

# Licensing and Regulatory Sub- Committee



<b>Title</b>	<b>Agenda</b>
<b>Date</b>	<b>Wednesday 29 June 2022</b>
<b>Time</b>	<b>2.00 pm</b>
<b>Venue</b>	<b>Conference Chamber West West Suffolk House</b> Western Way Bury St Edmunds, IP33 3YU
<b>Full Members</b>	Carol Bull Roger Dicker Brian Harvey
<b>Substitute</b>	Robert Nobbs
<b>Membership is drawn from the full membership of the Licensing and Regulatory Committee and is politically balanced as far as is practicable.</b>	
<b>Interests – declaration and restriction on participation</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.
<b>Quorum</b>	Three Members
<b>Committee administrator</b>	<b>Helen Hardinge</b> Democratic Services Officer <b>Telephone</b> 01638 719363 <b>Email</b> helen.hardinge@westsuffolk.gov.uk

## Hearing procedure

### Pre-hearing matters

1. Declaration of interests
2. Legal Advisor will introduce members of the Hearing Panel
3. Legal Advisor will ask those present to introduce themselves in the following order:
  - Applicant and any person representing or assisting them (confirmation also should be given that copies of the relevant representations to be considered at the hearing have been received)
  - The officer of the licensing authority, the Democratic Services Officer and the Legal Advisor to the Hearing Panel
  - Responsible authorities that have made a relevant representation
  - Interested parties who have made a relevant representation (interested parties should confirm whether a spokesperson has been nominated and, if so identify them)
  - In the event of a review hearing, the respondent.
4. The Legal Advisor will ask all parties to the hearing whether they wish to withdraw their application or representation.
5. The Legal Advisor will ask the officer of the licensing authority to report:
  - Any requests from a party to the hearing for permission for a witness to appear in support of their representation. Any such requests will be determined by the Hearing Panel.
  - Any documentary or other information that a party to the hearing wishes to present. If there is any such material, the Chair will ask all the other parties to the hearing whether they consent to it being presented. If they agree, the material will be distributed. If not, the said material may not be distributed unless there are exceptional circumstances which in the Chair's opinion render it necessary and appropriate for the said material to be presented to the Hearing Panel. In this regard the Chair's decision will be final.
6. The Legal Advisor will invite the applicant or his representative to estimate the time required to present their case and ask questions of other parties to the hearing. He will then ask the other parties to the hearing whether they will require a longer period to present their representation and question the applicant. The Hearing Panel will determine the maximum period of time allowed for each party to put their case. This decision will be final.

## The Hearing

Immediately the pre-hearing matters have been dealt with the hearing will commence.

1. The Chair will ask the officer of the licensing authority to summarise the matter under consideration.
2. The members of the Hearing Panel, the applicant, and those making representations may ask questions of the officer of the licensing authority.
3. Starting with the applicant and, in the event of a review, concluding with the respondent, each party will exercise their rights within the identified maximum time, as follows:
  - Each party to present their case, including responding to any points of which the licensing authority has previously given notice, and call any approved witness or witnesses in support of their case.
  - If given permission by the Chair, and only through the Chair of the Hearing, each member of sub-committee, officer of the licensing authority or any party may raise questions of any other party or witness/witnesses.
  - Where a party was unable to attend by virtue of it being held virtually, the Chair shall request the Democratic Services Officer to read any written submissions received in place of an oral statement.
4. Starting with the applicant and, in the event of a review hearing, concluding with the respondent, each party will be asked to sum up their case.
5. All those present, other than the members of the Hearing Panel, their Legal Advisor and the Democratic Services Officer, will be asked to leave the meeting to allow members to determine the application.
6. All parties will be recalled. The Legal Advisor to the Hearing Panel will advise those present of any advice that has been provided during the determination. Chair will then:
  - either announce the decision, together with the reasons for it if it is a Hearing in relation to an application for which the licensing authority may make its determination at the conclusion of the hearing; **or**
  - advise all the parties that the licensing authority will make its determination within five working days, in which case notification of the determination will be sent out in writing (including the rights of appeal) to all relevant parties not later than five working days after the hearing date.
7. In the event of the licensing authority making its determination at the conclusion of the Hearing the Chair will outline the rights of appeal. The decision and rights of appeal will also be confirmed in writing by the officer of the licensing authority forthwith.
8. Nothing within Paragraph 6. above will preclude a licensing authority from making its determination at the conclusion of **any** hearing, should the Hearing Panel so decide. It is entirely within the discretion of the members of the said Panel whose decision in this regard will be final.

# Agenda

## Part 1 – public

### Procedural matters

**1. Election of Chair**

To seek nominations for the election of Chair for this Sub-Committee meeting.

**2. Apologies for absence**

**3. Substitutes**

Any member who is substituting for another member should so indicate, together with the name of the relevant absent member.

**4. Declarations of interest**

Members are reminded of their responsibility to declare any pecuniary or local non pecuniary interest which they have in any item of business on the agenda, **no later than when that item is reached** and, when appropriate, to leave the meeting prior to discussion and voting on the item.

