



# Swindon Borough Council

## Street Trading Policy

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## Glossary

**The Council** – Swindon Borough Council.

**Borough** – The Borough of Swindon.

**The Authority** – The Licensing Authority.

**Licensing Sub-Committee** – The Sub-Committee established by the Council to determine applications for Street Trading Consent.

**Representation** – A comment or objection in response to an application.

**The Applicant** – The trader who has submitted an application for Street Trading Consent.

**Consent Holder** – The individual or company to whom the Street Trading Consent has been granted to by the Council.

**Street Trading** – The selling or exposing or offering for sale of any article (including a living thing) in a street.

**Street** - any road, footway, beach or other area to which the public have access without payment.

**Licence Street** – A street in which street trading is prohibited without a licence granted by the Council.

**Consent Street** – A street in which street trading is prohibited without the consent of the Council.

**Prohibited Street** – A street in which Street Trading is prohibited.

**Pedlar** – An individual who trades under the authority of a pedlar's certificate granted by the Police under the Pedlars Act 1871.

**Roundsman** - is a person who follows the round of his customers to take orders and deliver the pre-ordered goods of his customers (i.e. a milkman).

**Mobile Street Trading Consent** – A Street Trading Consent granted to an individual or company who trades from place to place (i.e. ice cream van).

**Static Street Trading Consent** – A Street Trading Consent granted to an individual or company who trades from a fixed location (i.e. kebab van).

**Short Term Street Trading Consent** – A Street Trading Consent granted to an individual or company who trades from a fixed location, like an event, for a short period of time.

**Market Street Trading Consent** – A Street Trading Consent granted to an individual or company to cover multiple stalls who trade from a fixed location, or market.

**Community and Charity Event** – A non-commercial event that is run for the sole benefit of a community, whereby all funds or proceeds are donated to said community or charity.

## **1. Purpose of the Policy**

- 1.1. The Policy sets out the general approach and framework for decision-making of the Licensing Authority ('the Authority') in relation to the regulation of street trading within the Swindon Borough Council (the Council') area. This includes the consideration of applications for street trading consents and the Authority's response to enforcement of the street trading regime and monitoring compliance by consent holders.
- 1.2. The Authority recognises the valuable contribution that street trading can make to the local culture and economy, and the services that street traders provide to residents and visitors.
- 1.3. This policy sets out a number of key objectives the Authority will have regard to when they consider applications for Street Trading Consents or complaints. These are set out below:
  - (a) Public Safety
  - (b) Commercial Need
  - (c) Prevention of Crime and Disorder
  - (d) Prevention of Public Nuisance
  - (e) Protection of children and vulnerable adults
  - (f) Impact on the environment
  - (g) Public Health

## **2. Consultation**

- 2.1. In determining this policy, the Council has consulted with the following:
  - (a) Wiltshire Police
  - (b) Dorset & Wiltshire Fire and Rescue
  - (c) Parish and Town Councils
  - (d) Current Street Traders and Markets
  - (e) Residents
- 2.2. In addition, the Council's regulatory and enforcement services have been consulted, including:
  - (a) Planning
  - (b) Highways
  - (c) Environmental Health
  - (d) Trading Standards
  - (e) Parks and Leisure
  - (f) Parking
  - (g) Public Health

### 3. Duration of the Policy

- 3.1. This Policy will be reviewed every five years. When required, periodic updates may be undertaken.

### 4. Legislation and current provision

- 4.1. The Local Government (Miscellaneous Provisions) Act 1982 ("the Act) sets out a number of definitions and provisions.
- 4.2. 'Street Trading' is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. The Act makes certain activities exempt from the requirement to hold a Street Trading Consent, such as:
- (a) Trading as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
  - (b) Any trade in a market or fair under a charter which has been granted or established by a statute. This does not apply to car boots and informal markets.
  - (c) Trading as a news vendor.
  - (d) Trading at a premises used as a petrol filling station or from a street adjoining a shop premises as part of the business of the shop.
  - (e) Offering or selling as a Roundsman. For these purposes, a 'Roundsman' is a person who follows the round of his customers to take orders and deliver the pre-ordered goods of his customers. Case law has established that mobile ice cream sales are not exempt from Street Trading control.
- 4.3. The regulation of street trading is concerned solely with the social, economic and environmental impact that street trading has, especially on (but not restricted to) the immediate locality. Such activities are regulated under Schedule 4 to the Act.
- 4.4. Schedule 4 of the Act defines a street as any road, footway, beach or other area to which the public have access without payment.
- 4.5. The Council has resolved pursuant to section 3 of the Act that Schedule 4 shall apply to its district. The Council therefore has the power to designate any street within its district as a 'Prohibited Street', a 'Licence Street' or a 'Consent Street' for street trading purposes.
- 4.6. These are defined in the Act as:
- |                           |   |  |
|---------------------------|---|--|
| <b>Prohibited Streets</b> | - | a street in which street trading is prohibited.  |
| <b>Licence Streets</b>    | - | a street in which street trading is prohibited without a licence granted by the Council. |
| <b>Consent Street</b>     | - | a street in which street trading is prohibited without the consent of the Council.       |

- 4.7. The Council has resolved that all streets within the Borough of Swindon shall be consent streets for street trading purposes, save for those identified as prohibited streets on the plan of the town centre (**APPENDIX E**).
- 4.8. The Council has control over areas which have been adopted as Public Highway under law. Some of the streets and locations in the town centre may not owned by the Council and therefore the landowner's consent may be required for street trading activities in these streets.
- 4.9. Street traders that serve hot food or drink at any time between 23:00 hours and 05:00 hours will also require authorisation under the Licensing Act 2003 for late night refreshment.

