



Warwick District Council

Street Trading Consent Policy

Local Government (Miscellaneous Provisions) Act 1982

March 2021

Revision History

Document	Street Trading Policy
Author	Kathleen Rose – Licensing Team Leader
Date Completed	
Reviewed Date	

Version	Revision Date	Revised By	Revisions Made
1.0	28 th September 2016	K. Rose	Final Original Document
2.0	11 th May 2021	K. Rose	Proposed increase to trading hours from 6pm to 8pm daily. Proposed introduction of a third annual trading consent to allow for 'static trading' from multiple locations.

Approvals

This document requires the following approvals:

Name	Title
Licensing & Regulatory Committee	
Executive	

Distribution

This document has been distributed to: Name	Title
All Members	WDC Councillor
Relevant Representatives	

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1: INTRODUCTION AND SCOPE

- 1.1 Warwick District Council recognises the valuable contribution that street trading can make to the local culture and economy, and the service that street traders provide to residents of the district, some of whom are unable to travel to centralised shopping centres. Street trading can provide people with a flexible way of working, to meet the demands of the public where and when that demand arises.
- 1.2 The Council is also committed to improving the support provided to small businesses, ensuring there are no unnecessary burdens placed on them and they are provided with sufficient advice to enable them to operate successfully. However, issues arise where vendors do not pay due regard to their siting, and create an obstruction in the street, or make it dangerous for people to move around them.
- 1.3 Street trading can also result in unnecessary littering and other nuisance to persons visiting, living or working in the vicinity. For this reason, Local Authorities have a legal discretion to regulate street trading in their area. Street trading is covered by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4.
- 1.4 Warwick District Council has designated **all** streets within its boundaries as "Consent Streets". The effect of this designation is that if you want to sell goods on the street, you are classed as a Street Trader and, subject to legal exemptions, will need to have the appropriate consent. Conditions can be attached to the consent as are considered 'reasonably necessary'. Trading without the required consent is a criminal offence.

OBJECTIVES

- 1.5 Central to the Council's policy are a number of key objectives which are:
 - To ensure that traders operate within the law and act fairly in their dealings with the public so as not to present a risk to public order
 - To prevent public nuisance by taking measures to reduce the risk of nuisance from obstruction, noise, refuse, vermin, fumes and smells
 - To ensure the suitability of the structures used for the sale of goods on the street
 - To permit temporary or occasional street trading, where appropriate
 - To ensure that the process involves opportunities for consultation with relevant agencies

PURPOSE OF THE POLICY

- 1.6 This Policy seeks to ensure that these objectives are achieved in a consistent, fair and proportionate way. In considering each application for the grant or renewal of a street trading consent the following factors will be considered:

Public Safety

Whether the proposed activity represents or could present a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions.

Public Order

Whether the proposed activity presents or could present a risk to public order.

The Avoidance of Public Nuisance

Whether the proposed activity presents or could present a risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.

Local Area Needs

Consideration will be given to the character of the area (eg conservation area)

POLICY REVIEW

- 1.7 This Policy will be kept under review and a full consultation exercise carried out when major changes are made to it. It is anticipated that major reviews of the Policy will take place every 5 years.
- 1.8 The Policy will be regularly evaluated and may be changed at any time to reflect minor, administrative or legislative changes or to amend any inconsistencies between the legislation and policy without a full consultation process being carried out. Any major changes will be agreed by Full Council.
- 1.9 Examples of 'major changes' are changes that are:
- likely to have a significant financial effect on consent holders
 - likely to have a significant procedural effect on consent holders
 - likely to have a significant effect on the community

CONTACTING THE TEAM

- 1.10 If after reading this policy you require further information you are welcome to seek assistance from the Licensing Team.

Email: Licensing@warwickdc.gov.uk

Address: Licensing, Health and Community Protection, Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ

- 1.11 An Equality Impact Assessment (EIA) on this policy was undertaken on 20/11/2019, the updates to this policy do not impact on the previous EIA and will be reviewed again in 2026.

2: REGULATORY FRAMEWORK

What is Street Trading?