The attached hearing procedure will be adopted in considering the undermentioned item:

**5. Application for a Street Trading Consent**

**1 - 28**

Report No: **LSC/WS/22/004**

# Application for a Street Trading Consent

<b>Report No:</b>	<b>LSC/WS/22/004</b>
<b>Report to and date/s:</b>	Licensing & Regulatory Sub-Committee 29 June 2022
<b>Cabinet Member:</b>	Councillor Andy Drummond Portfolio Holder for Regulatory <b>Tel:</b> 01638 751411 <b>Email:</b> andy.drummond@westsuffolk.gov.uk
<b>Lead officer:</b>	Haleigh Peters Licensing Officer <b>Tel:</b> 01284 757026 <b>Email:</b> Haleigh.peters@westsuffolk.gov.uk

**Wards impacted:** **Lakenheath**

**Recommendation:** **It is recommended that, having given full consideration to the application, the Committee is asked to determine whether, in view of the information disclosed in the application:**

- (1) to approve the application and grant the consent; or**
- (2) to approve the application and grant the consent, subject to such conditions as are considered reasonable, in addition to the standard conditions; or**
- (3) to refuse to grant the consent.**

## **1. Background / Context**

- 1.1 To consider an application for a street trading consent under the provisions of Section 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 Under the Local Government (Miscellaneous Provisions) Act 1982 (2) Subject to sub-paragraph (3), the council may grant a consent if they think fit.
- 1.3 An application for a new street trading consent was received and accepted on 26 April 2022 for The Gold Cup Coffee Box. The details of the application can be found in Appendix A. As per the West Suffolk Council street trading policy, any new street trading consent application is subject to a 28-day consultation with highways, local residents, police and local councillors. The consultation commenced on 26 April and the last date for comment was 24 May 2022. On the 24 May 2022 an objection was received by Highways (Appendix B). Other responsible authorities including the Fire Service and Planning had no comments to make towards the application. Police did not respond.

Until a new West Suffolk Council policy is developed following consultation, there remain differences in the requirements for street trading consents between the two predecessor areas of Forest Heath and St Edmundsbury. In Forest Heath, all streets, except those listed as 'prohibited streets' are 'consent streets', where a permit is required in order to trade. In St Edmundsbury, there are no prohibited streets, and only a few 'consent streets'. In all other areas, a permit is not required. The application has been made in a previous Forest Heath area, therefore a consent is required to trade.

The authority has a wide discretion regarding the grant or refusal of a street trading consent and does not have to rely upon specific statutory grounds to refuse an application or grant a consent. They may choose to refuse to grant a consent in any circumstances where there is good reason to do so. They may wish to consider factors such as:

- if the activity is likely to give rise to nuisance or loss of amenity caused by noise, odour, litter, disturbance or antisocial behaviour
- if there is insufficient space in the street for the applicant to engage in the trading without causing undue interference or inconvenience to persons using the street
- if the highways authority considers a location is dangerous or where a personal injury or fatality has occurred within 100 metres, or where the Council considers the location to be unsafe or places the public at risk from harm.
- if the street trading may damage the structure or surface of the street

The West Suffolk Council street trading policy states that all street consents have conditions attached, some of which are listed below and address some issues raised by Highways.

- d. The holder of a street trading consent shall take all reasonable precautions to prevent obstruction of the street or danger to persons using the street and to prevent nuisance or annoyance, whether to persons using the street or otherwise.

e. Street trading shall not take place, nor shall any stall or vehicle whether portable or otherwise be positioned, so as to cause any obstruction of the street, road, footway or other area to which the public have access. Stalls or vehicles must not be positioned in such a way so as to obstruct the view of drivers of other vehicles.

h. Traders must make arrangements with the council or a private contractor for the correct disposal of all waste produced as a result of the business in accordance with the Duty of Care Regulations.

j. Traders must supply at least 1 litter bin or other receptacle of a similar size for the use of customers. This should be placed in an appropriate location and the contents emptied out at regular intervals during the hours of trading to prevent spillage and litter accruing. All such refuse collected shall be disposed of in accordance with the Duty of Care Regulations.

k. All traders must ensure that litter associated with the business is picked up at regular intervals throughout the hours of trading within a radius of 300 metres and the site left litter free at the end of business. All such litter is to be disposed of in accordance with the Duty of Care Regulations.

l. At no time will cooking oil or other liquid waste be disposed of down drains or placed in bins for disposal. Collection should be made by an appropriate contractor. Should such material require disposal, the council should be contacted for further advice.

It should be noted that a street trading consent to trade in the lay-by on the opposite side of the road to the one requested in this application was applied for and granted in December 2019 by another applicant. The individual continues to trade in this location with no known issues. No objections were received when the application was circulated upon first application.

Due to the objection received, and taking the above information in to consideration, the sub-committee must decide whether to approve the application and grant a street trading consent or refuse the application.

- 1.4 A summary of all the evidential documentation is available within the attached appendices as part of the application, listed at Section 4 below. Legislation and policy documents are listed at Section 5 below.

## **2. Risks**

- 2.1 Failure to consider applications where safety objections have been raised could lead to a reputational risk and failure to ensure public safety. It is for the Committee member to decide whether the location is considered safe.

## **3. Implications arising from the proposal**

- 3.1 Legal Compliance

Whilst the authority will act reasonably and consistently, the authority has a wide discretion regarding the grant or refusal of a street trading consent and does not have to rely upon specific statutory grounds to refuse an application for grant or renewal of a consent. There is no right of appeal against any council decision made in respect of a street trading consent.