## **5. The Licensing Process and Delegation of Functions**

- 5.1. The Authority aims to provide a professional and consistent licensing service for applicants and consent holders, guided by the framework set out within this policy. Furthermore, it aims to provide clarity on the delivery of this service and around decision making through this policy.
- 5.2. The policy will be subject to full review on a frequency of not less than every 5 years, and any potential revisions to the policy will be consulted upon and submitted to the Licensing Committee for approval and recommendation to Full Council.
- 5.3. However, where minor amendments to the policy are required on an urgent basis between those full reviews, the Licensing Manager may approve such interim measures as required. These amendments may be subject to approval at the next available Licensing Committee, at the discretion of the chair of Licensing Committee. In any event, they will be published on the Council's website.
- 5.4. The Licensing Sub-Committee has been appointed to determine applications where valid representations have been made. When determining an application for the grant, renewal or revocation of a Street Trading Consent, a Licensing Sub-Committee may:
- (a) Grant consent to the applicant as applied for; or
  - (b) Grant consent to the applicant, subject to modifications to any of the following matters:
    - The days on which trading can take place;
    - The times during which trading can take place;
    - The location(s) where trading can take place;
    - The articles that can be traded;

- The conditions attached to the Consent;
    - The duration of the Consent; or
  - (c) Refuse to grant the Consent; or
  - (d) Revoke an existing Consent.
- 5.5. A valid representation is considered as correspondence received by the Authority prior to midnight on the final day of any consultation period specified for a given application. The correspondence must be received by the Authority at their proper postal address or at [licensing@swindon.gov.uk](mailto:licensing@swindon.gov.uk) or via the Swindon Borough Council website in written or electronic form that is clearly legible. The correspondence must refer to one or more of the licensing objectives or matters otherwise referred to in this policy and relevant to the consideration of the application or otherwise demonstrated by the sender as clearly being relevant to the determination of the application.
- 5.6. Where there are no valid representations and an application is not in conflict with this policy, the Licensing Manager and Licensing Officers are authorised to:
- (a) Issue Street Trading Consents and attach such conditions as are considered reasonably necessary under the Act.
  - (b) Vary the conditions attached to an existing Street Trading Consent when necessary to promote public safety and/or prevent nuisance or annoyance to affected parties.
  - (c) They may refer to Licensing Sub-Committee-
    - for a review of an existing Street Trading Consent where there has been a substantiated complaint about an existing street trader or the trader has been found to have breached the conditions of the Street Trading Consent.
  - (d) They will refer to Licensing Sub-Committee-
    - new applications for Street Trading Consents where a valid representation has been made, unless 5.8.
    - new applications where an officer has concerns as to the suitability of an applicant.
- 5.7. The Licensing Manager or nominated deputy may carry out the following, where deemed appropriate:
- (a) Determine an application where there is insufficient time to take the matter to Licensing Sub-Committee between an application being duly made to the Authority and the activity proposed to commence (in the case of a pre-arranged event date being relevant).
  - (b) If a representation or representations is/are considered frivolous, vexatious or repetitious (as provided for under the Licensing Act 2003), that representation may be rejected.
  - (c) Grant a consent, with additional conditions, where it is considered appropriate following mediation between an applicant and objector(s) or where mediation

is deemed as appropriate and has been unreasonably rejected by an applicant and/or objector.

- (d) Grant a consent where it is considered that an objection(s) and/or conflict with this policy should be unlikely to materially influence the determination of the application concerned, because any potential adverse impacts on the promotion of the licensing objectives are considered as negligible or none.
- (e) Use their discretion to decide whether a mobile street trading consent should be taken to Licensing Sub-Committee where it appears in conflict with this policy and/or valid representations are received, or whether they are able to determine the application in such circumstances.

## **6. New Applications for a Street Trading Consent**

6.1. The Authority may grant the following types of street trading consent in relation to an application, these include:

- (a) Static Street Trading consent
- (b) Mobile Street Trading consent
- (c) Short Term Street Trading consent
- (d) Market Street Trading consent

6.2. The Authority advises all applicants to apply with as much notice as possible before they plan to carry out street trading. The Authority recognises the potential challenges, particularly surrounding the organisation of an event or market with a number of different traders. However, the Authority needs sufficient time to consult upon a proposal and subsequently determine it. If an application is required to be determined at Licensing Sub-Committee this can extend that time period significantly.