- 2.1 Street trading means selling, exposing or offering for sale any article (including a living thing) in a street. This includes a wide range of retail activities e.g. food, beverages, arts and crafts, jewellery, household goods, clothing etc. It also includes the sale of vehicles from the roadside.

What is a Street?

- 2.2 A street means any road, footway, beach, service area as defined in section 329 of the Highways Act 1980 or other area to which the public have access without payment. The Courts have confirmed that any land located away from the highway which the public can access without payment, including privately owned land, is capable of being a street for these purposes. For example, this could include car parks, trading estates, forecourts, open spaces etc. However, the Council takes the view that street trading controls would not normally apply within buildings.

What is not Street Trading

- 2.3 Certain activities are exempted from street trading control by the legislation. These include:
- trading as a pedlar under a pedlar's certificate
 - trading at an established market or fair
 - trading as a news vendor
 - trading at a petrol station or shop or from a street adjoining a shop which is used as part of the business of the shop
 - trading as a roundsman (i.e. delivering pre-ordered goods to customers)
 - trading from a licensed highway area (Cafe Permit or Pavement Licence)

Requirement to Obtain Consent

- 2.4 A person intending to sell items from a street in accordance with the above definitions of "street" and "street trading" will be required to obtain full written consent from the Council to do so, unless they fall within any of the 'Deemed Consent' categories or 'Prohibitions' listed below:

Deemed Consent

- 2.5 The registered keeper of a vehicle may display the vehicle for sale at the registered address for that vehicle (subject to a maximum of two vehicle sales per household per year) without the need for a street trading consent.

Prohibitions

- 2.6 The following will not be issued with street trading consents:
- Suitcase salesmen and similar itinerant traders
 - The selling of cars and other vehicles in the course of a trade or business
 - The sale of live animals

Consent Period

2.7 Warwick District Council has 3 types of consent.

- 2.7.1 An Annual Consent which may be granted for any period not exceeding 12 months
- i. For static pitches
 - ii. For touring traders
 - iii. For multi-site static pitches
- 2.7.2 A Single Use Consent – for trading with a static pitch for a period not exceeding 72 hours (or 3 consecutive days)
- 2.7.3 Multiple Trader/Special Event Consent
We will issue a single consent, which will cover a number of traders for a period not exceeding 72 hours (or 3 consecutive days). The number of traders covered is as follows:
- Category 1 – Up to 20 traders
 - Category 2 – Between 21 and 49 traders
 - Category 3 – Between 50 and 75 traders
 - Category 4 – Between 76 and 99 traders
 - Category 5 – over 100 traders

Fees

- 2.8 A fee will be charged for processing any application for consent, transfer, variation or the issue of a replacement consent. The scale of charges will be published on the Warwick District Council web site. Fees are broken down into 2 elements, an Application fee and a Consent fee. Where an application is unsuccessful the Consent element of the fee will be refunded.

3: APPLICATION PROCESS

New Annual Consents

- 3.1 Application forms may be obtained by downloading them from the website. Each application form must be accompanied by the following supporting documentation:

All Traders

- A receipt for the correct fee. (which should be made online on our website)
- A recent Basic Disclosure Certificate (DBS) for the applicant and any 'assistants' to be included on the consent. (not more than 1 month old)
- Three colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- A passport sized photograph of the applicant and each 'assistant'.
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant and each 'assistant'.

Static Trader Specific Requirements

- 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.
- A photograph of the proposed site.
- Permission from the landowner.

Mobile Trader Specific Requirements

- An original copy of the V5 for the vehicle.
- An original copy of the certificate of insurance that covers the applicant to drive the vehicle.

Multi-site Static Trader Specific Requirements

- A copy of a map of at least 1:1250 scale. The map should clearly identify each proposed site position by marking the site boundary with a red line.
- A photograph of each of the proposed sites.
- Permission from the landowner for each site.