#### **4. Appendices**

Appendix A – Application

Appendix B – Objection

Appendix C - West Suffolk Council Street Trading and Vending Policy 2019

#### **5. Background documents**

Local Government (Miscellaneous Provisions) Act 1982

RECEIVED IN POST 26/4/20

# Application for street trading consent

# West Suffolk Council

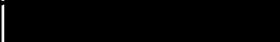
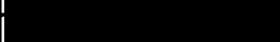
Local Government Miscellaneous Provisions Act 1982

Please note:

- you must read the councils Street Trading Policy before completing this application
- the application will not be accepted unless all sections have been completed, all supporting documents supplied and fee paid
- tick box(es) as appropriate

APPENDIX A

<b>Full details of applicant</b>			
[Redacted]			
Forenames:	[Redacted]		
Home address:	[Redacted]		
[Redacted]			
Post Code:	[Redacted]	Telephone No:	[Redacted]
Mobile No:	[Redacted]	Email:	[Redacted]
<b>Trading details</b>			
Business Name:	THE GOLD CUP COFFEE BOX		
Address at which unit is kept (if different to the above):	[Redacted]		
[Redacted]			
	Post Code:	[Redacted]	
<b>Trading location</b> (please supply the exact location you are trading from, please use a map to mark location)			
Address:	A11 LONDON ROAD OPPOSITE ELVEDON MONUMENT		
Post code:	IP28 6PY (THIS IS THE POSTCODE ON GOOGLE MAPS)		
<b>What are you applying for? tick box(es) as appropriate</b> <input checked="" type="checkbox"/>			
First Grant	<input checked="" type="checkbox"/>		
Renewal	<input type="checkbox"/> *		
*Please provide your licence number:..... Expiry Date: .....			
<b>Consent type</b>			
Class A	<input checked="" type="checkbox"/> (static)*		
*Please state days and times of trading: MONDAY - FRIDAY 06.30 - 16.00			
OCCASIONAL SATURDAYS 07.00 - 14.00			
Class B	<input type="checkbox"/> (mobile)		
<b>Consent Length</b>			
6 months	<input type="checkbox"/>		
12 months	<input checked="" type="checkbox"/>		

<b>Items to be sold (please list below)</b>	
COFFEE, TEA, BACON ROLLS, SAUSAGE ROLLS, CORNISH PASTIES, CANES, CHOCOLATE, CRISPS.	
<b>Type of trading vehicle (please provide photo and size of vehicle)</b>	
Handcart	<input type="checkbox"/> Size: .....
Stall	<input type="checkbox"/> Size: .....
Trailer	<input checked="" type="checkbox"/> Size: 4.1m Long x 2.2 wide x 2.6m High
Mobile Unit	<input type="checkbox"/> Size: .....
<b>Vehicle details</b>	
Make of vehicle:	
Model of Vehicle:	
Registration number of vehicle:	

**Privacy Statement:**

West Suffolk Council is a Data Controller and can be contacted at: West Suffolk House, Western Way, Bury St Edmunds, Suffolk, IP33 3YU. Tel: 01284 763233. The Data protection Officer is Leah Mickleborough and can be contacted at the same address.

We are collecting your personal information in order to process your application under the Local Government (Miscellaneous Provisions) Act 1982.

Your data will not be shared with third parties unless used for Council purposes, in order to enquire and receive information relating to your licence, prevent or detect crime, to protect public funds or where we are required or permitted to share data under other legislation.

Your data will be kept for 7 years post licence expiry/surrender in line with our retention policy.

You have the right to access your data and to rectify mistakes, erase, restrict, object or move your data in certain circumstances. Automated decision making and processing is not used during this application. Please contact the Data Protection Officer for further information or go to our website where your rights are explained in more detail. If you would like to receive an explanation of your rights in paper format please contact the Data Protection Officer.

Any complaints regarding your data should be addresses to the Data Protection Officer in the first instance. If the matter is not resolved you can contact the Information Commissioner's Office at: Wycliff House, Water Lane, Wilmslow, Cheshire, SK9 5AF Tel: 0303 123 1113.

If you do not provide the information required on the application form then we will not be able to process application for a licence. Your data must be kept up to date in accordance with the conditions of your licence.

For further information on our Data protection Policies please go to our website: [How we use your information](#) or email: [data.protection@westsuffolk.gov.uk](mailto:data.protection@westsuffolk.gov.uk)

**Declaration:**

I declare that to the best of my knowledge and belief the statements herein are correct. I have received and read the West Suffolk Council policy and conditions relating to street trading consents. If I sell alcohol at any time and or hot refreshments between 2300-0500, I also need to obtain a Premises Licence (Licensing Act 2003).

I understand that if, for the purposes of obtaining a consent, I make a false statement, I may be liable to prosecution.

I am not under 17 years of age.

