Licensing and Regulatory Panel
Tuesday 14 November 2023

A Licensing & Regulatory Panel will be held at the Town Hall, Royal Leamington Spa on Tuesday 14 November 2023 at **10:00am**, and available for the public to watch via the Warwick District Council YouTube channel.

Membership: Matecki, Roberts, and Sinnott.

Agenda

1. **Appointment of Chairman**

   To appoint the Chairman of the meeting.

2. **Substitutes**

   To receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

3. **Declarations of Interest**

   Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

   Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

   Members are also reminded of the need to declare predetermination on any matter.

   If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

4. **Mobile Street Trading Consent holder wishing to trade outside of the restrictions set out within Warwick District Council's Street Trading Policy**

   To consider a report from Safer Communities, Leisure, and Environment
   (Pages 1 to 22)

Published Monday 6 November 2023

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General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.
Telephone: 01926 456114
E-Mail: committee@warwickdc.gov.uk

For enquiries about specific reports, please contact the officers named in the report. Details of all the Council's committees, councillors and agenda papers are available via our website on the Committees page

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Agenda Item 4

Licensing and Regulatory Panel
14 November 2023

Title: Mobile Street Trading Consent holder wishing to trade outside the restrictions set out within Warwick District Council's Policy.
Lead Officer: Rachael Russell
Public report

Wards of the District directly affected: Leamington Clarendon

Contrary to the policy framework: No
Contrary to the budgetary framework: No
Key Decision: No
Included within the Forward Plan: No
Equality Impact Assessment Undertaken: No
Consultation & Community Engagement: No
Final Decision: Yes
Accessibility checked: Yes

Officer/Councillor Approval

Officer Approval	**Date**	**Name**
Head of Service	25.10.23	Marianne Rolfe
Legal Services	25.10.23	Sue Mullins

1. Summary

1.1 Members are asked to consider two new Static Street Trading Consent applications. The applicant wishes to trade outside the Street Trading Policy hours. Members are also asked to consider adding a further condition being requested by Licensing.

2. Options available to the Panel

2.1 The Panel is asked to consider the information contained in this report and decide whether the Street Trading Consents for Mr Chiles should be granted.

The following options are available to the Panel:

Option 1 – Grant the consents as requested;

Option 2 – Grant the consents requested with such additional conditions attached to the Street Trading Consents as the Panel considers to be reasonably necessary

Option 3 – Refuse the applications.

3. Details for Consideration

3.1 Mr Dennis Chiles currently has a touring street trading consent for his ice cream van (WDCSTC0001) Mr Chiles renews his consent annually and his current consent expired on 31.10.2023. Licensing Department records for Mr Chiles go as far back as 2008.

3.2 Mr Chiles has applied for two new static Street Trading Consents: one for Newbold Street, Leamington Spa and one for Dormer Place, Leamington Spa. The applications are attached as **Appendix 1**. Mr Chiles also wishes to trade to 19:00.

3.3 Mr Chiles previously appeared before a Licensing and Regulatory Panel in May 2022 to request that condition 5 of his touring street trading consent be removed. This request was refused. The decision letter is attached as **Appendix 2**.

3.4 By way of background information, and to explain the current applications before the Panel, the Licensing Department have been undertaking pro active enforcement during the summer months of 2023 and have witnessed Mr Chiles breaching his touring Street Trading Consent on occasions, specifically condition 5.

3.5 There were also three complaints received from residents on Newbold Terrace in March 2022 and June 2022 regarding ice cream vans parked for prolonged periods of time outside Jephson Gardens and on Newbold Street. Mr Chiles' ice cream van was identified as being one of those ice cream vans.

3.6 Both the streets that Mr Chiles is applying to trade from have parking restrictions, limiting parking to two hours (unless a permit holder) and no return within 4 hours. Licensing Officers therefore feel it is appropriate that,

should the Panel choose to grant the consents applied for, that a condition is added restricting the time Mr Chiles could trade at each location, to ensure that parking restrictions are not breached.

