

**STREET TRADING POLICY - February 2022**

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1. **Introduction, Purpose and Policy**

**1.1 Introduction**

Lichfield District Council, hereafter referred to as ‘the Council’, is the Licensing Authority responsible for considering and determining applications for consent to engage in street trading activities under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, hereafter referred to as “the Act”.

This policy sets out the decision-making framework and criteria the Council will apply when determining applications. It also gives prospective traders an early indication as to whether their application is likely to be granted or refused and provides applicants with details of what is expected.

**1.2 Purpose of the policy**

* To provide a framework that clearly defines where street trading activities in Lichfield District are regulated and consent must be obtained,
* To set out circumstances where activities involving the sale of items in public places fall outside/within the scope of the policy, and
* To provide a procedural framework for council officers and elected members.

**1.3 Aims of the policy**

* To reflect the range of street trading options and the diverse trading locations across the district.
* To protect public health and ensure public safety (including road safety) of the people using or impacted by trading;
* To create a street trading environment which complements premises-based trading;
* To ensure activities involving street trading are sensitive to the needs of residents and do not cause unreasonable nuisance or annoyance;
* To enhance the ambience and safety of local environments, recognising the positive impact that street trading can have on the local economy and the character of the area.
* To complement and support other Council policies including those relating to events and festivals;

This policy acknowledges how street trading supports the Council’s priority to encourage a vibrant and prosperous economy – including successful Events and Festivals.

The Council recognises that, as well as being a seedbed of entrepreneurship – allowing new entrants to test their business skills and ideas in an environment with low start-up costs, minimal overheads and existing footfall – trading activities are often at the heart of events that bring local communities, charities, and fund raisers together through festivals, fetes and other special events. It also recognises that the traditional nature of our streets and trading is shifting, and that there is a genuine role for street trading in our local economy.

The Council therefore wishes to create a street trading environment that is sensitive to the needs of the public and businesses, which enhances quality consumer choice and contributes to the character and ambience of our local environment, whilst ensuring public safety and preventing crime, disorder, unfair competition and nuisance.

**1.4 This policy**

The Council’s original Street Trading Policy was last amended in December 2020 and at that time it was recognised a more substantive review needed to take place. This updated policy is subject to a full review and consultation with traders, event organisers and key stakeholders.

The policy will be reviewed again in April 2023 and then every 5 years; it is a living document, which means it will be kept under continuous scrutiny and where any significant amendments are considered necessary­, these will be made by the Council after appropriate consultations have taken place.

Minor amendments that do not impact on the aim and objectives of the policy, for example due to changes in legislation etc. will be made in line with the Council’s Scheme of Delegation. An Equality Assessment on this policy has been undertaken.

1. **What is Street Trading?**

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) enables a Local Authority to regulate those who sell goods to the public without the use of fixed business premises. The Council has adopted Schedule 4 of the Act for the whole of its area and all streets in the District are designated as ‘consent streets’, except for the A38, which is a prohibited street.

**2.1 Definition of Street Trading**

Street trading is defined in paragraph 1 of Schedule 4 of the Act as:

*‘the selling or exposing or offering for sale of any article (including living thing) in a street’.*

The Act defines the term ‘street’ as including:

*‘any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980’.[[1]](#footnote-1)*

The definition of street trading is broad and gives the Council the power to regulate all types of trading from all public places for the protection of the public. Any person street trading [[2]](#footnote-2)without a valid Consent commits a criminal offence.

**2.2 Public Access Without Payment**

To ensure the accurate interpretation of the legislation, the Council has also sought legal clarification regarding the specific interpretation of ‘public access without payment’.

Where the trading site falls within an area to which the public may only access by the payment of a fee, or the purchase of a ticket, the trading is not within the scope of the Act[[3]](#footnote-3). An example of this would be a country fair in a showground, where payment for access is made at the entrance and the public must pay the fee to access the area, irrespective of whether they make a purchase. Payment must be for access and not for any other benefit or purpose, e.g. charitable donations.

In December 2016 the definition was considered again and was defined as unobstructed public access to the land.  Public access therefore applies to the wider area in which the stall is located and not the specific piece of land upon which the stall sits.