- 3.2 Upon receiving a full application, all associated documentation and the correct fee the Licensing Team will begin the consultation process with interested parties. The consultation will last for a period of 14 days. If there are no objections raised to the application and the applicant has no convictions it is likely that the Environmental Health & Licensing Manager will grant the application.
- 3.3 Where relevant objections are raised by interested parties, application requests fall outside the remit of this policy, or the applicant has any convictions, it is likely that the application will be referred to the Licensing and Regulatory Committee for a decision to be made.
- 3.4 Applicants for a new Annual street trading consent should give not less than 28 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ or email licensing@warwickdc.gov.uk
- 3.5 No street trading may take place until a consent has been issued. To trade without a consent is an offence.

Renewing Annual Consents

- 3.6 Existing consent holders will be sent a reminder and a link to the appropriate application forms online, to the address that is held on file, well in advance of the expiry of the consent. However, please note that **responsibility for the renewal rests with the consent holder.**
- 3.7 **If you allow your consent to expire, no matter what the reason, it cannot be renewed. A consent that has expired does not exist, and therefore cannot be renewed.**

- 3.8 Each application form must be accompanied by the following supporting documentation:

All Traders

- A receipt for the correct fee. (which should be made online on our website)
- A recent Basic Disclosure Certificate (DBS) for the applicant and any 'assistants' to be included on the consent. (not more than 1 month old)
- Three colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- A passport sized photograph of the applicant and each 'assistant'.
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant and each 'assistant'.

Static Trader Specific Requirements

- 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.
- A photograph of the proposed site.
- Permission from the landowner.

Mobile Trader Specific Requirements

- An original copy of the V5 for the vehicle.
- An original copy of the certificate of insurance that covers the applicant to drive the vehicle.

Multi-site Static Trader Specific Requirements

- A copy of a map of at least 1:1250 scale. The map should clearly identify each proposed site position by marking the site boundary with a red line.
- A photograph of each of the proposed sites.
- Permission from the landowner for each site.

- 3.9 Upon receiving a full application, all associated documentation and the correct fee the Licensing Team will begin the consultation process with interested parties. The consultation will last for a period of 14 days. If there are no objections raised to the application and the applicant has no convictions it is likely that the Environmental Health & Licensing Manager will grant the application.

- 3.10 Where relevant objections are raised by interested parties, application requests fall outside the remit of this policy, or if the applicant has any convictions it is likely that the application will be referred to the Licensing and Regulatory Committee for a decision to be made.

Appendix 1

3.11 Applications to renew an annual street trading consent should make their application not less than 28 days prior to the expiry of their existing consent to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ or email licensing@warwickdc.gov.uk

3.12 No street trading may take place during any period where an existing consent has expired and the renewal application process is incomplete. To trade without a consent is an offence.

New Single Use Consents (Static only)

3.13 The Short Term Street Trading Consent application form may be downloaded from the website. Each application form must be accompanied by the following supporting documentation:

- A receipt for the correct fee. (which should be made online on our website)
- A recent Basic Disclosure Certificate (DBS) for the applicant and any 'assistants' to be included on the consent. (not more than 6 months old)
- Three colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- A passport sized photograph of the applicant and each 'assistant'.
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant and each 'assistant'.
- 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.
- A photograph of the proposed site.
- Permission from the land owner.

3.14 Upon receiving a full application, all associated documentation and the correct fee the Licensing Team will inform all interested parties of the application. If all other permits/licences are in place it is likely that the Environmental Health Manager will grant the application.

3.15 Where relevant objections are raised by interested parties, application requests fall outside the remit of this policy, or if the applicant has any convictions it is likely that the application will be referred to the Licensing and Regulatory Committee for a decision to be made.

3.16 Applicants should give not less than 14 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ or email licensing@warwickdc.gov.uk. If the application is likely to require a Committee Hearing, applicants are requested to give as much notice as possible.

3.17 No street trading may take place until a consent has been issued. To trade without a consent is an offence.

New Multiple Trader/Special Event Consents (Static only)

3.18 The Multiple Trader/Special Event Street Trading Consent application form may be downloaded from the website. Each application form must be accompanied by the following supporting documentation:

- A receipt for the correct fee. (which should be made online on our website)
- A recent Basic Disclosure Certificate (DBS) for the applicant. (not more than 6 months old)
- A passport sized photograph of the applicant.
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- A copy of a map of at least 1:1250 scale. The map should clearly identify the boundary of the proposed site, with the trading area outlined in red.
- A photograph of the proposed site.
- Permission from the land owner.
- A complete list of traders attending the event. (following the standard format published on our website)

3.19 Upon receiving a full application, all associated documentation and the correct fee the Licensing Team will begin the consultation process with interested parties. The consultation will last for a period of 14 days. If there are no objections raised to the application and the applicant has no convictions it is likely that the Environmental Health & Licensing Manager will grant the application.

