

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING

~~The Borough Council of Test Valley has by the powers invested in it resolved that for the purposes of controlling Street Trading all current and future streets (adopted or unadopted highway), Council car parks including all forecourts, roads, footways or other areas adjacent to the streets referred to in this resolution for a distance of 10 metres be designated as 'consent streets' with effect from 17th February 2005.~~

Test Valley Borough Council made the following resolution on 6 January 2005:

~~'That for the purposes of controlling street trading and in accordance with para. 2, Schedule 4, Local Government (Miscellaneous Provisions) Act 1982, all streets (present and future) within the administrative area of the Council, including any forecourts, car parks, roads, footways or other areas adjacent to the streets referred to in this resolution for a distance of 10 metres, be designated 'consent streets', with effect from 17th February 2005.'~~

POLICY

This Policy will be applied to street trading activities in the Borough of Test Valley to ensure consistency in decision making. Each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

1. Definitions of terms used in these Guidelines

Within the terms of the Borough Council of Test Valley's Street Trading Consent Scheme the following definitions apply:

The Council:-	The Borough Council of Test Valley.
Street Trading:-	The selling or exposing or offering for sale of any article (including a living thing) in any street ^{7.2} .
Street:-	Includes: (a) any road, footway, or other area to which the public have access without payment. (b) a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street:-	Means a street in which street trading is prohibited without the consent of the Council.
Consent: -	A consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

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- Consent Holder:- The person or company to whom the consent to trade has been granted by the Council.
- Authorised Officer: - An officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

23. Procedure for determining Street Trading Consent applications

The application and approval procedure normally comprises of the stages as set out below and in ~~at~~ Appendix 1, though alternative arrangements for applications, consultations and site assessments may be made in the following circumstances:-

- (a) Applications for trading on land owned or managed by the Council; and
- (b) Applications for trading for a period of 7 days or less.

All applications for Street Trading Consent will be determined in accordance with delegated powers of the Head of Housing & Environmental Health, except for Consents on land owned or managed by the Council, in which case the relevant Head of Service may issue the Consent or else refer the application back to the Head of Housing & Environmental Health for determination.

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34. Submission of the application

An application for a Street Trading Consent must be made to the Council in writing. An application form will be made available for this purpose, though this may be dispensed with in the case of trading on land owned or managed by the Council where a broader consent process applies.
~~The Application Form is included in this policy document at Appendix 2.~~

Applications will not be processed unless / until adequate information is provided to enable the application to be determined. Applications will be rejected if not accompanied by the applicable fee and may also be rejected if, where requested, all or part of the following information is not provided:

~~The following will be required to be submitted with the application~~

- ~~(a) A completed and signed Street Trading Consent aApplication fForm (except if expressly told that one is not required), signed and dated.~~
- ~~(a)(b) The full fee as appropriate for the periods of trading applied for.~~
- ~~(c) Where the proposed street activity is from a fixed position, a copy of a map or plan of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.~~
- ~~(d)(c) At least one Three colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity.~~

- (d) An original in-date copy of the certificate of insurance that covers the street trading activity for third party and public liability risks (minimum cover to be set by the Head of Housing & Environmental Health).
- (e) For traders intending to sell food, the name of the local authority that the trader is registered with for food hygiene purposes and the current food hygiene rating score.
- (f) For street traders using gas appliances, an in-date copy of the most recent gas safety check record.
- (g) A signed declaration from the applicant that all work activities in connection with the street trading activity will be conducted by workers who have the legal right to work in the UK.
- (h) The arrangements for the disposal of litter and waste.

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~~All applications should be marked for the attention of the Environment & Health Service.~~

An applicant for an initial new Street Trading Consent should normally give a minimum of ~~60~~ 30 working days notice of the application to provide sufficient time for consultation and determination.

45. Consultations on applications made

Before a Street Trading Consent is granted or renewed, the Council ~~may~~ will carry out a consultation process with various persons and groups. The extent of the consultation will be at the discretion of the Service issuing the consent and will depend upon the type of trade, the duration of the proposed consent, and location of the proposed street trading consent applied for. In particular the following organisations or persons ~~may be~~ are consulted.

- Hampshire County Council Highways – area office
- The Test Valley Borough Council Property and Asset Management Estates & Economic Development Service
- ~~Technical Services~~
- Hampshire Constabulary
- ~~Hampshire Fire & Rescue Service~~
- Local Councillor(s)
- The appropriate Parish or Town Council
- ~~The local Chamber of Trade or Commerce where relevant~~
- Test Valley Borough Council Environmental Services
- Test Valley Borough Council Health Protection Team
- Test Valley Borough Council Environmental Protection Team

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~~For new applications, in addition to the above, further consultations could be carried out with property owners within 100 metres of the proposed site. This consultation will be by the Council sending copies of the Application Form to the relevant property owners.~~

~~Any written observations from such consultees the above organisations and occupiers of properties~~ will be ~~sought and~~ taken into consideration when determining an application.

56. Site Assessment

Street Trading Consents ~~from static locations~~ will not normally be granted where any of the following apply:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site. ~~of~~
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited. ~~of~~
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes. ~~of~~
- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes. ~~of~~
- There is a conflict with Traffic Orders such as waiting restrictions. ~~of~~
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes. ~~of~~
- The trading unit obstructs the safe passage of users of the footway or carriageway. ~~of~~
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities. ~~of~~
- The site does not allow the Consent Holder, staff and customers to park in a safe manner. ~~of~~
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- In the case of a food business, it is rated a 0 (urgent improvement necessary), 1 (major improvement necessary) or 2 (improvement necessary) under the national food hygiene rating scheme, and/or is considered to present a significant food safety risk to the public, at the time of the application or renewal.
- The business presents a significant health and safety risk to the public or employees under the Health and Safety at Work etc Act 1974.

