

STREET TRADING GUIDANCE

ISSUE 4 Draft

1 Introduction

As a licensing authority, we are keen to support Street Traders, as they are a sector of our business community that provides a valuable service to consumers across the district.

This policy, which covers the whole district, is designed to ensure that all street traders operate from a level playing field – making things fair for all traders and safer for customers.

First of all, we will make sure that areas are not saturated by street traders, giving businesses a fair chance of making a living.

Secondly, our Environmental Health Officers now know the exact locations of all traders. This will make it much easier to make sure traders are complying with the law, protecting consumers from unsafe practices and maintaining environmental standards.

This document will provide guidance and support to applicant and consent holders.

2. Submission of an Application

An application for a street trading consent must be made to North West Leicestershire District Council Licensing Team in writing using the Councils' prescribed application form. Application forms and information packs are available from the Council or downloadable from the website.

You will need to submit the following documents and fees with the application:

	New application	Renewal application
A completed application and signed street trading consent application form for a street trading consent.	Yes	Yes
Where the proposed street trading is from a fixed location, 1 copy of a map clearly identifying the proposed site position by marking the site boundary with a red line	Yes	No – unless changed
Proof of current address and identity e.g. Driving licence, current utility bill	Yes	No
Proof of eligibility to work in the United Kingdom	Yes	No
The full fee is required upon application. The fee minus an administration fee will be refunded if the application is refused	Yes	Yes
Three colour photographs showing the exterior and interior of the stall, vehicle, barrow, stall etc. that will be used for the street trading activity	Yes	Yes
Passport sized colour photograph of consent holder	Yes	Yes
Proof of food premises registration (if not registered with NWLDC)	Yes	No
Certificate of Level 2 Food Hygiene training (consent holder or nominated person)	Yes	No
Written permission from a landowner if the street activity is to be carried out on any land not in the ownership of the council.	Yes	No – unless landowner changed
Gas and electrical safety certificates (if applicable)	Yes	No

Applications should be submitted to:

Licensing Team, North West Leicestershire District Council. Council Offices, Coalville. Leicestershire, LE67 3FJ.

Applications may also be made on-line via the street trading page on the council's website at www.nwleics.gov.uk/pages/licences_and_street_trading.

NB: An appointment is necessary if visiting the council offices for advice or assistance from a licensing officer.

3. Consultations on applications made

Before a new application for a street trading consent is determined by the council may seek the views of various persons and groups. In particular we may contact:

North West Leicestershire District Council – Environmental Health (Safety)
North West Leicestershire District Council – Environmental Health (Licensing)
North West Leicestershire District Council – Environmental Protection (Public Nuisance)
North West Leicestershire District Council – Waste (littering, street cleansing)
North West Leicestershire District Council – Planning
North West Leicestershire District Council – Community Safety
Relevant Highways Authority (Leicestershire County Council / Highways England)
Town or Parish Council – where located
All District Council Ward Members
Leicestershire Police
Leicestershire Fire & Rescue Service

Please note we would not normally seek the views of others for renewal applications, unless there has been issues raised during the term of the previous consent.

We make take up to 28 days to seek and consider the views of others.

The time scale for determination of a licence application where no objections have been received will normally take about 4 weeks.

4. Site Assessment

A visit will be made to the site to determine the suitability of the proposed site.

Where the licensing team consider the proposed site to be unsuitable the applicant will be informed and the application will be rejected.

Where the licensing team consider the proposed site to be suitable, the application will proceed to the next stage.

Street trading consents from static locations will not normally be granted where:

1. There is not enough space for the applicant to trade in the manner proposed without obstructing the safe passage of users of the footway or carriageway, or
2. The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
3. There is a conflict with Traffic Orders such as waiting restrictions, or
4. The pitch interferes with sight lines for any road users such as road junctions, or pedestrian crossings, or

5. The site does not allow the Consent Holder, staff and customers to park in a safe manner, or
6. There would be a significant loss of amenity caused by the appearance of the unit, or
7. The range of goods in which the applicant desires to trade is likely to have a detrimental impact on public health, given the proposed location in terms of its proximity to a local school or college.
8. The consent, if granted, is likely to result in nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which will be caused by granting the consent.
9. The structure / equipment / appliances / layout / location of the proposed premises (barrow, stall, unit, vehicle, trailer or other) presents an unacceptable public safety risk.
10. There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes, or
11. Any other reason (relevant to the street trading policy criteria).

