011 IN COMMITTEE ROOM III - COUNTY HALL, TROWBRIDGE IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE AT CANAL TRUST CAFÉ, 15 FROME ROAD, BRADFORD ON AVON BA15 1LE.

Present:

Cllr Desna Allen (Chairman), Cllr Trevor Carbin and Cllr Rod Eaton

Also Present:

Cllr Bill Moss

Officers Present:

Maggie Jones (Policy & Licensing Officer – Licensing Team, West Hub) and Paul Taylor (Senior Solicitor)

1. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

Resolved:

To elect Councillor Desna Allen as Chairman for this meeting only.

2. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 1 – 6 of the Agenda refers).

3. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

4. **Declarations of Interest**

There were no interests declared.

5. **Licensing Application**

Application by Mr Hasan Tarkan Kisioglu for a Premises Licence at Canal Trust Café, 15 Frome Road, Bradford on Avon BA15 1LE.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by Mrs Kisioglu on behalf of the Applicant included that:

- The premises were a very small seasonal Café;
- The applicant had not realised that some of the activities were non-licensable (for example Morris or folk dancing) and had applied for more on the Licence than they would require as applying for Premises Licence is a costly process and would be happy to negotiate;
- The activities applied for, including music, were not the applicant's main priority which was to be able to serve a limited selection of alcoholic beverages to customers;
- The applicant had no intention to turn the premises into a public house, the alcohol would mostly be provided as an accompaniment to the food, the bulk of the trade would remain with soft drinks such as tea, coffee, etc served with home baked food;
- The applicant was aware of the beauty of the site and did not wish to have any negative effects on the surroundings;
- There would be a limited choice of alcoholic beverage on offer as there were no storage facilities, such as a cellar, on the premises

The applicant offered to withdraw the provision of recorded music from their application

Key points raised by the Interested Parties (Mr J. Pearson, Mrs B. Tees, Mr B. Wilson, Mr M Wooldridge, Mr D. Williams, Mrs G. Williams and Mr A. Cook) included that:

- Public nuisance would be exacerbated by the extended opening hours and the sale of alcohol;
- Extended opening hours would lead to the garden furniture being stored away in the evening after 2300, which was in itself a noisy activity, as well as customers leaving the premises;

- The sale of alcohol would lead to customers being noisier when leaving the premises as well as the possibility of anti social behaviour taking place;
- The off-site sale of alcohol would also lead to noise and disturbances for local residents;
- The nature of the surrounding grounds caused noise problem;
- The lack of toilet facilities and the inadequacy of the litter bins would aggravate the existing issue due to the area being on the “drunken route home” from Bradford on Avon;
- Neighbouring outlets were already meeting the demand for alcohol within the area.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers. A debate ensued during which the Sub Committee discussed points including the following:

- The hours during which the public toilets were available;
- Reassurance to all interested parties that conditions could be imposed and that a Licence could be reviewed;
- Clarification of the details of the application the applicant wished the Sub-Committee to consider;
- The location of neighbouring properties with regards to the premises.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 11.00 am.

The Hearing reconvened at 12.30 pm.

Following the deliberations of the Sub-Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

- That additional conditions, beyond those set out in the applicants’ Operating Schedule, could only be imposed if the Sub-Committee considered them to be necessary to promote any of the licensing objectives and if there had been evidence to support them
- the playing of background music was not a licensable activity, so could be provided even though the application for recorded music had been withdrawn;
- That performances of morris dancing or dancing of a similar nature was excluded from the definition of Regulated Entertainment in the Licensing Act 2003 and was therefore not a licensable activity;
- The provision of children’s parties of the type proposed by the applicants and described in their presentation was not a licensable activity

He also informed the meeting that, during the Sub-committee's deliberations, the Licensing Officer had been asked to advise the members as to whether the existing litter bins referred to in the representations were controlled by the applicants. The Licensing Officer had not been able to confirm whether or not that was the case.

The Sub-Committee considered the representation from Mr and Mrs H. Kisioglu and the interested parties and all written and oral representations, the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council and as subsequently amended.

Resolved:

That the Application for a Premises Licence be granted as applied for with the removal of the provision of recorded music as offered by the applicant and as detailed below:

Supply of alcohol (on/off sales)	0900 to 2300	Monday to Sunday
films (indoors)	0900 to 2300	Monday to Sunday
live music (in & outdoors)	1000 to 2300	Monday to Sunday
Performance of dance (in & outdoors)	1000 to 2300	Monday to Sunday
Provision of facilities for dancing (indoors)	1000 to 2300	Monday to Sunday

Subject to the conditions in the operating schedule submitted by the applicant as follows:

- CCTV system to be installed within six months;
- Notices to be placed at the exit requesting people to leave quietly;
- Garden to be closed and outdoor lights to be switched off at 22.00;
- Regular noise monitoring to take place during any live music events and to maintain a log recording noise activities, which should be available for inspection by the Licensing Authority as required.

And subject to the following additional conditions:

- any live music outdoors must finish by 2200;

- no amplified music at anytime recorded or otherwise;
- toilet facilities to be available during opening hours;
- two litter bins to be provided and regularly emptied.

Reasons:

We have heard the evidence given at the hearing by Mr and Mrs H. Kisioglu, Mr J. Pearson, Mrs B. Tees, Mr B. Wilson, Mr M Wooldridge, Mr D. Williams, Mrs G. Williams and Mr A. Cook, some of which the committee felt were somewhat speculative. The committee considers that the conditions offered by the applicant together with the additional conditions imposed will address the legitimate concerns of the interested parties and will meet the Licensing Objectives in particular the prevention of public nuisance.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of this decision. A Responsible Authority or interested party has the right to request the Local Authority to review the licence. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review, and a review will not normally be held within the first twelve months of a licence, save for the most compelling reasons.

Informative

The licence-holder is responsible for ensuring that the operation of the premises complies with all other legal requirements.

(Duration of meeting: 10.05 am - 12.35 pm)

The Officer who has produced these minutes is Marie Gondlach, of Democratic Services, direct line 01225 713 597, e-mail marie.gondlach@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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CANAL TRUST CAFÉ

ref 06/02098 / FVL

A

Meriman House
Family dwelling

Old People's Housing

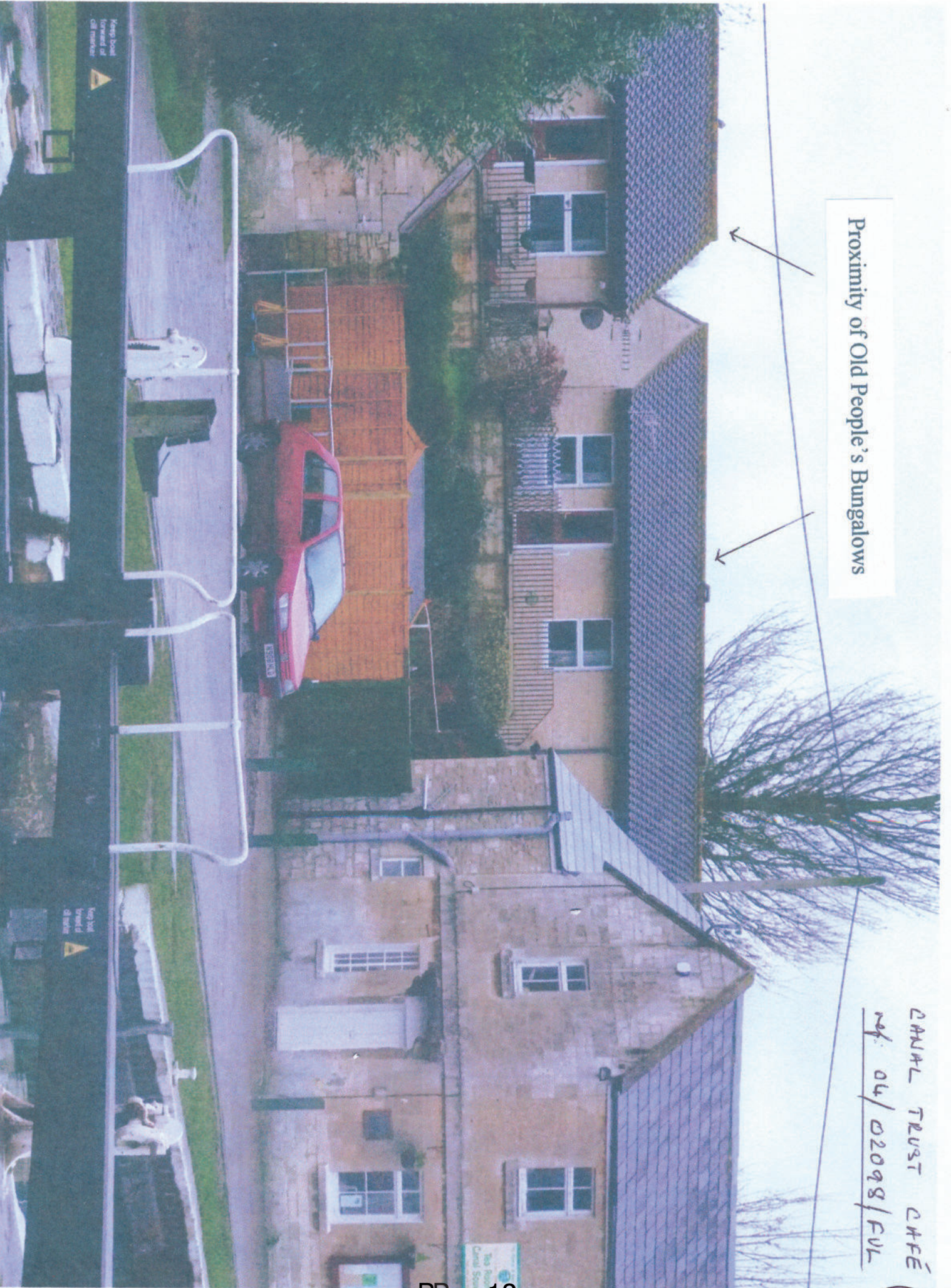
<u>Occupant</u>	<u>Age</u>
1. Man	40-50
2. Mrs. Henry	80
3. Mrs. Norris	85-90
4. Bill Martin	76
Margaret Martin	73
Mr. Lassiter	80-90
Mrs. Jones	99
Man	50+
Average age = 86.8	

All bedrooms at rear of bungalows facing west towards cafe



Proximity of Old People's Bungalows

CANAL TRUST CAFE
ref: 04/02098/FUL
B



CANAL TRUST CARE

Ref: DL/02099/FUL

Café garden

Proposed venue for
"musical" events



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SOUTHERN AREA LICENSING SUB-COMMITTEE

DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON 6 JANUARY 2011 AT MEETING ROOM - CITY HALL, MALHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE FOR QUEEN ELIZABETH GARDENS, MILL ROAD, SALISBURY

Present:

Cllr Pip Ridout, Cllr Richard Beattie and Cllr Jose Green

Also Present:

Ms Debbie Mulvey, Licensing Officer, Wiltshire Council, Mr Chris Stringer, Licensing Officer, Salisbury City Council, Paul Taylor, Solicitor, Wiltshire Council, Mr W A Sanders, and Mr M and Mrs M Watts, Respondents.

1. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

Resolved:

To elect Councillor Pip Ridout as Chairman for this meeting only.

2. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

3. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

4. **Declarations of Interest**

There were no interests declared.

5. **Licensing Application**

Application by Salisbury City Council for a Premises Licence Queen Elizabeth Gardens, Mill Road, Salisbury

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by Mr Chris Stringer on behalf of the Applicant were:

- Reason for the application is to ensure that events are properly licensed.
- This process saves the City Council money and time

Key points raised by the Interested Parties, Mr W Sanders and Mr M and Mrs M Watts were:

- There were issues regarding parking by people attending events.
- There were issues regarding litter left in the surrounding streets after events have been held.
- Concerns with noise from evening events.
- Concerns that people will bring alcohol to late evening events and remain in the park after the events have ended.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers.

The Sub-Committee members sought clarification on some points before retiring at 10.55am to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 11.15am

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council and

Resolved:

To grant the application with operating hours and conditions as applied for.

Evidence:

The Sub-Committee considered the written evidence attached to the agenda. In addition the Committee heard all the evidence from Mr Chris Stringer on behalf of the applicant, and also from the following individuals who had made written submissions objecting to the application:

Mr W A Sanders
Mr M and Mrs M Watts

Reasons

The sub-committee was satisfied that the conditions set out in the operating schedule, together with the additional agreed condition limiting the number of events to eight in any twelve month period, would meet licensing objectives.

(Duration of meeting: 10.00am - 11.20 am)

The Officer who has produced these minutes is Pam Denton, of Democratic Services, direct line 01225 718371 , e-mail pam.denton@wiltshire.gov.uk

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SOUTHERN AREA LICENSING SUB-COMMITTEE

DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB-COMMITTEE MEETING HELD ON 1 FEBRUARY 2011 AT ALAMEIN SUITE - CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN APPLICATION FOR A PREMISES LICENSE BY COTE RESTAURANTS LIMITED IN RESPECT OF COTE RESTAURANT, ST. THOMAS' SQUARE, SALISBURY.

Present:

Cllr Bill Moss, Cllr Jose Green and Cllr George Jeans

Also Present:

Mr Roy Light, *Counsel to Cote Restaurants Ltd*, Mr Steven Seagar, *Property Director Cote Restaurants Ltd*, Mrs Liza Inzani, *Solicitor*, Ms Louise Neilson *DPS*

Mr P.Knipe, *Interested Party*

6. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

Resolved:

To elect Councillor Bill Moss as Chairman for this meeting only.

7. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 8 of the Agenda refers).

8. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

9. **Declarations of Interest**

There were no interests declared.

10. Licensing Application

Application by Cote Restaurants Limited for a Premises Licence in respect of Cotes Restaurant, St Thomas' Square, Salisbury

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant and the Interested Party were given the opportunity to address the Sub-Committee.

Key points raised by Roy Light, Counsel on behalf of the Applicant were:

- That the premises for which the licence is sought will be a restaurant which people frequent in order to eat food, rather than drink alcohol.
- The proposed restaurant is of a good design – it will have a clean and tidy ambience, that will encourage people to act in a responsible manner
- The food and drink to be served is high-quality – the premises are not to be a public house.
- A number of flats are nearby in the Maltings, from which two objectors have sent representations; these are possibly too far away to be directly affected
- Steven Seagar, Director of Cotes Restaurants Limited, had met Mr Knipe, a resident who lived opposite the site, and his concerns had contributed to the conditions proposed by the applicant
- The Church was supportive
- A list of suggested conditions, included on page 32 of the agenda, and the following amended/additional conditions were suggested:

8) Challenge 25 years and a proof of age system to be adopted. Only ID to be passport, driving license or accredited proof of age card

9) All refuse, including bottles, to be stored inside the premises and not to be put outside before 7am and after 9pm.

10) All deliveries and collections including refuse to be made after 7am and before 9pm.

The application for the licence to include the playing of recorded music would be withdrawn. The only music that would be played at the premises would be background music, which is not a licensable activity

Councillors then asked questions of the applicant's team and a number of points were explained:

- A maximum of 24 people/7 tables would be outside
- The company possessed a leasehold on the property
- The company had experience of running further Cote restaurants and similar ventures in/near residential areas.

The applicants suggested a further condition:

11) Outside tables to be vacated by 10pm

The Chairman then invited Mr Knipe, (representing himself and also two other interested parties Mrs Coward and Mrs Hinkley) to speak. His concerns revolved around the change of use of the site from its existing function as Tea Rooms closing at 6pm to licensed premises ending at midnight.

- Mr Knipe and his wife already were victims of noise and anti-social behaviour emanating from another nearby premise; they did not wish this situation to be repeated.
- The close proximity to Mr Knipe's house meant that no matter how well run the premises may be, those living there will suffer disrupted sleep, due to day-to-day operation of the business.
- Concern that parking for residents and access for churchgoers, parades and emergency services could be obstructed, both during building works and as a result of the operation of the restaurant.

The possibility of a number of conditions was raised, to partly address the above concerns of the objectors, namely – *restriction of opening hours; noise inaudible outside the premises; control of noise and odours; control of waste and bottles; building work should cease in the evenings.*

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers. A debate ensued in which the Sub Committee and those present discussed the impossibility of conditioning building works/times, and extractor details/odour controls (these were planning matters), and it was made clear that background music was permitted without a licence. If such music became audible outside the premises, then it would no longer be background music and would require to be licensed. If another party were to take control of the premises and wished to play recorded or live music there, they would have to apply to vary the Premises licence.

The Sub-Committee members received clarification on these points from the council's solicitor before adjourning to consider the application. They were accompanied by the council's solicitor and the Democratic Services Officer. The applicant and representatives, interested parties and the Licensing officer left the room.

The Sub-Committee then adjourned to consider their decision at 11.15

The Hearing reconvened at 11.55

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council, and

Resolved:

To grant the application with operating hours and proposed conditions as applied for, with the removal of the application for recorded music.

Additional and/or adjusted conditions are as follows:

8) Challenge 25 years and a proof of age system to be adopted. Only ID to be passport, driving licence or accredited proof of age card

9) All refuse, including bottles, to be stored inside the premises and not to be put outside before 7am and after 9pm. No bottles to be put outside on a Sunday.

10) All deliveries and collections including refuse to be made after 7am and before 9pm. No collection of bottles to take place on Sundays.

11) Outside tables to be vacated by 10pm

Informative:

The license-holder is responsible for ensuring that the operation of the premises complies with all other legal requirements.

Evidence:

The Sub-Committee considered the written evidence attached to the agenda. In addition the Committee heard evidence Roy Light of Counsel on behalf of the applicant; Liza Inzani, the applicant's solicitor; together with Steve Seagar, the Director of the Cote Restaurants and Louise Neilson, Openings Manager and Designated Premises Supervisor (DPS).

The Sub-Committee also heard evidence from the following individuals who had made written submissions objecting to the application:

Mr Knipe, also on behalf of Mrs Howard and Mrs Hinkley.

Reasons

The sub-committee was satisfied that the conditions set out in the operating schedule, together with the additional agreed conditions 9, 10 and 11, and the adjusted condition number 8, would satisfy the licensing objectives.

(Duration of meeting: 10.35 am - 12.00 pm)

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WILTSHIRE COUNCIL

LICENSING COMMITTEE

5 APRIL 2011

CONSULTATION RESPONSES TO PROPOSED STREET TRADING SCHEME

Executive Summary

This report informs Members of progress on the introduction of a single, council-wide consent street trading scheme.

Recommendations

It is recommended that the Licensing Committee:

- i) Consider, and comment on the issues raised by consultation on the introduction of a single, council-wide consent street trading scheme.
- ii) Support discussions between the licensing team and neighbourhood services to produce an integrated and co-ordinated response to the issues raised by public consultation.
- iii) Agree to consider details of the revised street trading scheme and results of the second public consultation before recommending the scheme for adoption by full Council.

Reason for Proposal

To consider the results of an extensive consultation on a council-wide street trading scheme.

Author: Alissa Davies, Licensing Team (North and West), Public Protection Services

Corporate Director: Maggie Rae, Public Health and Wellbeing

Contact Details: alissa.davies@wiltshire.gov.uk

1. Purpose of Report

- 1.1 To inform Members of the results of public consultation on a single, council-wide street trading scheme.
- 1.2 To give Members the opportunity to comment on concerns raised during the public consultation.
- 1.3 To recommend that Members support discussions between the licensing team and neighbourhood services to produce an integrated and co-ordinated response to the issues raised by public consultation.
- 1.4 To recommend that the Licensing Team produce a revised street trading scheme for further public consultation.