3.7 The Licensing team consult with Warwickshire Police, Environmental Health and Warwickshire County Council when a new application is received. No objections were received for either application.

3.8 The Council's Street Trading Policy states that:

"In considering applications for the grant or renewal of a street trading consent the following factors should be considered:

a) 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.

b) Public Order
Whether the proposed activity presents or could present a risk to public order.

c) 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.

d) Local Area Needs
Consideration will be given to the character of the area (e.g. conservation area)"

3.9 The Street Trading Policy also states that:

"The Council generally will only permit street trading between 06:00 and 18:00. Any trading outside these hours will have to be approved by the Licensing and 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."

3.10 A copy of the Street Trading Policy is attached as **Appendix 3.**

3.11 Details of the procedure adopted by the Licensing Committee for Panel Hearings have been supplied to the applicant. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

4. Legal comments

4.1 The relevant legislation relating to street trading is set out in the Local Government (Miscellaneous Provisions) Act 1982.

4.2 The Council has adopted the provisions of this Act allowing the regulation and control of Street Trading and the current Street Trading Consent Policy which has been in force since October 2016 is attached at Appendix 6.

4.3 When granting or renewing a Street Trading Consent the Council may include any conditions that it thinks are reasonably necessary.

4.4 Without prejudice to the power of the Council to attach any conditions that they think are reasonably necessary, they may also include conditions specifically to prevent: -
(a) obstruction of the street or danger to persons using it; or (b) nuisance or annoyance (whether to persons using the street or otherwise).

4.5 The Local Government (Miscellaneous Provisions) Act 1982 does not provide any direct right of appeal against a decision made in relation to a street trading consent. Therefore, a consent holder aggrieved by a decision would only be able to challenge that decision by making an application for a judicial review

5. Policy Framework

5.1. Fit for the Future (FFF)

5.1.1 The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

5.2. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found on the Council's website.

5.2.1 External impacts of proposal(s)

People - Health, Homes, Communities - The Street Trading Policy recognises that residents within, and visitors to the District, need a safe and healthy environment to live, work and visit and that Street Traders are important to the local economy and vibrancy of the District.

Services - Green, Clean, Safe – None.

Money- Infrastructure, Enterprise, Employment - The Street Trading Policy relates to current legislation, and, where possible, to local factors, allowing flexibility and the potential to expand and augment the local economy and promote cultural issues.

5.2.2. Internal impacts of the proposal(s)

People - **Effective Staff** – None.

Services - Maintain or Improve Services - None.

Money - Firm Financial Footing over the Longer Term - None.

C.S.T WARWICK DISTRICT COUNCIL

APPLICATION FOR A STREET TRADING CONSENT

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

WARWICK DISTRICT COUNCIL

Data protection: We will use the information supplied by you and/or obtained on your behalf for the purpose of licensing and enforcement. This information may be used internally and shared with other bodies administering public funds to prevent and detect crime and fraud and to apprehend offenders. Information held about you will not be released to other third parties unless it is shown that they are entitled to the information by law.

THIS FORM WILL BE RETURNED IF YOU HAVE NOT COMPLETED ALL OF THE QUESTIONS IN FULL

Name of consent holder ....MR D.R. CHILES....

Address of consent holder: [redacted]

Contact Tel No [redacted]

Date of birth: [redacted]. National insurance Number [redacted]

Have you ever been refused a street trading consent in this, or any other area?

(Answer Yes or No) ....No.... *If yes, Which Area:* ....

What items do you intend to sell: ....ICE CREAM....

Where do you intend to sell them? *(Where is your pitch?)*....NEWBOLD ST B WDCSTC0262, DORMER PLACE (STATIC) WDCSTC0263.