6.3. The Authority will consult for a period of not less than 14 calendar days, where an application is duly and properly made to it. The Authority will only reduce this period in genuinely exceptional circumstances.

6.4. It is the responsibility of an applicant to ensure that they allow sufficient time for the application to be processed, consulted upon and determined prior to the planned commencement of trading. It is a criminal offence to trade from a street without the appropriate consent in an area where this legislation has been adopted, and that is the case in the Council's area.

6.5. The Authority would advise that at least 1 month notice has been given when making an 'uncontentious' application and at least 2 months notice for an application that is in conflict with this policy and/or appears likely to draw representations.



- 6.6. The Authority may consider the potential impacts on public health of the grant of an application, where appropriate. The Authority may consider the offer of the trader, such as the food and/or drink products proposed; and to what extent the products could be considered as healthy or otherwise. The Authority may also consider the existing availability of food and/or products that might be considered as detrimental to public health in the local area. Furthermore, the Authority may consider whether the potential grant of an application is likely to be harmful to the health of children, in such cases the Authority will consider the hours/days of operation, proximity to educational establishments and/or permanent play areas.
- 6.7. It should be noted that most applications for static consents will usually require planning permission to be obtained prior to commencing the activity concerned. The Planning Authority are likely to consider whether there is a proliferation of hot food take – away operations already in an area and/ or whether childhood obesity levels in the local area exceed that of the national average when considering whether to give planning permission.
- 6.8. The Authority recognises the need to diversify and how a trader’s business may change over time. Therefore, if an amendment is required that is deemed to be ‘minor’, an application to vary a street trading consent can be submitted by the existing consent holder(s) to The Authority. Examples of these changes include:
- (a) Change of vehicle or unit used;
  - (b) Change of operating hours;
  - (c) Change of Trading Days;
  - (d) Change of items sold.
- 6.9. Changes that require consultation with any relevant responsible authority or public will not be considered a ‘minor’ change and a new application will need to be submitted.

#### **Static Street Trading Consent**

- 6.10. Static Street Trader consents may be issued for a stationary structure such as a vehicle, stall, kiosk or similar which returns to one place every day or it is located temporarily at a given location for frequent and for regular periods of time.
- 6.11. A Static Street trader consent may be issued for not longer than 1 calendar year from the date of the grant of the consent.
- 6.12. A new or renewal application for a Static Street Trading consent must be made to the Authority. The following must be submitted in relation to the application for it to be considered duly made to the Authority:
- (a) A completed and signed Street Trading consent application form.
  - (b) Full application fee, as appropriate.

- (c) Proof of eligibility of the applicant to work in the UK (where applicable).
- (d) Where proposed activity is from a fixed position, a copy of a map of at least 1:1250 scale. This map should clearly identify the proposed site position by marking the site boundary with a red line.
- (e) Details of the vehicle, stall or unit.
- (f) Details of products intended on being sold.
- (g) Documented permission of the landowner to trade from their land.
- (h) A certificate of Public Liability insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.
- (i) A basic criminal disclosure for the consent holder from the Disclosure and Barring Service that is not more than 1 month old.
- (j) in the case of a vehicle to be used on the public highway, a valid MOT certificate and appropriate insurance for the vehicle concerned.

6.13. An applicant must also affix the prescribed Public Notice in **APPENDIX F** in the location they wish to trade upon submission of the application for a period of 14 calendar days. This must remain in place until the application is determined.

6.14. Static Street Traders will need to comply with conditions stated in **APPENDIX A**.

#### **Mobile Street Trading Consent**

6.15. Mobile Street Trading consents may be issued to traders who wish to move from place to place.

6.16. A mobile consent trader must not remain in one place for more than 30 minutes at a time, unless a good reason is presented at the point of application stating why an extended period of time is required.

6.17. A mobile street trader must not return to the same site within 2 hours of leaving that location, unless a good reason is presented at the point of application stating why an extended period of time is required. It is generally considered that Ice Cream Traders do not require longer than 30 minutes to trade at any one location.

6.18. A Mobile Street Trading consent only permits trading within the Council's area. If the unit goes into areas outside of the Council's boundary they may also need consent from those relevant authorities.

6.19. A Mobile Street Trading consent may be issued for no longer than 1 calendar year from the date of the grant of the consent.

- 6.20. A new or renewal application for a Mobile Street Trading consent must be made to the Authority. The following must be submitted in relation to the application for it to be considered as complete and duly made to the Authority:
- (a) A completed and signed Street Trading consent application form.
  - (b) Full application fee, as appropriate.
  - (c) Proof of eligibility of the applicant to work in the UK (where applicable).
  - (d) Details of vehicle, stall or unit.
  - (e) Details of the products intended on being sold.
  - (f) A brief description of the areas in which trading is proposed.
  - (g) A certificate of Public Liability insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.
  - (h) A basic criminal disclosure for the consent holder the from Disclosure and Barring Service that is not more than 1 month old.
  - (i) in the case of a vehicle to be used on the public highway, a valid MOT certificate and appropriate insurance for the vehicle concerned.