2. Background

- 2.1 There is no harmonised street trading policy for Wiltshire because the former district councils chose to control street trading in different ways:
 - In the north and west there are two different consent street trading schemes
 - In the east there is a prohibited (street) trading scheme for a small number of streets in town centres
 - In the south there is no street trading scheme because Salisbury District Council did not adopt powers under Part III, Schedule 4 of the 1982 Local Government (Miscellaneous Provisions) Act (the 1982 Act)
 - Lay-bys are not regulated anywhere in the Wiltshire Council area, except food hygiene controls for food traders.
- 2.2 A report on existing street trading controls was presented to the Licensing Committee on 30 November 2010. This report informed Members of the current policies for controlling street trading and recommended the introduction of a single council-wide street trading scheme by adopting powers under the 1982 Act.
- 2.3 The licensing team was tasked with producing an appropriate council-wide consent street trading scheme. In January 2011 a draft street trading scheme was produced after consultation across public protection, planning and neighbourhood services.

3. Key Features of the Draft Street Trading Scheme

- 3.1 It was proposed to designate all streets in Wiltshire as consent streets, with the exception of a number of highway lay-bys which would be designated as prohibited streets, where street trading would not be permitted.
- 3.2 The street trading scheme incorporated the legal definitions of 'street trading' and a 'street' from the 1982 Act. Street trading was defined as selling, exposing or offering articles for sale in a street. A street was defined as any area which the public can access without payment, including private land.

3.3 In addition to the legal exemptions listed in the 1982 Act, the council proposed to exempt the following activities from the need to obtain a Street Trading Consent:

- Trading in a market run by Wiltshire Council
- Trading as part of a travelling fair that has already been granted permission to trade on Wiltshire Council land by the council
- Trading from a motorised ice-cream van which moves from street to street not stopping in one place for longer than 15 minutes or within 500 metres of a school.

3.4 The scheme proposed to offer three types of street trading consent:

- Annual Street Trading Consent for trading on all days of the year, including bank holidays
- Daily Street Trading Consent for trading on a single day, a number of days, or a specific day of the year. 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. This would be offered at no charge where 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.

Street Trading Consents would be issued subject to Standard Conditions (See Appendix 1) and Additional Conditions which should be upheld at all times.

3.5 The council proposed to consider Annual and Daily Street Trading Consents four times a year in March, June, September and December. Applications for Block Street Trading Consents were to be considered all year round. All applications were to be processed within 90 days.

3.6 There were two sets of fees for Annual and Daily Street Trading Consents:

- Fees for town centre traders: £2800 for an Annual Street Trading Consent, £20 a day for a Daily Street Trading Consent from Sunday to Friday and £40 a day for a Daily Street Trading Consent on Saturday.
- Fees for all other traders: £1400 for an Annual Street Trading Consent, £10 a day for a Daily Street Trading Consent.

3.7 The proposed criteria for assessing applications were:

- Site safety
- Public order
- Avoidance of nuisance
- Needs of the area
- Compliance with legal requirements

- Consultees observations
- Permitted trading hours
- Planning permission
- Suitability of the applicant
- Proximity to schools and colleges.

3.8 The proposed consultees for applications were:

- The appropriate town/parish council
- The local councillor and community area manager
- Members of the public living within 100 metres of the proposed street trading site
- Local businesses and Chamber of Commerce
- Wiltshire Police
- The land owner
- Environmental health officers, food safety officers, planning officers, highway officers and health and safety officers.

Consultees would have 60 days to object to applications for Annual and Daily Street Trading Consents.

3.9 Applications would be determined by the licensing manager on the basis of recommendations from licensing officers. Licensing officers would make recommendations by assessing applications and objections against the scheme criteria. Applicants who felt aggrieved by the licensing manager's decision would have the right to appeal to the Licensing Sub-Committee.

3.10 More detail on the proposed street trading scheme is available at Appendix 1.

4. Public Consultation

4.1 Public consultation on the proposed street trading scheme opened on 18 January 2011 and closed on 17 March 2011.

4.2 The consultation documents (the draft street trading scheme, maps of the proposed prohibited lay-bys by area board area and a consultation survey) were made available on the Wiltshire Council website. These documents are available at Appendix 1.

4.3 Notice of the consultation was sent to:

- Area boards
- Town and parish councils
- 125 food traders registered with the Food Safety Team
- The Wessex Association of Chambers of Commerce who circulated a flyer to all local chambers of commerce, 36 companies and 150 local businesses
- The Federation of Small Businesses in Somerset and Wiltshire
- All Wiltshire Council councillors
- Wiltshire Police
- Wiltshire Fire Safety

- Wiltshire Farmers Markets Association
- The Highways Agency
- The Salisbury Town Centre Manager
- The Freight Transport Association
- The Road Haulers Association
- The Wiltshire and Swindon Freight Quality Partnership

4.4 There was a very high rate of response to the public consultation, especially from town/parish councils and registered food traders. There were 91 responses to the online consultation survey and a number of written responses from Wiltshire Councillors and Town/Parish Councils. For a detailed breakdown of consultation responses please see Appendix 2.

5. Issues Raised by Public Consultation

5.1 A number of concerns were raised during the public consultation, including:

- The scope of the street trading scheme
- The level of bureaucracy and length of time it would take to process applications
- The level of the proposed street trading fees

The scope of the street trading scheme

5.2 Wiltshire councillors, town/ parish councils and members of the public expressed concerns about:

- The definition of a 'street' as 'any area which the public can access without payment, including private land.' Respondents object to the proposal to include private land and land owned, leased and maintained by town/parish councils. Street traders are worried that they will need to pay fees to the council in addition to fees to private land owners.
- The definition of 'street trading' as 'selling, exposing or offering articles for sale in a street.' Respondents object to the proposal to include certain types of street trading activity, for example the sale of articles by householders on land next to their property, such as private car sales or the sale of farm produce by local farms.

5.3 Responses to the consultation survey suggest general support for exempting non-commercial street trading activity, such as charitable fund-raising events (71 percent of respondents) and sales of articles by householders on land next to their property (60 percent of respondents.)

The level of bureaucracy and length of time it would take to process applications

5.4 Town/parish councils and Wiltshire councillors were concerned that the street trading scheme will increase the burden of consultation, inspection and red tape. They suggest this will diminish community vitality by putting off volunteers and making it more difficult for councils, local charities, social

enterprises and voluntary groups to organise community events, such as parish fun-days and carnivals.

- 5.5 Event organisers and town/parish councils suggest they will find it difficult to prove that all proceeds from community events will not be used for private gain. Some organisers of community fund-raising events are worried they will need to pay the daily fee for a Block Street Trading Consent, for example Amesbury Rotary Club's annual car-boot sale where traders are charged a pitch fee which is donated to the community but keep any profits they make from trading.
- 5.6 Although most concerns about the level of bureaucracy relate to community events, respondents also express concern about the large number of Standard Conditions and detailed references to additional legal requirements, such as planning permission, consumer protection law and late night refreshment licences.
- 5.7 The consultation also highlighted concern about the length of the consultation procedure and length of time it would take to process applications. Some town/parish councils support the proposed 60 day consultation period as they often find it difficult to respond to consultations on planning applications within 21 days. Other town/parish councils and members of the public suggest a lengthy application process will be off-putting for street traders and event organisers.
- 5.8 Some respondents feel that there are too many consultees for street trading applications, while others are worried that insufficient weight will be given to consultees' objections.

The level of proposed street trading fees

- 5.9 A number of street traders have complained that the proposed street trading fees are too high and will put them out of business.
- 5.10 A small number of street traders are already paying business rates and permanent street traders (most of those who would hold Annual Street Trading Consents under the proposed street trading scheme) may be liable for business rates. It may be unfair to charge a fee for a Street Trading Consent where a street trader is already paying business rates, particularly if the trader is already paying a fee to the landowner to trade on private land.
- 5.11 Although some street traders support the introduction of a street trading scheme, many street traders question the added value of a Street Trading Consent- they feel they will not receive anything from the council in exchange for their street trading fee.
- 5.12 Respondents were split on the issue of whether town centre traders should pay higher fees than all other traders. Local businesses and members of the public broadly supported higher fees for town centre traders.
- 5.13 Respondents were also split on the level of the proposed street trading fees, although there was overall support for a fee of £10 to £30 a day.

6. Measures to Overcome Issues Raised by Public Consultation

The scope of the street trading scheme

- 6.1 Consultation responses suggest community fund-raising events should be exempt from the need to apply for a Street Trading Consent and private land should only be included where absolutely necessary.
- 6.2 Although the council cannot alter the legal definition of a 'street' or 'street trading,' it can limit the scope of the street trading scheme by introducing a number of additional exemptions. These additional exemptions could include:
- trading on private land (including land owned, leased or maintained by a town/parish council) where this is not a road, street, car-park or industrial estate with public access or within 20 metres of any road, street, car-park or industrial estate with public access
 - fetes, carnivals or similar community based and run events, such as community car boot sales and Christmas lights switch on events
 - non-commercial or charitable events where the profits are wholly passed to a charity or political/ educational organisation
 - sales of articles by householders on land within the boundary of their home, for example garage sales
 - goods from working farms sold at the premises where they were produced

The level of bureaucracy and length of time it would take to process applications

- 6.3 The additional exemptions (above) would address town/parish councils' concerns about the negative impact of the street trading scheme on the financial viability of community events and the ability of community groups to organise them.
- 6.4 The scheme could be revised to reduce the number of Standard Conditions for all street traders, especially holders of Block Street Trading Consents.
- 6.5 Block Street Trading Consents for events which would not be covered by the additional exemptions, such as continental markets or the Wiltshire Farmers Markets Association could be issued annually for a certain number of events per year and renewed automatically.
- 6.6 The detailed references to additional legal requirements could be replaced with a sentence reminding traders that all other legal requirements must be met. The council needs to decide whether it wants to make the granting of Street Trading Consents conditional on compliance with other legal requirements, or merely to remind traders of these requirements. If the council chose to merely remind traders of other legal requirements it would not be able to refuse to grant or withdraw a Street Trading Consent if the Consent Holder failed to meet these requirements.

The level of proposed street trading fees

- 6.7 The proposed street trading fees were calculated on the basis of the maximum costs of administering and enforcing the street trading scheme. The administration and enforcement costs were used as the fee for all other street traders, and were doubled for the fees for town centre traders to reflect the greater commercial benefit of a town centre location.
- 6.8 The proposed annual fees are roughly the average of the street trading fees paid by traders in consent streets in the west (£4,502) and north (£1385) and are similar to fees charged by neighbouring councils. The proposed daily fees are in line with fees paid by market traders throughout Wiltshire.
- 6.9 The street trading fees for a revised street trading scheme could be calculated on basis of the average costs of administration and enforcement. The administration and enforcement costs would need to include overhead costs as well as officer time. To make the scheme easier to administer all street traders could be charged the same fees regardless of location.
- 6.10 The council could allow street traders to pay fees in instalments and could offer a rebate on street trading fees to street traders who can demonstrate that they have paid business rates.

7. Further Issues

Overlap with the department of neighbourhoods and planning

- 7.1 The licensing team needs to collaborate with neighbourhood services to produce an integrated and co-ordinated street trading scheme.
- 7.2 There is considerable overlap between street trading and activities controlled by the Department of Neighbourhoods and Planning as the highways authority, such as cars for sale on the street, and the placing of tables and chairs on the highway.
- 7.3 There are detailed issues which need to be resolved, for example parking waivers for burger vans who hold Street Trading Consents for trading in pedestrianised streets.
- 7.4 The consultation highlighted inaccuracies in the data for the proposed prohibited lay-bys. This data was supplied by the area highway engineers in neighbourhood services and will be checked for accuracy by the licensing team and the area highway engineers before any further consultation takes place.

Competition between street traders and fixed business premises

- 7.5 There was a mixed response on the issue of whether a Street Trading Consent should be granted for trading where similar provision already exists.
- 7.6 The proposed criteria for determining applications included the 'needs of the area:' applicants will have to demonstrate the need for the proposed street trading activity in relation to the presence of other similar outlets already

existing in the immediate locality of the street trading site and the general needs of the locality if no comparable outlets already exists.

- 7.7 Some respondents suggest the council should not have a role in controlling competition between street traders and fixed business premises if street traders are paying street trading fees to the council. Others suggest that where there is adequate shopping provision a Street Trading Consent should not be granted within shopping areas without the prior approval of the owners of the shopping centres.

8. Environmental Impact

- 8.1 Reducing the number of Standard Conditions may limit the ability of the council to reduce the environmental impact of street trading activity.
- 8.2 Designating highway lay-bys which are inappropriate for street trading as prohibited streets would have a positive environmental impact.

9. Equality and Diversity

- 9.1 The public consultation was fully compliant with the principles for consultation outlined in the Wiltshire Compact.
- 9.2 A full equality impact assessment will be carried out on the final street trading scheme before it is introduced.

10. Risk Assessment

- 10.1 Failure to introduce a single consistent scheme across Wiltshire will result in the continuation of different schemes dependant on which former district council area traders are operating, which represents a reputational risk to the council, and may present an opportunity for challenge to the authority.

11. Financial Implications

- 11.1 Some town/parish councils have expressed an interest in s101 agreements under the Local Government Act 1972 to allow them to control street trading activity in their areas, but the cost of such agreements would need to be investigated.

12. Legal Implications

- 12.1 The proposed additional exemptions may mean the council is favouring one type of street trading at the expense of another.
- 12.2 Although street trading fees can be calculated to take market forces into account, legal judgements have shown that a council cannot use a street trading scheme to generate income. It may be safer to charge a flat-rate fee for all street traders across Wiltshire regardless of the commercial value of the location.

13. Next Steps

- 13.1 The licensing team to produce a revised street trading scheme and carry out a second public consultation in conjunction with neighbourhood services.
- 13.2 Licensing Committee to consider details of the revised street trading scheme and results of the second public consultation before recommending the scheme for adoption by full council.

14. Conclusion

- 14.1 The recent consultation exercise has prompted considerable response from a variety of organisations and individuals. It is considered that a consistent scheme can be agreed that will meet these concerns and provide a way ahead to improve this area of work.

Background Papers

Part III, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

Appendices

Appendix 1: Consultation documents, including the executive summary, the proposed street trading scheme and the consultation survey.

Appendix 2: Detailed breakdown of consultation survey responses.

Appendix 3: Selection of written consultation responses.

Street trading consultation

Executive summary of the proposed street trading scheme

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.

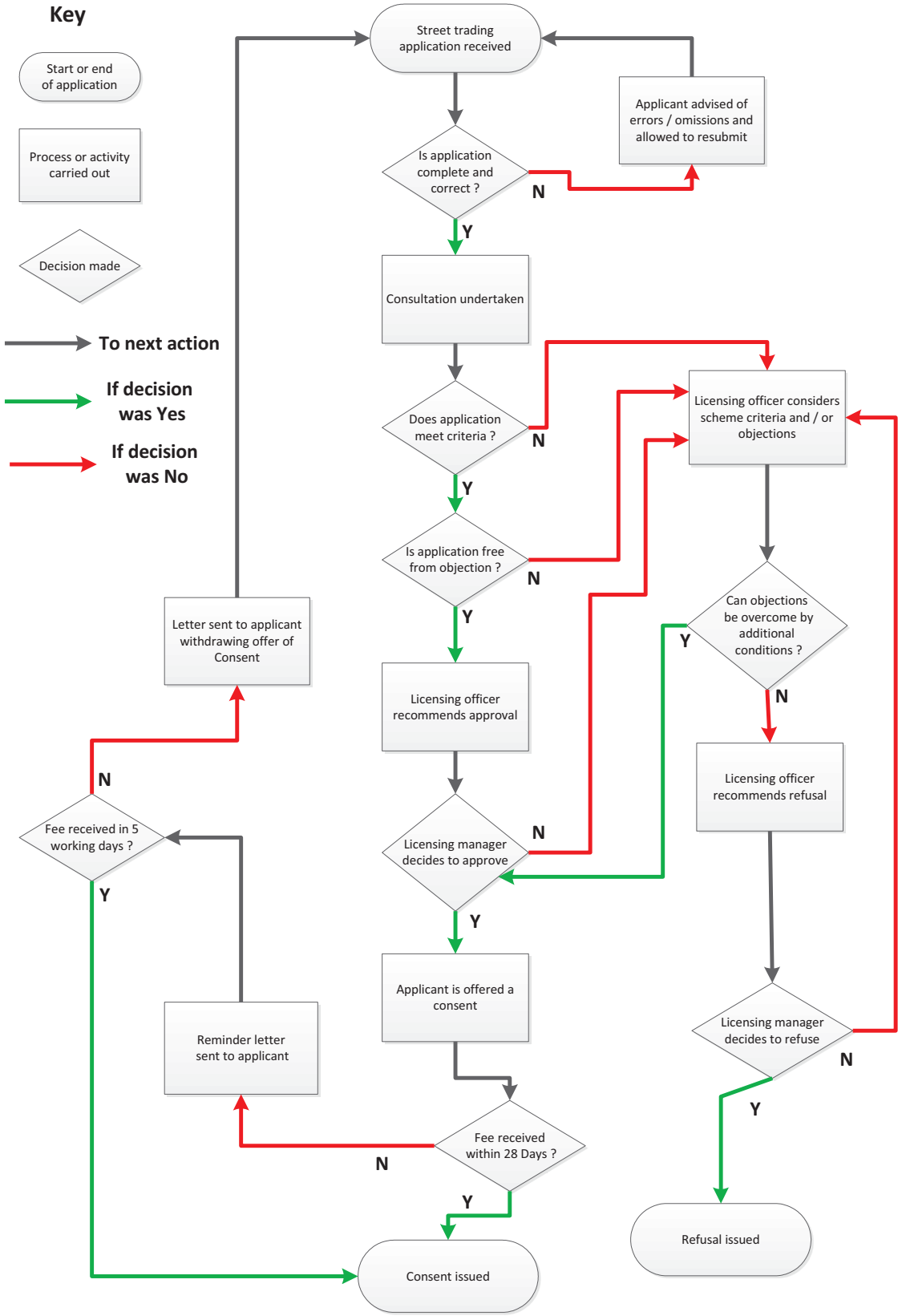
Appendices

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

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 -including bank holidays where these fall on the days included in the consent.	£ 10 per day
Block Street Trading Consent-events where the proceeds will be used for private gain	£ 40 per day
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.	No charge

DRAFT Harmonised Street Trading Scheme

Controlling the sale of goods in the Wiltshire Council area.

All streets in Wiltshire have been designated as consent streets, with the exception of a number of prohibited streets (where street trading is illegal). 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

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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 should trade in 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 licensing officer.

Street trading. The selling, exposing or offering of article for sale in a street, excluding the exemptions listed in the legislation.

A street. Any area which the public can access without payment, including private land. This does not include indoor shopping centres.

Consent street. It is illegal to trade without first obtaining a Street Trading Consent from the council.

Prohibited street. It is illegal to trade unless you are legally exempt from the 1982 Local Government (Miscellaneous Provisions Act). Please see page 4 of this document for a list of legally exempt street trading activities. Maps of the prohibited streets are available at Appendix 3 of this document.

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, such as a farmers market. 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 roundsmen.

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 licensing officers.

The Sub-Committee. The Licensing Sub-Committee.

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.

In the view of Wiltshire Council 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
- the sale of Christmas trees and other festive items

In the view of Wiltshire Council this does not include:

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

What is a street?

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

This street trading policy covers all streets in Wiltshire.

All streets in Wiltshire have been designated as consent streets except for a number of highway lay-bys which have been designated as prohibited streets (where all street trading is illegal) for safety reasons. Please see Appendix 3 for a list of prohibited streets.

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

- roads and walkways
- footpaths
- car-parks
- lay-bys and verges
- parks
- recreation fields
- industrial estates
- unenclosed land within 15 metres of any of the above
- any other council land

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.

Please note that the granting of a Street Trading Consent does not exempt the Consent Holder from obtaining any other licence or permission which may be required.

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 shop 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 policy the council also does not require you to obtain a Street Trading Consent if you are:

- trading in a market run by Wiltshire Council
- trading as part of a travelling fair and have already been granted permission to trade on Wiltshire Council land by Wiltshire Council.
- trading from a motorised ice-cream van and keep moving from street to street **not stopping in one place for longer than 15 minutes** and do not trade within 500 metres of a school.