1. **Exemptions**

Two types of exemption apply to the activity of Street Trading –

1. Legal exemptions, provided by legislation, and
2. Local exemptions formally approved by the Council through this Street Trading Policy.

All traders who believe their activities are exempt are strongly encouraged to verify this with the Licensing Team.

**3.1 Legal Exemptions**

The Act in paragraph 1(2) of schedule 4 states the following types of trade are not street trading:

1. a person trading as a Pedlar in accordance with the terms of a valid Pedlar’s Certificate (issued by the Police);
2. a market trader operating at a market venue or a fair which acquired this status by virtue of a grant, enactment, or order.
3. a news vendor selling only newspapers and periodicals.
4. trade which is carried on at premises used as a petrol station
5. shops do not require a Consent even if they operate outside or directly adjacent to the commercial premises providing the items displayed for sale form part of the same business as the trade conducted inside i.e. where it is essentially an extension of the shop etc. e.g. where a grocer has a table of goods on display outside the shop. Again, this does not negate the need to comply with other legislation such as the requirement not to cause an obstruction of the highway
6. trade carried out by ‘roundsmen’ (a ‘roundsman’ is defined as one who visits a ‘round’ of customers delivering only the orders of those customers”. e.g. milkmen);
7. items exchanged for a charitable collection e.g. selling poppies in aid of the Royal British Legion, which are regulated by way of a Street Collection Permit under the Charities Act 1992.
8. Sale of articles by a charity, or for charitable purposes, are regulated under Police, Factories, & c. (Miscellaneous Provisions) Act 1916 by the Council. Charities should contact the Council to check which scheme of regulation the activity falls under.

**3.2 Local Exemptions**

Having considered the character of the localities within Lichfield District, the Council regards the following activities as not requiring a Consent under the Local Government (Miscellaneous Provisions) Act 1982:

1. Small scale sales of goods from farms and residential properties sold at/immediately outside the premises where they were produced will generally be exempt. This is intended to exempt someone who, for example, is selling on a small-scale items such as eggs, honey, plants, one off garage sales etc.
2. A person trading at a community event held for non-commercial purposes, such as a fete or school fund raising activity, may be exempt from requiring a street trading consent, however, any stalls where any of the profit of the trading is retained by the trader for private gain, and not passed to the organisers of the event for use in, or by, the community concerned then the trader will not benefit from the exemption;
3. **Designation of Streets in Lichfield District**

For the purpose of street trading, streets may be designated as either ‘prohibited’, ‘licensed’ or ‘consent streets’.

**4.1 Prohibited Streets**

Where a street is designated as ‘prohibited’ it means the Council has determined that specific circumstances exist, for which there are no exceptions, as to why no application to trade from the street can be made. There could be several reasons for wishing to designate a street as prohibited, for example the street may not be wide enough to facilitate a trader or the area may be dangerous – e.g., a layby on a main road offering no safe parking provision for customers.

The whole extent of the A38 is prohibited. Any unauthorised trading from a prohibited street is a criminal offence.

**4.2 Licensed Streets**

There are no licensed streets within Lichfield District.

**4.3 Consent Streets**

The designation of ‘consent street’ means that a consent may be applied for. However, the effect of this designation is that trading in any street is an offence (subject to legal and other exemptions) without first obtaining a Street Trading Consent (a Consent) from the Council.

The Council has designated all streets within Lichfield District, other than the whole extent of the A38, as consent streets, and this policy applies to all street trading undertaken within the Lichfield District.

* 1. **Trading from Private Property**

The fact a person has a lease, licence or other contractual arrangement (i.e., a right to occupy the land, or has some other form of consent e.g., planning consent or a licence under the Licensing Act 2003) will not override the requirement to obtain a consent where the trading constitutes street trading under the terms of the Act.

Holding a consent for street trading will also not remove the obligation on the trader to comply with any other legal requirements e.g. holding a current food business registration, nor override the duty to comply with the general law concerning the traders’ responsibilities e.g. highways, planning, licensing, health and safety, nuisance, waste disposal requirements and trespass i.e. where trading takes place from privately owned land, written permission to occupy the land must be obtained before making an application.

