



Borough of Tamworth

Marmion House,  
Lichfield Street, Tamworth,  
Staffordshire B79 7BZ.

Enquiries: 01827 709 709  
Facsimile: 01827 709 271

## LICENSING COMMITTEE

7 July 2023

Dear Councillor

A meeting of the Licensing Committee will be held in **Town Hall, Market Street, Tamworth on Monday, 17th July, 2023 at 6.00 pm.** Members of the Committee are requested to attend.

Yours faithfully

A handwritten signature in black ink, appearing to be 'AJS', followed by a long horizontal line.

Chief Executive

### A G E N D A

#### NON CONFIDENTIAL

- 1 **Apologies for Absence** FIELD\_PAGE\_RANGE
- 2 **Minutes of the Previous Meeting** FIELD\_PAGE\_RANGE
- 3 **Declarations of Interest** FIELD\_PAGE\_RANGE

*To receive any declarations of Members' interests (pecuniary and non-pecuniary) in any matters which are to be considered at this meeting.*

*When Members are declaring a pecuniary or non-pecuniary interest in respect of which they have dispensation, they should specify the nature of such interest. Members should leave the room if they have a pecuniary or non-pecuniary interest in respect of which they do not have a dispensation.*

#### **4 Street Trading Policy 2024 - 2026 FIELD\_PAGE\_RANGE** *(Report of the Assistant Director, Growth and Regeneration)*

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#### **Access arrangements**

*If you have any particular access requirements when attending the meeting, please contact Democratic Services on 01827 709267 or e-mail [democratic-services@tamworth.gov.uk](mailto:democratic-services@tamworth.gov.uk). We can then endeavour to ensure that any particular requirements you may have are catered for.*

#### **Filming of Meetings**

*The public part of this meeting may be filmed and broadcast. Please refer to the Council's Protocol on Filming, Videoing, Photography and Audio Recording at Council meetings which can be found [here](#) for further information.*

*If a member of the public is particularly concerned about accidental filming, please contact a member of Democratic Services before selecting a seat*

#### **FAQs**

*For further information about the Council's Committee arrangements please see the FAQ page [here](#)*

To Councillors: B Price, L Clarke, T Clements, G Coates, A Cooper, T Jay, J Jones, R Kingstone, D Maycock, P Thurgood, J Wade, J Wadrup and L Wood.



## **MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD ON 22<sup>nd</sup> JUNE 2023**

**PRESENT:** Councillor B Price (Chair), Councillors L Clarke, T Clements, G Coates, A Cooper, T Jay, R Kingstone, D Maycock, P Thurgood, J Wade, J Wadrup and L Wood

The following officers were present: Anna Miller (Assistant Director – Growth & Regeneration), Wendy Smith (Head of Environmental Health), Sarah Gear (Senior Licensing Officer), Tracey Pointon (Legal Admin & Democratic Services Manager), Leanne Costello (Democratic and Executive Support Officer) and Tracey Smith (Democratic Services Assistant)

### **1 APOLOGIES FOR ABSENCE**

There were no apologies for absence. Councillor J Wade arrived at 18.10

### **2 APPOINTMENT OF A VICE-CHAIR**

Councillor T Clements was nominated as Vice-Chair

(Moved by Councillor A Cooper and seconded by Councillor T Jay)

Votes in favour 3  
No abstentions

Councillor R Kingstone was nominated as Vice-Chair

(Moved by Councillor B Price and seconded by Councillor L Wood)

Votes in favour 6  
Votes against 3

**RESOLVED** that Councillor R Kingstone was elected as Vice-Chair of the Committee.

Councillor Wade was not present at the vote

### **3 MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 30<sup>th</sup> March 2023 were approved and signed as a correct record.

*(Moved by Councillor D Maycock and seconded by Councillor J Wadrup)*

#### **4 DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

#### **5 CHARITABLE COLLECTION POLICY 2024 - 2028**

Report of the Assistant Director, Growth & Regeneration to review the draft Charitable Collections Policy set out at Appendix 1 and, subject to any recommended amendments, approve the draft policy for consultation with relevant stakeholders and residents.

**RESOLVED:** That the Committee

endorsed the draft Charitable Collections Policy and approved the document for public consultation subject to the following changes proposed by Councillor R Kingstone.

Page 4 – 3.5 No more than 3 collections per charity per Calendar year will be allowed in the Tamworth Borough. Applications that consist of consecutive days will be considered as 1 collection.

3.9 – Tamworth Borough Council will restrict the number of people taking part in a collection to three. If more than three people are requested these will be considered on a case by case basis.

Page 8 – deleted How much the charity will receive as part of the collection.

Reworded The percentage of the proceeds that the charity will receive from the collection.

*(Moved by Councillor R Kingstone and seconded by Councillor T Jay)*

#### **6 SCRAP METAL POLICY 2024 - 2028**

Report of the Assistant Director, Growth & Regeneration to provide Members with information and guidance on a new draft Scrap Metal Licensing Policy which required Members' comments and approval prior to formal public consultation.

**RESOLVED:** That the Committee

endorsed the draft Scrap Metal Policy and approved to recommend the document to Cabinet for public consultation.

*(Moved by Councillor R Kingstone and seconded by Councillor L wood )*

## 7 SEXUAL ESTABLISHMENT POLICY 2024 - 2028

Report of the Assistant Director, Growth & Regeneration to review the draft Sexual Establishment Policy set out at Appendix 1 and, subject to any recommended amendments, approve the draft policy for consultation with relevant stakeholders and residents.