State the days and times you wish to trade

Monday	11-00	to 19-00	Tuesday	11-00	to 19-00
Wednesday	"	to "	Thursday	"	to "
Friday	"	to "	Saturday	"	to "
Sunday	"	to "			

Vehicle registration number *(if trading from a vehicle)* ....[redacted]....

If selling food, are you registered with Environmental Health? ....YES.... (Answer Yes or No)
(If No, please request a registration form)
(If Yes) Which Local Authority are you registered with? ....WARWICK DISTRICT COUNCIL

If selling food, what food hygiene qualification do you hold? ....FOOD HYGIENE CERTIFICATE....

Name of Business/Vehicle owner: ....MR D.R. CHILES....

Address of Business/Vehicle owner: [redacted]

.... Contact Te[redacted]

Date of Birth: [redacted] ational Insurance Number: [redacted]

Signature: ..[redacted].... Date: ..21/09/23....

Print Name: ....MR D.R. CHILES.

It is an offence to make a false declaration on this form

Continued overleaf

Declaration and Signature

	Please tick ✓
I understand that this application will be considered by the Licensing Team, Warwick District Council and that if granted, I shall comply with any lawful condition under which the Street Trading Consent is granted.	✓
I have enclosed a current passport style photograph of myself.	✓
I have enclosed a current Basic DBS Certificate (not more than 1 month old)	✓
I, as the consent holder, will be in regular attendance at the trading site together with a duly authorised assistant (if applicable).	✓
I have attached completed details forms for each additional employee/assistant.	

I declare that all the information given is true to the best of my knowledge. If any information is subsequently found to be untrue or incomplete, any consent granted may be suspended pending a full investigation of the matter.

Signature of applicant	Date
[redacted]	21/09/23

You must submit the following with the application

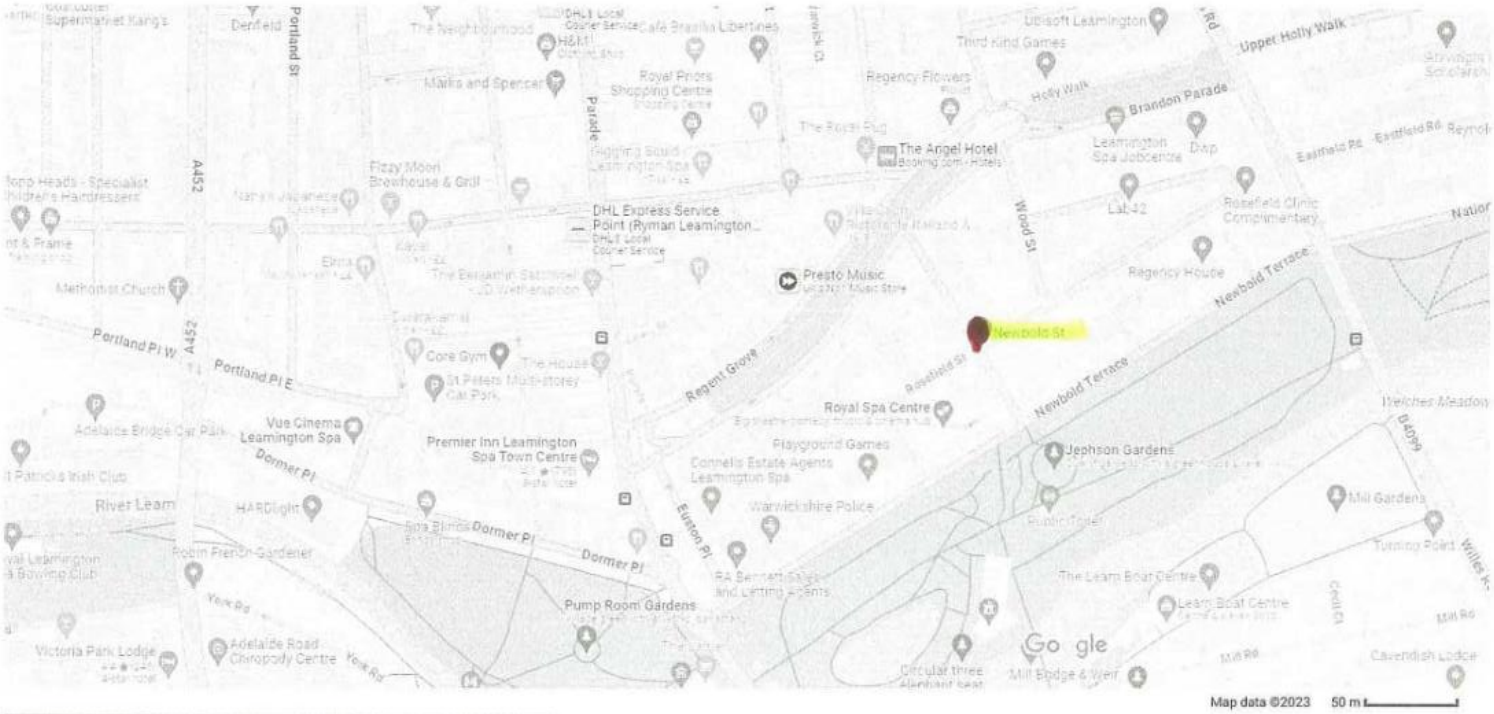
Where the proposed street activity is from a **fixed position**:

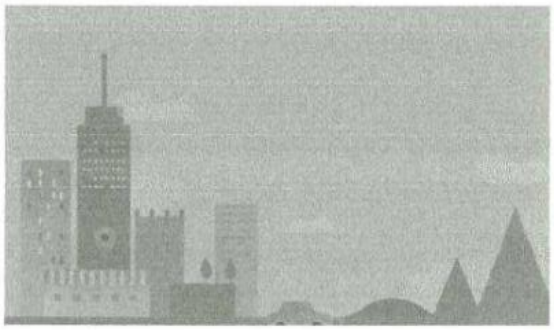
- ✓ A completed and signed Street Trading Consent Application Form.
- ✓ The full fee as appropriate.
- ✓ A recent Basic Disclosure Certificate (DBS) for the applicant (not more than 1 month old)
- ✓ A copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.
- ✓ A photograph of the proposed site.
- ✓ 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.
- ✓ An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- Permission from the land owner
- ✓ Where food will be sold a copy of the Food Hygiene Certificate for the applicant.

Where the proposed street activity is from a **touring vehicle**:

- A completed and signed Street Trading Consent Application Form.
- The full fee as appropriate.
- A recent Basic Disclosure Certificate (DBS) for the applicant (not more than 1 month old).
- A passport sized photograph of the applicant.
- Three colour photographs of the van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- 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.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant.