1. **The Application Process**
	1. **Who Can Apply?**

To apply for consent a person must be:

* An individual or business
* 17 years of age or over
* Legally entitled to live and work in the UK

All applications will be considered on their individual merit, taking into account all relevant matters.

Consents will not normally be granted where:

* Enforcement action is pending or has previously been undertaken against the applicant.
* The holder is currently in arrears with any fees and charges.
* The location is considered unsuitable
* The stall will be within an unreasonable proximity of a shop selling similar goods. Unreasonable proximity constitutes being within a 100m radius and being within direct sight.
* The activities cause or are likely to cause a nuisance or annoyance to neighbouring properties
* The applicant is unsuitable. For an applicant to be suitable they must meet the assessment criteria outlined in section 5.2.
* An applicant has failed to appropriately use previous consents
* The stall is unsuitable. For a stall to be suitable it must meet the assessment criteria outlined in section 5.2.
* It causes or is likely to cause crime and disorder.
	1. **Making an Application**

Exemptions and additional requirements apply to special events and events approved under the events and festival policy. A separate application form is made available for each event.

All applications must be made on the Council’s application form. The application must be completed in full with all the required information before it will be considered. Applicants can apply [online](http://www.lichfielddc.gov.uk/streettrading).

Applicants are encouraged to submit their applications in plenty of time of the trading date to ensure that if there are any problems they can be rectified or discussed before they intend to trade.

To apply for a street trading consent, you will need to submit the following:

* Complete and valid online application form;
* Proof of the your right to work in the UK – please click [here](https://www.gov.uk/check-job-applicant-right-to-work) to access the list of [Acceptable Documents](https://emea01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fgovernment%2Fuploads%2Fsystem%2Fuploads%2Fattachment_data%2Ffile%2F998170%2F6.7578_-_HO_-_PBS_Employers_Right_To_Work_Assets_V3.pdf&data=04%7C01%7C%7C25482bf55c744307df5508d976bb4123%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C637671369058808123%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=S%2BPEcTNyX5%2Fts2Mq36DpYuMOrPWH%2BMPHVoVl2%2FPCPL0%3D&reserved=0)
* Photograph(s) of your stall set up as it will be for trading;
* If applying to trade in a fixed location (or a number of fixed locations – multi-site consent) you will need to provide a detailed location site plan showing the exact location you wish to trade from at each site. Please be sure to mark the plan to show where the stall will be sited as the plans will form part of the consent;
* Annual Consent: Confirmation of the *days* and times you wish to trade each week;
* Temporary Consent: Confirmation of the *dates* and times you wish to trade;
* If selling any consumable item (food or drink) you will need to provide evidence of a current Food Hygiene Rating of 4 or 5. The food rating must relate to the current business address and be registered with the correct Local Authority;
* Proof of public liability insurance cover of at least £5m;
* A full list of the commodities/items you wish to sell;
* Application fee
* Basic Disclosure Check if required (see sec 15) - [https://www.gov.uk/request-copy-criminal-record](https://emea01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.gov.uk%2Frequest-copy-criminal-record&data=04%7C01%7C%7C25482bf55c744307df5508d976bb4123%7C84df9e7fe9f640afb435aaaaaaaaaaaa%7C1%7C0%7C637671369058818114%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C1000&sdata=Tka4TFiHFxI%2BVoETR50XdmW%2BIk7OpiN6sS%2FMjn2X%2Bng%3D&reserved=0) - must be no more than 1 calendar month old at the time of application;
* Proof of waste disposal arrangements to prevent fly tipping, dumping in litter bins, oil being poured down public drains etc.
* Written consent of the landowner if applying to trade from privately owned land.
	1. **Determining Applications**

All applications will be subject to consultation with relevant agencies and authorities.

These could be but not limited to:

* Environmental Health Team
* Highways Authority
* Staffordshire Fire and Rescue Service
* Planning Team
* Staffordshire Police
* Trading Standards
* Parish Councils
* Street Scene Team
* Relevant Ward Councillors

The agencies depend upon the application and each consultee authority or agency will be requested to consider the application from their area of expertise. If objections are received, they will be taken into consideration by the licensing officer when deciding to grant or refuse a consent.