Noting one amendment - Pg 77 [of Agenda Pack] Para 3.2.1 should read: **“All applications for the grant of a new licence where representations or objections are received will be determined by the Licensing Committee”**.

**RESOLVED:** That the Committee

approved the draft Sexual Establishment Policy and a set of draft Standard Conditions for Sexual Establishment Licences in order that they may be circulated for public consultation.

*(Moved by Councillor R Kingstone and seconded by Councillor T Clements)*

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Chair

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Monday, 17 July 2023

**Report of the Assistant Director - Growth & Regeneration****Street Trading Policy 2024 - 2026****Exempt Information**

None

**Purpose**

The aim of the Policy is to create a street trading environment which ensures fair trading, protects the amenity of residents, ensures the safety of those trading, promotes diversity and consumer choice and provides applicants with advice and guidance on the Council's approach to the administration for street trading consents and licences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act").

**Recommendations**

That the committee consider the options in relation to the areas to be considered 'consent' streets and determine which should be consent areas.

That the committee note the contents of the draft Street Trading Policy incorporating the agreed relevant consent areas and that the policy be suitable for public consultation.

**Executive Summary**

Tamworth Borough Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

This legislation allows the Council to set a policy, conditions and fees for the grant, variation, renewal and revocation of street trading consents or licences.

Tamworth Borough Council has adopted street trading provisions, but no areas have been classified as 'consent streets' for the purposes of street trading and no formal Street Trading Policy has ever been adopted.

In order to ensure that street trading in Tamworth reflects the current needs of the Borough, a draft Street Trading Policy has been produced.

Public consultation on the draft Policy will be required. Advertisement on the areas defined as 'consent street' will also be required.

A report will be presented back to this committee following that consultation.

**Options Considered**

The regulation of street trading could have implications for events ran by the authority. With this in mind the Arts and Events team were consulted on the proposals. The team advised

that they already experience significant issues with securing traders to attend events that the authority organise, any additional charge on these traders for such events is likely to result in traders refusing to participate and potentially restrict events that can be hosted by the authority.

The potential effect on events hosted by the council has resulted in a number of options regarding the administration of street trading needing to be considered. These are:

The whole Borough be consented. This may result in a reduction in the number of events that are viable to run and the number of traders at events due to the extra trader fee being charged.

The whole borough be consented with certain areas exempt for example the Castle Grounds. This would benefit both the Arts & Events team as well as external event organisers who hire the castle grounds. The same checks and balances would apply to the traders that are currently undertaken however they would not need any formal consent to trade at these events.

### **Resource Implications**

Street Trading should operate a net nil budget on a cost recovery basis with expenditure funded by income collected through consent fees. The cost of administration and compliance activity for street trading consent informs the setting of consent fees.

### **Legal/Risk Implications Background**

The Council's primary statutory rights in relation to street trading are set out in Schedule 4 of the Local Government Miscellaneous Provision Act 1982.

In addition to activities authorised expressly under the above legislation, the Council may also do whatever is reasonably incidental to that power. This is given statutory effect in Section 111 (1) Local Government Act 1972 which states:

“Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.”

### **Equalities Implications**

This report has been prepared in accordance with the Council's Diversity and Equality Policies.

### **Environment and Sustainability Implications (including climate change)**

The Council is committed to tackling climate change and the proposed Policy will assist in ensuring that it contributes appropriately to this ambition.

### **Background Information**

The legislation that applies to street trading is contained in the Local Government (Miscellaneous Provisions) Act 1982 and the Pedlars Act 1871. Some exceptions are contained in the Police, Factories etcetera (Miscellaneous Provisions) Act 1916 relating to charitable street collections.

The 1982 Act allows local authorities to adopt provisions to control street trading as follows: -



- Prohibited Streets- where no street trading is allowed;
- Consent Streets- where trading is allowed when a consent is issued;
- Licensed Streets- whereby trading is allowed from a designated pitch- this is often used for street markets.

There is no statutory appeal against the refusal to issue a consent, but there is a statutory appeal in the event there is a refusal to issue a licence. If the local authority does not apply a designation for street trading, then legislative controls are minimal and generally only cover pedlars and charity issues.

Tamworth Borough Council adopted the 1982 Act street trading provisions, currently no public roads are classified as 'consent streets' for the purposes of street trading. No formal street trading policy has ever been implemented.

Street trading involves the sale and exposing or offering for sale, of any article in a street. Street includes any road, footway, or other area to which the public have access without payment and includes any part of a street.

As the definition of "street" includes any land to which the public have access without payment, private land to which the public has free access may also be included. Street trading law and this policy therefore can extend to events off the highway that are conducted on private premises.

Members should note that for the purposes of the Act, the following matters are not deemed to be street trading and therefore do not need to obtain a street trading consent:-

- Trading by a person acting as a Pedlar under the authority of a Pedlars Certificate granted under the Pedlars Act 1871. Such certificates are issued by the Police and not the local authority.
- Anything done in a market or fair, the right to hold which was acquired by virtue of a grant or acquired or established by virtue of an enactment or order.
- Trading as a news vendor.
- Selling items, or offering or exposing them for sale, as a rounds person.
- Trading which is carried on at a premises used as a petrol filling station, or is carried on at a premises used as a shop or in a street adjoining premises so used and as part of the business of the shop.
- Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
- Selling things, or offering or exposing them for sale, as a roundsman. (Roundsman include milkmen, coalmen etc. who have established or recognized customers in the street)
- The use of trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980

It should be noted that there are a number of different type of street trading activities, from static street trading (i.e. burger van), mobile street trading (i.e. ice cream traders), markets/fairs/carnivals and special events.