As part of my application I have produced the following (please tick):

- Proof of address (Utility bill less than 3 months old)
- Proof of Insurance (Public Liability and vehicle)
- Photograph of Unit/Mobile (first grant only or new unit)
- Copy of proof of landowners permission (if applicable)
- Current gas appliance certificate (if applicable) less than 12 months old
- Food Establishment Registration form or proof
- Fee (cheques made payable to **West Suffolk Council**)

Sign:	
Print name:	
Date:	25 <sup>th</sup> APRIL 2022

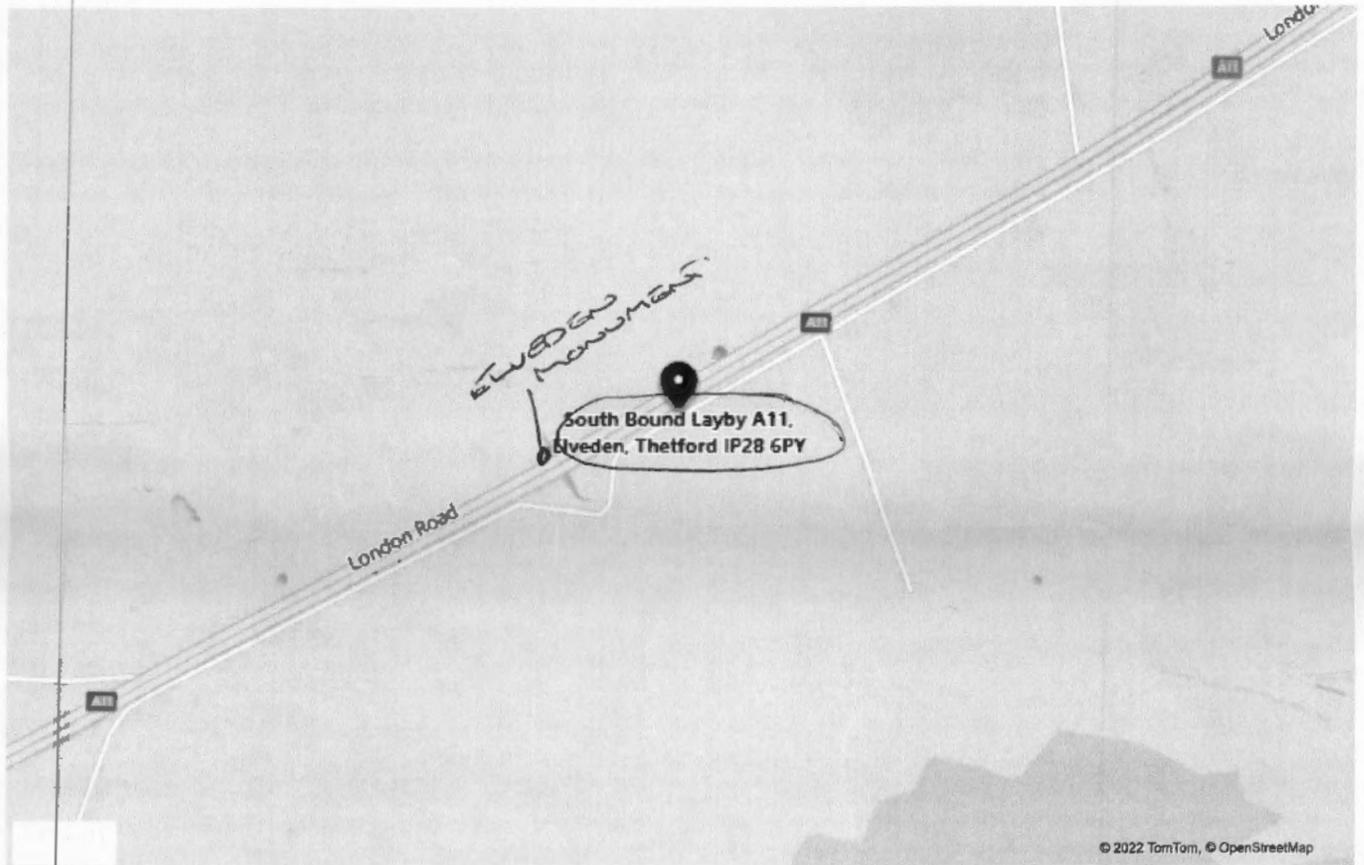
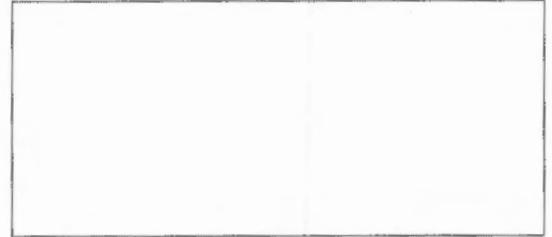
Applications and fees can be returned to:

Licensing Department  
West Suffolk Council  
West Suffolk House  
Western Way  
Bury St Edmunds  
IP33 3YU

Tel 01284 758050 email: [licensing@westsuffolk.gov.uk](mailto:licensing@westsuffolk.gov.uk)

**South Bound Layby A11, Elveden, Thetford IP28 6PY**

Location: 52.3685478, 0.6288734





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Email received 24/05/2022

Dear [REDACTED]

Thank you for your email of 17 May to our Customer Contact Centre about a street trading application for a layby on the A11. I'm replying as a team member responsible for the management of the A11.

We don't support applications to trade from any of our laybys. This is because we intend them to be used by drivers needing a short rest, as emergency refuges including for vehicle breakdowns, police observation areas and network maintenance.

As you'll understand, the placement of a catering van has implications for safety, litter and potential damage to kerbs and verges. We consider that the risks associated with street trading on laybys outweighs the benefits. For example, pedestrians moving between their cars and a street trader increases the risk of them coming into conflict with vehicles entering the layby at speed.

Thank you again for contacting us. I understand our response will be disappointing for [REDACTED], but hope it explains our position on the subject. If you need more information about this, please feel free to contact me. For anything else, please contact our Customer Contact Centre on 0300 123 5000 or by email at [info@highwaysengland.co.uk](mailto:info@highwaysengland.co.uk).