5. Inspection of the Street Trading Unit

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the council. Prior to the issue of any street trading consent, where this is reasonably practicable.

The appearance of the unit will not present a loss or be detrimental to the needs of the area. At this stage the external colour decoration and appearance of the premises will be discussed and agreed.

The unit to be used for the street trading activity shall comply with the legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with food hygiene, health and safety and environmental protection legislation.

6. Objections to the application

In the event that a relevant objection is received, the Licensing Officer will negotiate with the applicant on behalf of the objector. If an agreement is reached any objection should then be withdrawn. The application will then be determined by the Licensing Officer.

Where an objection is received, the Licensing Officer will seek the views of a second Officer before determining the application.

7. Determination of the application

The Licensing Officer will use the criteria listed below in the determination of street trading consents.

All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each application will be assessed on its own merits and individual circumstances.

- **Public Safety**
The street trading activity (location and trading activity) should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. Observations from Leicestershire Fire Service and Highways Authority will be taken into consideration under this criteria.
- **Prevention and detection of street crime (public order) and anti-social behaviour.**

The street trading activity should not present a risk to good public order and anti social behaviour in the locality in which it is situated.

- **Public Health**
The street trading activity (or range of goods sold) should not have a detrimental impact on public health, given the location of the trading site in terms of its proximity to a local school or college.
- **Avoidance of Nuisance**
The street trading activity should not present a substantial risk of nuisance from noise, light, litter, smells or fumes to households and businesses in the vicinity of the trading site. Observations from council officers shall be taken into consideration under this criteria.
- **Needs of the Area**
The street trading unit should not present a loss of amenity in terms of its appearance. There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes

The Council will have regard to the number, nature and type of traders already present in a particular area. A maximum of 1 food business will be consented to trade in a lay-by. Where a lay-by is considered suitable to accommodate a second trader, a consent may be issued to a non-food trader

- **Compliance with Legal Requirements**
The street trading activity should not present an unacceptable risk to the public in terms of food hygiene/safety. The street trading unit should comply with the relevant legislation. Observations from Council Officers on the compliance with the requirements of food hygiene, health and safety and Environmental Protection legislation shall be taken into consideration under this criteria.

The application will either be;

- 1) Granted and a trading consent will be issued with conditions attached, or
- 2) Refused and a proportion of the fee will be refunded as appropriate to the applicant.

The grant or refusal of an application is a matter for the District Council to determine having had regard to any views expressed by others and any other relevant considerations.

The Officer decision will be communicated to the applicant and objectors within 24 hours of the decision being made. The decision will be documented within 7 days.

8. Approval of Application

If no objections are received officers will approve applications meeting the criteria contained within these guidelines (subject to full payment being received).

Upon approving the application the council require the following before the consent is issued:

- Trade waste contract / arrangements
- An original copy of the certificate of insurance that covers third party and public liability risks up to a maximum of £5,000,000.

Upon approving the application the council will issue a street trading consent to which conditions will be attached. The consent will contain specific terms such as days and hours when street trading is permitted, the location from which trading will take place and the goods that may be sold.

A copy of the councils standard conditions, which are attached to street trading consents are shown at Appendix 1. Additional conditions may be attached to the standard conditions if special circumstances apply to the consent being granted.

Conditions on a consent are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Consent conditions:

- Must be appropriate for the promotion of the policy objectives;
- Must be precise and enforceable;
- Must be unambiguous and clear in what they intend to achieve;
- Should not duplicate other statutory requirements;
- Must be tailored to the individual type, location and characteristics of the premises;
- Should be proportionate, justifiable and be capable of being met;
- Cannot 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
- Should be written in a prescriptive format.

The conditions attached to the consent form part of the approval to carry out street trading in North West Leicestershire. They **MUST** be complied with at all times and failure to do so could lead to the consent being either revoked, or not renewed.

Consent holders are therefore advised to familiarise themselves with the terms and conditions attached to the street trading consent and comply with the requirements.

9. Issue of Street Trading Consents

Street trading consents will be issued for a maximum period of 12 months. Annual consents will be renewable on the date specified in the consent.

Short term (occasional) consents may be issued for up to 5 specified days in a 12 month period. Occasional consents will expire on the last of the specified trading days. A new application will have to be made every 12 months.

In cases where an annual consent has expired, and an application has not been submitted for renewal, a new application will have to be made with a full consultation process being carried out.