The Policy sets out the following in order to assist potential applicants before applying: -  
 criteria for choosing a trading location/pitch which is aimed to assist potential applicants -  
 requirements of trading vehicles i.e. emissions and encouragement of electronic vehicles -  
 guidance on employees of street traders - operating hours - guidance on ice cream van  
 chimes - trading near to schools - how the application process works from submission,  
 consultation and determination - guidance on suitability of an applicant - requirements for  
 street trading during events / special events

The purpose of the Policy is therefore to: - provide guidance to applicants and the decision makers - to ensure fair trade occurs between mobile traders - protect the amenity of

residents - promote diversity and consumer choice - provides applicants with advice and guidance on the Council's approach to the administration of applications for street trading licences - prevent obstruction of the streets in the district and to ensure the safety of persons using them

The adoption of a proposed street trading policy is a Council function, supported by consultation with the Licensing Committee.

**Report Author**

Sarah Gear, – Senior Licensing Officer,  
Wendy Smith - Head of Environmental Health

**List of Background Papers**

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**Appendices**

Appendix 1 – Draft Street Trading Policy

# Street Trading Policy



2024 - 2026

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## 1. Background and Introduction

Tamworth Borough Council has adopted the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to regulate street trading in the borough of Tamworth through a Street Trading Consent Scheme.

Tamworth Borough Council recognises the valuable contribution that street trading can make to communities, culture and the local economy.

This policy sets out Tamworth Borough Council's approach for managing street trading in the borough, and the process for applications and decision making.

It is Tamworth Borough Council's intention that the application of the Street Trading Policy, together with the proper application of street trading law in a consistent, fair and proportionate way will benefit the people who live, work in and visit Tamworth.

### Objectives of this policy

- To help protect public health and safety.
- To help safeguard public places that may be adversely affected by undesirable or uncontrolled street trading activities.
- To ensure that traders operate within the law and act fairly in their dealings with the public; and to prevent, nuisance, unsafe practices and anti-social behaviour.
- To promote a flexible approach in relation to applicants seeking to operate new street trading businesses in Tamworth.
- To provide applicants and Consent Holders with advice and guidance on the Council's approach to the administration and enforcement of street trading.
- To enable the Council to deal with street trading applications and consents in a consistent, transparent, fair and proportionate way.

### Review of the policy

This policy will be kept under review and where any significant amendments are considered necessary these will be approved by the Licensing Committee, after appropriate and relevant consultations have taken place. Minor amendments that do not impact on the aims and objectives of the policy, or reflect changes in legislation, will be made with the approval of the Assistant Director for Growth and Regeneration in consultation with the relevant Portfolio Holder.

## 2. Definition of terms used within this policy

Within the terms of the Tamworth Borough Council Street Trading Consent Scheme the following definitions shall mean:

<i>The Council</i>	Tamworth Borough Council
<i>Consent Street</i>	A street where street trading is prohibited without the consent of Tamworth Borough Council
<i>Consent</i>	A consent to trade on a street by Tamworth Borough Council
<i>Consent Holder</i>	The person or company to whom the consent to trade has been issued by Tamworth Borough Council
<i>Static Street Trader</i>	A trader granted permission from Tamworth Borough Council to trade from a specified position
<i>Authorised officer</i>	An officer employed by Tamworth Borough Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982
<i>A Pedlar</i>	A pedlar is a trader who must: <ul style="list-style-type: none"><li>• Keep moving, stopping only to serve customers at their request</li></ul>

- Move from place to place and not circulate within the same area
- Hold a valid pedlar's certificate issued by a Chief Constable of Police

### 3. What is street trading?

The legislation that governs street trading is Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, ("The Act"). The Act defines street trading as the selling or exposing or offering for sale of any article (including a living thing) in a street.

The Act states that a street includes any road, footway, beach or other area to which the public have access without payment.

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

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

#### Local Exemptions

Having considered the character of the localities within Tamworth Borough, the Council regards the following activities as not requiring a Consent under the Local

Government (Miscellaneous Provisions) Act 1982:

Small scale sales of goods from farms and residential properties sold at/immediately outside the premises where they were produced will generally be exempt. This is intended to exempt someone who, for example, is selling on a small-scale items such as eggs, honey, plants, one off garage sales etc.

A person trading at a community event held for non-commercial purposes, such as a fete or school fund raising activity, may be exempt from requiring a street trading consent, however, any stalls where any of the profit of the trading is retained by the trader for private gain, and not passed to the organisers of the event for use in, or by, the community concerned then the trader will not benefit from the exemption;

#### 4. Types of street

Streets may be designated as either 'prohibited', 'licensed' or 'consent streets' for the purpose of street trading.

##### Prohibited Streets

If a street is designated as a prohibited street then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example, the street may not be wide enough or the Council may wish to restrict trading in a particular area.

##### Licensed Streets

A licensed street is a street that requires a formal licence to have been granted before any street trading can take place. A licenced street designation is considered appropriate for the more formalised market type of trading in a street where the strict control of a limited amount of space is required.

##### Consent Streets

Designating a street a consent street enables trading to take place upon it, subject to the trader receiving a Street Trading Consent to trade from the Council.

#### 5. Street Trading within Tamworth

Tamworth Borough Council has designated all streets within the borough as consent streets, with the exception of the A5 dual carriageway which is designated as a prohibited street. There are no licensed streets in Tamworth.

*Tamworth Borough Council has designated all street within the borough as consents streets, with the exception of .....The A5 dual carriageway is designated as a prohibited street. There are no licensed streets in Tamworth.*



Street trading consent is needed for trading on all streets, laybys, pavements, or any land, including verges which are privately owned and the public can access, unless payment is made for entry. This includes private land car parks such as at supermarkets or pubs.