An outline of any objections received will be shared with the applicant within 7 days. The applicant will then be given the opportunity to make submissions regarding any objection prior to any final decision.

If no objections are received and the licensing officer is satisfied the application meets the requirements of this policy, the consent will be granted and will be active from the date issued. Each consent may be granted for a maximum period of twelve months.

1. **Departure from the Policy**

In exercising its discretion in carrying out its regulatory functions, the Council will have regard to this Policy. Each application will be considered on its own merits based on the aims detailed and, where the Council considers it appropriate and necessary to depart substantially from this Policy, clear and compelling reasons for doing so will be given.

* 1. **Key Assessment Criteria**

The following criteria apply to all types of street trading.

*Exemptions apply to special events and events approved under the events and festival policy where it is expected the event organiser will ensure the suitability of the applicant, site, trading unit, generators, barriers and the location of traders at the event. Additional expectations on event organisers are set out in the events policy and guidance.*

* 1. **Safeguarding**

The Council is committed to promoting public safety and recognises its responsibilities for safeguarding children and adults at risk of abuse and neglect. This includes members of the public who use or may be impacted by street trading activities and the safety of the employees within the street trading businesses.

This policy is designed to ensure the individuals issued with trading consents are fit to hold a trading consent, but also extends to any person employed, by the consent holder, to work in the unit for more than just ‘one off’ holiday cover (i.e., cover on more than four weeks per year in total).

* 1. **Applicant Suitability**

When determining whether an applicant is suitable, the Council will consider:

* Any relevant criminal convictions
* The reliability of the applicant in paying fees and charges based on previous history;
* Compliance history;
* Any reasonable complaints; and
* Compliance with the street trading conditions.
	1. **Site Suitability**

In determining whether street trading in an area is appropriate, the council will have regard to the following:

* Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving;
* Any loss of amenity caused by noise, traffic, smell etc;
* Existing traffic orders e.g. waiting restrictions;
* Any potential obstruction of pedestrian, vehicular or disabled access;
* Any obstruction to the safe passage of pedestrians and wheelchair users;
* Any obstruction to an adjacent business
* The safe access and egress of customers and staff from the pitch and immediate vicinity.

The proposed location of the activity should also not present a significant risk to the public in terms of highway safety and obstruction.

* Applications in respect of sites that have previously been the subject of refusal due to the unsuitability of the location are unlikely to be accepted.
* The proposed activity should not present a risk of crime and disorder to the public.
* Controls must be in place to ensure that the pitch does not cause nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and smells does not occur. This include neighbouring properties and businesses.
* If at any time the council receives complaints that nuisance is occurring, it will investigate and, if complaints are found to be justified, it may decide to withdraw the consent.
	1. **Trading Unit Suitability**

The design, appearance and aesthetic suitability of each trading stall / vehicle will be considered in relation to the trading location applied for and once consented, any substantial changes to the stall must be agreed with the Council.

The Council values individuality and recognises that unique units can bring an attractive quality. However only trading stalls / units largely compliant with the specifications of this section are likely to be approved.

In design and build, the unit should be harmonious with the character of the locality, add to the quality of the street scene, and comply with the legal requirements for the activity proposed.

The design specifications apply to all annual, seasonal and multi-site consents:

One-off traders are exempt.

* The Council does not prescribe a design or style, but does require a high quality, standard and aesthetic appearance trading unit
* The unit shall comprise robust construction and materials, such that the daily removal will not result in the rapid deterioration in appearance of the unit
* The design must be commercially and aesthetically attractive, i.e. reflective of the quality and planning requirements of the facades of the surrounding retail area, where applicable
* The quality and appearance of the unit must be maintained at the standard approved in the original consent.
* The unit must meet with all the consent conditions including removal after trading, unless specifically permitted to remain.
* The unit will be inspected by an officer from the Council prior to consent being issued.
* Goods, ancillary equipment and stock must be contained within the unit when trading.

The proposed unit design must be agreed by the Council, therefore the Council strongly advises against making any significant financial investment in a trading unit or stock until the necessary consent has been approved.

In such circumstances, measurements and images provided with an application should accurately reflect the size, type, quality and overall appearance of the unit the applicant intends to purchase.