6.21. Due to the nature of their trade over a wide geographical area and their limited impact upon a single location, mobile street traders will usually be granted a street trading consent subject to meeting all of the requirements in 6.20. The potential exceptions being where the application conflicts with this policy and/or valid representations are received that give rise to reasonable concerns that the licensing objectives will be adversely impacted upon.

6.22. Mobile Street Traders will need to comply with conditions stated in **APPENDIX B**.

#### **Short Term Street Trading consent**

6.23. Short Term consents may be issued to traders who only want to trade in a particular location for a limited time.

6.24. A Short Term consent may only be issued for up to 1 month. A Short Term consent may only be granted for such longer period up to a maximum of 2 months, where there exceptional circumstances and the licensing objectives in this policy are not undermined.

- 6.25. A new or renewal application for a Short Term Street Trading consent must be made to The Authority. The following must be submitted in relation to the application for it to be considered as complete and duly made to the Authority:
- (a) A completed and signed Street Trading consent application form.
  - (b) Full application fee, as appropriate.
  - (c) Proof of eligibility of the applicant to work in the UK (where applicable).

- (d) Where proposed activity is from a fixed position, a copy of a map of at least 1:1250 scale. This map should clearly identify the proposed site position by marking the site boundary with a red line.
- (e) Where proposed activity is not from a fixed position, a brief description in which trading is proposed.
- (f) Details of vehicle, stall or unit.
- (g) Details of the products intended on being sold
- (h) A certificate of Public Liability insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.
- (i) in the case of a vehicle to be used on the public highway, a valid MOT certificate and appropriate insurance for the vehicle concerned.

6.26. Whilst recognising that these consents are usually issued for applicants to trade at events and due to the short duration and therefore limited impact upon a single location. Short Term Street Traders will usually be granted a street trading consent subject to meeting all of the requirements in 6.25. The potential exceptions being where the application conflicts with this policy and/or valid representations are received that give rise to reasonable concerns that the licensing objectives will be adversely impacted upon.

6.27. The Authority reserves the right to consult relevant authorities where this is deemed appropriate.

6.28. The Authority is more likely to consult on such applications where the duration of a consent would be longer, where the activity is not contained within a specific event and/or where the scale of the event is more significant.

6.29. Short Term Street Traders will need to comply with conditions stated in **APPENDIX C**.

#### **Market Street Trading Consent**

6.30. Market Street Trading consents may be issued to markets that do not operate under a Market Charter. A market consent will cover a number of stalls.

6.31. Those whom are operating under a Market Charter must operate within the terms of the charter.

6.32. A market consent shall require a minimum of 3 stalls to be constituted.

6.33. A Market Street Trading consent may only be issued for either up to 1 month, unless an extended period has been agreed with the Licensing Manager.

6.34. A new application for a Market Street Trading consent must be made to the Authority. The following must be submitted in relation to the application for it to be deemed complete and duly made to the Authority:

- (a) A completed and signed Street Trading consent application form.
- (b) Full application fee, as appropriate.
- (c) Proof of eligibility of the applicant to work in the UK (where applicable), for the event organiser.
- (d) Where proposed activity is from a fixed position, a copy of a map of at least 1:1250 scale. This map should clearly identify the proposed site position by marking the site boundary with a red line.
- (e) Documented permission of the landowner to trade from their land.
- (f) A certificate of Public Liability insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.
- (g) A basic criminal disclosure for the consent holder the from Disclosure and Barring Service that is not more than 1 month old.
- (h) In the case of a vehicle to be used on the public highway, a valid MOT certificate and appropriate insurance for the vehicle concerned.
- (i) Upon application a full list of traders must be provided, providing details including:
  - Name of the business;
  - Full name and address of the operator
  - Contact details of the operator
  - Details of units
  - Details of products to be sold

6.35. It is understood that there will be some occasions where a full list of traders is difficult to produce in good time prior to the event. Therefore, the Licensing Manager may apply some latitude in this respect, but it is expected that the fullest list possible is provided.

6.36. In order to be granted a market consent, the market must meet the criteria set below:

- (a) It has a nominated organiser.
- (b) It has the approval of the local town or parish council and the chamber of trade.
- (c) It adds value to the town's trade through the provision of specialist products.
- (d) It does not operate in detriment to the local community.
- (e) If the application is made by an organisation, they must nominate a named individual who will be responsible for managing use of the consent.

6.37. Market Street Traders will need to comply with conditions stated in **APPENDIX D**.

## 7. Markets

7.1. In supporting street markets within Swindon, the Council has a number of objectives:

- (a) To support the local economy;
- (b) To enhance the shopping experience;
- (c) To provide an additional attraction to encourage more shoppers to the Town Centre;
- (d) To encourage local producers and businesses; and
- (e) To add vibrancy to the town centre.

7.2. The Council has identified streets within Swindon Town Centre that are designated solely for Market Street Trading (**APPENDIX E**). No markets will be allowed outside of these specified streets within the Swindon Town Centre area.