**Traders who wish to trade as part of an organised event must also apply to the Council for a street trading consent.**

***Traders who wish to trade as part of an organised event must also apply to the Council for a street trading consent, unless the event falls within the exception.***

Where an applicant wishes to trade on private land or land that is not Highway Maintained at Public Expense (HMPE), a consent will not be granted by the Council unless the applicant provides written permission from the landowner showing they have permission to trade.

An applicant may need planning permission if they wish to trade from a particular plot of land. It is the applicant's responsibility to check with the planning department before applying for a street trading consent to establish if planning permission is required. Consent will not be given where planning consent cannot be proven.

The operation of a rival market, fair or car boot sale within Tamworth falls under the scope of the Tamworth Borough Council Market Rights Policy.

Tamworth Borough Council will not issue a street trading consent for the following:

- 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

#### Permitted trading hours

The Council generally will only permit street trading between 06.00 hours and 18.00 hours. Any trading outside these hours will have to be approved by the Council. Street trading outside the guideline hours will be assessed in terms of public order, public nuisance and avoidance of nuisance and the needs of the area. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances require it.

Street traders who serve hot food or hot beverages at any time between 23:00 hours and 05:00 hours will also require a Premises Licence granted by the Licensing Authority in accordance with the Licensing Act 2003.

#### Tamworth Market

Street Traders who have consent to trade in the town centre will **not** be able to do so on a Tuesday and Saturday on George Street, Market Street, St Editha's square or any

area designated by the Council from time to time unless they trade as part of the general market, due to the operating conditions of the Tamworth Market Charter.

## **6. Street Trading Consents**

Tamworth Borough Council issues three types of street trading consents as follows:

### **Annual Street Trading Consent**

This is a consent that lasts up to 12 months and enables the consent holder to trade from a designated pitch within Tamworth. An annual street trading consent issued to traders who trade in Tamworth town centre will only be issued for non-market days at a specified pitch. Traders wishing to trade on market days must contact the market operator.

### **Temporary Street Trading Consent**

Temporary consents are issued to traders who only want to trade at a specified pitch for a few days. The consent will normally only be granted for a period of between 1 and 7 days. Traders wishing to trade in Tamworth town centre on market days must contact the market operator.

### **Mobile/Roaming Street Trading Consent**

A mobile street trading consent is issued to traders who wish to move from place to place. A mobile trader must not remain in one place for more than twenty minutes at a time and not return to the same site within four hours. A typical mobile street trading consent would be an ice cream van.

A mobile street trading consent only permits trading within the borough of Tamworth. If the unit goes into areas outside of the borough of Tamworth it will also need consent from the relevant authority.

A mobile street trading consent may be granted for any period not exceeding 12 months.

### **Special Event Trading Consent**

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

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

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

## Key considerations when assessing an application

Each application for street trading consent will be considered on its own merits. It is our policy to carry out a consultation with relevant parties as considered appropriate, to inform our decision making.

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

Consultees may include the following:

- Staffordshire Police
- Staffordshire Fire and Rescue
- Staffordshire County Council Highways Department
- Trading Standards (Staffordshire County Council)
- Tamworth Borough Council Environmental Health Team
- Local Planning Authority
- Relevant Ward Councillors
- Other Local Authorities where relevant
- Where appropriate, local residents and businesses within 100 metres of the proposed site
- Current market operator
- Other relevant Council departments such as Streetscene and Partnerships

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

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

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

Should a consent holder wish to vary the consent substantially – e.g., type of

provision offered or location – the relevant authorities will be reconsulted and an administration fee will apply.

When assessing an application the following will be considered:

#### Public Safety

The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the street.

Where any proposed trading is within 50 metres of a school entrance, the Council will seek the views of the school.

Where appropriate observations from Staffordshire Police, Staffordshire Fire and Rescue Service and Tamworth Community Safety Partnership will be taken into consideration under this heading.

Prevention of Crime and Disorder and the protection of children, young persons and adults with care and support needs from harm

The street trading activity should not present a risk to good public order in the locality in which it is situated. The Council recognises that promoting the welfare of children and protecting them from harm is everyone’s responsibility, in particular, street traders who may have dealings with children, young people and adults with care and support needs have a duty to report matters of concern to the relevant authorities. Where appropriate observations from Staffordshire Police and Tamworth Community Safety Partnership will be taken into consideration under this heading.

#### Avoidance of Nuisance

The street trading activity should not present a substantial risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Where appropriate observations from relevant Council Officers shall be taken into consideration under this heading.

#### Compliance with legal requirements

The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Where appropriate observations from Council Officers on the compliance with the requirements of food safety and hygiene, health and safety, waste disposal arrangements and environmental protection legislation will be taken into consideration.

## Needs of the area

The adequacy of other trading outlets will be taken into consideration in relation to the presence of like outlets already existing in the immediate locality of the proposed street trading site.

## Consultee Observations

In relation to points above consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.

## Criminal Convictions

The primary aim of this policy is public protection. To help in achieving that aim, the Council will consider the suitability of applicants to be authorised as street traders. The Council must be satisfied that the applicant is a suitable person to hold a street trading consent.

Applicants will be required to provide a basic disclosure and barring service check as part of the application process. Any assistants, assisting on a regular basis, will also need to provide a basic disclosure and barring service check. For the purpose of this policy we would consider any person who works on the unit, without the consent holder being present, for more than 14 days a year, as assisting on a regular basis. The Council will not accept DBS checks that are more than 1 month old at the time of the application.