* 1. **Generators**

Generators must be positioned to reduce the length of cabling required to an absolute minimum and to minimise annoyance and/or nuisance to local residents or businesses from noise or fumes.

Where required, silenced generators or acoustically insulated generators must be sourced.

Where an application proposes the use of a generator, applicants should note the Environmental Protection Team will consider the proposal and may object to the grant of the consent where any use of a generator is considered inappropriate or unreasonable, based on the type of generator, location, environment, or days and times applied for.

* 1. **Advertising**

Advertising may only relate to goods offered for sale on that pitch.

Third party advertisements are prohibited.

It is not permitted to illuminate any advertisement on the outside of the stall kiosk without express consent of the Council.

The use of ‘A’ boards will be permitted if considered necessary to alert customers to the trader location and taking account of the Council’s ‘A’ board policy.

* 1. **Barriers**

Barriers will only be allowed on a consent pitch where they have been specifically included within the stall’s approval.

* 1. **Hours of Trading**

Trading hours will be considered regarding promoting the following purposes:

1. Preventing crime, disorder and antisocial behaviour;
2. Avoiding disturbance due to noise, smell or any other matter the Council considers appropriate;
3. Protecting public safety;
4. Preventing obstruction of the highway.
	1. **Goods Offered for Sale**

The Council has a responsibility to local businesses and will therefore not normally grant a Consent for the sale of goods which conflict with those provided by nearby shops. Businesses contribute to the locality through providing employment, paying business rates, and enhancing the amenity and permanent economic environment. Therefore, the Council does not want to grant an unfair economic advantage to the holder of a Consent.

Ordinarily the Council will not grant a consent to trade where an existing provision is available within a reasonable radius as the type of goods proposed. Reasonable radius constitutes being within a 100m radius and being within direct sight. This does not apply to one off large scale events and will not be applied retrospectively to existing annual or seasonal consent holders.

Commodities will be considered on a pitch-by-pitch basis having regard to local needs, product diversity and the suitability of the proposed location in terms of space and balance.

The nature of the proposed goods must be specified on an application, however the goods must not:

1. Cause a nuisance or annoyance to nearby properties/ people.
2. Cause or contribute to crime and disorder.
	1. **Stock Management**

Siting of stock and trading area goods or equipment may not be displayed outside the authorised area of the unit of e.g., via build-outs, externally hung on the unit, sited on the public realm around the unit, or by any other means. All produce / stock must be located and displayed within the unit.

Goods may not be displayed directly on the ground and must be presented from a product specific display unit (e.g., tiered shelving for flowers).

* 1. **Other Criteria**

The consent holder will at no time have the exclusive right to trade from the street or any part of it.

Street trading can take place in the area outlined in the consent and on days and hours detailed in the consent.

The consent holder may only trade in goods that are outlined on the consent.

A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the police.

Auction sales shall not be permitted as part of the consent.

All street trading units will be equipped with safe and adequate lighting for the operation during the hours of darkness.

Failure to comply with any of these requirements may result in refusal to issue consents or withdrawal of consent.

1. **Types of Consent**

Street trading consents are issued by the Council and fall under the following classifications, and each is explained in the following section:

* Annual Consent – 12 months
* Mobile Consent – maximum time of 20 mins or until queue is served, e.g. mobile ice cream sellers.
* Seasonal Consent – up to six months
* Multi-Site Consent – up to 5 specific sites per week or a specified schedule of times and locations. A multi-site consent would enable traders of hot food (such as a fish and chip mobile vendor) to remain on site in local villages for a number of hours each day/evening to cook and serve their food.
* Special Event Trading Consent – only available in association with an event approved as a special event or under the events and festivals policy.
* Temporary Consent – up to 30 individual days trading per annum.
	1. **Annual Consents**

An annual consent enables the consent holder to trade on the days and times specified in the consent from a specified pitch within the District and runs for 12 months from the day of issue.

It is for the applicant to consider the location they are interested in trading from, having had regard to the criteria in this policy, and apply to trade from the site.

The application will be subject to the normal consultation so special consideration must be given to the assessment criteria outlined above.