Who can apply for a Street Trading Consent?

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

- over the age of 17
- an individual (two people can apply jointly on the same consent), not a company or body corporate
- 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.

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, including all bank holidays.
- **Daily Street Trading Consent.** Consent to trade for 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. The council charges a higher fee for a consent to trade on Saturdays in town centres.

Applications for **Annual** and **Daily Street Trading Consents** will be considered **four times a year** and must be submitted by:

- 1 March
- 1 June
- 1 September

- 1 December

Applications for Christmas trading must be submitted by 1 September. Applications submitted after this date will not be processed by 1 December.

The council will also consider applications for **Block Street Trading Consents** from organisers of large street trading events, such as:

- Farmers markets operated by Wiltshire Farmers Markets Association or other similar non-profit making organisations
- Car boot sales
- Fetes, carnivals and similar Town and Parish Council supported events
- Static structures on Town and Parish Council land, such as kiosks, which are leased out to individuals for a fee.

The market or 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.

Applications for Block Street Trading Consents can be submitted throughout the year.

Where 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** the council will offer a Block Street Trading Consent at **no charge**.

To receive a Block Street Trading Consent at no charge the event organiser will need **to prove that the proceeds will go to a registered charity or not for profit organization, or will be used to fund the street trading event.**

An organisation can prove that it is a charity or not-for-profit organisation by providing:

- A copy of their charity registration document
- A letter from the Inland Revenue confirming that the organisation is recognised as a charity for income tax purposes.

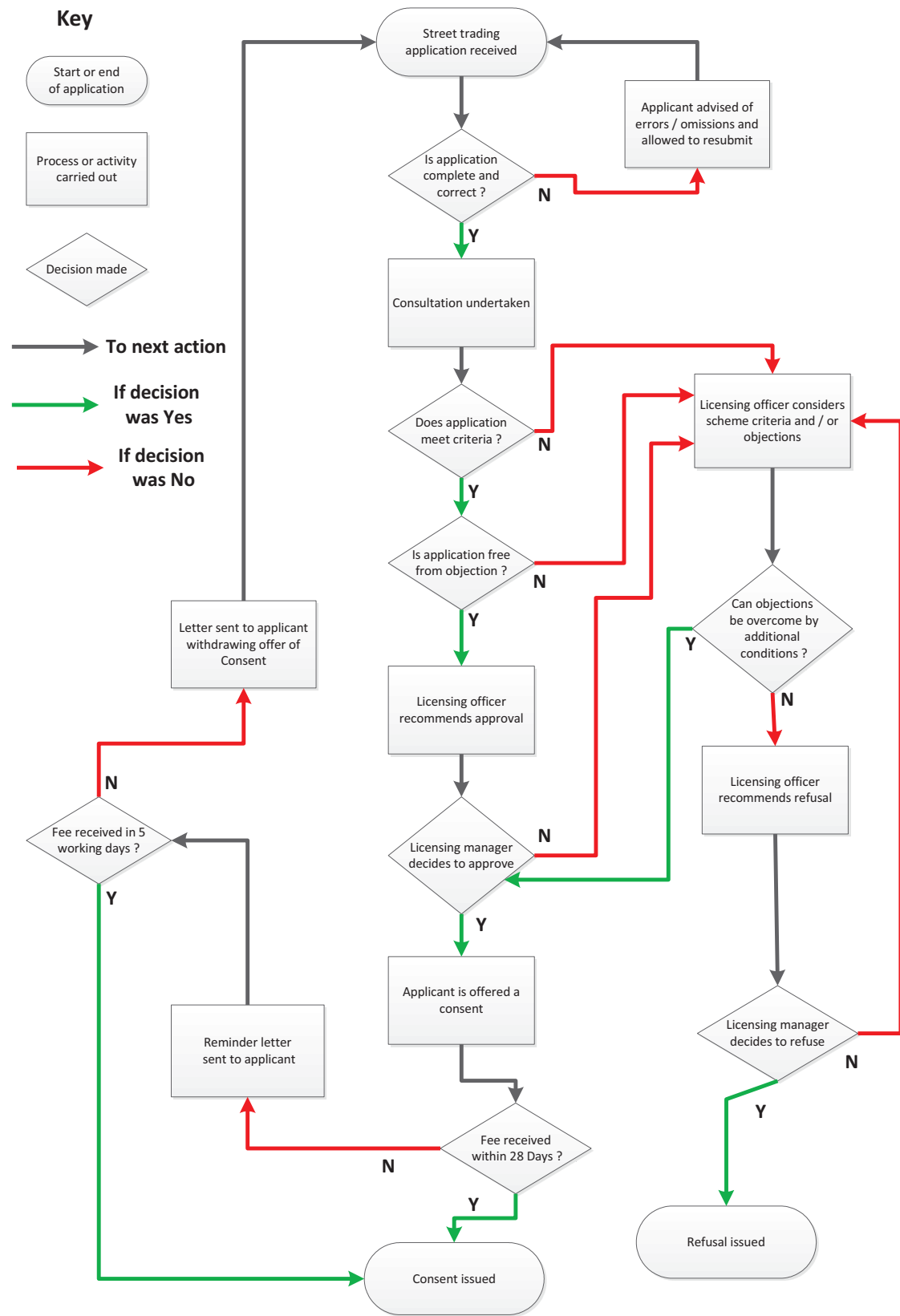
Where **the proceeds from either the street trading activity or the event as a whole will be used for private gain**, for example a continental market or car boot sale, the council will **charge the full daily fee** for a Block Street Trading Consent.

Town centre traders will be charged higher fees to reflect the higher footfall and greater commercial benefit of a town centre location. For a detailed breakdown of street trading fees please see Appendix 2.

All town centre traders will be granted a Street Trading Consent to trade in an area not exceeding 4 metres by 3 metres (the trading area.) Depending on the space available, the size of the trading area may be reduced in some town centre locations. Where appropriate, those wishing to trade in a larger area may apply to do so, at an additional cost.

The size of the trading area for traders outside town centres will be decided on an individual basis at the discretion of the licensing officer and licensing manager. 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**.

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

- A completed and signed Street Trading Application Form
- A non-refundable deposit of 10% of the full fee
- 3 copies 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 owner of the land if you wish to trade on land which is not part of the public highway, for example a privately owned industrial estate.
- 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 must complete a separate Application to Register a Food Business Establishment Form at least 28 days before you apply for a street trading consent.**
- You will also need to have completed a Subject Access Check form and submitted it to Wiltshire Police. The Subject Access Check will be used to check whether you have any relevant unspent convictions that need to be taken into account when your application is considered. **It will take at least 40 days for your Subject Access Check to be processed. Wiltshire Council will not issue a Street Trading Consent until a Subject Access Check has been processed.** The Subject Access Check form is available from and should be submitted to Subject Access, Data Protection Office, Wiltshire Constabulary, Wood Lane, Chippenham, Wiltshire, SN15 3DH. The form is also available online at www.wiltshire.police.uk.

Applications should be made online or at your local Wiltshire Council office between the hours of 10 am to 12 noon and 2 pm to 4 pm. For details of your local Wiltshire Council office please see the Licensing Section of the Wiltshire Council website: www.wiltshire.gov.uk.

First time applications for Annual and Daily Street Trading Consents will only be considered **four times a year** will take a **minimum of 90 days** to be determined.

Please note that the deadlines for street trading applications to be considered are:

- 1 March

- 1 June
- 1 September
- 1 December

For more information or advice on how to apply for a Street Trading Consent please contact the Wiltshire Council Licensing Team.

Consultation on applications

Licensing officers will carry out a consultation process with all interested persons and groups before a street trading application is considered.

This will usually include:

- The appropriate Town or Parish Council
- Wiltshire Council Environmental Protection Team
- Wiltshire Council Food and Health and Safety Team
- Wiltshire Council Planning Department
- Wiltshire Council Highways Team
- Wiltshire Council Trading Standards
- Wiltshire Police
- Wiltshire Fire and Rescue Service
- Ward Councillors
- The relevant Area Board Chairperson (a local Councillor) and Community Area Manager
- Members of the public living within 100 metres of the proposed street trading location. This consultation will be carried out by the council putting up a notice at the proposed street trading site and publishing details of the street trading application on the Wiltshire Council website at....
- The land owner of the proposed street trading site if it is on private land
- The local Chamber of Trade/ Commerce
- Local businesses

Written observations and recommendations based on the street trading criteria and purpose of the street trading policy will be sought from the above bodies and taken into consideration when licensing officers determine applications.

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

Inspection of the street trading unit

If you wish to sell food, your street trading unit will be inspected by an authorised council officer prior to the issue of any Street Trading Consent. The street trading unit must comply in all respects with the legal requirements relating to the proposed type of street trading activity.

In particular the proposed business shall comply with the following legislation:

- Food Hygiene (England) Regulations 2006
- The General Food Regulations 2004
- Regulation 852/2004 on hygiene of foodstuffs
- Food Safety Act 1990
- Health and Safety at Work Act 1974 and any Regulations made under this Act
- Environmental Protection Act 1990.

For advice on any of the above requirements please contact the Wiltshire Council Food Safety Team.

Criteria for determining applications

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 also 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.** 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.

Objections

The consultees listed will be asked to respond with any written objections **within 60 days**.

Licensing 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 licensing officers acting on delegated authority.

Licensing 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 licensing officer will recommend **approval** of the application if the application:

- 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 licensing officer may contact the applicant and objectors to attempt to resolve the potential reasons for refusal. If appropriate, this may include a consultation meeting arranged by the community area manager between the area board chairperson (a local councillor), members of the public and the licensing officer.

The licensing 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.

The applicant will receive written confirmation of the outcome of this process within **30 working days**.

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

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

The licensing officer's recommendations will be sent to the licensing manager. If the licensing manager does not agree with the licensing officer's decision the licensing officer will be asked to assess the application again.

Approval of applications

The applicant will be advised that they **need to accept the offer of a Street Trading Consent and make a full payment within 28 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 deposit.

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 deposit is non-refundable and will not be refunded to the applicant if their application is refused.

A waiting list will be kept in cases where an application has been refused because of the need to prevent:

- more than one trader selling the same items in the same area at the same time
- unfair competition with traders in fixed premises.

Applicants who feel aggrieved by the decision of the licensing officer 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 in any circumstances.

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

Before 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.

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 which must be upheld at all times**. A copy of the Standard Conditions is available at **Appendix 1** to these guidelines.

Licensing officers may attach additional conditions to the Standard Conditions. These additional conditions form part of the Street Trading Consent and must be upheld at all times. 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.

The 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 Consent Holder must be at the trading area for the majority of the time on each trading day.

The Consent Holder will be issued with a Street Trading Consent Plate and a Street Trader Identity Badge. The Street Trader Identity Badge must worn by the Consent

Holder at all times. The Street Trading Consent Plate must be displayed at all times and must be clearly visible to customers.

Note that 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.

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.

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 following formula:

Number of days remaining multiplied by the daily fee **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 licensing officers.

The applicant can appeal to the Licensing Sub-Committee where a licensing 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 licensing officer's decision the Sub-Committee will consider presentations from the applicant and the licensing officer. Both the applicant and the licensing 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 licensing officer.

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 licensing 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 licensing 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.

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 legislation in relation to offences is 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 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.’

Renewals

Street Trading Consents will be renewed automatically unless:

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

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

If a renewal offer is not accepted or payment has not been made within 28 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.

Additional requirements for street trading activity

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 Acts, the Food Safety Act 1990, the Town and County Planning Acts, the Control of Pollution Act 1974, the Environmental Protection Act 1990 and 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 any other general or local registration.

Planning permission

The issue of any Street Trading Consent in relation to a particular street trading pitch does **not** constitute the grant of any permission required under the Town and County Planning Act 1990 or any other legislation for the use of the land for that purpose, including any permission required for the display of advertisements.

Consent Holders should obtain prior planning permission if the use of the land for street trading amounts to a material change of use, before commencing trading.

Please contact your local Planning Office and seek advice on whether an application for planning permission needs to be made for the proposed use of the land.

A Street Trading Consent will only be issued if the council is satisfied that planning permission is not required. In the event that subsequent to the issue of a Street Trading Consent it transpires that the activities require planning permission and/or advertisement consent, the council reserves the right to remove the Street Trading Consent without any right to compensation.

Licensing Act 2003

The Licensing Act 2003 requires all persons selling hot food between the hours of 11pm and 5 am to hold a Premises Licence. **This requirement is in addition to the requirement to hold a Street Trading Consent.**

You will need to complete a separate application for a Premises Licence under the Licensing Act 2003. For further advice and information please contact your local Wiltshire Council Licensing Team. Please see the front of this guidance for contact details.

Food trader registration

Food traders **must register their food business with the council** or provide proof of their registration with another local authority within a minimum of 28 days prior to commencing trade. Traders should notify the council **in writing** of any change of address at which the stall and perishable goods are stored within 7 days of the change.

This is in addition to the requirement for a Street Trading Consent. A Street Trading Consent cannot be granted to a food trader unless their business is registered with the council or another local authority.

Consumer Protection

A Street Trading Consent does not exempt the Consent Holder, or any person employed to work on the stall, from the requirement to comply with consumer protection legislation and, where relevant, the requirements of the Companies Act 2006.

Traders that mislead customers or sell faulty or unsafe goods will have their Street Trading Consent revoked or not renewed by the council.

Access by council and police officers

Consent Holders should allow access to authorised council officers and police officers at all reasonable times.

Council Officers will carry with them and produce on request official identity cards issued by Wiltshire Council. If you have any doubts about a person claiming to be from Wiltshire Council ask to see their official identity card.

Appendices

Appendix 1: Standard conditions for all Consent Holders

Appendix 2: Street trading fees

Appendix 3: Maps of prohibited streets

Appendix 1: Standard conditions for all Consent Holders

General conditions for all traders

1. The Street Trading Consent Plate shall be displayed at all times and must be clearly visible to customers. The Consent Holder shall wear the Street Trader Identity Badge during all trading hours.
2. 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.
3. Consent Holders shall not trade outside of the designated trading area.
4. The trading area must be located:
 - In the general area specified in the street trading consent
 - At least 3 metres in front of 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.
 - At a place which does not obstruct access to any other premises by vehicles or pedestrians
 - At any exact location specified by a licensing officer of the Licensing Authority.
5. The siting of the street trading vehicle or stall shall not impede the access of emergency vehicles.
6. Trading may only take place when the Consent Holder is at the trading area for the majority of the time on each trading day.
7. The Consent Holder must have written permission from the owner of the land to trade on private land that is not part of the public highway.
8. The Consent Holder shall not do anything that is likely to cause danger, nuisance, annoyance, damage or inconvenience to the council, adjacent/ neighbouring premises or members of the public.
9. The Consent Holder shall pay all Street Trading Consent fees in advance.
10. 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.

11. 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.
12. **A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent. A Street Trading Consent may be surrendered to the council at any time.**
13. 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.
14. **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, 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.**
15. **The Council may revoke a Street Trading Consent at any time and shall not be liable to pay compensation to the holder in respect of such revocation.**
16. No live or recorded music must be played at any time
17. Activities shall be conducted so as not to cause nuisance to members of the public, road users and occupiers of premises relating to noise, smoke, fume or odour.
18. A rubbish bin must be provided in the Trading Area where goods are sold that are for immediate use or consumption.
19. 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. Waste must not be placed in litter bins provided for public use.
20. The use of generators is not permitted, unless permission is specifically granted and included in the street trading consent.

21. The Consent Holder should make provisions to prevent any discharge of water or effluent from the street trading activity to any surface drainage or other watercourse.

22. Mobile Units may sound chimes but **not**:

- For longer than 4 seconds at a time
- More often than once every 3 minutes
- When the vehicle is stationary
- When the vehicle is moving, except on approach to a selling point
- When in sight of another vehicle which is trading
- When within 50 metres of schools (during school hours), hospitals and places of worship (on Sundays and other recognised days of worship)
- More often than once every 2 hours in the same length of street
- With the volume too loud, i.e. not more than 80 dB(A) at a distance of 7.5 metres.

Please Contact the Wiltshire Council Environmental Protection Team for advice.

23. The Consent Holder shall ensure that they do not sound chimes before 12 noon and after 7 pm or at any time in any way which gives reasonable cause of annoyance.

24. Consent Holders and their employees must not trade under the influence of any illegal or intoxicating substance. Any traders found with illegal substances on their pitch will have their Street Trading Consent revoked.

25. Fabrics and other sheet materials used in the construction of temporary stalls shall be suitably flame retardant.

26. Suitable fire fighting equipment should be provided dependant upon the activity type. The equipment must conform to the relevant British Standards.

27. Liquefied Petroleum Gas installations if permanent should be subject to an annual examination by a suitably competent Gas Safe engineer and a certificate provided. Temporary installations should be checked by a competent Gas Safe engineer and if possible be fitted with Flame Failure devices. All pipe work should conform to BS 3212.

28. Electrical power supplied must be protected by residual current devices and suitable cables and connections used.

29. Counterfeit goods or goods that the seller does not have the consent of the owner to sell are prohibited from sale.
30. All goods should be clearly priced and goods sold by weight and number should indicate the unit of quantity in which they are being offered for sale.
31. A street trader offering a service should make the nature and cost of that service clear.
- 32. Traders that mislead customers or sell faulty or unsafe goods will have their Street Trading Consent revoked or not renewed by the council.**
33. The issue of any street trading consent in relation to a particular street trading pitch does **not** constitute the grant of any permission required under the Town and County Planning Act 1990 or any other legislation for the use of the land for that purpose, including any permission required for the display of advertisements.
- 34. Consent Holders should obtain prior planning permission if the use of the land for street trading amounts to a material change of use, before commencing trading.** Please contact your local planning office and seek advice on whether an application for planning permission needs to be made for the proposed use of the la
35. A Street Trading Consent will only be issued if the council is satisfied that planning permission is not required. In the event that subsequent to the issue of a Street Trading Consent it transpires that the activities require planning permission and/or advertisement consent, the council reserves the right to remove the Street Trading Consent without any right to compensation. For advice please contact the Wiltshire Council Planning Department.
36. Traders who sell hot food between the hours of 11 pm and 5 am shall also hold a Premises Licence. This is in addition to the requirement to hold a Street Trading Consent. For advice please contact the Wiltshire Council Licensing Team.
37. The Consent Holder shall not obstruct the street or cause danger to any persons using the street.
38. A clear pedestrian route of at least 2 metres should be maintained along the highway, adjacent to the building line.
39. A minimum distance of 2 metres width should be kept between the edge of the trafficked route and the street trading unit boundary.