Applicants that regularly apply may want to consider the [DBS update service](#)

When determining an application for grant or renewal of a street trading consent the Council will consider whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.

If you have previously been convicted of an offence this does not necessarily debar you from holding a consent unless the authority considers that the conviction renders you unsuitable. In making this decision the Council will consider the nature of the offence and how long it has been since you were convicted. Please see Annex 1 for a list of offences that the Council considers relevant to a street trading consent application.

## 7. Letting of pitches

The Council will designate trading pitches in specified locations and only applications for these designated pitches will be accepted. The Council will however be receptive to pitch proposals outside of the specified locations.

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

The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent. The quality of goods and innovation will be considered when assessing applications.

Quality of goods refers to traders making the proper (and legal) checks to ensure their goods are safe for use or consumption. In addition, the use of recyclable materials in the product or packaging, or the reduced use of packaging to minimise plastic or other waste will be improving quality. Innovative products refers to goods that are not readily available within the high street marketplace. Anyone applying for a stall must clearly state the nature of the proposed goods. The goods must not:

- Cause a nuisance, disturbance or annoyance to nearby properties/ people, including cooking smells, smoke, noise, litter and additional cleansing requirements for the Council
- Cause or contribute to crime and disorder – including the selling of fake or counterfeit goods
- Have a negative public health impact e.g. locality of fast food units near schools, gyms etc.

When a pitch becomes temporarily unsuitable for any reason, the Council will seek to relocate consent holders to an alternative street trading pitch. The Council will not be liable for any loss for claims of earnings etc. If agreement cannot be reached for relocation, then consideration needs to be given by the trader in terms of giving notice for the consent and by the Council in terms of revoking consent.

Street traders must make full use of their consent. The Council will assess whether a consent holder has made full use of their consent. Street traders shall notify the Council in circumstances where they do not intend to make use of their consent and notification should be in advance. If no prior notification is received and the Council is satisfied that the consent holder is not making full use of their consent it may re-let the street trading pitch to another trader.

Multiple street trading consents may be granted to different applicants for the same pitch provided different specific trading days/ periods are applied for.

## **8. Fees and charges**

Tamworth Borough Council set fees and charges for street trading. Fees and charges are reviewed annually.

Please visit [www.tamworth.gov.uk](http://www.tamworth.gov.uk) to find out what the current fees and charges are for street trading. When making an application the application fee must be paid in advance and is non-refundable.

Where a consent is surrendered, the Council will remit or refund, as they consider appropriate, the whole or part of any consent fee paid for a grant or renewal of the consent subtracting any administration costs or any costs incurred in delivering the street trading service.

## 9. How to apply for street trading consent

To apply for a street consent a person must be: -

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

All applications must be made on the Council's prescribed application form. The application must be completed in full, with all the required information before it will be considered.

A new applicant for a street trading consent should apply at least 28 days before they intend to trade. This will allow for a proper consultation period to be undertaken.

The application must be accompanied by the following:

- A non-refundable application fee (based on the cost of administering the application).
- Photographic identification (e.g. passport, photo card driving licence)
- Proof of eligibility to work in the UK
- Location plan indicating any fixed positions that a person proposes to trade from. The plan should also clearly identify the site boundary with a red line.
- For mobile street traders – a list of all the streets where the proposed trading is to take place. You must also give details of the days and times you intend to trade.

A passport size photographs of the applicant and any other person assisting, taken within the last 12 months prior to the making of the application.

- A Basic Criminal Disclosure check not more than 1 month old for the applicant. Basic Criminal Disclosure checks can be obtained from the Disclosure and Barring Service. Information can be found at <https://www.gov.uk/request-copy-criminal-record> (Not applicable to short term consents).

- The Council will require the name, address, date of birth, national insurance number, a basic criminal check (not more than 1 month old) and a photograph of all persons assisting on a regular basis. For the purpose of this policy we would consider any person who works on the unit, without the consent holder being present, for more than 14 days a year, as assisting on a regular basis.
- A description and photographs of the trailer/vehicle or stall to be used
- A copy of the certificate of insurance that covers the street trading activity for third party and public liability risks for a minimum of £5,000,000
- For a food trader: latest inspection report / proof of compliance with current food safety standards and evidence of a food hygiene rating of 4 or above.
- A completed risk assessment where a large or complex street trading event is proposed. The risk assessment must be completed by a competent person and identify any control measures deemed appropriate after assessment.

Submitting the application form and related information **does not** allow the applicant the right to start trading. You can only begin to trade on receipt of your street trading consent documentation.

## 10. Determining applications

The approval procedure stages are set out at Annex 1.

Before an initial street trading consent is granted, (or renewed) the Council will consult with and seek written representations from appropriate organisations and other enforcement agencies. A copy of the application will be sent to consultees within 5 working days of receiving the application.

Consultees will be expected to submit any written representations within a 10 day period.

Each application will be decided on its own merits and the Council will either:

- grant the consent as applied for with standard conditions (see Annex 2)
- grant the consent with additional conditions or a variation to the application
- refuse the consent.

An officer of the Council with delegated powers to issue or refuse an application will make a decision following the consultation period.

Where an application for consent is refused the council will notify the applicant in writing detailing the reason for refusal.