* 1. **Annual Consent Renewal**

Consent holders will be reminded that their consent is due to expire at least 28 days before the expiry date. This is to assist the trader and the Council accepts no liability if the trader does not receive the reminder. It is the trader’s responsibility to ensure that they have the correct consent and to ensure that they submit their application prior to the expiry of their consent.

Consent holders may submit their application to renew up to one month in advance of their current annual consent running out. Applications for renewal must be received 14 days before the consent is due for renewal. Failure to do so may result in a delay in processing the application and the loss of days trading.

* 1. **Mobile Street Trading**

Mobile street trading is specifically suited to such traders as ice cream vans, where the trader is not limited by times or days, but by geographical area. A mobile consent would authorise the consent holder to trade across the whole of the district, with the exclusion of areas like the city centre, which will be specified on the consent.

* 1. **Seasonal Street Trading**

A seasonal consent allows the trader to trade on a full-time basis, for the days and times specified in the consent for one to six months.

Seasonal may include the festive season, consents may be mobile or stationary and may be in any appropriate location on a consent street.

* 1. **Multi-site Street Trading**

A multi-site consent provides an opportunity to bring an otherwise unavailable service to smaller settlements in the District.

In locations, where local provision for that type of takeaway hot food is not available, a multi-site consent enables a trader to secure a trading arrangement and develop a customer base on a maximum of one occasion per week, permitting trading for a maximum of 3 hours or until they have served all queueing customers.

Trading locations are subject to there being no existing provision within a reasonable distance at days/times specified on the application.

* 1. **Special Event Trading Consent**

Where trading occurs within the footprint of an approved special event a daily (per day) consent may be applied for.

The consent permits trading exclusively at the location, on the dates and times of the event.

At a special event the person is not operating independently but under the direction and supervision of the event organiser, who has committed to undertaking their own checks – e.g. Right to work and Fire regulation checks.

* 1. **Temporary Street Trading**

A temporary consent, permitting the consent holder to trade for up to a maximum of 30 days per annum. The days need not be consecutive, however, the dates and times must be specified on application and included on the operating schedule forming part of the consent.

1. **Events Eligible for Subsidised Street Trading**

All events that are agreed through the [Events and Festivals Policy](https://www.lichfielddc.gov.uk/downloads/file/1738/lichfield-district-events-and-festivals-policy-and-procedure) will automatically receive a subsidy for street trading and traders will be charged a reduced fee.

For smaller events that fall outside the scope of the Events and Festivals Policy, the organiser may apply to the Council requesting their event to be considered for a street trading subsidy.

To be eligible to receive a subsidised street trading rate the event should include a theme, attraction or promotion to encourage visitors to the event and surrounding area.

If an event is approved for subsidised street trading fees the event organiser will be provided with a link to the Council’s online application and will be responsible for co-ordinating the applications of street traders wanting to trade at the event. Consents will be issued by the Council to individual traders on successful application to the council.

Where an event is agreed after street trading consents have already been issued for the same location, the street trading consents will be honoured, and the event organizer will be required to allow for the traders in the location and trading hours as set out in their consent.

* 1. **Applying for a Street Trading Event Subsidy**

Applicants must complete the online [event organiser’s subsidy application](https://www.lichfielddc.gov.uk/street-trading-licences/apply-special-event-status-event-organisers/3).

Applications must be submitted as early in the year as possible but no later than 1 month before the date of the event and be made via the Council’s on-line form and the required documentation uploaded as required.

1. **Vacant Existing Pitches for Annual Consents**

When existing pitches in the Lichfield District become vacant the Council will advertise the vacancy and closing date for expressions of interest on the Council’s website.

Applications will be assessed against the criteria detailed in this policy and, where a suitable proposal is received, the successful applicant will be selected and invited to apply for an annual street trading consent.

Should the selected person be unable to take up the pitch, the opportunity may be offered to the next appropriate person.

Where no suitable applications are received the Council may decide not to issue a consent.

1. **Letting of Pitches**
	1. **Sub-letting Pitches**

Consent holders are not permitted to sub-let the pitch they are allocated under any circumstances.

* 1. **Re-letting Pitches**

Street traders must make full use of their consent. The Council will assess whether a consent holder has made a full use of their consent.