Newbold St



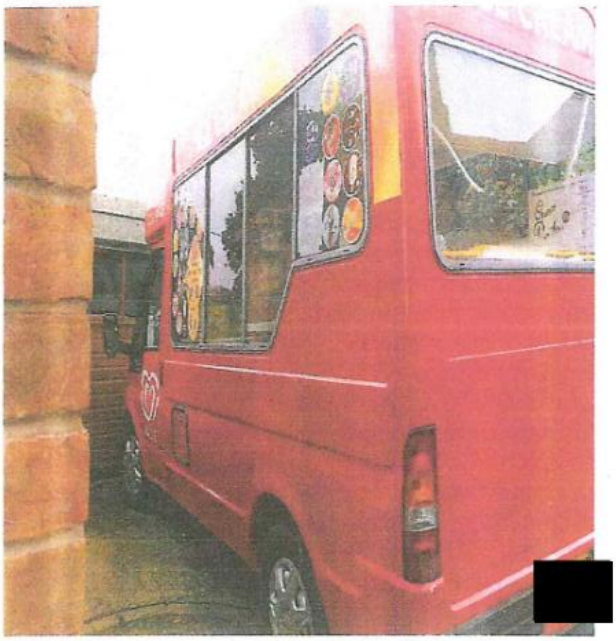


Newbold St

Directions Save Nearby Send to phone Share

Leamington Spa

ICE CREAM
WALL'S
[redacted]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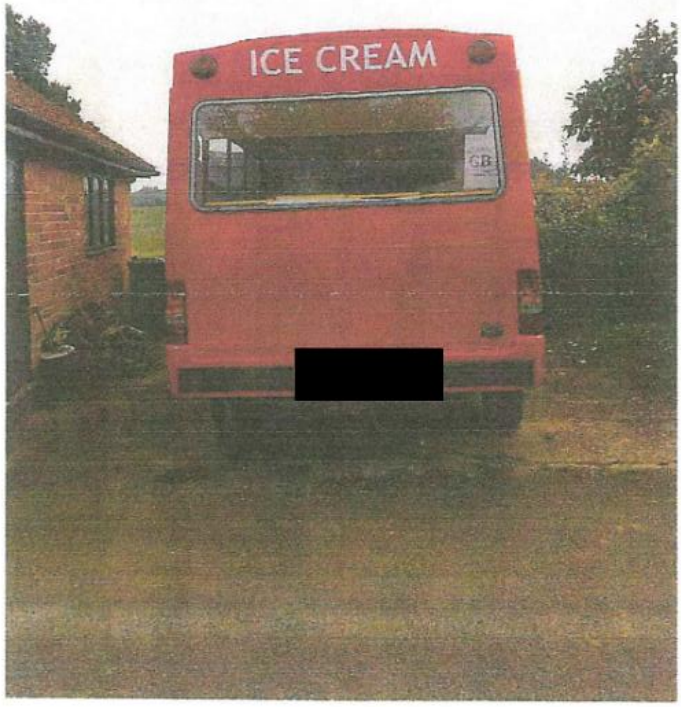
ICE CREAM
[redacted]

C.S.T WARWICK DISTRICT COUNCIL

APPLICATION FOR A STREET TRADING CONSENT

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

WARWICK DISTRICT COUNCIL

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Friday	"	to "	Saturday	"	to "
Sunday	"	to "			

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[redacted]. Contact Tel N [redacted]

Date of Birth: [redacted]. National Insurance Number: [redacted]

Signature: [redacted] ..... Date: 21/09/23

Print Name: MR D.R. CHILES

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Continued overleaf

Declaration and Signature

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Signature of applicant	Date
[redacted]	21/09/23