## Applications for grant or renewal

Consents will **not** normally be granted or renewed where there is one or more of the following:

- A valid objection
- The proposed location is unsuitable for street trading activities
- There is a potential risk to public safety
- A significant detrimental effect on road safety would arise from the siting of the trading activity itself, or from customers visiting or leaving the site
- The proposed trading site/pitch would obstruct the safe passage of the footway or carriageway
- The proposed site/pitch does not allow the consent holder, staff or customers to park in a safe manner
- The street trading unit is unsuitable  
(N.B. the vehicle, van trailer, stall, unit or other device used for the proposed street trading activity may need to be inspected by an authorised officer of the Council prior to the issue of any Street Trading Consent. This will particularly be the case where officers from the environmental health team need to inspect trailers etc. from which it is proposed to sell food items.)
- The proposed street trading activity may cause nuisance, disturbance or annoyance to neighbouring properties
- The applicant is unsuitable
- An applicant has failed to appropriately use previous consents
- The street trading activity may cause or contribute to crime and disorder
- Enforcement action is pending or has previously been undertaken and proved against the applicant
- The consent holder is currently in arrears with charges

This list is not exhaustive.

## Issue of Street Trading Consent

Upon grant of an application, the Council will issue a street trading consent to which conditions will be attached. The consent will also contain specific terms such as the

duration of the consent, days and hours when street trading is permitted and the goods that may be sold. A consent holder must display a copy of their consent in a position where it can be read by members of the public on the stall or vehicle at all times during which trading takes place.

### Changes to the consent

Changes, such as to the consented goods may require a new application to be made and further consultation to be sought.

However, minor amendments such as change of day or the addition of related items to the consent, may be made; however an administration fee will be chargeable.

### Renewal of consent

Consents will expire on the date specified. Applicants who wish to continue trading should submit renewal applications at least 28 days prior to the expiry of the current consent.

The following must be submitted with a renewal application:

- Renewal application form
- Renewal Fee
- Copy of current third-party liability insurance with a minimum value of £5 million
- A basic criminal disclosure for the consent holder and any person that assists on a regular basis from the Disclosure and Barring Service that is not more than 1 month old

### Invalid Applications

Invalid or incomplete applications will be rejected.

## 11. Refusal of application

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

Any convictions / cautions, which are not spent and relate to sexual or violent behaviour (including domestic violence), drugs, firearm offences, theft/fraud,

dishonesty or any offences involving harm to children or vulnerable persons will be refused or the application may be referred to the Licensing Committee for further consideration depending on the circumstances.

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

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

If an Officer acting on a delegated basis is unable to grant a street trading consent the applicant will be notified in writing of the decision and the reason for refusal.

## **12. Decision not to renew or revoke a Street Trading Consent**

A decision not to renew or to revoke a street trading consent may be made by an Officer acting on a delegated basis where, bearing in mind the aims of the consent regime, it is deemed by the Council to be appropriate. Any contravention of conditions may lead to a revocation or non-renewal of a street trading consent. A street trading consent may be revoked with immediate effect.

### **Revocation**

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

The Head of Environmental Health may allow an appeal to the Licensing Committee if it is felt appropriate. Details on how to appeal will be given to applicants when a decision to revoke the consent has been made

### **Discretionary Appeals Procedure**

The Local Government (Miscellaneous Provisions) Act 1982 does not facilitate any legal appeal against the Council in relation to a decision not to grant, renew or to revoke a street trading consent. The Assistant Director Growth and regeneration may, however, allow an appeal to the Licensing Committee if it is felt appropriate.

In such circumstances the applicant must write to Council within 10 working days of the receipt of the Council's original decision. The appeal must set out the grounds for the appeal by the applicant/former consent holder.

The appeal will be determined by the Licensing Committee whose decision will be final. Applicants however may be able to avail themselves of the legal judicial review procedure. Any applicant/trader who does wish to consider this option is advised to take independent legal advice.

### 13. Responsibilities of the Consent Holder

A Consent Holder is responsible for ensuring all conditions are strictly complied with at all times and may be held liable under the appropriate legislation. Any contravention of conditions may lead to a revocation or non-renewal of the street trading consent and/or prosecution. In addition, an individual trader working under the benefit of a Consent Holder's street trading consent may be individually liable under the appropriate legislation.

Holding a consent for street trading will not remove the obligation on the trader to comply with any other legal requirements e.g. holding a current food business registration, nor override the duty to comply with any other legal requirements e.g. trespass, highways, planning, licensing, health and safety, nuisance, waste disposal requirements, food hygiene etc.

#### Parking restrictions

Traffic orders such as waiting restrictions must be complied with at all times. We may give consent for a vehicle to trade from a specific site but this does not give staff or customers permission to park or use the road in breach of any waiting or traffic restrictions.

#### Planning permission

A street trading consent is given to units where the unit is removed every day at the end of the trading period. If a unit is permanently located at a site it will require planning permission. **Units that are removed everyday may also require planning permission in addition to street trading consent.** This will be dependent on the location of the unit and the amount of times and days the unit is located at the site.

#### Insurance

Tamworth Borough Council will accept no liability for the street trading activities undertaken by the Consent Holder(s). Evidence of suitable public liability insurance (minimum value of £5 million) will be required from the applicant covering the period they wish to trade.

The insurance must be maintained throughout the period of the consent and the consent will be revoked should the insurance be cancelled or breached or its sum altered as to provide less than the minimum value.

If the insurance is due for renewal during the period covered by the consent, it is the responsibility of the consent holder to provide us with evidence that public liability insurance is continuous for the period of the consent.

## Food Units

All food businesses must be appropriately registered with their local authority and have a food safety management plan in place. Certain low risk businesses are exempt from the hygiene rating scheme, so will not require a hygiene rating, however the Council may contact the relevant Local Authority Environmental Health Team to ensure adequate compliance with food law.