Street traders shall notify the Licensing Team in circumstances where, and for whatever reason, they do not intend to make use of their consent, and notification should be made in advance. Consent holders must inform the Licensing Team of the date upon which they intend to resume trading.

In circumstances where the date is not known, consent holders must give appropriate notice of their intention to resume trading. Where no prior notification has been received and in circumstances where the council is satisfied that the consent holder is not making full use of their consent it may re-let the street trading pitch to another trader. Multiple street trading consents may be granted to different applicants for the same site provided specific trading days/ periods are applied for.

1. **Fees and Charges**

The Council sets fees and charges for street trading. Fees and charges are reviewed annually. Different fees may be set for the same type of consent to reflect factors that result in different costs to the Council for that consent/s.

The fees set by the Council for consents to trade will be set on a cost recovery basis.

An application is invalid unless accompanied by the appropriate fee.

Street trading fees are published on the [council’s website](https://www.lichfielddc.gov.uk/street-trading-licences/street-licences-general-special-events/2?documentId=515&categoryId=20074).

Where a consent is surrendered or revoked, the council will consider all applications for the refund of part of the fee, which must be received in writing.

The decision will depend upon the remaining period of the licence and costs incurred prior to the surrender or revocation.

1. **Invalid Applications**

Invalid or incomplete applications will be rejected.

1. **Consultation**

Other than an application to trade at an approved event, all applications will be subject to a 28-day consultation in line with this policy.

Where the application is for a temporary consent, authorising up to 30 calendar days per annum, the trader will be permitted to trade during the consultation period.

The Environmental Health Team will be consulted in relation to health & safety, food safety, pollution and noise. The Planning Team will be consulted in relation to the aesthetic appearance of the trading unit and its suitability in relation to complementing the area and facades of surrounding premises.

Depending upon the location(s) applied for, the Council may include other relevant parties, but in accordance with the Council’s policy, street trading applications are subject to a full consultation with some or all the following responsible authorities or agencies:

* Environmental Health Team
* Highways Authority
* Staffordshire Fire and Rescue Service
* Planning Team
* Staffordshire Police
* Trading Standards
* Lichfield City Council
* Street Scene Team
* Relevant Ward Councillors

Although the consultation period is 28 days, where responses have been received from all consultees before the end of the consultation period the Licensing Team will update you with the outcome of the consultation. If no objections are received the consent will be issued within 5 working days.

Once the consultation is complete, where no objections are received, the trader will be issued future consents without the need for further consultation provided no subsequent concerns are raised.

Where the application is for an annual consent, the consent will be granted on completion of the consultation period.

Should a consent holder wish to vary the consent substantially – e.g., type of provision offered or location – the relevant authorities will be reconsulted and an administration fee will apply.

1. **Food Hygiene Rating – Food Traders**

All food businesses must be appropriately registered with their local authority. Certain low risk businesses are exempt from the hygiene rating scheme; however, proof of their exemption must be provided by the applicant. This may be an email from their local authority confirming that the business is registered and that a hygiene rating is not required. The council may contact their local council for information on the applicant’s compliance history.

Other low risk food businesses may be approved to trade whilst awaiting inspection by their local authority or in other circumstances. The final decision of what is classed as a low-risk business will be determined by the Food Safety Team.

All other traders that sell or provide food must have a national food hygiene rating of a 4 or 5. Applicants and consent holders are required, by the conditions of consent, to notify the Council of any reduction in their national food hygiene rating.

If food safety is found to be below the specified standard, consent will be withdrawn until the issues are resolved.

1. **Disclosure and Barring Service – Basic Disclosure (DBS)**

The Council reserves the right to request a basic disclosure criminal record check or a subject access check from the police for a new application or existing consent for the applicant and each permanent/regular employee (paid or unpaid). (A regular employee is an individual providing more than just holiday cover maximum of four weeks per year) Unless specific concerns are raised about an individual these will only be routinely requested for mobile street trading applications.

In respect of all applications, a disclosure form must be completed by the individual of any convictions, cautions or fixed penalty notices they have received and if they are currently under investigation for any criminal matter (if they are aware).

In respect of any renewal applications a declaration must be made of any new convictions, cautions or fixed penalty notices they have received and if they are currently under investigation for any criminal matter (if they are aware).