3.20 Where relevant objections are raised by interested parties, application requests fall outside the remit of this policy, or if the applicant has any convictions it is likely that the application will be referred to the Licensing and Regulatory Committee for a decision to be made.

3.21 Applicants should give not less than 28 days notice of the application to:- Licensing Team, Health and Community Protection, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ or email licensing@warwickdc.gov.uk. If the application is likely to require a Committee Hearing, applicants are requested to give as much notice as possible.

3.22 No street trading may take place until a consent has been issued. To trade without a consent is an offence.

Plan of Location

- 3.23 The applicant shall provide a map showing all streets and public areas in a radius of 0.25 miles from the proposed location.
- 3.24 The map should be an ordnance survey map or equivalent and will mark clearly the proposed trading site.
- 3.25 If a proposed street trading site is located on private land, including forecourts, satisfactory evidence must be provided to the Council that the permission of the landowner or lessee has been obtained.

Suitability of the Street Trading Unit

- 3.26 The application must be accompanied by 3 colour photographs of the unit to be used.
- 3.27 Full details of any van, barrow, other vehicle or portable stall which the applicant intends to use must be supplied to the Council at the time of making the application. Arrangements shall be made for the van, barrow, other vehicle or portable stall to be inspected by a duly authorised officer prior to the application being considered if requested.

Suitability of the Applicant

- 3.28 The Council will not grant a street trading consent to persons under the age of 17.
- 3.29 All applicants and 'assistants' are required to submit a recent Basic Disclosure Certificate. The certificate must meet the requirements of the application type at the time of submission. Applicants with previous convictions or cautions are not necessarily debarred from holding a consent unless the authority considers that the conviction renders them unsuitable. In making this decision the Council will consider the nature of the offence and how long it has been since the applicant was convicted.
- 3.30 **Each case will be dealt with on its own merits with the overriding consideration being the protection of the public.**
- 3.31 Applicants whose street trading activity includes the provision of food in any form, must be in possession of a current CIEH Level 2 Award in Food Safety Certificate, or suitable equivalent.

Consultations

- 3.32 Before a street trading consent is granted or renewed the Licensing Team will consult with the following agencies as considered appropriate:
- Police
 - Highways Department
 - Environmental Health

- 3.33 The Council shall consider any representation made in writing to the Authority in respect of any application. The applicant will be provided with a copy of any representation received and given an opportunity to comment before a final decision is taken.

Decision to Refuse or Revoke a Consent

- 3.34 If the Council is unable to grant consent the applicant will be informed of the reason for the refusal within 21 days of the decision being made.
- 3.35 Failure to comply with the conditions of the consent described in Appendix 1 may result in the revocation or refusal to renew, a consent. In certain circumstances, formal action such as Prosecution may be the most appropriate course of action. Please refer to the Councils Enforcement Policy which can be found on our website. If a consent is revoked the holder will be informed of the reason for the revocation within 21 days of the decision being made.

Appeals

- 3.36 There is no statutory right of appeal in respect of refusal or revocation of street trading consent, other than by means of a judicial review of the administrative action in reaching the decision. However, applicants also have recourse to the Council's complaints procedure if the applicant considers that a Council service has not been properly delivered. Full details are available on the internet at - www.warwickdc.gov.uk

Permitted Trading Hours

- 3.37 The Council generally will only permit street trading between 06:00 and 20:00. Any trading outside these hours will have to be approved by the Licensing & Regulatory Committee. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.