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

Where there is significant food hygiene or food safety breach whilst a consent is in place, consent may be suspended or revoked. Applicants and consent holders must notify Tamworth Borough Council of any changes to their national food hygiene rating. Further information on running a food business is available at [Business guidance | Food Standards Agency](#)

## Removal of waste

Commercial waste must be stored within the stall / trailer.

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

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

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

## 15. Surrendering of Street Trading Consent

Should an applicant no longer wish to hold a Street Trading Consent, they will need to provide written confirmation of this fact detailing the last trading day.

Once they have ceased trading, they will be required to return the Street Trading Consent issued by the Council and the street trading badge to the Council within 7 days of the last trading day.

Once written confirmation has been received to cease trading on a pitch, new applications will be considered for the location.

Where a consent is surrendered, the Council shall remit or refund, as they consider appropriate, the whole or a part of any fee paid for the grant or renewal of the consent.

## **16. Enforcement of Street Trading**

It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

All traders are required to take all reasonable precautions and exercise all due diligence to avoid the commission of any offences.

A person commits an offence if they:

1. Engage in street trading in a prohibited street.
2. Engage in street trading in a consent street without first obtaining authorisation (including making payment) from us.
3. Contravene a condition imposed on a consent.

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

All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

Persons trading without authorisation and not subject to exemptions will be subject to pro-active enforcement action in accordance with our policy on enforcement.

The following principles will be adhered to when carrying out street trading enforcement activities:

**Focussed** – we will take account of both national priorities for local government enforcement reflecting local priorities based on evidence or emerging need and where the Council believes its efforts are able to have a greater impact in protecting

risk to the public and well-being of the community as stated in the Council's corporate plan.

**Accountable** – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures through our Tell Us process.

**Consistent** – our advice to those we regulate will be robust and reliable and we will respect advice provided by other regulators. The Council shall seek to ensure consistency of enforcement; however, the Council realises that consistency is not a simple matter of uniformity. Officers will need to exercise their professional judgement and discretion according to the circumstances of each individual case and the relevant responsibilities and intervention systems maintained by the Council.

**Proportionate** – our activities will be justified, reflecting the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.

**Transparent** – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return

## 17. Equality and Diversity

The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relation between persons with different protected characteristics, for example age, disability, race and religion.

Tamworth Borough Council has a Statement of Intent for Equality and Diversity which requires that services are provided that embrace diversity, promote equality of opportunity and access. The statement can be found at <http://www.tamworth.gov.uk/equality-and-diversity>

## 18. Complaints against the service

The Council has a corporate complaints procedure please see our website for further detail [Contact us - about us | Tamworth Borough Council](#)

## RELEVANT OFFENCES WHEN DETERMINING SUITABILITY OF AN APPLICANT FOR A STREET TRADING CONSENT

### **Dishonesty**

A street trading consent will not be granted unless 3 - 5 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

### **Violence**

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted. In other cases a street trading consent will not be granted unless 3 – 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

### **Drugs**

A street trading consent will not be granted unless 5 - 10 years have lapsed since a conviction relating to the supply or importation of drugs or completion of any sentence imposed whichever is the later.

A Street trading consent will not be granted unless 3 - 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

### **Sexual and Indecency Offences**

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an Offence under the Sexual Offences Act 2003, or for indecent exposure.

### **Exploitation**

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

### **Motoring Convictions**

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the



offences are of a very serious nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 3 - 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

### **Street Trading Legislation**

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction then 5 years must have lapsed.

### **Formal Cautions and Fixed Penalty Notices**

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

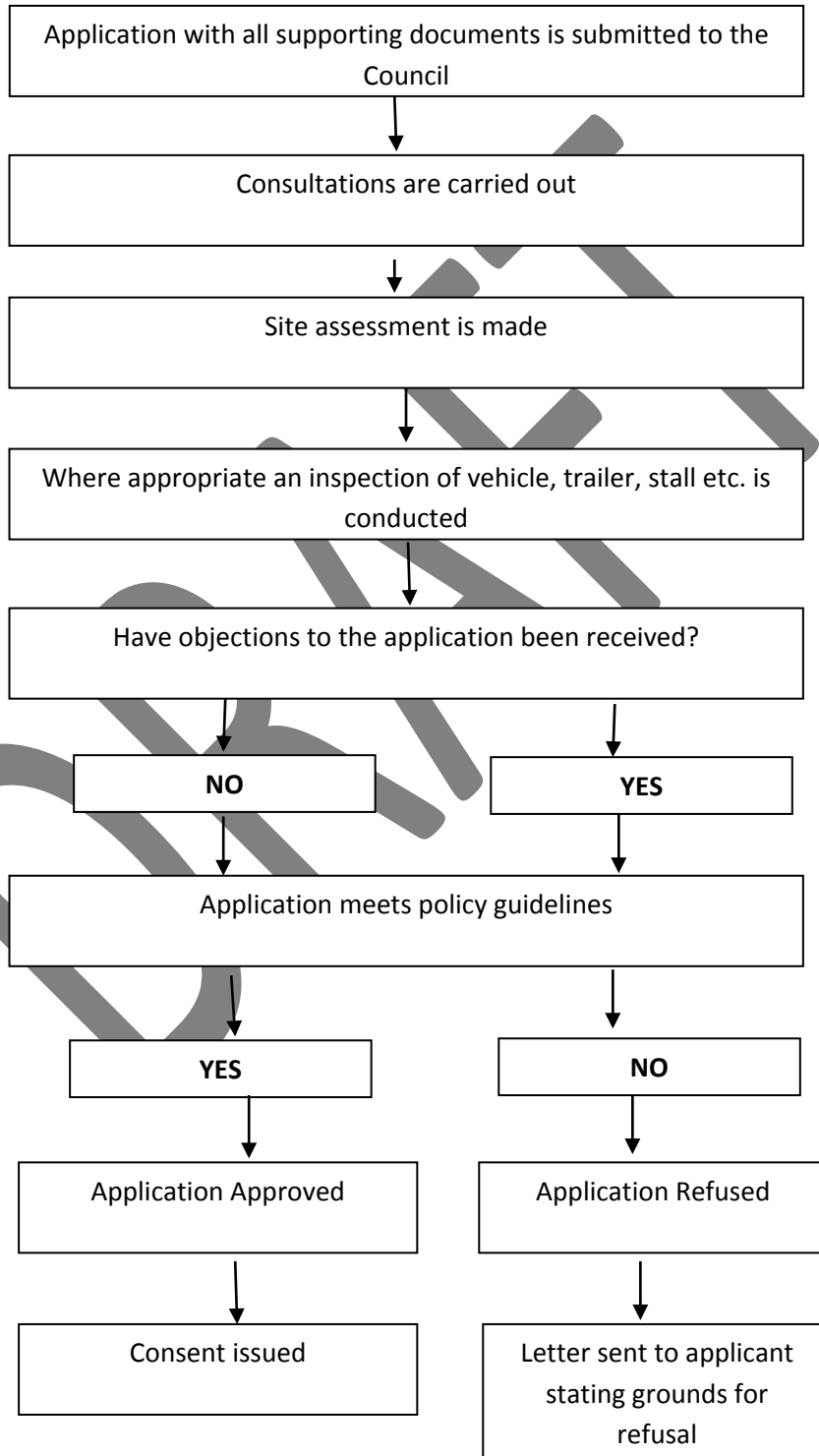
### **Existing Consent Holders Convicted Of an Offence**