10. Renewal of Trading Consents

A consultation process will not be conducted for renewal applications, unless there has been issues raised during the term of the previous consent.

In the event that the council has received issues or complaints during the term of the consent, a 28 day consultation process will be carried out.

Given the time periods explained the council recommends applications to renew a trading consent must be received by the Council at least 42 days before the expiry of an existing consent. (potential 28 day consultation period and 14 day determination period)

Renewal applications must be accompanied by the appropriate fee and relevant documentation.

11. Refusal of applications

Where the council refuses an application the applicant will be informed in writing of the reasons for not granting the application.

In the event that an application is refused the fee, minus an administration fee will be refunded.

12. Revocation of a Trading Consent

If an Authorised Officer of the Council is of the opinion that the holder of the trading consent has contravened the conditions attached to the consent a revocation of the consent may be sought. When considering contravention of a condition Officers will have regard to the Council's enforcement policy.

If an Authorised Officer of the Council is of the opinion that the operation of a street trader undermines one of the policy criteria, firstly consideration will be given to adding to or amending consent conditions. If the concern cannot be mitigated through consent conditions revocation of a consent will be considered.

Fixed cabins used by consent holders to trade will not remain closed for longer than 4 months unless agreed with the Council. The Council reserve the right to revoke a consent in the event that a trader does not trade for a period of longer than 4 months.

The Officer will present a report to the Licensing Team Leader detailing the reasons for recommending revocation. Comments from the consent holder would be invited to accompany the report.

Where a trading consent is revoked by the Council there will be no refund of the application fee.

13. Minor Variations to Trading Consents

A consent holder is able to apply to vary a consent in the following circumstances:

- To add, amend or vary the range of goods for sale;
- To replace an existing premises with a like for like premises.
- To amend the trading hours
- A change of location (where the proposed location is within close proximity to the existing location and consent of the landowner is provided)
- Any other reason agreed by the Licensing Team Leader

All applications to vary an existing consent must be made in writing. All applications will be considered by the Licensing Officer.

The Licensing Officer is not required to consult prior to making a decision, however they may choose to consult.

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

The following changes in circumstances require an application for a new consent. They cannot be dealt with using the minor variation process:

- Should a consent holder wish to relocate to a new trading location (not within close proximity to existing location);
- Should a non-food consent holder wish to retail or cater food;
- Should a consent holder wish to purchase a new premises (stall, van, vehicle etc.) which is different in size, nature to the existing premises. The 'like for like' assessment will be made by the Licensing Officer.
- Should the consent holder wish to transfer a street trading consent to another individual

A variation fee must be submitted with the application

15. Fees

The fees charged by the Council for consents to trade will cover the cost of administering the service.

The fees will be reviewed annually.

If the ownership of a business changes a new consent is required.

Where a trading consent is surrendered during the life of the consent the Council will refund the fee paid on an appropriate pro rata basis. An administration fee will also apply to the surrender of a consent.

The current scale of fees can be found on the Council's web site.

The full fee is required at the time of application. However in exceptional circumstances a fee can be paid in instalments. The non-payment of any application fees will be grounds for the immediate revocation of a consent.

In the event that an application is refused the fee, minus an administration fee will be refunded.

No refunds will be given on consents with less than 3 months remaining.

16. Monitoring Compliance

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

North West Leicestershire District Council will actively enforce the provisions of the street trading scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Enforcement Policy which can be viewed on the website at www.nwleics.gov.uk

Should a consent holder commit a breach of any relevant regulations the Council may revoke his/her Consent to Trade. Any breach of these conditions may also lead to revocation. All complaints received relating to street trading will be investigated. The outcome of a complaint investigation may result in:

- No action being taken;
- Additional conditions being placed on the consent;
- An existing condition being amended / removed;
- A change to the designated trading area;
- Revocation of the consent;
- Prosecution / caution.

17. General information relating to street trading

No person under 17 years of age will be granted a Consent to Trade.

Until the application has been determined it is an offence to trade without a consent.

Although the consent holder may employ any other person to assist them in their trading the consent holder is expected to be present during the majority of their trading hours.

A consent holder may hold more than one consent for different premises and the application process will be the same for each premises. Each application will be accompanied by the correct fee.

The EU Services Directive provides a mechanism for its citizens to apply for street trading consents in other member states. That mechanism allows an applicant to make an application, electronically, through the Council's web site. Payments can also be made electronically.

