



Blaby District Council

# **STREET TRADING POLICY**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

## 1.0 STREET TRADING

Blaby District Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 enabling them to control Street Trading within the District.

### 1.1 Objectives of the policy

The over-riding objectives of this policy are to protect public health, ensure public safety and protect the environment through the control of street trading within the District of Blaby. In particular this policy is designed:

- To improve standards of food safety, health and safety and environmental management and enhance the image of the district;
- To ensure that traders operate within the law and act fairly in their dealings with the public;
- To prevent and detect statutory nuisance, unsafe practices and anti social behaviour;
- To protect the amenity of the district, particularly in areas whose character or appearance should be protected.

This Policy will be applied to street trading activities within Blaby to ensure consistency in decision making. Each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

This policy has been considered in relation to the Services Directive and is deemed to comply with the requirements of that Directive and the Provision of Services Regulations 2009 (S.I. 2009/2999).

### 1.2 Definitions

“Authorised Officer” - An officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

“Consent” - A consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

“Consent Holder” - The person or company to whom the consent to trade has been granted by the Council.

“Consent Street” - Means a street in which street trading is prohibited without the consent of the Council.

“Council “ means Blaby District Council.

“Prohibited Street” - Means a street in which street trading is prohibited.

“Services Directive” – Means the Service Directive (Directive 2006/123/EC)

“Street “ means any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the public without payment within the distance of 30 metres from the centre of those streets which are part of the public highway.

“Street Trading” means the selling or exposing or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this policy:-

- A pedlar with a Pedlar’s Certificate, or anyone that would have been covered by a Pedlars Certificate;

- Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order;
- Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- Trading as a Newsvendor selling only newspapers/magazines;
- Trading which is carried on at premises used as a petrol filling station or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- Selling things, or offering or exposing them for sale, as a roundsman e.g. window cleaner. Ice cream sales will not normally be deemed to be exempt from street trading controls on the grounds that they are not roundsmen;
- The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- The doing of anything authorised by regulations made under section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916.

### **1.3 Fees**

The fees charged by the authority for consents to trade should cover the cost of administering and enforcing the service. The fees will be reviewed annually. Should the consent holder wish to vary the consent at any time during the life of the consent an administration fee will be charged. This includes transfer of the consent. The current administration fee will be set at £50.

Where a trading consent is surrendered during the life of the consent the authority will refund the fee paid on a pro rata basis as determined appropriate. The current scale of fees are £350 per annum and £50 per month (or less).

It is possible for the Authority to charge different fees for consents that are for different durations or locations such as a pro rata rate for occasional consents or concessionary consents in certain circumstances.

### **1.4 Conditions**

When granting or renewing a trading consent the authority may attach such conditions as considered necessary to the individual application. The Council retains the right to vary the conditions of a street trading consent at any time. The conditions may specify the exact location trading may take place from and the times of trading.

### **1.5 Determining Applications for Consent**

The Council will normally grant a street trading consent unless, in its opinion:-

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes, or
- Where the mobile vehicle is proposed to trade within a conservation area and its location, size, colour or appearance would adversely affect the amenity of that area, or

- There is a conflict with Traffic Orders such as waiting restrictions, or
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- The trading unit obstructs the safe passage of users of the footway or carriageway, or
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the Consent Holder, staff and customers to park in a safe manner, or
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff, or
- There is a history of poor levels of food safety, health and safety or environmental management compliance associated with the applicant, or
- There is a history of poor levels of compliance with quality, compositional or fair trading issues by the applicant, or
- The appearance of the street trading vehicle or stall is such that it would adversely affect the visual amenity of the area, or
- Any other reasonable matter relating to public safety, public health or the protection of the environment that should be taken into consideration by the Council.

## 1.6 Application Process

An application for a street trading consent can be made in writing on the Councils approved application form or submitted electronically. Application forms and information packs are available from the authority or downloadable from the website. The appropriate fee and required supporting documentation must accompany the application form.

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

- (a) A completed and signed Street Trading Consent Application Form;
- (b) The full fee as appropriate for the periods of trading applied for;
- (c) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line;
- (d) Three colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity should be submitted in hard copy or one electronic image if submitted electronically;
- (e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks. If the application is the first one submitted, rather than a renewal, then the applicant can indicate their intention to obtain the appropriate insurance, if the consent is granted.

On receipt of the application form an acknowledgment will be sent to the applicant. An officer may visit the applicant and inspect the vehicle, barrow, cart, van, portable stall or other vehicle or premises which the applicant intends to trade from. The application will be determined within 56 days of receipt. If the application is not determined within 56 days of receipt then it will be deemed approved.

Until the application has been determined (or the 56 day period for determination has elapsed) it is an offence to trade in the areas requiring a consent to trade.

Each consent is for a maximum 12 month period only, although there is a presumption that the renewal will be granted in the absence of any issues/problems.

The application will either be:

- 1) Granted and a trading consent will be issued with or without conditions attached, or
- 2) Refused and the fee will be refunded to the applicant (minus the administration fee).