40. 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.
41. The street trading activity shall not obstruct any street furniture, signs or lighting.
42. Any associated vehicle must be parked properly and in accordance with any parking restrictions.
43. Advertisements or other notices must not be placed outside of the trading area.
44. Consent Holders must provide suitable and sufficient sanitary accommodation for their customers. This accommodation must be approved by an authorised Council Officer.
45. The street trading activity shall not restrict any legitimate delivery or servicing operations that take place within the highway.
46. The street trading activity shall not impede any existing driver or pedestrian sight lines.
47. 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. The council will endeavour to give reasonable notice and **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.**

Food traders

48. Food traders are required to register their food business with the Council within a minimum of 28 days prior to commencing trade. This is **in addition to the requirement for a Street Trading Consent. A Street Trading Consent cannot be granted to a food trader unless their business is registered with the council.** Traders shall notify the council in writing of any change of address at which the stall and perishable goods are stored within 7 days of the change.
49. Consent Holders and their employees should have access to suitable and sufficient sanitary accommodation at all trading times.
50. Traders selling food products must comply with current Food Safety legislation. This includes:
 - Food Hygiene (England) Regulations 2006

- The General Food Regulations 2004
 - Regulation 852/2004 on hygiene of foodstuffs
 - Food Safety Act 1990
 - Health and Safety at Work Act 1974 and any Regulations made under this Act
 - Environmental Protection Act 1990.
51. Traders should have regard to the best practice guidelines set out in the Chartered Institute of Environmental Health National Guidance on Outdoor & Mobile Catering.
 52. The trading unit shall be sited, designed, constructed and kept clean and in good repair and condition so as to avoid the risk of contamination, particularly by animals and pests.
 53. An adequate supply of hot and/or cold potable water shall be available at all times
 54. Adequate facilities for hand washing and the washing of food and equipment must be provided in accordance with the legislation and best practice guidance.
 55. Adequate facilities for the hygienic temporary storage of waste water must be provided where a permanent connection to the foul drainage system is not available.
 56. The Consent Holder shall provide adequate facilities and arrangements for maintaining and monitoring statutory food temperature controls
 57. Surfaces in contact with food shall be in a sound condition and be easy to clean and disinfect. This usually requires the use of smooth, washable, corrosion-resistant and non-toxic materials.
 58. Foodstuffs shall be placed so as to avoid the risk of contamination as far as is reasonably practicable.
 59. Vans and stalls used for cooking must be adequately ventilated.
 60. As a minimum all staff must have attended Level 2 Food Hygiene Training within the past 5 years. Evidence of food hygiene training must be available for examination by an authorised Council Officer at any time when the unit is trading.
 61. The Consent Holder must have a suitable HACCP based food safety management system and supporting documentation must be available for inspection at the traders pitch at all times.

62. The Consent Holder shall keep his trading position and the immediate adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
63. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
64. Litter and Trade Waste arising from the activities of the Consent Holder shall be removed from the site on a daily basis and disposed of in an approved manner.

Town Centre traders

65. In town centres all activities of storage and display and any temporary structure such as a stall or tables or chairs, must be contained within an area not exceeding 4 metres by 3 metres. The size of the trading area may be reduced depending on the location. Where appropriate, street traders can apply for double (or greater) pitch sizes with a pro-rata increase in fees

Appendix 2: Street trading fees

Town centre 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- Sunday to Friday , including bank holidays where these fall on the days included in the consent.	£ 20 per day
Daily Street Trading Consent- Saturday.	£ 40 per day
Block Street Trading Consent- events for private gain	£ 40 per day
Block Street Trading Consent- events where the proceeds will not be used for private gain or will go to a registered charity	No charge

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- including bank holidays where these fall on the days included in the consent.	£ 10 per day
Block Street Trading Consent- events where the proceeds will be used for private gain	£ 40 per day
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.	No charge

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

- Online at www.wiltshire.gov.uk
- By telephone
- In person to the Licensing Team at your local Wiltshire Council office

Appendix 3: Maps of prohibited streets

Street Trading Consultation Area Board Locations



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Where everybody matters

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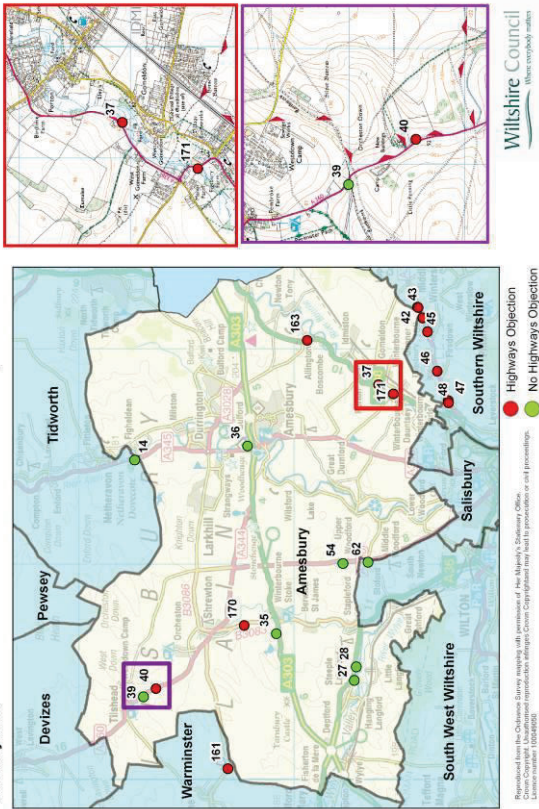
A4 copies of all the maps of prohibited streets are available online at <http://consult.wiltshire.gov.uk> .Printed A4 copies are available on request from the Wiltshire Council licensing team.

To request a printed copy please contact Alissa Davies on 01249 706414, email Alissa.davies@wiltshire.gov.uk or write to:

Licensing Team,
Wiltshire Council,
Monkton Park,
Chippenham,
Wiltshire,
SN15 1ER.

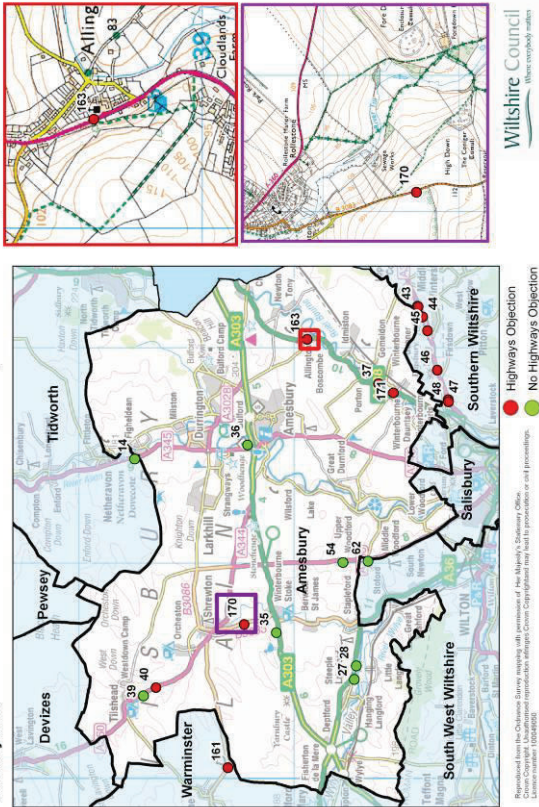
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January 2011

Amesbury Area Board



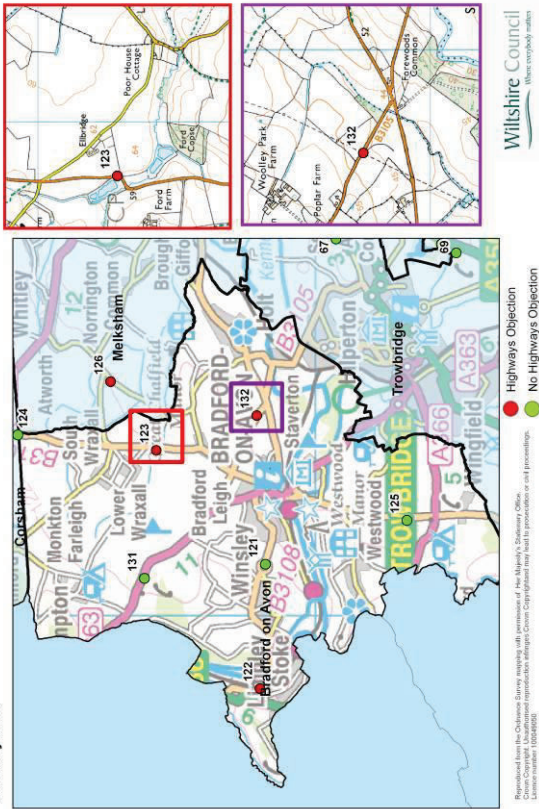
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January 2011

Amesbury Area Board (area 2)



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Bradford on Avon



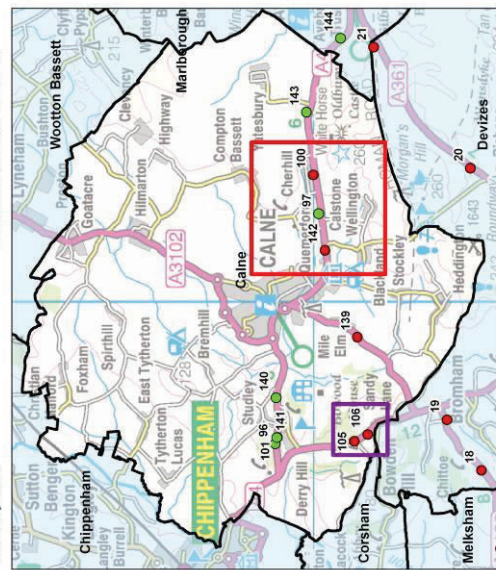
Street Trading Consultation
January 2011

Bradford on Avon (area 2)



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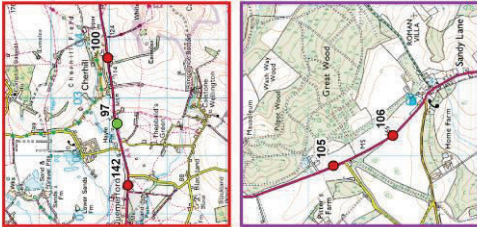
Calne Area Board



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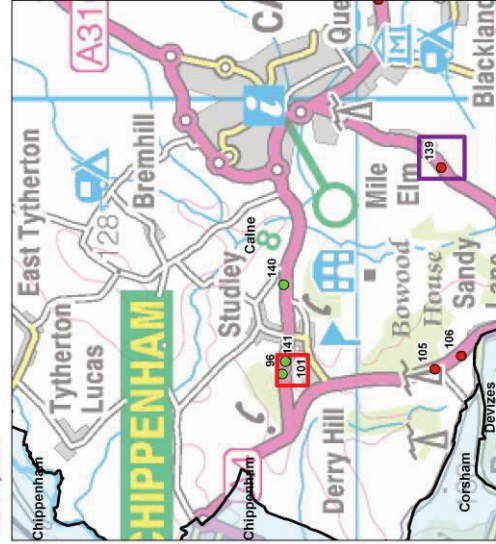
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Calne Area Board (area 2)



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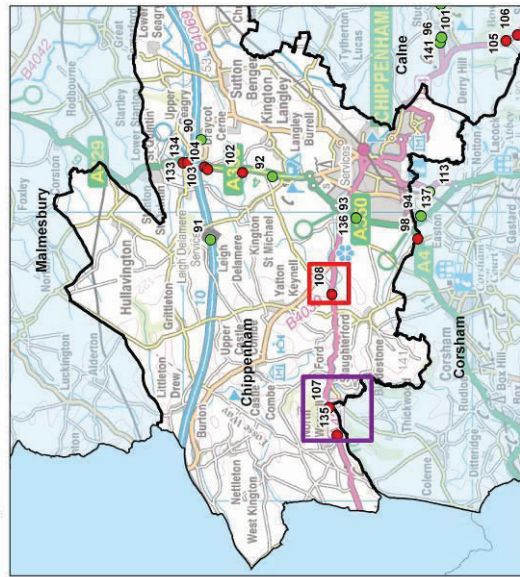
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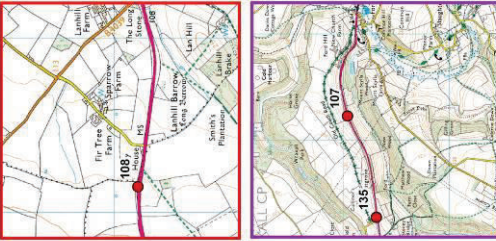
Chippenham Area Board



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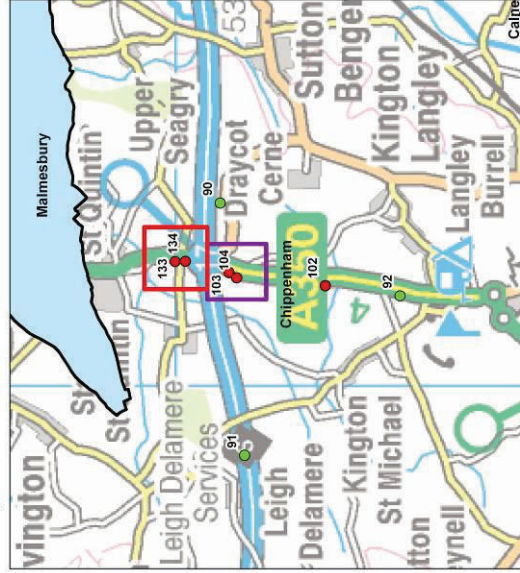
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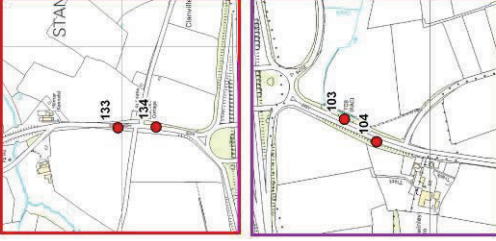
Chippenham Area Board (area 2)



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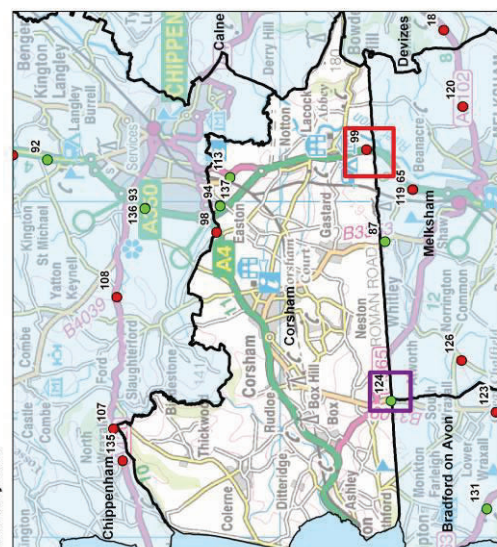
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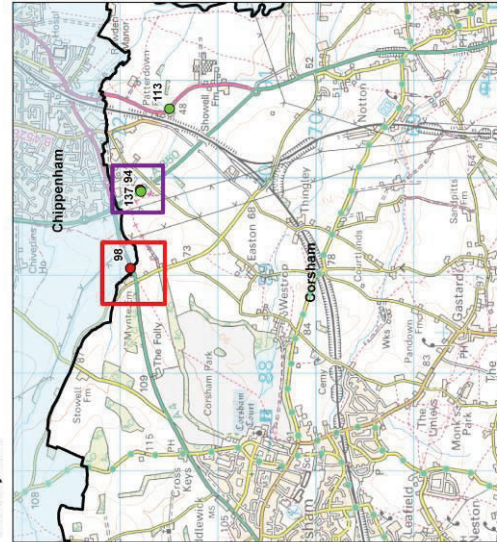
Corsham Area Board



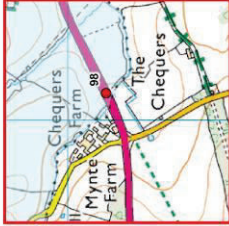
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When roadwork starts

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Corsham Area Board (area 2)



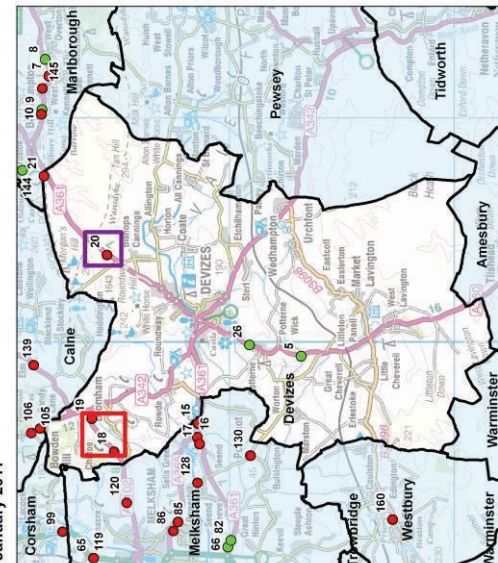
Wilshire Council
When roadwork starts



Wilshire Council
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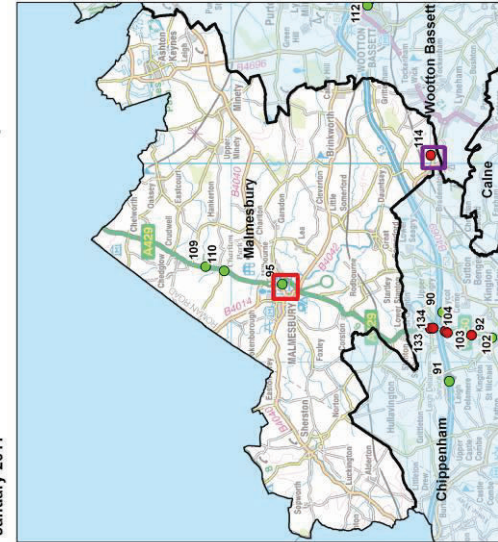
Devises Area Board



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Malmesbury Area Board



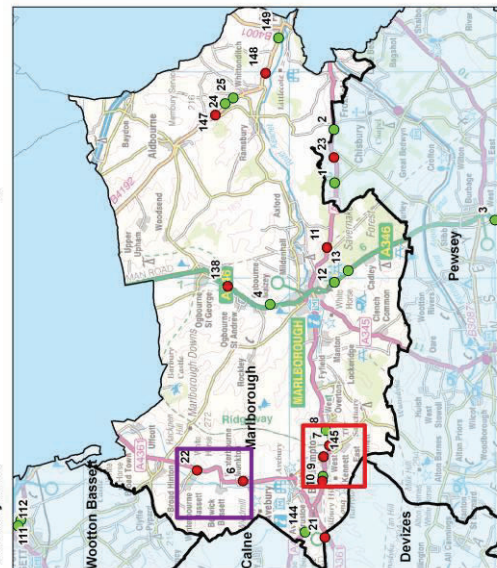
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When roadwork starts



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Marlborough Area Board



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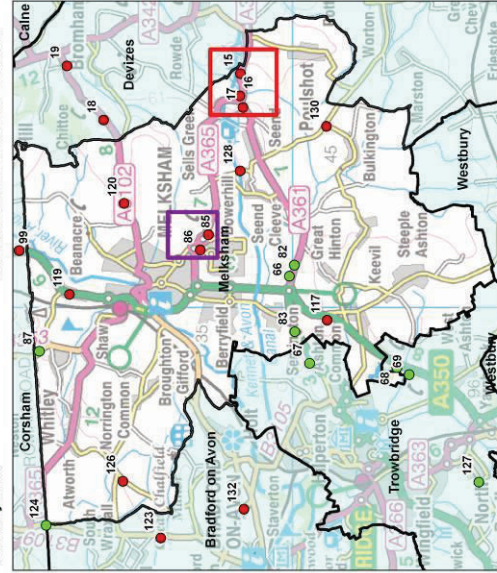
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Melksham Area Board



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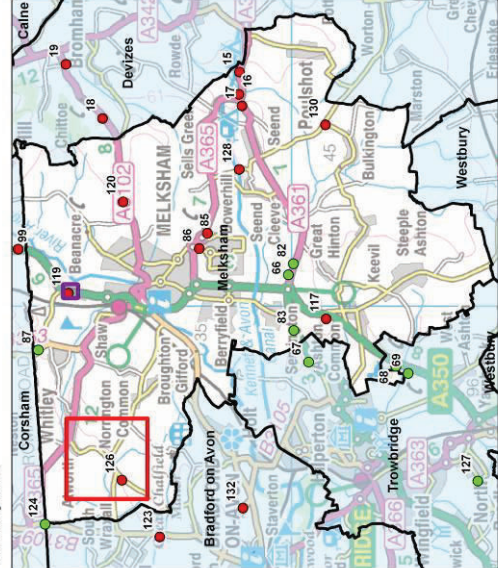
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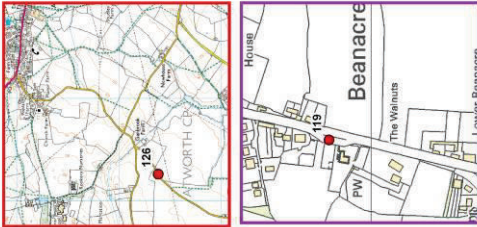
Melksham Area Board (area 2)