To help us identify and make improvements to our responses, I'd be grateful if you would complete our [feedback survey](#).

Kind regards

[REDACTED]

[REDACTED]

Operations (East)

National Highways | Woodlands | Manton Lane | Bedford | MK41 7LW

Mob: [REDACTED]

Web: [www.nationalhighways.co.uk](http://www.nationalhighways.co.uk)

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# West Suffolk Council Street Trading and Vending Policy

Local Government (Miscellaneous Provisions) Act 1982

<b>Document adopted on :</b>	8 January 2019
<b>Document author:</b>	Amanda Garnham

If you require this policy in another format or language, please email [licensing@westsuffolk.gov.uk](mailto:licensing@westsuffolk.gov.uk) with your needs.

## Contact details

**Address: Licensing Department**

West Suffolk House	Council Offices
Western Way	Mildenhall
Bury St Edmunds	College Heath Road
Suffolk	Suffolk
IP33 3YU	IP13 7EY

**Telephone:** 01284 758050

**Email:** [licensing@westsuffolk.gov.uk](mailto:licensing@westsuffolk.gov.uk)

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## **Introduction**

West Suffolk Council has produced this interim policy in order to harmonise the previous two authorities' policies on street trading and vending. There were differences between the policies of the predecessor councils, Forest Heath District Council and St Edmundsbury Borough Council. For example, St Edmundsbury Borough Council's previous policy only adopted certain streets as consent streets in town centres; whereas Forest Heath District Council's policy allowed all streets to be consent streets apart from those named as prohibited streets.

For this reason, the West Suffolk Council policy takes a different approach across the two predecessor council areas. In order to fully harmonise the policy, West Suffolk Council will need to conduct a further policy review consultation and publish its intentions to change or add consent and or prohibited streets. This review and consultation will be conducted after the creation of the new West Suffolk Council on 1 April 2019.

# Street Trading and Vending Policy for West Suffolk Council

This document deals with street trading (in Part 1) and street vending (in Part 2).

## Legal provisions and definitions

### Street trading

Street trading is defined within the Local Government (Miscellaneous Provisions) Act 1982 as "The selling, exposing or offering for sale any article, (including a living thing) in a street".

A 'street' is defined to include 'any road, footway, beach or other area to which the public have access without payment'. It will therefore include such areas as a car park of a public house to which the public have access without payment.

### Street vending (pavement cafes)

Pavement cafes are considered to be tables and chairs placed on the public highway, where food and drink are consumed.

Under the currently agreed policy, street vending can only take place in Bury St Edmunds and Haverhill town centres.

## Part 1. West Suffolk Street Trading policy

- 1.1 Under Section 3 of and Paragraph 7 (4) of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, West Suffolk Council may attach to the grant or renewal of a street trading consent such conditions as they consider reasonably necessary.
- 1.2 The council may vary, revoke or waive any of the standard conditions at any time.
- 1.3 Having adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Forest Heath District Council, one of the two predecessor authorities to West Suffolk Council, designated by resolution certain streets within its District as being 'prohibited streets'. These are streets where street trading is not allowed. The other predecessor council, St Edmundsbury Borough Council, did not designate any streets as prohibited streets.
- 1.4 Certified pedlars are defined under the 1871 Pedlars Act as those who "...without any horse or other beast drawing burden, travels and trades on foot and goes from town to town or to other men's houses..."). The provisions of the Pedlars Act of 1871 mean that certified pedlars are permitted to sell door-to-door and in the street, anywhere in the UK, as long as they do not sell from a stall or other fixed location. They are exempt from local authority street trading legislation, provided they are pedlars. The Police vet applications and issue certificates which are valid nationally.

## **2. Consents**

- 2.1 An application must be made to the council for a street trading consent, where trading is to take place on a 'consent street' (see section 3.0). Consent cannot be granted to a person under the age of 17 years. It is a criminal offence to engage in street trading in a 'consent street', without holding the necessary street trading consent.
- 2.2 Applicants are most strongly advised to read thoroughly the application criteria for street trading prior to applying for consent. In all cases applicants should ensure that they apply for the type of consent best suited to their intended business operation.
- 2.3 There are two classes of consent (classes A and B). These differ in regard to the conditions of trading, and the fees payable. Fees will be charged according to the council's current fees and charges, with consent holders required to renew prior to expiry of consent.
- 2.4 Holders of Class A Consents are not allowed to trade within the town/village centres before 5pm. After this time they may trade from their consent address until 11pm.
- 2.5 Holders of Class B Consents may only trade from one place for a maximum of 45 minutes before moving on to a new location a minimum of 500 yards away.

## **3. Consent streets**

- 3.1 Until a new West Suffolk Council policy is developed following consultation, there remain differences in the requirements for street trading consents between the two predecessor areas of Forest Heath and St Edmundsbury. In Forest Heath, all streets, except those listed as 'prohibited streets' are 'consent streets', where a permit is required in order to trade. In St Edmundsbury, there are no prohibited streets, and only a few 'consent streets'. In all other areas, a permit is not required.
- 3.2 Street trading within a consent street requires a person to hold a street trading consent issued by this authority. For the sake of completeness it is confirmed that this includes private land to which the public have access without payment.
- 3.3 Consent streets:

Angel Hill, Bury St Edmunds  
Station Hill, Bury St Edmunds  
High Street, Haverhill  
Hamlet Road, Haverhill  
Camps Road, Haverhill  
Queen Street, Haverhill

All streets in the area previously covered by Forest Heath District Council.