The Council's EU Services Directive web pages can be found at www.nwleics.gov.uk/pages/licences_and_street_trading.

Consent holders selling hot food or beverages between 23:00 hours and 05:00 hours must be in possession of a suitable authorisation issued under the Licensing Act 2003.

18. Offences

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

- Engages in street trading in a consent street without being authorised to do so;
- Being authorised by a street trading consent to trade in a consent street, trades in that street –
 - (i) from a stationary van, cart, barrow or other vehicle; or
 - (ii) from a portable stall,

without first having been granted permission to do so; or

- Contravenes a condition imposed in agreeing to permit street trading

shall be guilty of an offence

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

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

Any action taken by the council with regard to the above offences will have regard to the Council's enforcement policy

19. Further Information

For further information in relation to street trading please contact:

Environmental Health - Licensing
North West Leicestershire District Council
Council Offices
Coalville
Leicestershire
LE67 3FJ

Tel: 01530 454545
Fax: 01530 454574

Email: licensing@nwleicestershire.gov.uk

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL STREET TRADING CONSENT CONDITIONS

The grant of a Street Trading Consent shall not be deemed to give any approval or consent which may be needed under any By-law, enactment or regulation other than Part 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

General Conditions

The consent to trade will be valid for 12 months.

Consent holders shall not trade outside of the designated trading area.

Trading may only take place on the days and during the times specified on the street trading consent.

All street trading fees are payable in advance on each anniversary of the grant of the consent.

The consent holder (which expression where appropriate includes joint holders of this consent) and any persons employed by him to assist him in his trading shall produce the consent on demand when so required by a duly authorised officer of the North West Leicestershire District Council, or by a Police Officer.

The consent holder shall display in a conspicuous position that is visible to members of the public a street trading consent that has been issued by the council. The consent shall be available for inspection by an authorised officer of the council, or a Police Officer.

The consent holder will allow authorised officers of the council to inspect his/her premises at any reasonable time.

The consent holder shall notify the licensing team of the council immediately of any convictions or proceedings arising out of the use or enjoyment of the consent.

The consent holder will not assign, underlet or part with his interest or possession under this consent or any part thereof, but may surrender it to the council at any time.

The consent holder shall observe and comply with any reasonable directions in relation to the use of the street or public place by a duly authorised officer of the council.

Nothing contained in these conditions shall relieve the consent holder or his employees or agents from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions, demands or costs arising from this consent.

The consent holder shall at all times maintain a valid third party Public liability insurance policy to the satisfaction of the council and shall produce a valid certificate of such insurance at any time upon request of an authorised officer of the council.

An employer's liability certificate must be displayed as necessary.

The premises will be maintained in good condition and kept in a clean and tidy condition.

If the street trading site is located on private land, including forecourts, satisfactory written evidence must be provided to the council that permission of the landowner or lessee has been obtained to carry out the street trading activity.

The council may vary the conditions attached to the consent at any time.

The identities of all persons working on street trading units shall be notified to the council.

If public toilets are not readily accessible from the trading site, traders shall provide written permission from the owner if any toilet facility that they are proposing to use while the food business is operating. Such permission must include confirmation that the facilities will be available at all times during normal trading hours. If this is not possible, traders shall provide a suitably screened chemical toilet, maintained and emptied at their own expense.

Site Conditions

The consent holder when operating on a static site shall have access to suitable and sufficient sanitary accommodation for both the consent holder, and any persons employed in the street trading activity.

The consent holder shall not use any television, tape recorder or other device for the reproduction of sound whilst trading which is audible beyond 5 metres from the site.

The consent holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever unless permission has been specifically granted by an authorised council officer.

Only one sign or 'A' board will be allowed on the approach to each location. It will be placed within 200 metres of premises and not be a danger to motorists or pedestrians. All boards will be removed after the hours of business.

The consent holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the consent and he must maintain the same in a clean and tidy condition and unobstructed at the end of each daily period of use.

The consent holder shall provide and maintain at his own expense adequate refuse receptacles for litter. Waste must not be placed in litter bins provided for public use.

Litter and trade waste arising from the activities of the consent holder shall be removed from the site on a frequent basis and disposed of in an approved manner.

The consent holder shall make such provision as is necessary to prevent the deposit in any street or public place of solid or liquid refuse and shall not discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.

The exterior of all premises (vehicles, stalls, barrows and lay-by cafes) shall be well maintained, clean and free from defects. The exterior colour of the premises will be agreed with the council.