7.3. The following factors will be into account when considering proposals for Town Centre street markets, along with the licensing objectives set down in this policy:

- (a) The benefit to the economy of the Town;
- (b) The potential to connect with local businesses;
- (c) The provision of opportunities for the sale of local produce;
- (d) The offering of a diverse range of products;
- (e) The impact on the environment and the of use sustainable methods in their operations; and
- (f) Where possible, the employment of local residents.

7.4. In submitting an application to the Authority, the Market Operator and Stall Holders shall be expected to show how their event promotes with the above considerations and general objectives of this policy. The Authority will not normally grant an application for a street market in the Town centre where the above matters have not been appropriately addressed.

7.5. The appearance of a market in the town centre must ideally enhance, but at least not be detrimental to the street scene. Precise measurements of the height, width and depth of proposed stalls shall be submitted with any application.

## 8. Decisions

8.1. Upon receipt of a valid and complete new application, the Council may consult with the following agencies:

- (a) Wiltshire Police
- (b) Dorset & Wiltshire Fire and Rescue
- (c) The Parish and Town Councils in the location proposed

8.2. The Council may also consult with Swindon's regulatory and enforcement services, including:

- (a) Planning
- (b) Highways
- (c) Environmental Health
- (d) Trading Standards
- (e) Public Health

8.3. In the case of all new applications the details of the applications will be available to view by the public on the council's public access facility on the Council's website during the consultation period.

8.4. In the case of all new applications, except those for mobile and short term street trader consent, the applicant must give notice of the application being made to the authority by way of the erecting a site notice at/or immediately adjacent to the proposed location to trade for the duration of the consultation period. For applications relating to more than 5 stalls, the applicant must agree the siting of additional notices in that area before the consultation period will commence, if deemed appropriate by the Authority.

#### **Determination of Applications**

8.5. When determining an application for the grant or renewal of a Street Trading consent the Council will consider all relevant information, including:

- (a) **Public Safety** – such as site safety and access needs around the area – the application should not present an adverse and disproportionate risk in terms of road safety, obstruction or fire hazard.
- (b) **Commercial Need** – the application should not create an adverse and disproportionate impact on established businesses in the vicinity and/ or other consent holders.
- (c) **Prevention of Crime and Disorder** – the application should not give rise to increased crime and/ or disorder in the town.
- (d) **Prevention of Public Nuisance** - the application should not produce an adverse and disproportionate risk of nuisance from smells, noise, fumes, discharge of fluids, etc.
- (e) **Protection of children and vulnerable adults** – the application should not present an adverse and disproportionate risk to the health and wellbeing of children and vulnerable adults.
- (f) **Impact on the environment** – an application should not present an adverse and disproportionate risk to the environment by considering the use of generators, the disposal of litter and waste and recycling.
- (g) **Public health** – the application should not present a risk to public health. That is to say the Authority may consider the existing provision of take away food outlets and the nature of the locality.

- 8.6. The Authority will consider the public's and consultees observations in line with this policy. In addition, observations are expected to be reasonable, appropriate and made in good faith appropriateness before they are taken into consideration.
- 8.7. Permitted street trading hours in the town centre, will normally mirror those of the shops in the immediate vicinity. However, the Authority will consider each application on its merits before agreeing permitted trading times. The Authority retains the right to specify permitted trading hours that are less than those applied for.
- 8.8. Suitability of the applicant – the Authority 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.
- 8.9. Any Static or Mobile Street Trading involving food within 100m of the entrance of a school or college on Monday to Friday, between the hours of 07:30 hours and 18:00 hours (without formal invitation), or any dedicated permanent play facility will be not be considered unless exceptional circumstances are presented to the Authority.
- 8.10. Following determination of an application, the Authority will notify the applicant of the decision in writing within ten working days of the decision.
- 8.11. All Street Trading consents are subject to the Authority's standard conditions. Individual applications may be approved subject to additional conditions. As shown in the appendices of this policy document. Additional conditions form part of the Street Trading Consent and must be complied with at all times.
- 8.12. The granting of a Street Trading Consent does not in any circumstances exempt the Consent Holder from the need to obtain any other licence or permission that may be required or from obligation to comply with all other general or local legislation. There may be additional costs involved in obtaining these additional licences or complying with other legal requirements. Such permissions include planning consent.
- 8.13. It is the obligation of the Consent Holder to familiarise themselves and their employees with all relevant legislation. The Authority may revoke a Street Trading Consent for any failure to comply with any other general or local legislation.
- 8.14. If approved, a 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.



### **Refusal of Applications**

- 8.15. A consent may be refused on any reasonable grounds.
- 8.16. There is no statutory right to appeal against refusal to issue a Street Trading Consent or against conditions that may be included in a Street Trading Consent.
- 8.17. A person aggrieved by a decision of the Authority or 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.