## **4. Prohibited streets**

4.1 No street trading is allowed to take place in the following:

Market Hill, Brandon  
Market Place, Mildenhall  
High Street, Newmarket  
Sun Lane, Newmarket  
Wellington Street, Newmarket (from its junction with  
High Street, Newmarket for a distance of 68 metres)  
Birdcage Walk, Newmarket

## **5. Car parks**

5.1 Street trading may not take place within the council car parks.

## **6. Industrial estates roads**

6.1 The roads situated on the Industrial Estates at Newmarket, Mildenhall and Brandon that are identified as the industrial estates roads are exempt from the restriction detailed in part 7 below..

6.2 'The industrial estate roads', as referred to above, are defined only on the following roads:

6.3 Trading on the following Industrial Estate Roads will be permitted between the hours of 6am and 6pm for holders of both Class A and Class B Consents

Newmarket Industrial Studlands Park Avenue

- Victoria Way
- Willie Snaith Road
- Hammond Close
- Laureate Paddocks
- Craven Way
- Depot Road

6.4 Mildenhall Industrial Estate

- Fred Dannatt Road
- Gregory Road
- James Carter Road
- Leyton Avenue
- Finchley Avenue
- Hampstead Avenue
- Southgate Avenue
- Chiswick Avenue
- Holborn Avenue

6.5 Brandon Industrial Estate

- Twickenham Avenue
- Barnes Close

- Highbury Road
- Wimbledon Avenue
- Richmond Road
- Putney Close
- Norwood Road

## **7. Town/village centres**

- 7.1 This includes, for the purpose of these street trading provisions, any public land within the said towns and villages and also any private land to which the public have access without payment within the said towns and villages.
- 7.2 For the purposes of clarification due to the nature of the harmonisation of this policy, only the consent streets in Bury St Edmunds and Haverhill town centres are included in this policy, all town centres within the predecessor Forest Heath District are included.
- 7.3 Village centres are those subject to a 30 MPH speed restriction.
- 7.4 Rural areas are streets/land other than town/village centres and not identified as being 'industrial estates roads'.

## **8. Class 'A' consents: (permitted hours and locations)**

- 8.1 Rural areas: between the hours of 6am and 1am
- 8.2 Town/village centres: between the hours of 8pm and 1am
- 8.3 Industrial estate roads: between the hours of 6am and 6pm
- 8.4 For clarification, a late night refreshment premises licence must be granted between the hours of 11pm and 5am under the Licensing Act 2003.

## **9. Class 'B' consents: (permitted hours and locations)**

- 9.1 Rural areas and town/village centres: Between the hours of 9am and 9pm
- 9.2 Industrial estate roads: Between the hours of 6am and 6pm
- 9.3 Regardless of where street trading takes place holders of Class B consents are restricted to trading from any one place to a maximum of 45 minutes. After 45 minutes have elapsed, street trading may not take place within 500 yards of the place mentioned above and the applicant may not return to a place from which they had previously traded until a period of four hours has elapsed since they last traded at that place.

## **10. The business operation**

- 10.1 Street trading may be undertaken only where no consent is required or in the case of a consent street, only during such hours and from such trading stall or vehicle as shall be specified by the council in the consent. No street trading whatsoever shall take place other than within the permitted hours.

10.2 No trading stall or vehicle (which shall include a cart, wagon, trailer or the like) shall be allowed to remain at the locality in question (as defined above) outside the permitted hours.

10.3 If a trader is selling hot food and beverages between the hours of 11pm-1am, a premises licence is required in addition to the consent.

## **11. Revocation or variation of consents**

11.1 In the following circumstances the Council may, at any time, revoke a consent or vary the conditions of an existing consent:

- a. where the activity is likely to give rise to nuisance or loss of amenity caused by noise, odour, litter, disturbance or antisocial behaviour
- b. where there is insufficient space in the street for the applicant to engage in the trading without causing undue interference or inconvenience to persons using the street
- c. where the highways authority considers a location is dangerous or where a personal injury or fatality has occurred within 100 metres, or where the Council considers the location to be unsafe or places the public at risk from harm.
- d. where the applicant is unsuitable to hold a consent because of having been convicted of an offence that the council consider makes them unsuitable to hold such consent, or for any other reason
- e. where the applicant has at any time been granted a street trading consent by the council, and has persistently refused or neglected to pay fees due to them for said consent or charges due to them for services rendered;
- f. where the applicant or operator of the stall is under the age of 17 years
- g. where a trader has failed to comply with the conditions attached to the consent
- h. where the street trading may damage the structure or surface of the street
- i. where the appearance of the trading equipment or structure in use is not compatible with the character of the area in which it is proposed to be situated
- j. trading in an area which is residential and where trading would not normally take place.

11.2 The council may revoke or vary a consent in any other circumstances where there is good reason to do so.

## **12. Inspection of consent and conditions**

12.1 A copy of the consent shall always be available at the stall or vehicle for examination by an officer of the council or a police officer.

## **13. Applications**

13.1 All applications must be accompanied by:

- a. the correct fee
- b. a completed application form
- c. evidence of address
- d. proof of insurance including public liability
- e. in the case of a food trader, evidence of which authority the mobile/stall is registered with
- f. gas safety certificate issued by a gas safety registered engineer, where necessary
- g. details of goods to be sold
- h. details of intended trading location for the consent
- i. photographs of the unit/stall the trader intends to operate from
- j. copy of landowners permission (including highways).

13.2 First grant applications or any variations to existing hours or the mobile/stall will be subject to a 28 day consultation with highways, local residents, police and local councillors. Renewals will not need a consultation unless any changes have been made which may affect the consent.

## **14. General conditions**

14.1 The applicant shall at all times be clean and respectable in dress and person, and behave in a civil, orderly, seemly and courteous manner.

14.2 It should be noted that the grant of a street trading consent will not convey with it any authority to trade in any place or in any manner which would breach the general law, byelaws or street markets.

14.3 It is the street trader's responsibility to obtain the necessary permissions or consents before trading from any place, for example the landowner or highways.

14.4 The land intended for trading may well require planning permission for such use. It is the trader's responsibility to check with the council's planning service prior to commencement of trading. The trader must also heed and adhere to the requirements relating to the particular consent that has been granted including engaging in street trading only in the place addressed within the consent.

14.5 If an individual trades either in a lay-by or in close vicinity to a public highway the trader may be committing a criminal offence, please check with the landowner.

14.6 The consent issued must be displayed in a prominent position.

14.7 The street trader must not attempt to trade in any area designated as being a 'prohibited street' or carry out the business of street trading outside the permitted hours allowed.

- 14.8 The size of any stalls, handcarts or barrows used for street trading is limited to a frontage or width of 3 metres and to a depth of two metres. The restriction does not apply to a purpose built vehicle or trailer.
- 14.9 The applicant shall notify the council in writing of any change of the address during the period of the consent within seven days of such change taking place.
- 14.10 The applicant shall at least 14 days prior to the date of the consent's expiry, make application to the council for a renewal. If an application for renewal is not received by the expiry date the consent will lapse. It is a criminal offence to engage in street trading in a consent street without holding a current consent.
- 14.11 Advice on complying with the council's street trading requirements should be sought from the licensing department.

## **15. Conditions on consents**

- 15.1 The following conditions will be attached to all street trading consents:
- a. This street trading consent does not convey any other approvals that may be necessary under the food hygiene regulations, planning legislation or other appropriate legislation.
  - b. Trading is permitted only from the stall or vehicle, details of which has been previously supplied to the council and shall be confined thereto.
  - c. The holder shall comply with all appropriate statutory provisions, for example food hygiene, advertisement control, health and safety regulations, planning and so on.
  - d. The holder of a street trading consent shall take all reasonable precautions to prevent obstruction of the street or danger to persons using the street and to prevent nuisance or annoyance, whether to persons using the street or otherwise.
  - e. Street trading shall not take place, nor shall any stall or vehicle whether portable or otherwise be positioned, so as to cause any obstruction of the street, road, footway or other area to which the public have access. Stalls or vehicles must not be positioned in such a way so as to obstruct the view of drivers of other vehicles.
  - f. The holder will comply with all directions of the police, the council or the highway authority whether they be verbal or in writing.
  - g. Street trading consent shall be limited to the permitted times for trading purposes and all vehicles, trailers and equipment, and so on, shall be removed at the end of each trading period.
  - h. Traders must make arrangements with the council or a private contractor for the correct disposal of all waste produced as a result of the business in accordance with the Duty of Care Regulations.

- i. Traders must ensure that all paperwork associated with waste disposal is filled out correctly and a copy of the waste transfer note made available on request.
- j. Traders must supply at least 1 litter bin or other receptacle of a similar size for the use of customers. This should be placed in an appropriate location and the contents emptied out at regular intervals during the hours of trading to prevent spillage and litter accruing. All such refuse collected shall be disposed of in accordance with the Duty of Care Regulations.
- k. All traders must ensure that litter associated with the business is picked up at regular intervals throughout the hours of trading within a radius of 300 metres and the site left litter free at the end of business. All such litter is to be disposed of in accordance with the Duty of Care Regulations.
- l. At no time will cooking oil or other liquid waste be disposed of down drains or placed in bins for disposal. Collection should be made by an appropriate contractor. Should such material require disposal, the council should be contacted for further advice.
- m. The holder of a street trading consent shall be required to seek the approval of the Council to any proposed change to the mode of trading permitted under the consent.
- n. The street trading consent shall be displayed on the vehicle used in connection with the trading, in a prominent position from which it can be seen by the public.
- o. The consent holder shall not at any time cause or permit any goods or produce to be stored or displayed at the side of the unit, or place any table, chair, trestle, box or other structure in the consent street, as a pavement café licence may be required.
- p. The vendor shall at all times, display a conspicuous and clearly legible tariff board on the vehicle or stall showing the tariff of the goods for sale.
- q. The trader must comply with the operating hours, days and locations of trading.
- r. The trader must only sell goods which are referred to on their application or consent.
- s. Any major damage caused to the site that can be directly attributed to the presence of a street trader may be taken into account during the consideration of renewal consent.
- t. This street trading consent does not convey any right to trade on privately owned property.
- u. The applicant shall not assign, transfer or in any way part with the benefit of the consent which is personal to him/her.
- v. The trader must comply with the operating hours and days of trading referred to in their consent.

- w. The trader must only sell goods which are referred to on their application or consent.
- x. Traders must take out public liability insurance cover for at least £5,000,000 and provide a copy of the insurance certificate and it must always be current to meet the terms of the consent.
- y. Consents are personal to the applicant and a single unit (mobile, trailer, stall and so on) and are not transferable. Once the consent has been issued to an individual it will only be renewed to that individual. This is to prevent the pitch being sold on for a monetary gain.
- z. Traders must notify the council's licensing team in writing of a change of address. Details must be given within seven days of the change taking place. Evidence must be given of the new address. This may be a utility bill (gas, electricity or phone), rent book, rental agreement, bank statement or similar document.

## **16. Specific advice for applicants for street trading consent on Angel Hill, Bury St Edmunds**

16.1 The Development Control Committee of the predecessor council, St Edmundsbury Borough Council agreed the following planning advice for street traders seeking consent to trade on Angel Hill in Bury St Edmunds for more than 28 days each year.

- a. Applications will be considered for the siting of an ice cream van or stall on the existing carriageway/car parking area, provided that it is located adjacent to no. 6 Angel Hill.
- b. Applications will be considered for the siting of an ice cream handcart, bicycle or similar non-mechanised modest and transportable structure in the eastern edge of the paved area in the centre of the Angel Hill.
- c. All vending vehicles/stalls should be in a livery appropriate to the historic setting of Angel Hill, to be approved by the director of planning in consultation with the chairman of this committee.
- d. No generator will be used for the provision of power to a vehicle or other structure used for dispensing ice cream.
- e. The applicant must ensure that the vehicle or structure is sited in a manner that will not cause any problems for highway safety, in the opinion of, and to the satisfaction of the director of planning in consultation with the chairman of this committee.

## **Part 2: West Suffolk Street Vending/Pavement Café Policy**

Consents for street vending can currently only be obtained in Haverhill and Bury St Edmunds town centres until this policy is reviewed.

## **17. Applications for street vending**

17.1 All applications must be accompanied by:

- a. the correct fee
- b. a completed application form
- c. evidence of address
- d. proof of insurance including public liability, minimum amount of £5,000,000
- e. details of intended location for the consent
- f. photographs of tables and chairs (along with their dimensions and numbers)
- g. copy of planning permission (if it is required)

## **18. General conditions**

18.1 A minimum width of 1.8m of unobstructed highway/footpath is required for pedestrians and their needs must be paramount, nor should they be diverted from their main route. The defined area must not conflict with other accesses nor dropped crossings required for the free passage of normal road users.

Additionally on bus routes 2.3m of unobstructed footpath will be expected. In some locations where there are heavy pedestrian flows or street furniture on the highway, then additional free space may be required.

- a. Emergency access must remain clear at all times, on all streets including fully and partly pedestrianised areas. If the emergency services object to an application based on safety grounds then the council may reject an application to grant consent for that reason.
- b. Objects and structures, including tables and chairs, should be placed so as not to obstruct drivers' sight lines or highway signs.
- c. The route left available on the public highway for pedestrians to move through and on should be clearly defined and free from obstructions. The positioning of objects and structures, including tables and chairs, should never discourage pedestrians from using the footpath.
- d. In general, tables and chair, barriers and other equipment will be allowed between the hours of 0830 and 2300 daily, and should be removed and stored internally outside of those hours to help prevent clutter on the streets and ensure furniture is not used for, or becomes a target for vandalism or crime. Part of the Abbeygate Street in Bury St Edmunds is open to vehicular traffic during certain times of the day and must be free from tables and chairs during vehicular flow.
- e. No form of amplified music will be permitted.
- f. Alcohol will not be permitted unless it is served as part of the premises licence and timings/licensed plan.
- g. Nothing in this policy will override the council's existing byelaws, regulations and rights to charge in respect to its street markets.

- h. Consent holders will be responsible, at their own cost, for ensuring that the vicinity of the facility shall be kept in a clean and tidy condition at all times during the permitted hours. Proper receptacles for the deposit of any refuse will be provided by the consent holder.
- i. Outdoor cafes will only be acceptable if they are located adjoining a premises used as a café/restaurant and must be carried out as part of that business. Tables must be services directly from the immediately adjacent premises, where the food is prepared and sold, and where there is an approved food use.
- j. Tables and chairs/barriers on the highway should be positioned to allow safe passage of pedestrians, wheelchairs and prams and the visually impaired. If a barrier is applied for, it must be directly at right-angles around the designated café area.
- k. Tables and chairs should not adversely affect the visual quality and character of the area or of a listed building.
- l. Tables and chairs/barriers will not adversely affect the amenity of and access to properties in the vicinity.
- m. Tables and chairs/barriers will not obstruct any emergency vehicles at any time.
- n. Tables and chairs/barriers should be placed immediately outside and be visible from the premises in order to make sure that there is adequate supervision for monitoring and safety.
- o. Designs for tables and chairs, barriers and parasols must be approved by the council prior to the operation of the street café/vending permit. Plastic tables, chairs or barriers will not normally be permitted for safety purposes. Parasols/sun shades with any form of advertising will not normally be permitted.
- p. Customers must be seated at tables and served by staff in recognisable uniform or badge.
- q. The sale of food and drink from temporary stalls not built for the purpose of sale of food or drink will not be acceptable.

## Notes

- The council reserves the right to change all or part of these conditions without notice.
- Should these conditions be contravened, consideration will be given to the suspension, revocation, or refusal to renew the consent.
- A person convicted of contravening conditions relating to times of trading shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000).

- Do not assume that these rules apply to other districts – local conditions will vary.

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