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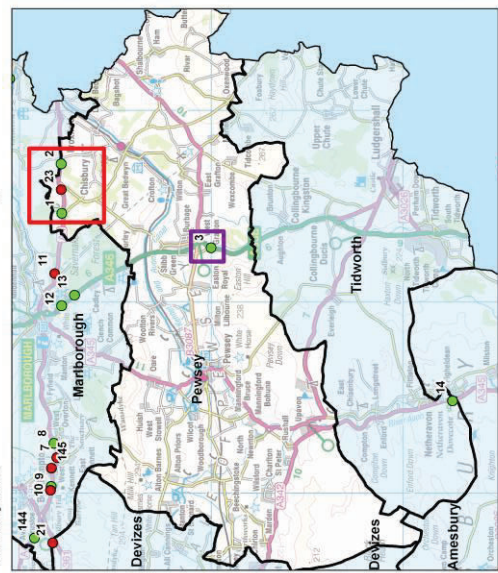
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Pewsey Area Board



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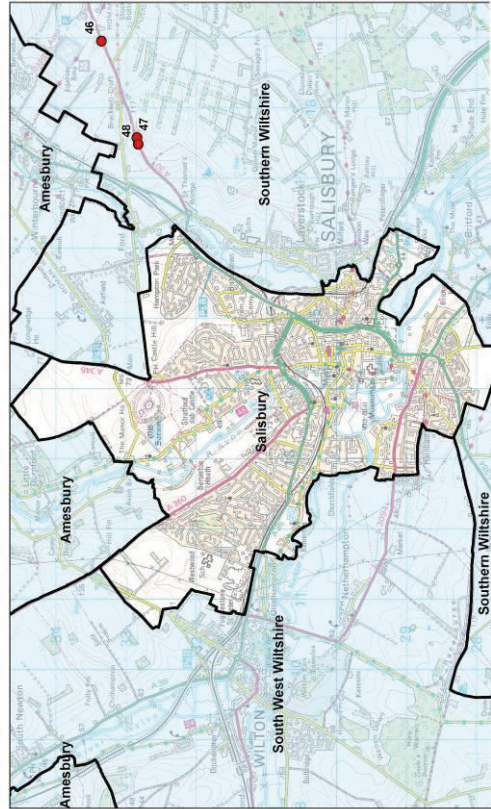
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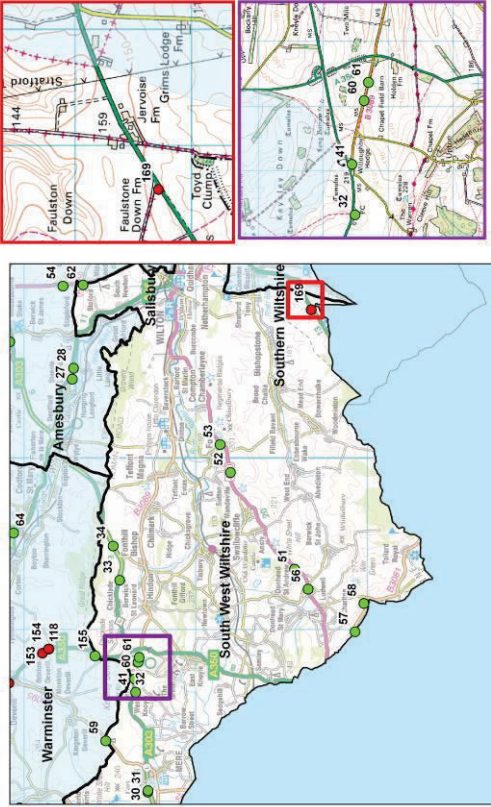
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Salisbury Area Board



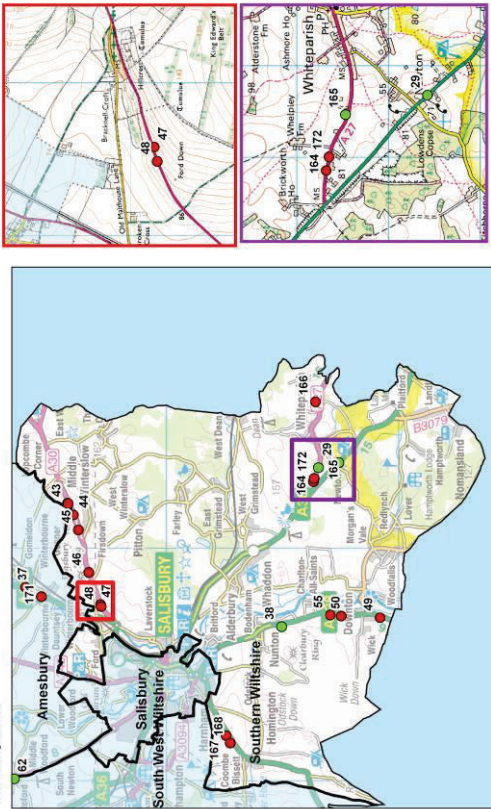
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South West Wiltshire Area Board



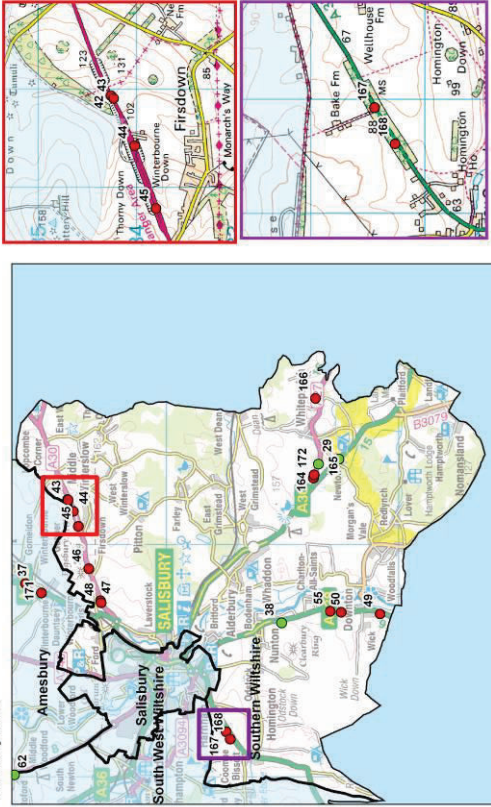
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Southern Wiltshire Area Board



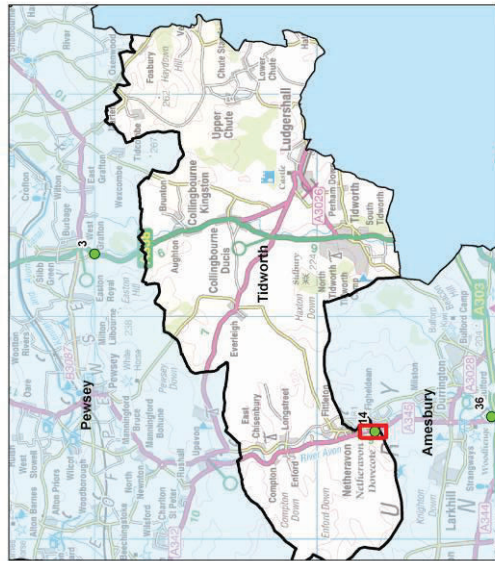
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Southern Wiltshire Area Board (area 2)



Street Trading Consultation
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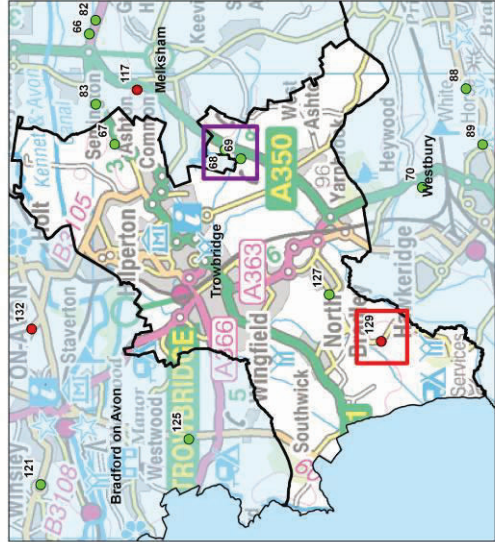
Tidworth Area Board



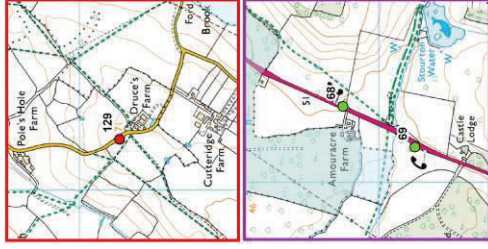
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Street Trading Consultation
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Trowbridge Area Board



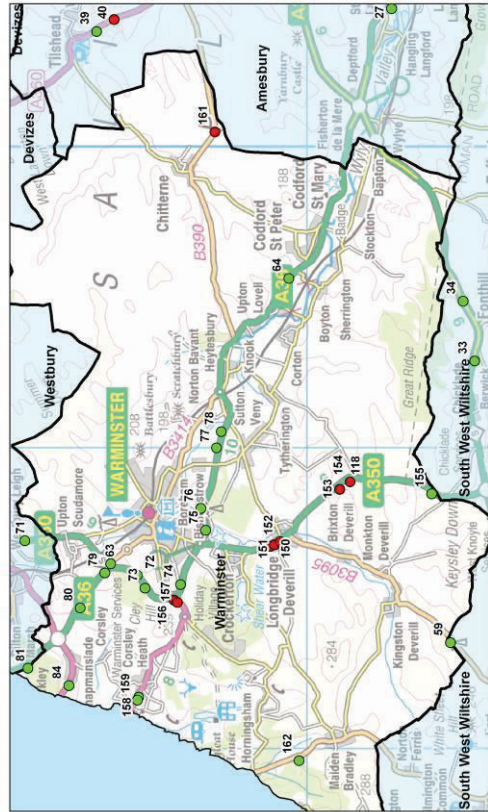
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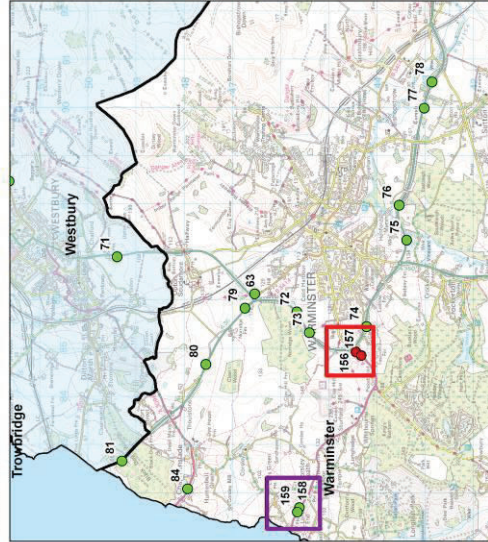
Warminster Area Board



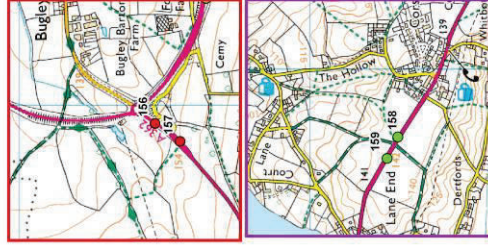
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Street Trading Consultation
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Warminster Area Board (area 2)



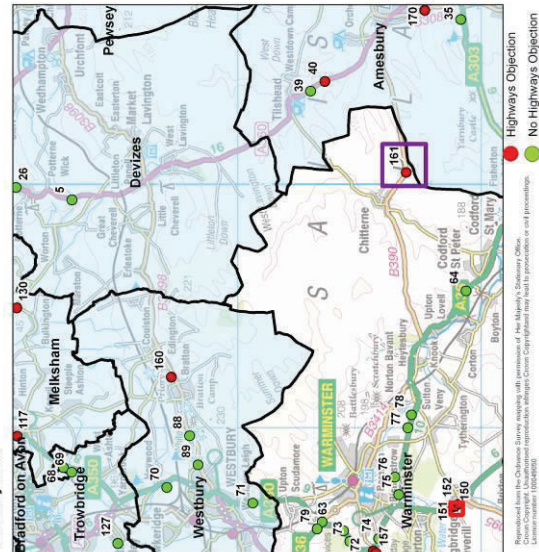
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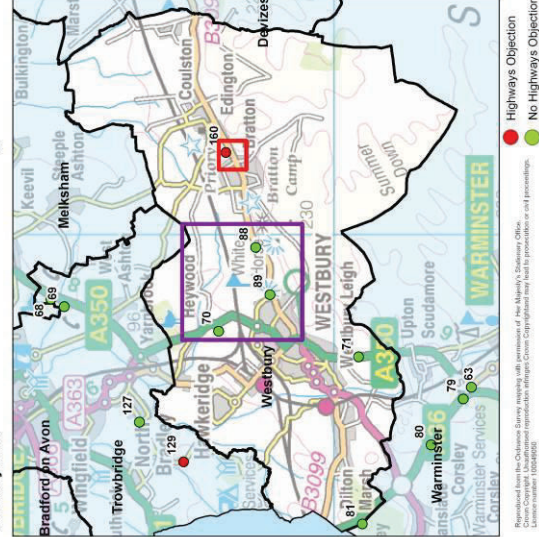
Street Trading Consultation
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Warminster Area Board (area 3)



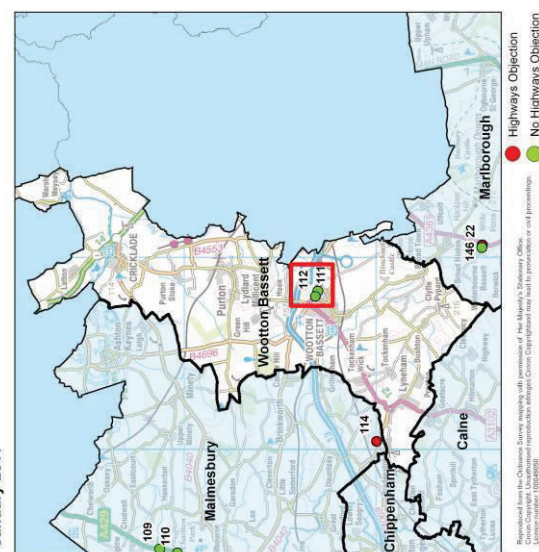
Street Trading Consultation
January 2011

Westbury Area Board



Street Trading Consultation
January 2011

Wootton Bassett Area Board



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Consultation on a proposed new council-wide street trading scheme

The purpose of this consultation is to seek the views of street traders, interested parties and the general public regarding the introduction of a single council-wide street trading scheme, which will cover all streets in the Wiltshire Council area.

It is proposed that all streets in the Wiltshire Council area are designated as consent streets, except for a small number of highway lay-bys which will be designated as prohibited streets, where street trading is illegal.

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.

Before we proceed, please provide us with your details- all will be treated in confidence and stored securely in accordance with the Market Research Society's code of conduct. We need these details in order to compare responses. Please note we cannot accept anonymous responses.

X **Are you:**

- A street trader
- A local business
- A Town or Parish council
- A member of the public
- A registered charity
- A chamber of commerce
- A representative of another organisation

Please give details...

Section 1- A single council-wide street trading scheme

The council would like to introduce a single council-wide street trading scheme.

A new scheme needs to be introduced to ensure that:

- 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 and protect legal street traders and local businesses.

1. Do you agree that the council should introduce a new street trading scheme to cover the whole of the Wiltshire Council area?

- Yes
 No

Section 2- Prohibited lay-bys where street trading is not allowed

As part of the new street trading scheme a number of lay-bys will be designated as prohibited streets where street trading is not allowed.

Maps of the proposed prohibited lay-bys by area are available to download as a PDF file from <http://consult.wiltshire.gov.uk/>

For a printed copy of the maps please contact the Wiltshire Council Licensing Team on 01249 706414.

2. If you would like to suggest any additional lay-bys that should be prohibited for safety reasons please do so here. To allow us to locate the lay-by accurately give the lay-by number from the map at <http://consult.wiltshire.gov.uk/>, or describe the location as accurately as possible.

Lay-by number/ location
description

Why the lay-by should be
prohibited

Section 3- Exemptions and Block Street Trading Consents

The council can choose to exempt certain types of street trading activity from the need to obtain a Street Trading Consent.

In the new scheme the council proposes to exempt:

- Markets run by Wiltshire Council
- Trading which is part of a travelling fair, where permission has already been granted to trade on Wiltshire Council land
- Motorised ice-cream vans that move from street to street and do not stop in one place for more than fifteen minutes.

3. Which street trading activities should be exempt from the need to purchase a Street Trading Consent? Please tick all that apply

- Markets run by Wiltshire Council
- Markets run by Town and Parish councils
- Farmers Markets
- Continental Markets, for example French and Italian markets
- Seasonal Markets, for example a Christmas market
- Motorised ice-cream vans that move from street to street that do not stop in one place for more than fifteen minutes
- Events where all proceeds will go to a registered charity or not-for-profit organisation
- Fetes, carnivals and community events, for example Christmas lights switch on or a person selling cakes at a street party
- Non-commercial car-boot sales
- Sale of articles by householders on land next to their property
- Offices and business premises that display goods outside their premises
- Stalls that are part of a travelling fair
- Mobile street artists and musicians
- Cars for sale on the street
- Trading on Town or Parish Council land, including trading from kiosks in public parks

A Block Street Trading Consent covers all traders in the event and the event organiser is responsible for payment of the street trading fee and the activities of all individual street traders.

4. Which of the following street trading events should be allowed to purchase a Block Street Trading Consent? Please tick all that apply

- Car boot sales
- Fetes, carnivals and similar Town and Parish supported events
- Street trading events on Town or Parish Council land
- Markets run by commercial organisations
- Markets run by registered charities
- Stalls that are part of a travelling fair

5. Should Wiltshire Council charge a fee for Block Street Trading Consents for events where all the proceeds will go to a registered charity and/or will not be used for private gain?

- Yes
- No

Section 4- Street trading fees

The new street trading scheme proposes two different sets of fees for:

- town centre traders

- all other traders

6. Should town centre traders pay higher fees than all other traders, for example lay-by traders or traders on industrial estates?

- Yes
- No

7. How much should a street trader pay to trade for a day?

- £10-30
- £30-60
- £60-90
- Other

Please specify in £

The council proposes to charge town centre traders:

- £2800 a year for an Annual Street Trading Consent
- £20 a day for a Daily Street Trading Consent from Sunday to Friday
- £40 a day for a Daily Street Trading Consent on Saturday

8. Do you agree with the proposed street trading fees for town centre traders

- Yes
- No

9. If you answered no, please give your reasons:

The Council proposes to charge all other traders, for example lay-by traders or traders on industrial estates:

- £1400 a year for an Annual Street Trading Consent
- £10 a day on any weekday

10. Do you agree with the proposed street trading fees for all other traders?

- Yes
- No

11. If you answered no, please give your reasons:

Section 5 - Permitted times and days

**12. Are there any times, days or places where street trading should not be permitted?
Please tick all that apply**

- Town and Parish Council land
- Private land
- Lay-bys on busy roads
- Market days
- During the day
- During the evening
- Late at night and early in the morning- 11 pm to 5 am

Section 6- Food traders

13. Should permanently sited food traders have to provide toilets?

- Yes
- No

Section 7- Proposed criteria for assessing street trading applications

The proposed criteria for assessing street trading applications are:

- site safety
- public order
- avoidance of nuisance
- the needs of the area
- compliance with legal requirements
- consultees observations
- permitted trading hours
- the need for planning permission
- suitability of the applicant to hold a consent
- proximity of the proposed street trading site to schools and colleges

14. Do you agree with the proposed criteria for assessing street trading applications?

- Yes
- No

15. If you answered no, please explain your reasons or suggest additional criteria:

Section 8- Markets

16. Should holders of Annual or Daily Street Trading Consents be allowed to trade on market days in the same town as the market that is being held?

- Yes
 No

Section 9- Further Comments

17. If you would like to make any further comments on the proposed harmonised street trading scheme please do so here

18. Please provide your contact details if you would like the council to respond to your comments

Name

Postal address

Postcode

Telephone

Email address

This consultation closes on 17 March 2011. Please note that any responses received after this date will not be taken into consideration by council officers.

Please return this completed form to:

Wiltshire Council Licensing Team
Monkton Park
Chippenham
Wiltshire
SN15 1ER

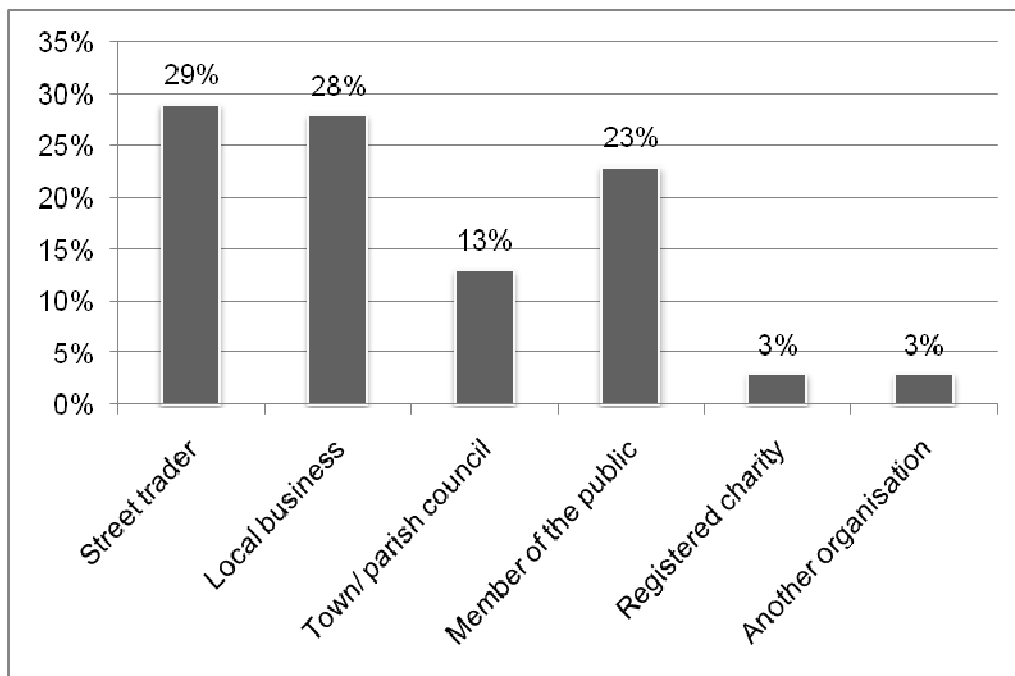
If you would like more information about the proposed new street trading scheme, please contact Alissa Davies at alissa.davies@wiltshire.gov.uk or on 01249 706414.

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Appendix 2: Detailed breakdown of consultation survey responses

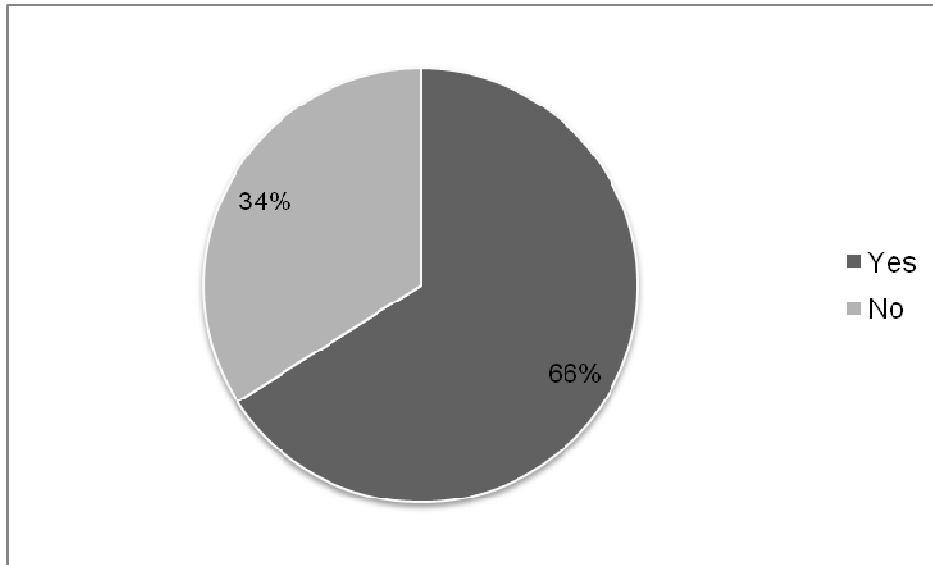
In total there were 91 responses to the consultation survey.

Type of respondent	Percentage
Street trader	29%
Local business	28%
Town/ parish council	13%
Member of the public	23%
Registered charity	3%
Representative of another organisation	3%

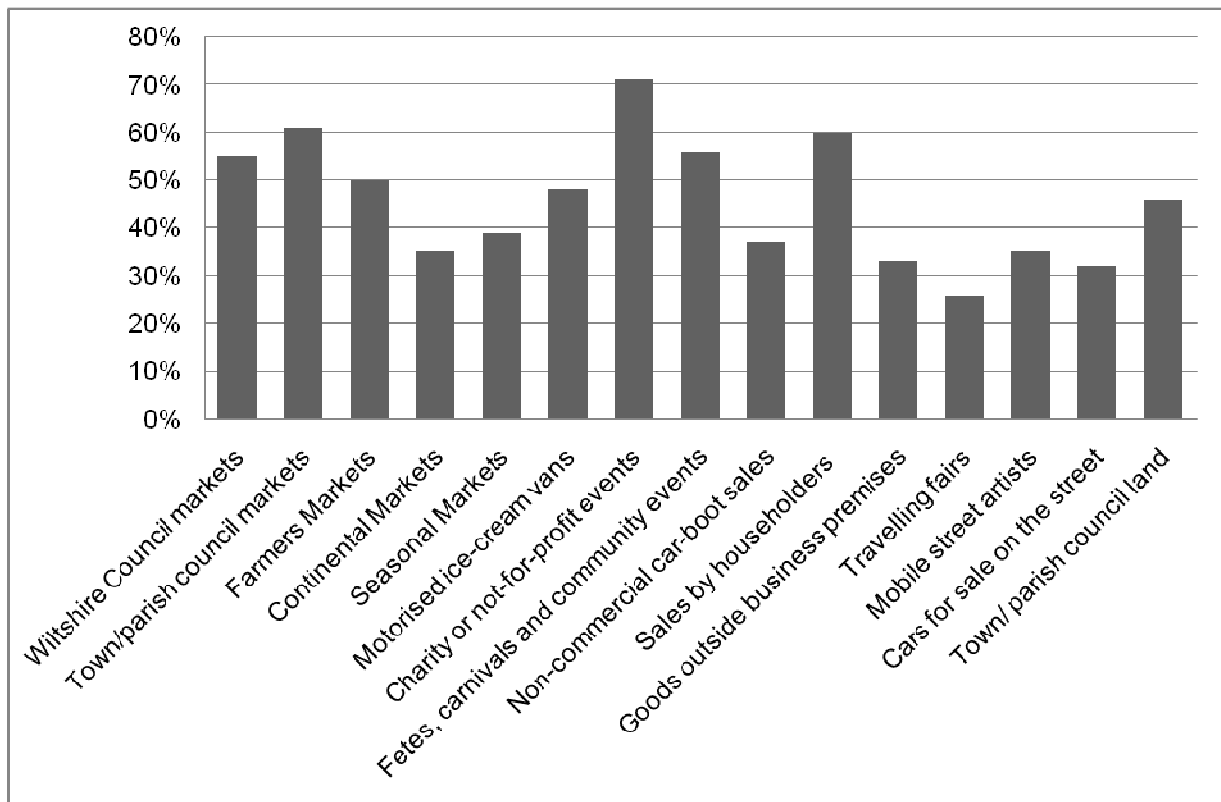


Q1. Do you agree that the council should introduce a new street trading scheme to cover the whole of the Wiltshire Council area?

Yes	66%
No	34%

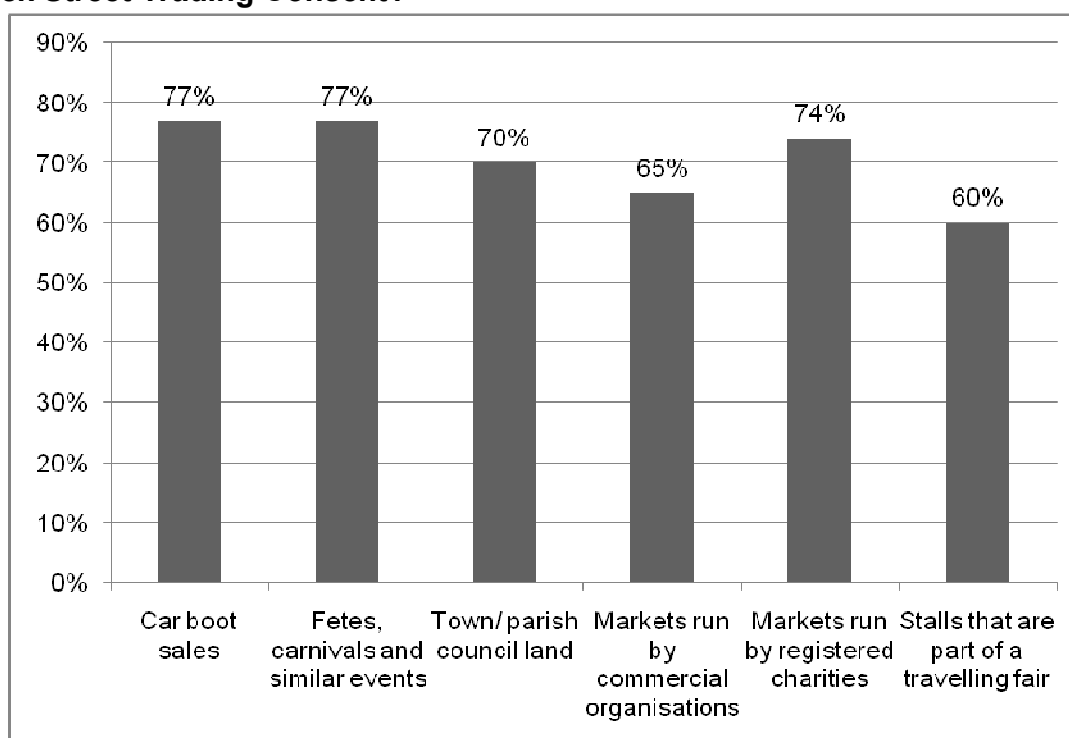


Q3. Which street trading activities should be exempt from the need to purchase a street trading consent? Please tick all that apply.



Markets run by Wiltshire Council	55%
Markets run by town/ parish councils	61%
Farmers Markets	50%
Continental Markets, for example French and Italian markets	35%
Seasonal Markets, for example a Christmas market	39%
Motorised ice-cream vans that move from street to street that do not stop in one place for more than fifteen minutes	48%
Events where all proceeds will go to a registered charity or not-for-profit organisation	71%
Fetes, carnivals and community events, for example Christmas lights switch on or a person selling cakes at a street party	56%
Non-commercial car-boot sales	37%
Sale of articles by householders on land next to their property	60%
Offices and business premises that display goods outside their premises	33%
Stalls that are part of a travelling fair	26%
Mobile street artists and musicians	35%
Cars for sale on the street	32%
Trading on town or parish council land, including trading from kiosks in public parks	46%

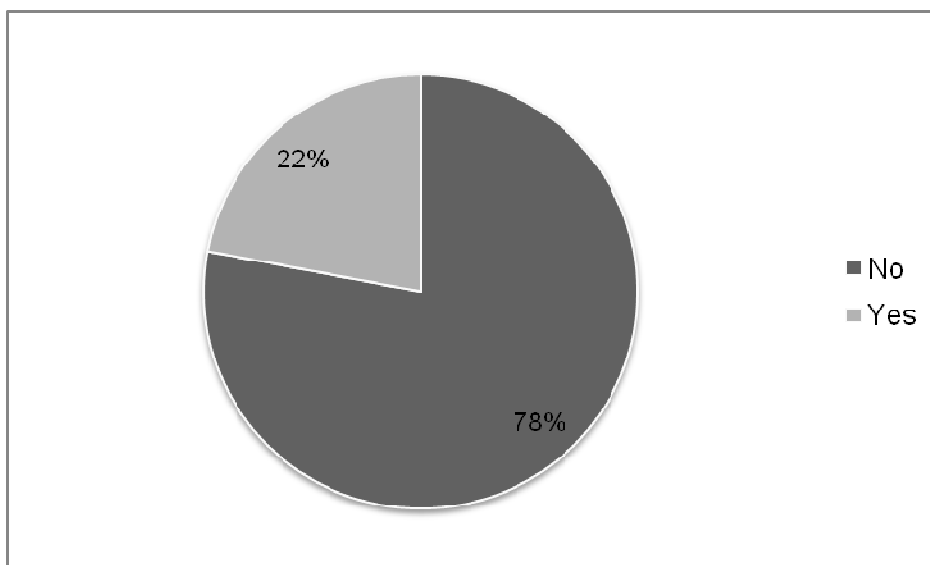
Q4. Which of the following street trading events should be allowed to purchase a Block Street Trading Consent?



Car boot sales	77%
Fetes, carnivals and similar town or parish council land	77%
Street trading events on town or parish council land	70%
Markets run by commercial organisations	65%
Markets run by registered charities	74%
Stalls that are part of a travelling fair	60%

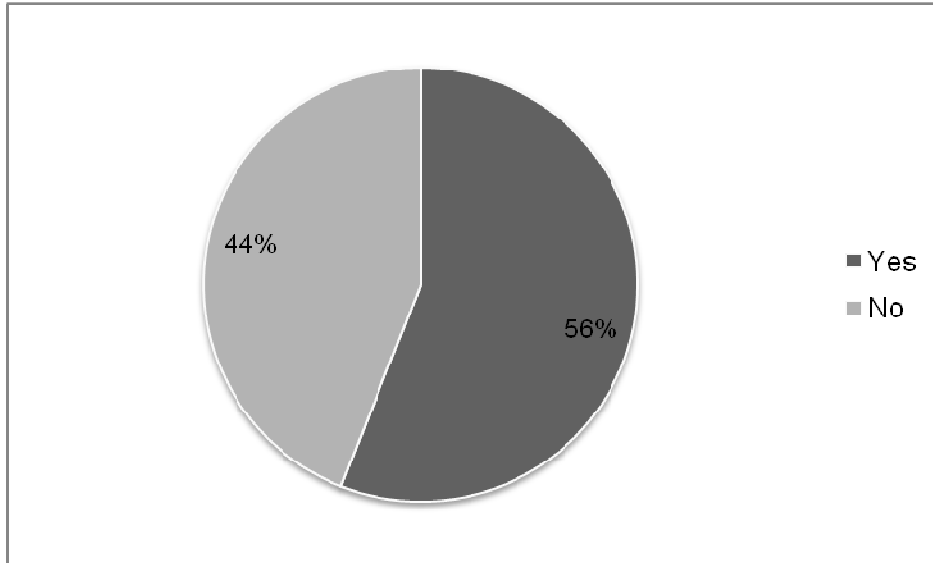
Q5. Should Wiltshire Council charge a fee for Block Street Trading Consents for events where all the proceeds will go to a registered charity and/or will not be used for private gain?

Yes	22%
No	78%

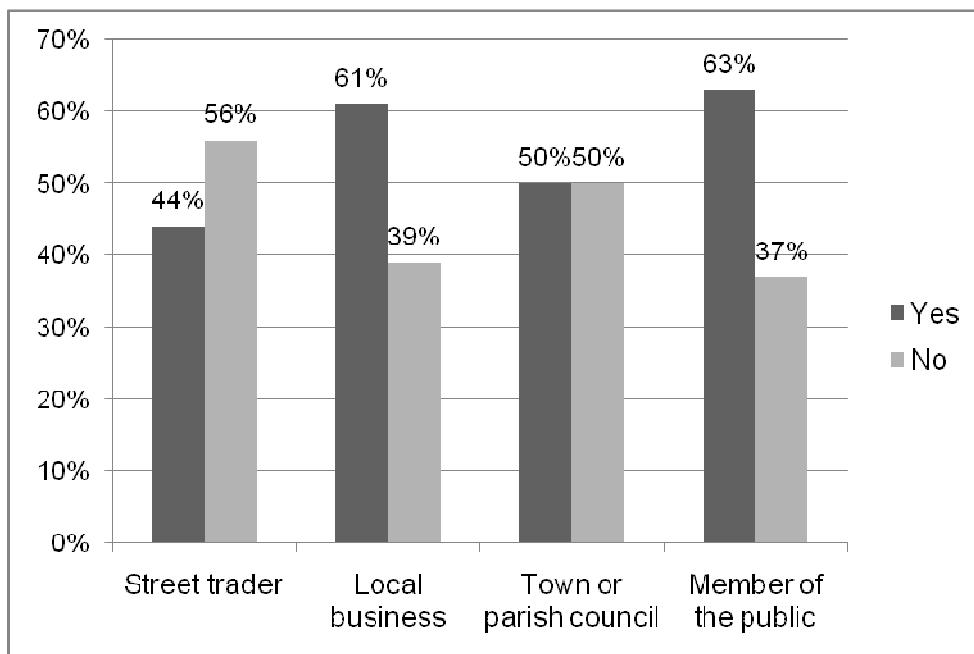


Q6. Should town centre traders pay higher fees than all other traders, for example lay-by traders or traders on industrial estates?

Yes	56%
No	44%



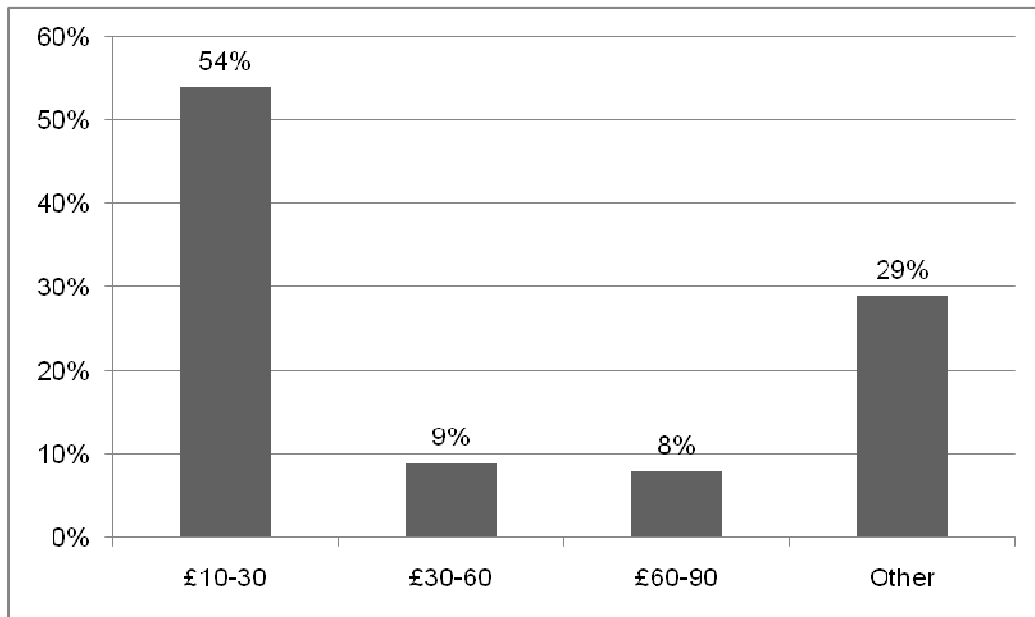
Type of respondent	Yes	No
Street trader	44%	56%
Local business	61%	39%
Town or parish council	50%	50%
Member of the public	63%	37%



Q7. How much should a street trader pay to trade for a day?

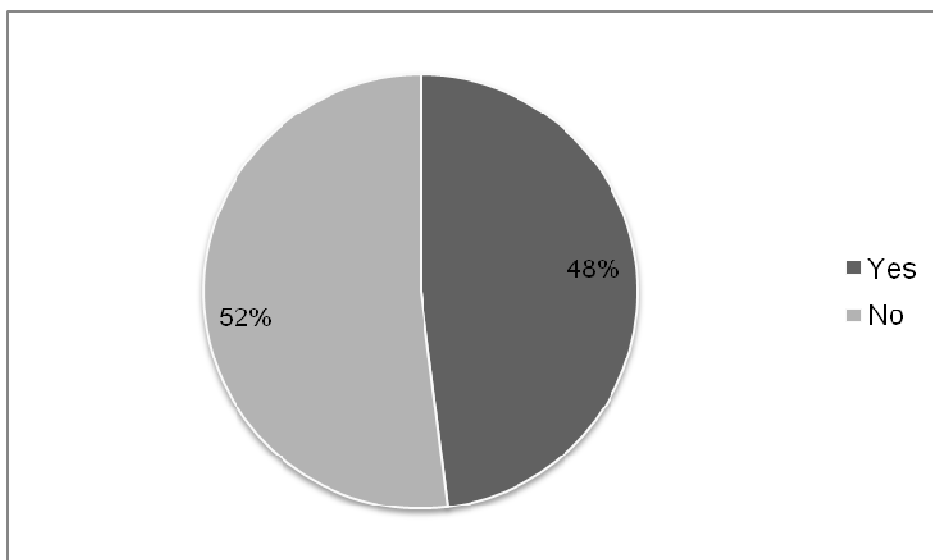
£10-30	54%
£30-60	9%
£60-90	8%
Other	29%

Most respondents that ticked 'other' suggested a fee of between £5 and £10 per day.

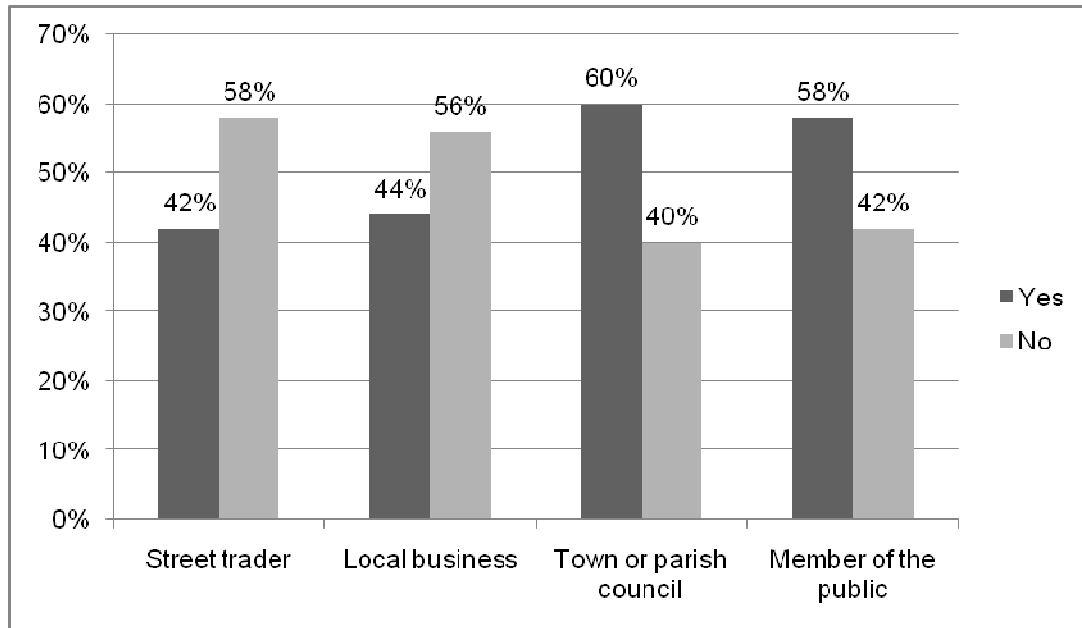


Q8. Do you agree with the proposed street trading fees for town centre traders?

Yes	48%
No	52%

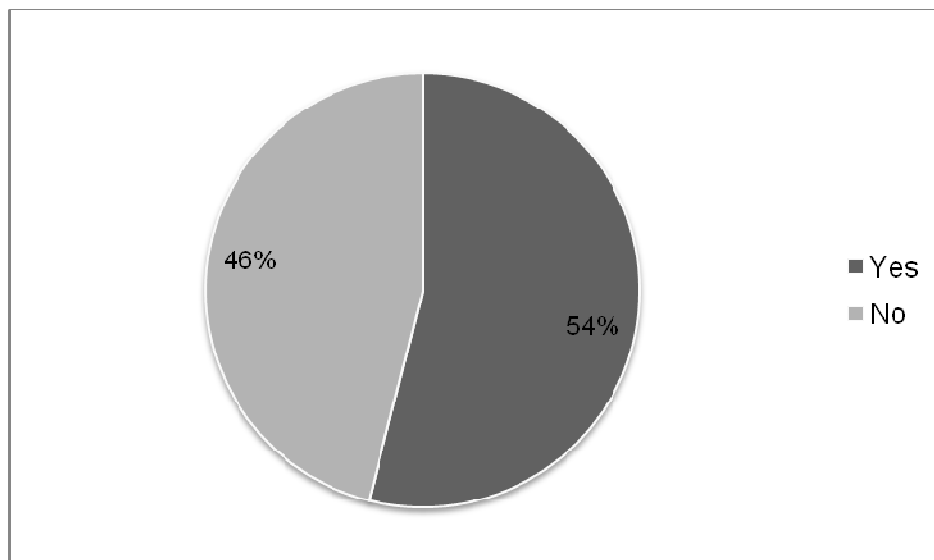


Type of respondent	Yes	No
Street trader	42%	58%
Local business	44%	56%
Town or parish council	60%	40%
Member of the public	58%	42%

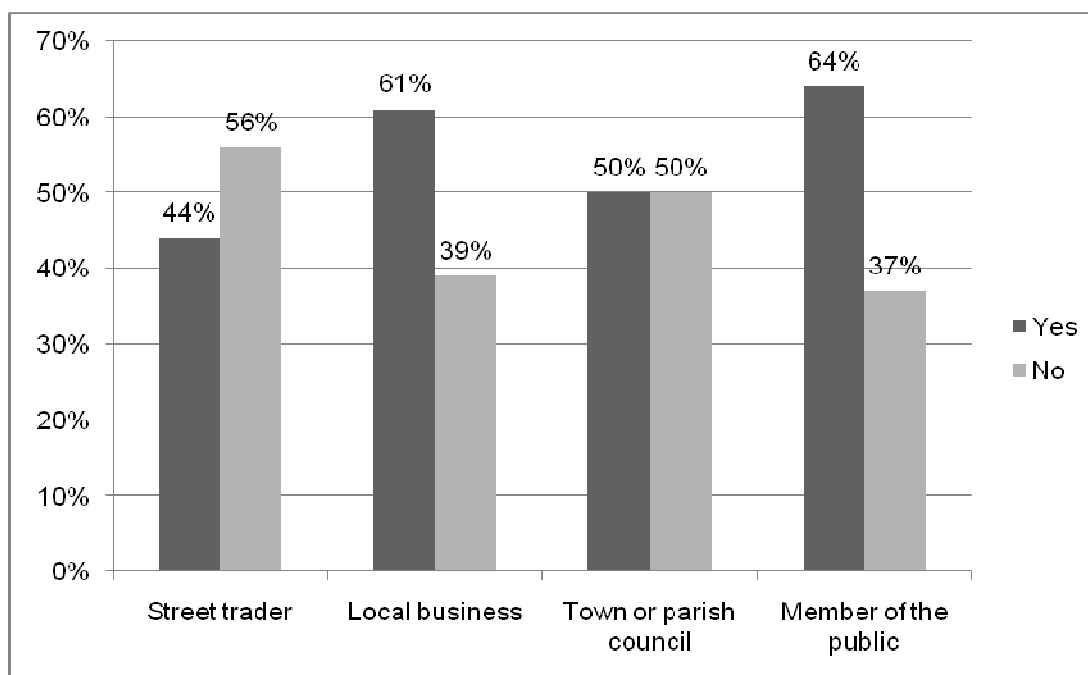


Q10. Do you agree with the proposed street trading fees for all other traders?

Yes	54%
No	46%

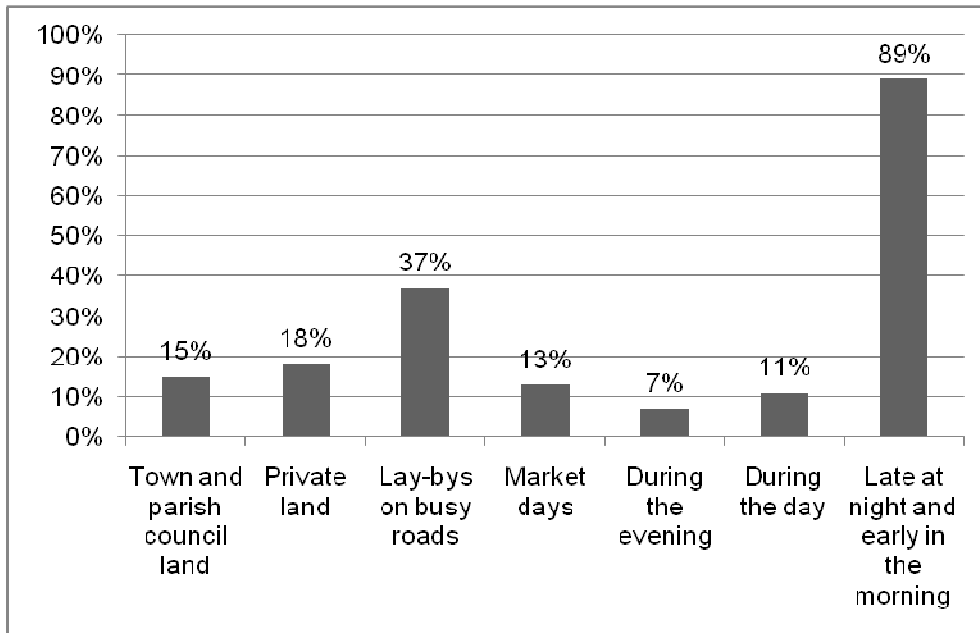


Type of respondent	Yes	No
Street trader	44%	56%
Local business	61%	39%
Town or parish council	50%	50%
Member of the public	64%	37%



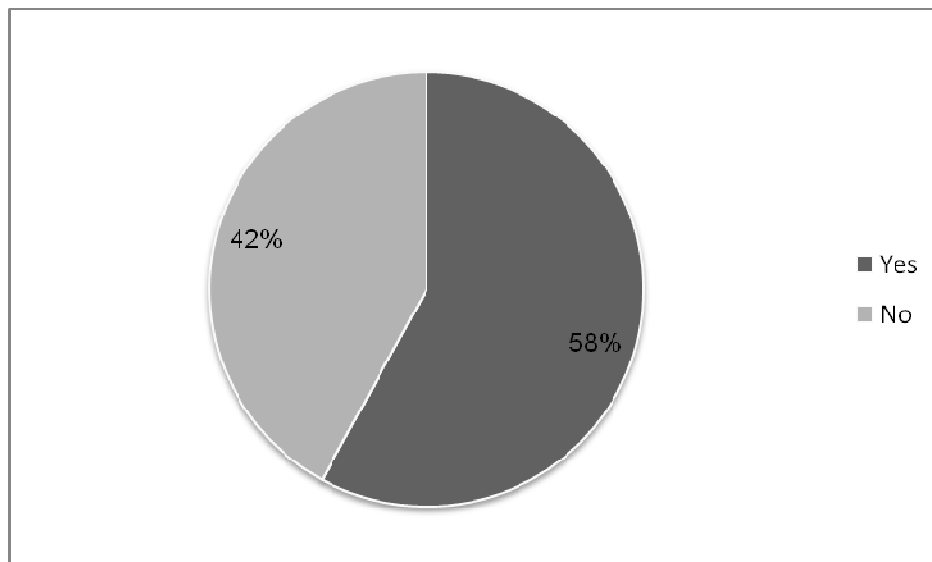
Q11. Are there any times, days or places where street trading should not be permitted?

Town and parish council land	15%
Private land	18%
Lay-bys on busy roads	37%
Market days	13%
During the evening	7%
During the day	11%
Late at night and early in the morning	89%



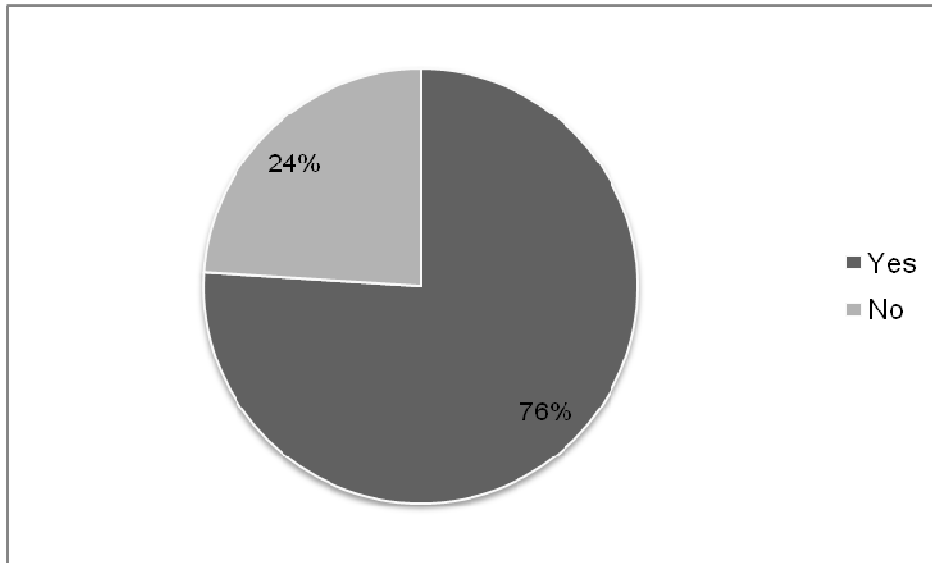
Q13. Should permanently sited food traders have to provide toilets?

Yes	58%
No	42%



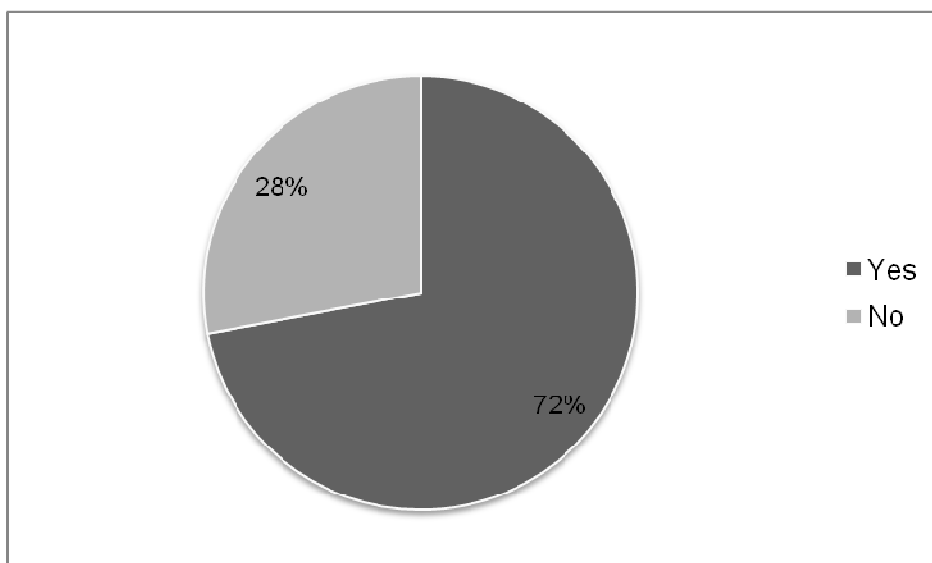
Q14. Do you agree with the proposed criteria for assessing street trading applications?

Yes	76%
No	24%



Q16. Should holders of Annual or Daily Street Trading Consents be allowed to trade on market days in the same town as the market that is being held?

Yes	72%
No	28%



Appendix 3: A selection of written consultation responses

From: Scott, Rachel
Sent: 24 February 2011 10:38
To: Davies, Alissa
Cc: 'Stephens, Paul'
Subject: Consultation on a proposed new council-wide street trading scheme

Dear Alissa and Kate

Thank you for the time you gave last week to discuss the issues around traders on our respective networks in Wiltshire. Specifically for the Highways Agency this encompasses the A303 and the A36. We would like it to be noted that there are no suitable laybys for trading on the A303 that meet the Department for Transport's guidance. The A36 is already covered by a Clearway Order and no trading is permitted from any layby on this route. The one exception is the Eastclyffe layby situated on the south side of the trunk road at Eastclyffe, east of Steeple Langford approximately 570 meters west of Southington Farm access. It is our opinion that although these routes may be outside the Local Government Miscellaneous Provisions 1982 Schedule 4, Wiltshire County Council could consider these routes as exempt under the Highways Act 1980 section 115 (E) and subsequently enforce on our behalf.

I look forward to receiving your response.

Kind regards

Rachel Scott, Area 2

Highways Agency | Temple Quay House | 2 The Square, Temple Quay | Bristol | BS1 6HA
Tel: +44 (0) 117 3728298 | **Fax:** + 44 (0) 117 3728838
Web: <http://www.highways.gov.uk>

I have been trading in Trowbridge town centre for 12 years, and I feel that the Wiltshire Council proposals are fair. I sell hot food in the evenings and have experienced a dramatic decrease in trade over the past 2 years. It is harder today to continue making a living by trading in the evenings, as a result of the drop in the pub and club trade. The midweek trade has dropped by a third, and it is only the weekend trade (Friday night and Saturday night) which sufficiently enables my business to keep afloat and support me, my 4 children and wife. I am certain that if the trading hours were to be reduced late at night especially on Friday night and Saturday night, my business would fail, and I would not be able to support myself and my family. I will always be indebted to the Council, who helped me end my unemployment 12 years ago and gave me the opportunity to set up my business and become self-employed, supporting myself and my family all these years. Thank you. A current Consent Holder in the West.

The Council should be doing all in its powers to reduce, possibly even stop altogether, any street trading at except in established markets, farmers' markets or at fetes and carnivals organised by town and parish councils. Street trading looks shabby, encourages the fencing of stolen goods, is often undertaken without the full knowledge of the Inland Revenue, encourages poor hygiene and work practices and undermines the businesses of rate paying shop owners. Please do not encourage this menace on to our streets. A member of the public

Many towns over the past few years along with the Institute of the National Market Traders Federation (NMTF) through Government have been trying to rid towns of street trading due to the many unsocial issues it raises, even when legalised. If introduced it will attract all types of illegal trading as it is

impossible to control it completely unless you have permanent officer overseeing it on the days it would be legally allowed to set up stalls due to the local Charter. At present we do not have a big problem as street trading is illegal. Should street trading is introduced at any level I foresee nothing but trouble for the future of Salisbury and the local business people. As the saying goes protect what you have or open the gates at your peril .A town/parish Council.

The Council should actively encourage street trading and set up help schemes for young entrepreneurs. Get young people into business and help them do so. Don't be stand in the way with high charges and over-regulation. Give them a free hand let them learn of their mistakes but also give them some friendly encouraging guidance. A local business.

There is no need for harmonisation of prices, only procedures. WC has no business at all dealing with trading licences on any land other than its own - other than enforcement as a planning authority. A town/parish council.