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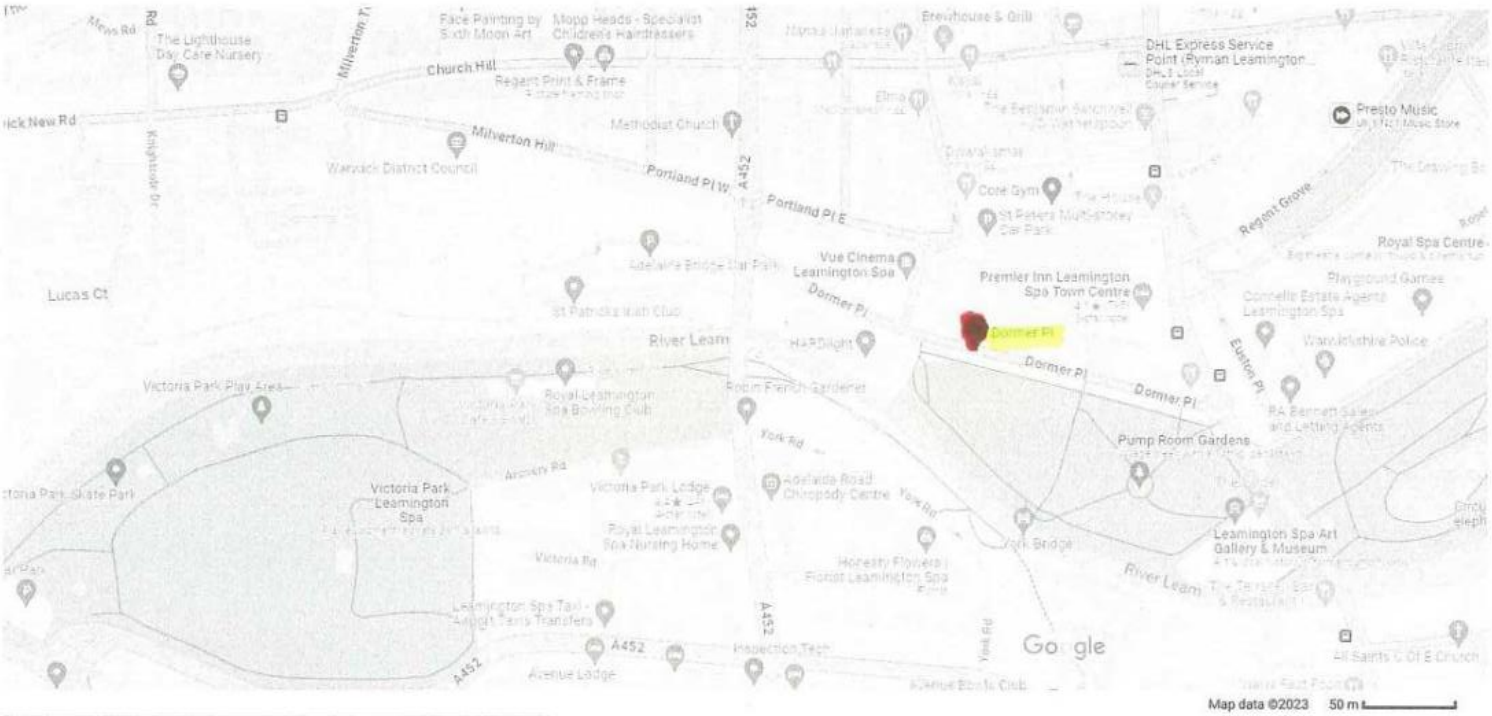
- A recent Basic Disclosure Certificate (DBS) for the applicant (not more than 1 month old).
- A passport sized photograph of the applicant.
- Three colour photographs of the van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- 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.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant.

Google Maps Dormer Pl



Dormer Pl

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Leamington Spa

Appendix 2

Community Protection
Marianne Rolfe – Head of Service

Warwick District Council, Riverside House
Milverton Hill, Royal Leamington Spa, CV32 5HZ

direct line: 01926 456705

email: licensing@warwickdc.gov.uk
web: www.warwickdc.gov.uk

Mr Dennis Chiles

our ref:
your ref:

6 May 2022

Dear Mr Chiles

Please find below the decision made at the Licensing and Regulatory Panel held on 3rd May 2022 in relation to the request to remove conditions from your street trading consent.

The Panel has considered the report provided by the Licensing Officer and the verbal representations made by Mr Chiles the Consent Holder at the hearing.
The Panel note that the Mr Chiles is asking for two of the standard conditions under the Council's Street Trading Consent Policy to be removed from the touring street consent he holds for his ice cream van.
The two conditions that Mr Chiles has requested be removed are Conditions 5 and 9.
Condition 5 imposes a requirement for mobile units to move on from location to location and is worded as follows:
"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 no return to any location within 2 hours of previous trading."
Condition 9 relates to the use of assistants and is worded as follows:
"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 if trading hours."

In support of his request for the two above conditions to be removed from his consent, Mr Chiles has referred to a number of matters including:-

- That the introduction of parking restrictions over the years in the centre of Leamington Spa has reduced the number of places where mobile ice cream vans can park up and trade.
- That the spot outside Jephson Gardens he trades from is popular because visitors to park create good footfall making it a desirable location for mobile traders.
- That trading time of 15 minutes only as set out in Condition 5 is not long enough and he would like to trade for longer before having to move on.
- That having to move on and the absence of suitable places to park the van have had a negative impact on trading.