There is no right of appeal against a variation of a condition, or refusal to grant or renew a trading consent. The reasons for the decision will be communicated to the applicant.

There is a right of challenge by way of judicial review of the Council's decision where it is considered unreasonable.

Additional visits may be made to holders of trading consents throughout the consent period to assess compliance with the conditions or to undertake any other duty that the authority has, such as food hygiene inspections.

Trading consents are granted to individuals. The person who is the consent holder is required to be present at the vehicle, barrow, cart, van, portable stall or other vehicle or premises which is traded from during trading hours. The consent holder may nominate an assistant to cover in their absence. Advice on this should be sought from the Environmental Health Service.

## **1.7 Transition Period**

The transition period will be between 1<sup>st</sup> January 2012 and 31<sup>st</sup> March 2012.

Established street traders, who currently trade from a street designated within this policy as a consent street, will benefit from a continuation of rights if their application for a street trading consent is received between 1<sup>st</sup> January 2012 and 31<sup>st</sup> March 2012. Established street traders who have submitted their application between the above dates will be able to continue to trade past 31<sup>st</sup> March 2012 until their application has been determined by the Council. If no application is received within these dates then established traders will be committing an offence if trading continues after 31<sup>st</sup> March 2012 on streets covered by this policy.

## **1.8 Renewal of Trading Consents**

An application to renew a trading consent must be received by the authority at least 56 days before the expiry of an existing consent and must be accompanied by the appropriate fee and relevant documentation.

## **1.9 Revocation of a Trading Consent**

If an authorised officer of the authority is of the opinion that the holder of the trading consent has contravened the conditions attached to the consent a revocation of the consent may be sought.

The authorised officer will present a report to the Regulatory Services Group Manager who will consider this in consultation with the Legal Services Manager. Comments from the consent holder would be sought to accompany the report.

## **1.10 Consultations on Applications Made**

Before a Street Trading Consent is granted or renewed the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons are consulted.

- Leicestershire County Council Highways – area office;
- Leicestershire Constabulary;
- Leicestershire Fire & Rescue Service;
- The Parish Council(s) for the area(s) where the trader proposes to trade;
- Ward Councillors.

If the application site is within a Conservation Area then the Council's Development Control Team will also be consulted.

If the application is within the vicinity of Blaby town centre, then the Blaby Town Centre Manager will also be consulted.

Written observations from the above organisations will be sought and taken into consideration when determining an application.

Where the Council considers it appropriate to the application submitted, it may consult additional organisations or individuals.

## **1.11 Decision Making Process**

The Regulatory Services Group Manager acting on delegated powers will use the criteria listed above (paragraph 1.5) in determining applications and renewals for any Street Trading Consents. Similarly any objections received will be considered against these criteria. All should normally be satisfied, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

If an application for a consent is either refused or conditions are imposed, then reasons for the refusal or imposition of conditions will be included with the decision.

There is no right of appeal available against the Council's decision to refuse or attach conditions to a consent.

## **1.12 Amendments or Variations to Trading Consents**

In certain circumstances, the Council may wish to add, alter or amend the conditions on a trading consent. If this is the case then the authorised officer will notify the consent holder of their intention and the consent holder will be given the chance to make representations against this variation of the trading consent.

The authorised officer will present a report to the Regulatory Services Group Manager for consideration which will include the representations made.

Any amendments or variations to consents or conditions that are requested by consent holders must be made in writing. An administration fee will be charged to the consent holder for any amendments or variations made.

There is no right of appeal against the Council's decision to refuse to amend or vary a consent.

## 1.13 Offences

Under the Local Government (Miscellaneous Provisions) Act 1982, a person who:

- Engages in street trading in a consent street without being authorised to do so;
- Being authorised by a street trading consent to trade in a consent street, trades in that street –

(i) from a stationary van, cart, barrow or other vehicle; or

(ii) from a portable stall,

without first having been granted permission to do so;

- Contravenes a condition imposed in agreeing to permit street trading;

shall be guilty of an offence.

The only conditions that we can impose in relation to trading from a vehicle or stall that would lead to the commission of an offence relate to the location of the trader and hours of trading.

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

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

Any action taken by the authority with regard to the above offences will have regard to the Environmental Health & Licensing Enforcement Policy.

A person found guilty of an offence shall be liable on summary conviction to a fine not exceeding level 3 on standard scale.

## 1.14 Further Information

For further information in relation to street trading please contact:

Environmental Health Services

Blaby District Council

Council Offices

Desford Road

Narborough

Leicestershire

LE19 2EP

Tel: 0116 272 7555

Email: [Env.health@blaby.gov.uk](mailto:Env.health@blaby.gov.uk)

## **Street Trading Policy**

### **Schedule A - List of those Roads/streets where a consent is required to trade**

All roads within the District of Blaby except those listed below which are designated as Prohibited Streets (Schedule B).

### **Schedule B – List of those Roads/streets which are designated as prohibited Streets and street trading will not be allowed.**

None.