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

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**PROCEDURE FOR DETERMINING STREET TRADING CONSENT APPLICATIONS**

The application and approval procedure comprises the following stages:



Street Trading ConditionsTamworth Borough Council

**It is important that the consent holder should understand and at all times observe these conditions. Any breach of any condition could result in revocation of the street trading consent.**

1. The street trading shall only take place on the dates stipulated on the consent.
2. The street trading will only take place at the times stipulated on the consent.
3. The street trading shall only take place at the site(s) stipulated on the consent and/or attached map.
4. The street trading consent holder shall only trade from the stall/ vehicle stipulated on the consent.
5. The consent holder shall trade in strict accordance with this consent.
6. The street trading consent holder shall only trade in goods stipulated on the consent.
7. The holder of the consent shall notify the Licensing Team immediately of any convictions or proceedings being taken against the said person.
8. The street trading consent holder shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition to the satisfaction of an Officer of the Council authorised in writing under the appropriate legislation.
9. The stall and all equipment shall be removed from the pitch after trading has ceased for the day unless permission to not remove are listed on the consent.
10. A copy of the consent, suitably protected against the weather, shall be available for inspection at all times when trading is taking place.
11. The holder of the consent or any person employed by them shall produce their street trading consent when required to do so by a Police Officer, or an authorised officer of Tamworth Borough Council.
12. No music or amplified noise will be played at the stall, unless it is granted special permission and listed on the consent.
13. Activities at the pitch must not cause a nuisance or annoyance to neighbouring properties.
14. No indentations, excavations or damage shall be made to street furniture. Nor shall anything be attached to street furniture.
15. After trading the pitch must be left in a clean and tidy condition.
16. Litter bins must be provided by all food traders and any other trader creating any kind of waste. All bins shall be emptied at least once a day and all waste disposed of appropriately.
17. The trading unit must be removed forthwith at the request of any authorised Tamworth Borough Council Officer, Police Officer, Fire Officer or representative of the Highways Authority.
18. No equipment is to be left on the pitch outside the trading hours.
19. All traders shall have at least £5 million public liability insurance covering any activity associated with their business.
20. Third party advertisements at the pitch are prohibited.
21. No illuminated advertisement on the outskirts or the stall, unless it is granted special permission and listed on the consent.
22. No auction sales are permitted.
23. Street trading stalls shall be equipped with safe and adequate lighting for operation during the hours if darkness.
24. Annual street trader must give the Council 7 days notice to change or terminate the consent.

25. If this consent relates to a special event and is issued as specified in the organisers application. Should this 'Special Event' not proceed due to it being refused, cancelled or withdrawn, this consent will not be valid.
26. The Street Trading Consent Holder shall ensure that there is adequate protection on & around the designated pitch that would contain any food debris & grease that would otherwise require mechanical removal. Failure to adhere to the condition could result in a charge for the removal being made and any future applications being declined.
27. A mobile street trading consent holder shall ensure that when carrying out the trading activities permitted on the mobile trading consent that:
- The vehicle shall not wait in one location for more than twenty minutes
  - The vehicle shall move at least 50 metres from the last trading location and shall not return to that location within four hours
  - The vehicle shall move from location to location within the permitted area
  - The vehicle shall not trade or park within 500 metres of any entrance to any educational establishment, unless a prior formal invitation has been issued by the educational establishment
28. Ice-cream vans must move from position to position remaining stationary for no more than 5 minutes to initially attract customers and thereafter only long enough to serve customers present.

#### **Sounding of chimes (based on the National Code of Practice)**

Chimes and other audible signals should not be sounded:

- For longer than 4 seconds at a time – an automatic cut out should be used.
- When the vehicle is stationary.
- Except on an approach to a selling point.
- When in sight of another mobile trader which is trading.
- Louder than 80dB(A) at 7.5m distance from the vehicle.