At the time of application, the applicant must also provide details of all regular employees (paid or unpaid) associated with the street trading consent.

1. **Refusal**

Decisions will be made in accordance with the aims of the policy in relation to the protection of the safety of the public and safeguarding and having regard to unspent convictions under the Rehabilitation of Offenders Act.

Any convictions / cautions, which are not spent and relate to sexual or violent behaviour (including domestic violence), drugs, firearm offences, theft/fraud, dishonesty or any offences involving harm to children or vulnerable persons will be refused or the application may be referred to the Licensing Committee for further consideration depending on the circumstances.

Where serious allegations or cautions/convictions come to light during the period of holding the consent, the consent will be suspended, pending the outcome of investigations and, if convicted, revoked.

Only DBS certificates dated less than one month old at the time of the application will be accepted. Applicants that regularly apply may want to consider the DBS update service, further information is available at [www.gov.uk](http://www.gov.uk/).

1. **Removal of Waste**

Commercial waste must be stored within the stall / trailer.

Food stalls should make provision for the collection, removal and lawful disposal of customer waste as well as their trade waste and removing it from site in accordance with the trader’s commercial waste contract.

The need for a waste receptacle will be considered on a case-by-case basis acknowledging that there may be instances where the provision of a waste receptacle will be required.

Traders shall ensure that they comply with the law in relation to the disposal of waste. All businesses must put in formal arrangements for the disposal of waste created by their activities. It is an offence to dispose of trade waste in domestic refuse bins.

1. **Revocation**

There is no legal right of appeal against a decision to revoke a consent. Where a consent is revoked the council will advise the applicant verbally (where possible) and confirm the reasons for this in writing within 10 working days.

The Head of Regulatory Services, Housing and Wellbeing may allow an appeal to the Licensing and Consents Appeals Committee if it is felt appropriate. Details on how to appeal will be given to applicants when a decision to revoke the consent has been made.

1. **Conditions, Complaints and Enforcement**
	1. **Conditions**

General conditions will be attached to every consent.

Conditions on a Consent are important in setting the parameters within which a trader may lawfully operate.

Consent conditions must:

* be appropriate for the promotion of the policy objectives;
* be precise and enforceable;
* be unambiguous and clear in what they intend to achieve;
* not duplicate other statutory requirements;
* be tailored to the individual type, location and characteristics of the trading unit and location;
* be proportionate, justifiable and be capable of being met;
* not seek to manage the behaviour of customers once they are beyond the direct management of the consent holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
* be written in a clear and prescriptive format.

Additional conditions may also be attached relating to the type of the consent given. Failure to comply with conditions may result in enforcement action, the revocation of a consent, and/or refusal to grant further consents on application.

* 1. **Complaints**

Complaints in relation to the administration of the policy will be fully investigated in accordance with the Council’s Complaints Policy.

Substantiated complaints relating to the operation of the street trading consent may result in a consent being revoked and refusal to grant further consents on application.

* 1. **Enforcement**

Enforcement will be considered in line with our [enforcement policy](https://www.lichfielddc.gov.uk/council/enforcement-policy-regulatory-services-housing-health).

* 1. **Offences**

A person commits an offence if they:

* Engage in street trading in a prohibited street.
* Engage in street trading in a consent street without first obtaining a street trading consent from the council.
* Contravene a condition imposed on a consent.

Any person guilty of such an offence will be liable, on conviction at a magistrates’ court to a fine of up to £1,000.

1. From the above definition, any person offering purely a service – e.g. a shoeshine (where there is no tangible good such as a picture or sketch) – does not fall within the scope of the street trading legislation. [↑](#footnote-ref-1)
2. The courts have held that the definition of a ‘street’ is not dependent upon the area of land in question being in public ownership and private land also falls under / within the definition of a street, where the public has free access to the area. Therefore, privately owned roads and property fall within the scope of this policy. [↑](#footnote-ref-2)
3. The definition has been tested through the courts and in the case of West Berkshire DC v Paine [2009] Lord Justice Scott Baker referred to the “wide definition” of a street and saw “no reason to narrow it down by introducing the concept of public place from other legislation”.  [↑](#footnote-ref-3)