Market days

- 3.38 Those who have consent to trade in the town centres will not be able to do so on Market days on the Parade in Leamington, Market Square in Warwick, Abbey End in Kenilworth or any area designated by the Council from time to time. (Unless they trade as part of the General Market)

4: APPENDIX 1

General Conditions

Definitions:

Street Trading: The selling or exposing or offering for sale any article (including a living thing) in a street

Street:

- a) any road, footway, beach or other area to which the public have access without payment; and
- b) a service area as defined in section 329 of the Highways Act 1980

The Council: Warwick District Council

Authorised Officer: An Officer employed by Warwick District Council and authorised by the Head of Service (Health and Community Protection) in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982

Consent Details

1. A copy of the consent must be displayed prominently on the unit at the street trading site.
2. The consent holder shall not sell any type of food, goods or merchandise other than those specified in the consent.
3. The consent holder shall not trade outside the time and days permitted by the consent.
4. The consent holder shall not trade within the consent area other than at the location permitted by the consent.
5. Touring consent holders shall not trade from the same location for more than 15 minutes (or until queuing customers have been served) at any one time. There is to be no return to any location within 2 hours of previous trading.
6. The consent is personal to the consent holder and shall not be assigned or transferred to another person or company without the appropriate notification of such transfer. (See application for consent transfer.)
7. The consent holder shall produce the consent if required to do so by a police officer or authorised officer at any time.

Appendix 1

8. The consent may be revoked by the Council at any time for non-compliance with conditions or surrendered by the consent holder at any time.
9. The Consent Holder may employ another person to 'assist' with trading but shall be expected to be in attendance at the site in order to remain in control of trading for the majority of trading hours.
10. Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.

General Conduct

11. The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any street or public place.
12. The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.
13. The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.
14. The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity. Noise from equipment must not be persistently audible in nearby residences.
15. The consent holder shall not trade from a vehicle parked in the lay-by outside the Royal Pump Rooms, the Parade, Leamington Spa, or in the entrance to the park opposite.
16. Applicants who wish to operate within the district **must** obtain a Basic Disclosure Certificate. A DBS check will have to be completed every year, or more frequently, at the discretion of the Council.

Protection of Young People

17. Street trading will not normally be authorised within 50 metres of any entrance or exit to a school or nursery or within a designated conservation area. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).
18. No child aged 16 or below shall be engaged in or employed to undertake any street trading under a consent issued by the Council.

Noise Nuisance

19. The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract customers to the stall/vehicle/trailer by sound. Ice cream vans may use a chime only in accordance with the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982.

Visual Appearance

20. Any vehicle/stall/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council. A high standard of presentation and appearance will be expected.

Health & Safety

21. The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.

22. Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.

23. The consent holder shall at all times maintain a valid third party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.

24. The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.

Advertisements / Signage

25. Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards.

Waste Management

26. The consent holder shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the trading vicinity; suitable arrangements must be in place for the disposal of commercial waste. The consent holder shall be responsible for any damage to the highway resulting from the trading activity.

27. The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.

Additional Requirements for Food Operations

28. When street trading includes the provision of food, the Food Business Operator (FBO) must ensure that any van/barrow/vehicle or stall is sited, designed, constructed and kept clean and maintained in good repair and condition as to avoid the risk of contamination, in particular by animals and pests. Any food handler must keep a high degree of personal cleanliness, shall wear suitable protective clothing and have received suitable hygiene training. In addition the FBO shall ensure that:

- a) appropriate facilities are available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities)
- b) surfaces in contact with food are to be in a sound condition and be easy to clean and, where necessary, to disinfect. This will require the use of smooth, washable, corrosion-resistant and non toxic materials, unless the food business can satisfy the Authorised Officer that other materials used are appropriate
- c) adequate provision is to be made for the cleaning and, where necessary, disinfecting, of working utensils and equipment
- d) an adequate supply of hot and/or cold potable water to be available
- e) where foodstuffs are cleaned as part of the business operation, adequate provision is to be made for this to be undertaken hygienically
- f) adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) are to be available
- g) adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions are to be available
- h) foodstuffs are to be so placed as to avoid the risk of contamination so far as is reasonably practicable

Furthermore, the consent holder must put in place, implement and maintain a permanent procedure based on the HACCP principles.

Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent.