

West Suffolk Street Trading and Vending Policy

Local Government (Miscellaneous Provisions) Act 1982

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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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