## **9. Renewals**

- 9.1. Static and Mobile Street Trading Consents can be renewed annually. A renewal application for Street Trading Consent must be made to the Authority by the consent holder at least 6 weeks prior to the expiry date of their current consent.
- 9.2. The documents that must be submitted for a renewal are detailed under each consent type in this Policy.
- 9.3. Upon renewal, the Authority may consult further to determine if the street trader is a cause for concern, or has been subject of complaints, if it deems it appropriate to do so.
- 9.4. If a renewal application is not made before the expiry of the current licence, the current licence will expire and a new application will need to be made. The effect of this will be that the trader will not be permitted to trade until the new consent is granted.
- 9.5. Where a renewal application has been made and there have been no substantiated complaints, no enforcement issues and all fees have been paid on time, then the consent will be renewed.
- 9.6. Where a renewal application has been made and there have been complaints or enforcement issues or fees have not been paid on time, an officer may refuse the application or defer the application to the Licensing Sub-Committee.

## **10. Transfers**

- 10.1. A Street Trading Consent cannot be transferred or sold to another person. The only exemption is the consent may be transferred to a documented business partner or member of the consent holder's immediate family in the event of the consent holder's death or incapacity.

10.2. All transfers will be subject to a fee.

10.3. The sub-letting of a street trading consent location or pitch is prohibited.

10.4. Street Trading Consents can be withdrawn at any time and therefore have no intrinsic value. It is entirely legitimate for a trader to sell any trailer, equipment or stock to a third party. It is unlawful however for a trader to purport to sell a 'pitch' or a consent. where such transactions are discovered to have taken place, use of the pitch in question by any person shall be suspended immediately and a ban shall remain in effect for a period of six months. The police will be informed.

## **11. Community and Charity Events**

11.1. The Authority recognises the potential benefit to charities and the local community where street trading may be carried out for non-commercial purposes. Such as community events or projects where street trading is carried on for the sole benefit of the community, charity or good cause (this does not include where a specific individual will benefit directly, or indirectly) where the profits are not being used for private gain and are wholly passed to a charity, educational organisation or community-based organisation.

11.2. Where such street trading is carried on for the sole benefit of the community and/or charity, the applicant shall be exempt from the requirement to pay a Street Trading Consent fee. However, the applicant will need to demonstrate this case to the satisfaction of the licensing authority on submission of the application. In these circumstances, the fee may be waived by Officers in consultation with the Licensing Manager.

11.3. Furthermore, the Policy requires that the following criteria must be met in order to qualify for the exemption:

- (a) Traders cannot trade at the location for more than 1 day or return to the location more frequently than once in any four week period.

11.4. For hybrid events whereby commercial traders are invited to trade at a community or charity event, a reduced fee will not be available.

## **12. Fees**

12.1. Fees will be set for the granting and renewing of a Street Trading Consent. The level of fees applicable takes into account the administrative cost of issuing all consents, all costs to the Authority surrounding the administration of the regime (such as setting policy,

training of officers and members dealing with the regime) and the costs to the Authority of monitoring compliance with the conditions in the consent.

12.2. Street Trading Consent fees must be paid in full before trading commences.

### **13. Conditions**

13.1. All Street Trading Consents are issued subject to a set of Standard Conditions. The Council may attach additional conditions to the Standard Conditions.

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

13.3. The standard conditions applied to Street Trading Consents are attached to this Policy as Appendices A, B, C and D. These lists are not exhaustive and other conditions may be added to the consent. Conditions may also be omitted or varied by the Licensing Manager if the individual circumstances of the application are deemed appropriate.

### **14. Enforcement**

14.1. The Council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues.

14.2. The Authority aims to work closely with other enforcement authorities when dealing with issues related to street trading.

14.3. The Council may revoke a Street Trading Consent at any time and shall not be liable to pay compensation to the Consent Holder.

14.4. Where licensable activities are conducted without Street Trading Consent or where conditions are breached, the Council will gather evidence and take enforcement action as required. A person guilty of trading without the appropriate consent shall be liable on summary conviction up to the maximum level of fine permitted on the standard scale. The maximum level of fine is level 3 on the standard scale.

14.5. Where a person or business wishes to give feedback to the authority in respect of a street trader they should email the Licensing Team at [licensing@swindon.gov.uk](mailto:licensing@swindon.gov.uk) with full details.

- 14.6. The Authority recognises that the activities of street traders may sometimes generate cause for concern, and the Authority would investigate such matters where appropriate, for example where conditions of a consent may not be followed or where a consent is not in place. However, it may also be helpful to hear positive feedback about such traders to understand any positive benefit they might bring.

## **APPENDIX A - Standard Conditions for Static Street Trading Consents**

1. Street trading must only take place between the dates specified on the Street Trading Consent.
2. Street trading must only take place during the operational hours specified on the Street Trading Consent.
3. The Street Trading Consent relates only to the area/site vehicle or stall specified on the Street Trading Consent.
4. The Street Trading Consent relates only to the vehicle or stall specified on the Street Trading Consent.
5. Any significant changes to or any replacement of a stall or vehicle must be approved by an authorised Officer.
6. The Consent Holder's vehicle/stall must be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
7. The Consent Holder's vehicle must be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must be carried out legally and must not present a risk to people and structures. The Consent Holder shall not drive or park a vehicle on any part of a footway.
8. The Consent Holder must ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued.
9. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they must immediately comply with that request.
10. The Consent Holder must comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work etc. Act, 1974 and the Food Safety and Hygiene (England) Regulations 2013 (where relevant).
11. The Consent Holder must conduct their business in a professional manner and in a way that minimises risks to employees and others.