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- That Condition 9 was restrictive in that it prevented him from sharing out the trading days with his brother who was in his seventies and very responsible; Mr Chiles asked the Panel to consider that anyone over 25 should be able to act as an "assistant" without the need for any supervision by the licence holder.

Mr Chiles also addressed the Members on the issue of whether he could park his van in an alternative location close to the area close to where he currently trades from at Jephson Gardens, or within the park itself, and he referred Members to a hand drawn plan of the area.
The Panel has noted the correspondence between Mr Chiles and the Licensing Department as set out in the exempt Appendices 1 to 5.
The Panel has listened carefully to the comments put forward by Mr Chiles in support of his application to vary the conditions, and has taken into consideration the contents of the officers report and the Council's Street Trading Consent Policy. The Panel has decided not to make any change to the conditions attached to the touring street consent.

The reasons for this decision are as follows:-

1. The current Street Trading Consent Policy applying to touring consent holders sets out the conditions the Council considers to be reasonably necessary.
2. For touring consent holders (as opposed to consent holders for static pitches) a key aspect of the policy is condition 5, which is the clause requiring mobile traders to move from location to location.
3. The Panel regard Condition 5 as a fundamental element of a touring consent and are mindful that the Street Trading Consent Policy should be applied in a fair way to all consent holders.
4. The change Mr Chiles is seeking, namely to remove Condition 5 would be in conflict with the Street Trading Consent Policy for touring consent holders.
5. Although under the Local Government (Miscellaneous Provisions) Act 1982 there is a discretion to amend conditions, the Panel is of the view that Condition 5 remains appropriate for the regulation of mobile traders including ice cream vans, and Mr Chiles has not raised any issues unique to his trading situation which would lead them to the view that Condition 5 should be removed.
6. With regard to the points raised by Mr Chiles about trading from a fixed location outside Jephson Gardens, these cannot be considered as part of a variation to his touring consent. The Panel is not able to progress this aspect and Mr Chiles would have to make an application for a static licence.
7. As indicated at paragraph 3.8 of the officer's report, applications for static consents to be issued outside Jephson Gardens have been rejected previously. This has been due to the parking restrictions on Newbold Terrace which are imposed by the Highway Authority, namely Warwickshire County Council and are outside the specific control of Warwick District Council as the Licensing Authority.
8. The Panel notes that amending Condition 9 to allow Mr Chiles' brother to act as an unsupervised assistant would be in conflict with the Street Trading Consent Policy, and in the interests of fairness to all consent holders the Panel is not minded to amend this condition.

The Local Government (Miscellaneous Provisions) Act 1982 does not provide any direct right of appeal against a decision made in relation to a street trading consent. A consent holder aggrieved by a decision may challenge the decision by making an application for a judicial review.

Yours sincerely,

Lorna Hudson
Environmental Health and Licensing Manager

Warwick District Council

Street Trading Consent Policy
Local Government (Miscellaneous Provisions) Act 1982

Introduction and Scope
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.

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.

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.

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 is considered ‘reasonably necessary’. Trading without the required consent is a criminal offence.

What is a Street?
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 Street Trading?
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 not Street Trading
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 (Tables and Chairs licence);
- trading under a street collection permit

Objectives of the policy
Central to the Council's policy are a number of key objectives which are:

- To prevent public nuisance by taking measures to reduce the risk of nuisance from obstruction, noise, refuse, vermin, fumes and smells.
- 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 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
This Policy seeks to ensure that these objectives are achieved in a consistent, fair and proportionate way.