Mere Parish Council

Parish Clerk - Mrs. L. C. Wood



Alissa Davies
National Management Trainee
Public Protection Services

Wiltshire Council

Alissa.davies@wiltshire.gov.uk

Duchy Manor,
Springfield Road,
Mere
Warminster,
Wiltshire
BA12 6EW
Phone: 01747 860701

e-mail: lindseywood@merewilts.org
www.merewilts.org

27th January 2011

Dear Ms. Davies,

Re: Street Trading Consultation

It has been brought to our attention, via our Wiltshire Councillor, that Wiltshire Council is currently consulting on a proposed Street Trading Scheme (consultation open until 17th March). The Parish Council has asked me to respond to the Street Trading Consultation accordingly:

Whilst the Parish Council understands the desire of Wiltshire Council to promote fairness and consistency across the county with a county wide street trading policy, we are concerned that this will

result in excessive regulation that will hinder, obstruct and deter the fund-raising activities and community vitality in rural towns and villages such as Mere.

On page 5 of Mere's Parish Plan¹, under the heading 'Community Vitality' it states that '*Many of these activities are provided and managed on a voluntary basis and there is a need for new volunteers in existing and new areas. There are a number of possible explanations for the lack of willingness on the part of potential volunteers who may be unable to make regular long-term commitments and unwilling to cope with the ever-present and ever-increasing red tape, bureaucracy and regulations.*' The need for self-sufficient fundraising for all these voluntary organizations is also escalating due to the weakened economy, spending cut backs and less grant aid. Furthermore, during the current public spending cuts, there is an expectation for more services to be volunteer led. Let's not make it more difficult for them!

The Parish Council anticipates that the Street Trading Policy would apply to a number of events that occur in Mere:

- Annual Mere May Fayre – a number of stalls (2nd-hand book stall, plant sales, cake stalls etc) in and around the town centre, pub car parks, clock tower island (owned by the Parish Council) in aid of Cancer Research.
- Annual Mere Carnival – carnival procession through town with burger/hot dog sellers, balloon sellers on the night & raffle ticket sales throughout the week in town centre. Proceeds of carnival go to local charities and organisations.
- Annual Church Fete – held in churchyard with stalls (raffles, 2nd-hand books, plants, jumble, bric-a-brac etc).
- Throughout the year – Parish Council gives permission for local organizations and charities to hold cake stalls in the clock tower. Other one-off fund-raising events might be held for local sports organizations in the Recreation Ground or Sports Field.

I am afraid that, even after reading all the documentation provided, the definition of a Street and the definition of a Town Centre is not exactly clear. Is Mere regarded as a Town Centre or does that just apply to larger towns?

From reading your 'Draft Guidelines – January 2011' it would appear that these events would fall under the Block Street Trading Consents scheme and that Wiltshire 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. However, there seems to be some further regulations to comply with in order to meet this criteria. For example, a large number of our organizations are not Registered Charities (Swimming Pool Committee, Football Clubs, Cricket Club, Friends of Mere School etc.) and would therefore be unable to produce a Charity Registration document and, we suspect, would find it difficult to produce a letter from the Inland Revenue confirming that the organization is recognized as a charity for income tax purposes. Furthermore, we doubt whether many of the organizations who wanted to hold a fund-raising cake stall would want to register with the Wiltshire Council Food Safety Team and we doubt whether some of these organizations would be able to afford £5 million public liability insurance.

The Executive Summary of the Proposed Street Trading Scheme states that you will "*offer Block Street Trading Consent for organizers of large street trading events, where the event organizer is responsible*

¹ http://www.merewilts.org/Mere_parish_plan/Mere_Parish_Plan_2005.pdf

for all street traders at the event. For example farmers markets, car boot sales, fetes, carnivals and static structures on Town and Parish Council [sic] (???) – I assume the word ‘land’ is missing), such as kiosks in parks leased out by the Town or Parish Council.” We fear that this paragraph is a little ambiguous. Not all these events would be ‘large’, some may be very small. The term Town and Parish Council land is somewhat vague – is it land that the Parish Council owns, leases and/or maintains. Mere Parish Council may shortly be responsible for the management of our car parks – will they be encompassed within this scheme?

The procedure for determining applications for Street Trading Consents also seems to be somewhat lengthy and time-consuming. We note that there are 14 bodies for consultation, including the appropriate Town or Parish Council. How long will the consultation period take? At present we are offered 21 days consultation on planning applications and I am aware that many Parish & Town Councils find this difficult and restrictive and find it necessary to call extra parish council meetings in order to discuss the planning applications within the consultation period.

The Minister of State for Decentralisation states, in his foreword to the Localism Bill: *“We have already begun to pass power back to where it belongs. We are cutting central targets on councils, easing the burden of inspection, and reducing red tape. We are breaking down the barriers that stop councils, local charities, social enterprises and voluntary groups getting things done for themselves.”* It would appear that Wiltshire Council’s proposed Street Trading Scheme will be increasing the burden of consultation, inspection and red tape and increasing the barriers that stop councils, local charities, social enterprises and voluntary groups getting things done for themselves.

Mere Parish Council would suggest that the proposed scheme will do much harm to our community vitality and would indeed cause damage to the local environment and be insensitive to the needs and concerns of residents (the exact opposite of two of the purposes you identify in the Draft Guidelines). We would like to suggest that you might offer a Block Street Trading Consent to all Parish & Town Councils to authorize (not organize, because a lot of these events are organized by the respective group or charity) local fund-raising events e.g. farmers markets, car boot sales, fetes, carnivals, cake stalls etc., to be held on land owned, leased or managed by the Parish or Town Council. We would be happy for you to include a maximum number of events (say 15 per year). Furthermore, this Consent should be renewed automatically each year.

Please regard this letter as our formal consultation response as we find that the on-line consultation document (multiple choice questionnaire) is ambiguous and does not permit us to give such an informed and detailed response.

Yours sincerely,

Mrs. Lindsey Wood,
Parish Clerk.

Copies to:
Wiltshire Councillor Mrs. Bridget Wayman, Chairman, South West Wiltshire Area Board
Wiltshire Councillor George Jeans

Dr. Andrew Murrison, MP

From: Jeanssdcaol.com

Sent: 10 February 2011 14:35

To: Wayman, Bridget; Munro, Richard; Beattie, Richard; Green, Jose; Deane, Tony

Cc: Davies, Alissa; lindseywood@merewilts.org; Hawker, Russell; James, Tom; Wheeler, Stuart; Groom, Mollie

Subject: George Jeans, Mere

All,

The South West Area Board passed a motion last night 9/2/2011, to the effect Street Licences are not required for registered charities or non profit making organisations. Lindsey Woods from Mere PC who was present, noticed that if this is done, which indeed I hope it is, it will be required to remove the request that for a free licence (from this one would assume exempt as a non licence would be free), a letter from HMRC or prove of being a registered charity should be removed, as a letter to this effect from HMRC would be very difficult to get addressed to a person or body, all you would get easily is general advice. The removal of this requirement from a block licence would also be required for the same reason, very difficult to obtain such a letter.

It is for the individual or body to decide where to apply or ask advice as to where a licence is required. If a person or body request the wrong type of licence or chose not to apply, it is up to them, if they take the wrong action they could be enforced against, which is the deterrent.

Alissa there is real concern in this area regarding this type of licence which I was aware would be when people came to understand the possible implications. It is unfortunate you could not attend The South West Area Board last night to see for yourself, can you give me an update on where your guidance stands at present.

I accept a licence is preferable for street traders who are businesses possibly without paying rates. Note a Street Trader I understand can trade near their premises and not require a licence they would have a non domestic rate value presumably, which in the case of a charity shop is non payable. In this case will they require an exception certificate or like? Again it is for the applicant to decide. Nothing, is truly yes or no and this requirement to get an HMRC letter is too onerous.

Regards,

George

Street Trading

Amesbury Town Council wishes to make the following observations on the proposed Street Trading Scheme:

Firstly, the Council is concerned about the definition of 'a street', which includes private land. Whilst indoor shopping centres are exempted from this, it would appear to include Village Halls, Sports Pavilions, Community Centres, Churches etc. and the land surrounding them.

Town and Parish Councils often own and manage Parks and Recreation Grounds. It is not clear from the documentation if these are considered to be private land. Amesbury Town Council would object most strongly if this were the case.

Whilst it is acknowledged that many traditional events such as Fetes, Carnivals, Car Boot Sales and other small fundraising activities may be exempt a fee, the criteria (either a copy of a charity registration or a letter from the Inland Revenue confirming charity status) may be very difficult for the organisers to

obtain. These events are traditional to the way of life of many small towns and villages, and such measures would destroy them, to the detriment of communities.

It is noted that Wiltshire Council does not include sales of gas, electricity or other domestic Services or subscriptions to motor breakdown services. These activities are all for profit and if these measures are bought in they should be included.

The application time scales for Annual and Daily Street Trading are very prescriptive, especially that for Christmas trading, being almost three and a half months ahead of the traditional festive trading period. In noting that Block Trading Consents can be submitted at any time it is not clear how long it would take a licence to be considered. However, considering the number of official bodies to be consulted, it is envisaged it would take months, given the time consultees have to respond. This is far too long for many of the organisations mentioned above.

The required documentation etc under the heading of "how to make an application" is considered excessive for many organisations, especially perhaps the organisers of an annual village fete or even a town carnival. The organisers would almost certainly be put off even starting the documentation process, resulting in the cancellation of the event.

Many of the standard conditions can be best described as draconian - e.g. third party and public liability insurance of up to £5 million, costing a Church Fete in the region of £300. The use of generators is quite commonplace to provide stall lighting. Trading area locations would make events such a Christmas Market almost impossible to stage in small towns.

Amesbury Town Council finds the proposed measures to be bureaucratic and unworkable, totally against the Government's stated aim to reduce bureaucracy. The Council considers the extent of the proposals to be unworkable and would further question how it is to be policed. The Council feels that if such measures were to be put in place it would seriously harm communities, as events would simply not be held.

It may be prudent to reconsider these measures in the light of the recently published Localism Bill before trying to enforce them.

Please consider this as the Amesbury Town Councils response to the consultation as the online consultation does not give opportunity to respond to many aspects of the proposal.

Trowbridge Town Council

NOTES

Question 1 & 12.

Whilst it is desirable to have a Wiltshire wide policy, this does not mean that the same rules should apply in all towns. There are local issues and differences which need to be accounted for. It is not necessary to have the same policy applicable everywhere. There may be good reasons why certain streets in town centres should have NO street trading. There may be good reasons why particular trading activities should not be allowed in certain towns, but would be allowed in others.

Area Boards or Town and Parish Councils should be able to develop a policy within a framework laid down by Wiltshire Council.

Question 3.

Question 13.

It is unclear what is meant by 'permanently sited' As many mobile food traders cause issues of anti social behaviour including lack of toilet facilities then this issue needs to be addressed. If this refers only to buildings such as a kiosk in a park then as long as toilet facilities are available in the park and open at the same times then this would be satisfactory.

Question 14.

Wiltshire Council need to explain the proposed criteria for determining an application, what do they mean, very subjective, compared to the 200m competing goods rule currently applied, although this in itself is pretty worthless. Will the rules allow the local community or representatives to consider the appropriateness of a particular proposed trading activity for a particular location and time? If not what is the point of having any rules?

The Town needs a system which allows street trading to be controlled for the benefit of the town, not one which in effect gives a green light to any street trading activity.

Question 15

Environmental conditions, including noise from generators and engines, litter resulting from

From: Ian [mailto:]
Sent: 27 January 2011 11:19
To: Davies, Alissa
Cc: 'Steve Hannath'; 'Ron Champion'; 'David Law'
Subject: Street Trading Consultation

Alissa

Locally, this element of the new licensing proposals is attractive to Laverstock village, as we have an Ice Cream van which stops and trades outside the schools campus on Church Road and adds to the traffic problem and dangers.

It therefore fails this section:

“trading from a motorised ice-cream van and keep moving from street to street not stopping in one place for longer than 15 minutes and do not trade within 500 metres of a school”

Can you ensure this point is input to the consultation please?

Thanks

Ian

Cllr Ian M^eLennan
Laverstock, Ford & Old Sarum Division
Wiltshire Council
01722 332233

From: William Hall [mailto:]
Sent: 29 January 2011 14:35
To: Davies, Alissa
Subject: jan 29 11 Street Trading

Alissa

Street Trading Licensing

My company are the owners of the Martingate Centre in Corsham and an important private landowner in the town. We are extremely concerned over these proposals and would strongly oppose any further extension of the existing "consent" area to cover land in our private ownership.

Because NWDC previously sought to prevent a flower barrow in the centre (common enough in shopping centres) for anti competitive reasons we took counsel's opinion and I believe the present blanket proposal is unlawful and subject to legal challenge. Furthermore there is a substantive judgment that councils can only recover their costs in the charging for licences and the rates proposed are extortionate. For example the Yilmaz kebab van who trades in our car park pays rent of only £1,200 to us, and full business rates on top of that. To be asked to pay a further £2,800 is unreasonable and can hardly reflect the cost of issuing his licence.

Under the freedom of information act can I now formally request the costs incurred over the last year by Wilts Council in running the Street Trading Licensing?

I would also ask you to confirm that the covered area of the Martingate mall walkway (designated as an indoor area under building regulations) is treated as an indoor area of the shopping centre and not subject to licensing?

It would perhaps be helpful if we could arrange a meeting with the senior council officer in charge of street trading and perhaps the new head of legal services (I gather Jacky Tilley who was always helpful has now left?)

Bill Hall
Martingate Centre

PS. I have completed the consultation on the internet in my personal name which you might like to refer to?

From: William Hall [mailto:]
Sent: 03 February 2011 18:04
To: Davies, Alissa

Cc: Ian Storey; 'Fairbrass Georgina'
Subject: feb 3 11 Street Trading

Thank you and Kate for the time and courtesy extended at our meeting today - much appreciated.

Street Trading Licensing

The points I made fall into two categories - specifics relating to the Martingate Centre, and macro concerns.

Specifics:

1. You advised the covered space in the Martingate Centre walkway is designated indoor space and exempt from street trading control. You will confirm in writing that Martingate may licence street trading in this area without the requirement of a further licence requirement from WC.
2. Martingate opposes the designation of further areas in the centre (notably the old graveyard amenity area) as "consent streets" without a specific consultation relative to the particular circumstance.
3. Martingate is concerned at the level of charging for street trading licences in the centre. In particular the presumed "town centre" rate of £2,800 pa on the Yilmaz burger van. Yilmaz has a licence from Martingate costing £1,200 pa and the van is rated at £1,000 with rates payable of about £470. The proposed fee of £2,800 is disproportionate and unreasonable (being some six fold of the rates) and will likely put the van out of business.

I mention that Martingate has no current plans to extend street trading in the centre. Rather we are anxious control buskers and other vendors who are exempt from current legislation.

General Concerns

1. The proposal to extend council powers over all privately owned land throughout the county to which there is free public access, is an unwarranted derogation of private property rights and may well be illegal. The nature and uses of such land differs widely including for example, private gardens used for church fetes where no entrance fee is charged, national trust land with free access, woodlands, land with public rights to roam, parts of military training areas, to name but a few. The right to designate private land as "consent streets" should continue to be subject to individual consultation with proper rights of representation.
2. The proposals will withdraw the right of appeal to the designation of a particular space as a "consent street" once the blanket scheme is approved, and crucially there will be no provision for private land not to be designated as a "consent street"- all private land will be so designated regardless. At present there are rights of appeal both to proposals to designate and to proposals to remove designations. The removal of any right of appeal against the state is probably unconstitutional? This is a different point to the right to appeal the refusal of an application. Interestingly the land owner is not amongst those noted to be consulted on applications for licences?
3. It would appear that trading in lay-byes throughout the county will be prohibited. I wonder if it is beyond the authority of the council to impose this on the arterial routes owned and managed by the Highways Agency - for example the A303?

4. It seems it is not lawful for WC to impose licence fees at a level above that required to recover the costs of administering the scheme . The proposed rates would appear to be in excess of this cost. The fees must also be reasonable and everything in the public interest. The fee for Yilmaz is clearly unreasonable and I would suggest it is also not reasonable to just have two rate bands - town centre and other. There is a difference in a trading pitch in the centre of Corsham and say town centre Swindon or Salisbury. Furthermore street traders are not all the same. The 2006 judgement **R. v. Manchester CC ex p.King (1991) 89 LGR 696** by Mr Justice Roch is clear on this issue although I appreciate there may be further subsequent legal precedent (could I have details of any more recent judgements?). I do not accept that it is proper legal justification that other councils have already imposed blanket controls. Such actions may be challenged in the courts when the full implications become clear.

5. There is widespread misrepresentation (largely by ill informed councillors) that street traders do not pay rates, and this is reflected in the executive summary that a central principle of the scheme is promote "fair trading". This is inaccurate and any attempt to use control of street trading in restraint of trade and against free competition is an abuse of the clear intent of the legislation.

6. I have suggested that WC, while only seeking to recover their costs, might consider setting charges in proportion to ratable values where rates are payable. The VO is at least independent. Consideration should also be given to the impact of charges on open market rental values, the basis of RV's on which business rates are calculated. Substantial licence fees will surely lead to rating appeals and if RV's are reduced this will lead to a fall in business rates recovery.

Martingate believes these proposals need to very carefully considered if the "law of unintended consequences" is to be avoided!

Thanks

Bill Hall

Response from Old George Mall Shopping Centre To Wiltshire Council Street Trading Consultation.

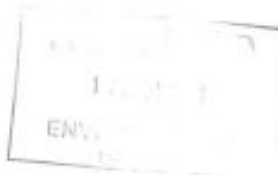
The harmonising of consent for street trading is to be welcomed. The various unlicensed street traders that visit the city compete with existing retailers, cause congestion at pedestrian intersections and deflect footfall away from shop fronts and shopping areas. We would like to make the following comments on the consultation paper:

- Street trading should include the sale of domestic services and subscription to services as these often cause annoyance to retailers and customers in the City.
- Applications only being considered four times a year will be restrictive to many street traders. Applications should be considered any time of the year.
- The time period for consents of a minimum of 90 days is ridiculously long; and this would be restrictive to many street traders. With planning applications only taking 8 weeks it is hard to understand why such a long period is required for street trading licences. Salisbury City Council and City Centre Management used to process applications in 2 week !
- The time period for Christmas trading, that being that the application must be in by 1st September, is again restrictive. This is impractical as many traders will not have made a decision until late October/early November
- The fee of £2,800 per annum is high. The fee should reflect the position of the "pitch" and type of street trader.
- In areas of the City Centre such as the Old George Mall, Cross Keys and Maltings shopping centres there is a wide range of tenant mix and high footfall, particularly at seasonal periods.

The **General Conditions** should include the additional protection that where there is adequate shopping provision then consent should not be granted within the agreed boundaries of these areas without the prior approval of the owners of the shopping centres.

- The application process could be greatly simplified by having “Approved Traders” and “Approved Pitches” and “Approved Fees” Any applications could then be processed in a matter of hours .
- It should be made explicit that the process does not apply to “ Café Seating Licences”

Wiltshire Council Licensing Team
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SN15 1ER



10th February 2011

The Shires, Court Street
Trowbridge, BA14 8AT

tel: 01225 762029

email: j.polledri@talktalk.net

Dear Sir

I am writing as representation of the Trowbridge County Town Initiative in regards to your street trading license consultation.

We have filled in the questionnaire however we wish to expand on some of the views which we have listed below.

- i. The street trading license fee for the town centre is far too low. In the Shires, trading space is £200 per day or £550 per week. Our view is that the cost should be £100 per day or £350 per week in line with footfall and location.
- ii. The location of the street trading needs to be part of the assessment so it does not conflict with current retailers.
- iii. Food traders need to be assessed by the EHO especially businesses that operate at night.

We would like to express that our aim is to increase the vitality and vibrancy of the town centre and the above will encourage that issue. We also wish to be invited to any consultation meeting planned to discuss the subject further.

Yours faithfully

Tino Polledri
Chairman

Cc – Jane Scott