12. The Consent Holder must take reasonable precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.
13. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer's instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.
14. The Consent Holder must not cause any nuisance or annoyance to any other user of the highway or the occupier of any land or building. In particular, Consent Holders must prevent excessive noise.
15. The Environmental Protection Act 1990 (as amended) places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property.
16. The Consent holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, including by making a bin available for customers to use where a public litter bin is not available within 20 metres from their vehicle.
17. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Council of the name and address of that person.
18. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Council.
19. Consent holders must make adequate provisions to ensure access for wheelchair users or customers with disabilities.
20. A copy of the Consent must be displayed by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
21. Consent holders must make full use of their Consent.

22. Food businesses must achieve and maintain a minimum Food Hygiene Rating of '3 – Generally Satisfactory'. The Hygiene Rating must be displayed prominently on the stall or vehicle.
23. Food handlers must hold a Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health with a certificate dated within the last 3 years.
24. Food businesses must be registered as a food business with the Local Authority where the van/stall is kept overnight. Food businesses registered outside of the Swindon Borough Council area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant Local Authority.
25. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.
26. The Consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re- enactment thereof.
27. No street trading involving food shall be permitted within 100 metres of the boundary of any school or college on Monday to Friday, between the hours of 07:30 hours and 18:00 hours (without formal invitation from the establishment), or any dedicated permanent play facility, unless previously agreed by the authority due to exceptional circumstances.

## **APPENDIX B – Standard Conditions specific for Mobile Street Trading Consents**

1. Street trading must only take place between the dates specified on the Street Trading Consent.
2. Street trading must only take place during the operational hours specified on the Street Trading Consent.
3. The Street Trading Consent relates only to the vehicle or stall specified on the Street Trading Consent.
4. Any significant changes to or replacement of a stall or vehicle must be approved by an authorised Officer.
5. The Consent Holder's vehicle/stall must be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
6. The Consent Holder's vehicle must be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must be carried out legally and must not present a risk to people and structures. The Consent Holder shall not drive or park a vehicle on any part of a footway.
7. The Consent Holder must ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued.
8. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they must immediately comply with that request.
9. The Consent Holder must comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work etc. Act, 1974 and the Food Safety and Hygiene (England) Regulations 2013 (where relevant).
10. The Consent Holder must conduct their business in a professional manner and in a way that minimises risks to employees and others.



11. The Consent Holder must take reasonable precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.
12. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer's instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.
13. The Consent Holder must not cause any nuisance or annoyance to any other user of the highway or the occupier of any land or building. In particular, Consent Holders must prevent excessive noise.
14. The Environmental Protection Act 1990 (as amended) places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property.
15. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Council of the name and address of that person.
16. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Council.
17. Consent holders must make adequate provisions to ensure access for wheelchair users or customers with disabilities.
18. A copy of the Consent must be displayed by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
19. Consent holders must make full use of their Consent.
20. Food businesses must achieve and maintain a minimum Food Hygiene Rating of '3 – Generally Satisfactory'. The Hygiene Rating must be displayed prominently on the stall or vehicle.

21. Food handlers must hold a Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health with a certificate dated within the last 3 years.
22. Food businesses must be registered as a food business with the Local Authority where the van/stall is kept overnight. Food businesses registered outside of the Council's area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant Local Authority.
23. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.
24. The Consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re-enactment thereof.
25. No street trading involving food shall be permitted within 100 metres of the boundary of any school or college on Monday to Friday, between the hours of 07:30 hours and 18:00 hours (without formal invitation from the establishment), or any dedicated permanent play facility, unless previously agreed by the authority due to exceptional circumstances.
26. The vehicle must not wait in one location for more than thirty minutes, moving at least 50 metres to the next trading location and the vehicle must not return to that location within two hours, unless extended times have been previously agreed by the Authority.

## **APPENDIX C - Standard Conditions for Short Term Street Trading Consents**

1. Street trading must only take place between the dates specified on the Street Trading Consent.
2. Street trading must only take place during the operational hours specified on the Street Trading Consent.
3. The Street Trading Consent relates only to the area/site vehicle or stall specified on the Street Trading Consent.
4. The Street Trading Consent relates only to the vehicle or stall specified on the Street Trading Consent.
5. Any significant changes to or replacement of a stall or vehicle must be approved by an authorised Officer.
6. The Consent Holder's vehicle/stall must be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
7. The Consent Holder's vehicle must be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must be carried out legally and must not present a risk to people and structures. The Consent Holder shall not drive or park a vehicle on any part of a footway.
8. The Consent Holder must ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued.
9. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they must immediately comply with that request.
10. The Consent Holder must comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work etc. Act, 1974 and the Food Safety and Hygiene (England) Regulations 2013 (where relevant).
11. The Consent Holder must conduct their business in a professional manner and in a way that minimises risks to employees and others.

12. The Consent Holder must take reasonable precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.
13. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer's instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.
14. The Consent Holder must not cause any nuisance or annoyance to any other user of the highway or the occupier of any land or building. In particular, Consent Holders must prevent excessive noise.
15. The Environmental Protection Act 1990 (as amended) places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property.
16. The Consent holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, including by making a bin available for customers to use where a public litter bin is not available within 20 metres from their vehicle.
17. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Council of the name and address of that person.
18. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Council.
19. Consent holders must make adequate provisions to ensure access for wheelchair users or customers with disabilities.
20. A copy of the Consent must be displayed by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
21. Food businesses must achieve and maintain a minimum Food Hygiene Rating of '3 – Generally Satisfactory'. The Hygiene Rating must be displayed prominently on the stall or vehicle.

22. Food handlers must hold a Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health with a certificate dated within the last 3 years.
23. Food businesses must be registered as a food business with the Local Authority where the van/stall is kept overnight. Food businesses registered outside of the Council's area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant Local Authority.
24. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.
25. The Consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re- enactment thereof.

## **APPENDIX D - Standard Conditions for Market Street Trading Consents**

1. Street trading must only take place between the dates specified on the Market Street Trading Consent.
2. Street trading must only take place during the operational hours specified on the Market Street Trading Consent.
3. The Consent relates only to the area/site vehicles or stalls specified on the Market Street Trading Consent.
4. The Consent relates only to the vehicles or stalls specified on the Market Street Trading Consent.
5. Any significant changes to or replacement of stalls or vehicles must be approved by an authorised Officer.
6. All vehicles or stalls operating under the Market Street Trading Consent must be removed from the site at the end of each day's trading.
7. Vehicle/stalls operating under the Market Street Trading Consent must be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on each stall/vehicle so that members of the public can clearly see it during hours of business.
8. Vehicles operating under the Market Street Trading Consent must be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must be carried out legally and must not present a risk to people and structures. The Consent Holder shall not drive or park a vehicle on any part of a footway.
9. The Consent Holder must ensure that all stalls/vehicles are positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Market Street Trading Consent is issued.
10. If a Consent Holder or operator/assistant is requested to move vehicles/stalls by an authorised Council Officer or Police Officer they must immediately comply with that request.
11. The Consent Holder must comply with and impress all statutes, statutory instruments and byelaws currently in force with operators. Consent Holders and operators must pay

particular attention to the requirements of the Health & Safety at Work etc. Act, 1974 and the Food Safety and Hygiene (England) Regulations 2013 (where relevant).

12. The Consent Holder must conduct their business in a professional manner and in a way that minimises risks to employees and others.
13. The Consent Holder must ensure operators take reasonable precautions to prevent the risk of fire at their stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.
14. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer's instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.
15. Vehicles/stalls operating under the Market Street Trading Consent must not cause any nuisance or annoyance to any other user of the highway or the occupier of any land or building. In particular, they must prevent excessive noise.
16. The Environmental Protection Act 1990 (as amended) places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property.
17. The Consent holder shall take reasonable steps to ensure that litter arising from trade is minimised as far as possible, including by making a bin available for customers to use where a public litter bin is not available within 20 metres from vehicles/stalls.
18. Anyone who operates a stall/vehicle must be authorised by the Council.
19. Consent holders must make adequate provisions to ensure access for wheelchair users or customers with disabilities.
20. A copy of the Consent must be displayed by operators when trading and must be produced on demand to a Council Officer or Police Officer.
21. Consent holders must make full use of their Consent.

22. Food businesses must achieve and maintain a minimum Food Hygiene Rating of '3 – Generally Satisfactory'. The Hygiene Rating must be displayed prominently on the stall or vehicle.
23. Food handlers must hold a Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health with a certificate dated within the last 3 years.
24. Food businesses must be registered as a food business with the Local Authority. Food businesses registered outside of the Swindon Borough Council area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant Local Authority.
25. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.
26. The Consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re- enactment thereof.



## APPENDIX E - Map of the Town Centre for designated Market Consent Streets



**APPENDIX F – Public Notice****NOTICE OF APPLICATION FOR STREET TRADING  
CONSENT**

An application has been made to the Licensing Authority for Swindon for the grant of a Street Trading Consent by:

In respect of:

The application seeks the following (*hours of trading, articles to be sold etc.*):

The full application may be inspected at the Offices of the Licensing Authority, Swindon Borough Council, Wat Tyler West Floor 5, Beckhampton Street, Swindon, SN1 2JH between the hours of 09:00 hours and 16:30 hours Monday to Friday (except public holidays).

Responsible Authorities and/or other persons (e.g. people/businesses living or working within the vicinity) can make representations at any time between:

*Start Date:* \_\_\_\_\_

*End Date:* \_\_\_\_\_

*(no later than 14 calendar days from the date of application)*

All representations must be made in writing [including email] to the Licensing Manager, at the above address or by email to [licensing@swindon.gov.uk](mailto:licensing@swindon.gov.uk).