Requirement to Obtain Consent
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
The following activities will be deemed to have consent (i.e. it is assumed that an application has been made and granted without the need to actually do so):

a) A registered keeper displaying a vehicle for sale at the registered address for that vehicle subject to a maximum of two vehicle sales per household per year;

Note 1

No application is required or fee payable for traders who operate with 'Deemed Consent'

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

Applications
In considering applications for the grant or renewal of a street trading consent the following factors will be considered:

a) 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.

b) Public Order
Whether the proposed activity presents or could present a risk to public order.

c) 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.

d) Local Area Needs
Consideration will be given to the character of the area (eg conservation area)

Street Trading Consent Conditions
Upon grant of a street trading consent a street trader will be required to comply with the conditions that are attached to the consent (see Appendix 1). Any breach of the conditions may result in the revocation of the consent.
Under the terms of the legislation, the Council may, at any time vary the conditions of a street trading consent.

Consent Period
Warwick District Council has 3 types of consent.

1. A Daily Consent – for trading with a static pitch for a period not exceeding 72 hours (or 3 consecutive days)
2. An Annual Consent which may be granted for any period not exceeding 12 months
    a. For static pitches
    b. For touring traders
3. Multiple Trader/Special Event Consent
    a. At special events, the council will issue one consent to the person organising the event/market, rather than to each individual trader. This policy is aimed at promoting events and encouraging more traders to attend them.
    b. 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
A fee will be charged for processing any application for consent, transfer, variation or the issue of a replacement notice. The scale of charges will be published on the Warwick District Council web site. Fees are broken down in to 2 elements, an Application fee and a Licence fee. Where an application is unsuccessful the Licence element of the fee will be refunded.
There are no charges for anyone who falls under the category of 'Deemed Consent'.

Application Process
Applicants for a new (or renewal) 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. Tel: 01926 456705 or email licensing@warwickdc.gov.uk

Upon receiving a full application and fee the Licensing Team will consult with interested parties for a period of 14 days. If there are no objections raised to the application and the applicant has no convictions it is likely the Regulatory Manager will grant the application.

If objections are received to an application or the applicant has any convictions it is likely that the application will be referred to the Regulatory Committee for a decision to be made. The applicant will be invited to attend a Committee hearing to respond to any objections made.

Applicants for a Daily consent 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. Tel: 01926 456705 or email licensing@warwickdc.gov.uk

Upon receiving a Daily consent application and fee the Licensing Team will inform interested parties of the application. If all other permits/licences are in place it is likely the Regulatory Manager will grant the application.

Applicants for a Multiple Trader/Special Event 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. Tel: 01926 456705 or email licensing@warwickdc.gov.uk

Upon receiving a Multiple Trader/Special Event consent application and fee the Licensing Team will consult with interested parties for a period of 14 days. If all other permits/licences are in place and there are no objections raised, it is likely the Regulatory Manager will grant the application.

Plan of Location
The applicant shall provide a map showing all streets and public areas in a radius of 0.25 a mile from the proposed location.
The map should be an ordnance survey map or equivalent and will mark clearly the proposed trading site.
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
The application must be accompanied by 3 colour photographs of the unit to be used.
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
The Council will not grant a street trading consent to persons under the age of 17.

All applicants and ‘assistants’ are required to submit a recent Basic Disclosure Certificate . The certificate must not be more than 4 weeks old 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. **Each case will be dealt with on its own merits with the overriding consideration being the protection of the public.**

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
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

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 Licence
If the Council is unable to grant a licence the applicant will be informed of the reason for the refusal within 21 days of the decision being made.

Appeals
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 request or on the internet at - www.warwickdc.gov.uk

Permitted Trading Hours
The Council generally will only permit street trading between 06:00 and 18:00. Any trading outside these hours will have to be approved by the 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
Those Consent Street licensees 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)

General Information on Street Trading Consents
Street Trading Consents will be issued only at the Council Offices. The applicant must attend in person to collect any documentation.

An Equality Impact Assessment on this policy was undertaken on 16/05/2016 and will be reviewed on 16/05/2019.

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 the time.

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 from Disclosure Scotland. 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 vendors 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.