Consent holders will maintain the area within the vicinity of the vehicle. Maintenance will include litter picking, mowing and grass cutting and paving and pathway where appropriate. Vicinity means within 10 metres within laybys and trunk roads and 5 metres at all other trading locations.

The consent holder will vacate the site/pitch upon request, and for as long as necessary, to enable highway inspections, repairs, street works and highway improvements to be undertaken, the locating of temporary street furniture (e.g. Christmas tree) or if the pitch is required to facilitate temporary traffic and/ or pedestrian management arrangements. **No compensation will be paid to the consent holder for lost trading days as a result of the above or for any loss of business as a result of unforeseen occurrences on the highway network.**

Trading Conditions

The consent holder will not carry out street trading activities other than those permitted by the consent.

The consent holder shall not trade in such a way that is likely to cause undue obstruction to any part of any street or public place.

The consent holder shall not trade in such a way that is likely to cause any injury to any person using the street or public place.

The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or public place.

The consent holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity.

Noise from equipment used in connection with the consented street trading activity shall not be audible inside nearby residences.

Street trading units, vehicles or other equipment associated with the street trading activity shall be removed from the site at the cessation of trading each day. (Does not apply to fixed units trading from lay-by)

Any consent holder who wishes to employ an assistant who will be left solely in charge of the street trading site during the course of a day's trading shall be required to:

- (a) Obtain written permission from the council.
- (b) Provide the name, age and address of such as assistant.

Mobile traders eg. Ice cream sales shall not trade from a location within 50 metres of a trader with the same offering for sale.

Legal Provisions

Nothing contained in these conditions shall relieve or excuse the consent holder or his employees or agents from any legal duty or liability.

At all times the consent holder shall comply with the legislation in force such as the Road Traffic Act, Highways Act 1980, the Food Safety Act 1990, the Town and Country Planning Acts, the Control of Pollution Act 1974, the Environmental Protection Act 1990, the Licensing Act 2003. It is the obligation of the consent holder to familiarise themselves and their employees with this legislation. The Council may revoke a street trading consent for any failure to comply with general or local legislation.

Revocation or Surrender of Consent

This consent may be revoked by the council at any time and the council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

The holder of the consent shall return the consent to the council immediately on revocation or surrender of the consent.

A consent holder who is found to be employing an illegal immigrant will have his consent immediately revoked.

In the event of a consent holder having a consent revoked by the council a further application from that person will not normally be considered within 3 years from the date of revocation.

Notes to the Conditions

Within the terms of these conditions the following words have the meanings as described:

The council – means North West Leicestershire District Council

Street trading - means the selling or exposing or offering for sale of any article (including a living thing) in a street.

Street includes:

Any road, footway, beach or other area to which the public have access without payment.
A service area as defined in section 329 of the Highways Act 1980, and also any part of a street.

Consent street – means a street in which street trading is prohibited without the consent of the District Council.

Authorised Officer – means an officer employed by North West Leicestershire District Council and authorised by the council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

This consent does not:

Permit trading outside the terms of the consent.

Indicate that planning permission is not required, Please note:

- (a) That the requirement to obtain planning permission applies to all streets,
- (b) That the grant of one or more street trading consents does not give the trader immunity from planning control.
- (c) The council has discretion whether or not to enforce planning laws in relation to street trading.

Indicate that the unit is exempt from business rates.

Override parking restrictions or any other traffic regulations.

Imply approval from the highway authority or any other person or authority.

Appendix 2

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL FEES AND CHARGES FOR STREET TRADING CONSENTS

Annual Consents

All consents for static traders relate to trading from a single location.

Where a trader trades from more than one location an additional trading location fee applies

Existing Fees (from 1 April 2017)

	Annual Fee
Static food related trader	£415
Static Non- Food trader	£238
Mobile trader e.g. Ice-cream van,	£72
Occasional consent (Up to 5 daily consents may be granted in a 12 month period)	£36

Proposed New Fees

Additional trading location fee	£50 (per additional trading location)
Variation fee	£36

Document History

Issue 1	6 April 2009 – 31 March 2014 (Agreed by the Council on 26 February 2009)
Issue 2	1 April 2014 – 23 February 2015 (Agreed by the Council on 21 January 2014)
Issue 3	25 February 2015 (Agreed by the Council on 24 February 2015)
Issue 4	