67. Inspection of the Street Trading Unit

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity ~~may will~~ be subject to compliance checking from time to time during the Street Trading Consent period and inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading Consent, where this is reasonably practicable. The unit to be used for the street trading activity shall comply in all respects with the legal requirements relating to the type of street trading activity proposed. ~~In particular the unit to be used shall comply with the following legislation:~~

- ~~• Food Premises (Registration) Regulations 1991.~~
- ~~• Food Safety Act 1990.~~
- ~~• Food Safety (General Food Hygiene) Regulations 1995 (as amended).~~
- ~~• The Food Safety (Temperature Control) Regulations 1995.~~
- ~~• Health and Safety at Work etc Act 1974 and any Regulations made under this Act.~~
- Environmental Protection Act 1990.

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78. Determination of the Application

~~The application will be determined using the criteria listed below. The Head of the Environment & Health Service, acting on delegated powers will use the criteria listed below in determining any Street Trading Consents.~~ Similarly any objections received will be considered against these criteria. All should normally be satisfied, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

~~Once the application is referred to the Head of Service, The applicant will be informed in writing and notified that application will be determined within 28 days unless advised otherwise. Persons or bodies making written objections will also be informed along with the appropriate Ward Councillors for the proposed street trading site.~~

a) Public Safety: The location of the proposed street trading activity should not present a substantial risk to the public, for example in terms of road safety, obstruction, food safety, health & safety or and fire hazard. ~~The term "public" refers to both customers requesting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 6 on site assessment criteria.~~

b) Public Order: The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the Hampshire Constabulary will be taken into consideration.

c) Avoidance of Nuisance: The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council Officers will shall be taken into consideration.

d) Needs of the Area: The sufficiency of other trading outlets will be taken into consideration in relation to:

- ~~1.i.~~ The presence of like outlets already existing in the immediate locality of the proposed street trading site.
- ~~2.ii.~~ The general needs of a locality, should no comparable outlets exist.

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Applicants will have to demonstrate to the Council the need for the proposed street trading activity in relation to either points i.4 or ii.2 above, whichever applies.

e) Compliance with legal requirements: The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation.

f) Consultees Observations: In relation to points a) – d) 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.

g) ~~Permitted Trading Hours:~~ The Council ~~may restrict trading hours in some cases where appropriate. generally will only permit street trading between 6.00 am and Midnight, in Andover town centre, 22.00hrs in Romsey town centre and until 2.00am elsewhere, on any one day. 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 the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.~~

h) Market days: Those ~~Street Consent Holders Street licensees~~ who have consent to trade in the town centres ~~may will~~ not be ~~permitted able~~ to do so on Market days.

89. **Approval of Applications**

The Head of Service may approve applications meeting the criteria contained within these guidelines.

On approving the application the Council will issue a Street Trading Consent to which standard conditions will normally be attached. The Consent ~~may will~~ also contain specific terms such as days and hours when street trading is permitted, or the goods that may be sold. ~~A copy of the Council's standard conditions, which are attached to Street Trading consents, are shown at Appendix 3.~~ Additional conditions may be attached if special circumstances apply to the Consent being granted by the Council. The Consent will normally shall be issued within 21 days of the decision.

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

Consent Holders are therefore requested to familiarise themselves with the terms and conditions attached to the Street Trading Consent and comply with the requirements.

940. Issue of Street Trading Consents

A Street Trading Consent for any particular site will be issued for a maximum period of 6 months for the first year and thereafter for 12 months providing there have been no problems. Shorter term Consents may be issued on a daily, weekly or monthly basis. These particular Consents will expire, unless renewed, on the date specified in the Consent.

~~In all cases when a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the application will be required to go through the full consideration process outlined in these guidelines.~~

If a cheque is dishonoured by a bank this will result in the revocation of the Street Trading Consent issued by the Council unless payment of the outstanding fees is made in cash within 5 working days. In such cases an administration charge will also be imposed on the Consent Holder. If an application is refused then a full refund will be made.

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

1044. Decision to refuse or revoke

If the Head of Service is unable to grant a Street Trading Consent, or decides to revoke a Consent, the applicant will be notified in writing within 21 days and will be offered a meeting with them to discuss the reasons for a potential refusal of the application or revocation of the ~~application~~ Consent. At the meeting the applicant will be informed of the criteria from these gGuidelines that have not been met or adhered to. The applicant will be given an opportunity to discuss any relevant matters in relation to the application or Consent~~that has been made~~. ~~If after the meeting the Head of Service is still unable to proceed with the granting of a Consent, the outcome of the meeting with the applicant~~ After the meeting the outcome will be confirmed in writing by the Head of Service within 5 working days of the meeting taking place. The Head of Service may decide to: revoke the Consent, grant the Consent or allow the existing Consent to continue.

If an applicant refuses an offer of attending a meeting with the Head of Service or fails to attend, then the Head of Service will review the matter and a letter will be sent to the applicant confirming the decision reached. ~~reasons for being unable to proceed with the application.~~

If the applicant is not satisfied with the decision to revoke or refuse a Consent, he/she may ~~they~~ make representation, in writing within 28 days, to the Licensing Committee for it to consider the application.

11 Representation to the Licensing Committee**42. Representatation to the Liconsing Committee**

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The Council's Licensing Committee has been established to consider applications and hear objections and appeals in relation to licensing matters.

The role of the Licensing Committee as regards Street Trading Consents is to:

Hear representations from applicants in cases where the application has been refused or revoked by the Head of Service.

On receipt of a written representation, arrangements will be made to have the application heard at the next available meeting of the Licensing Committee.

Once arrangements have been made for the representation to be heard by the Licensing Committee the applicant will be advised in writing of the date, time and place where the representation will be heard. The person making the application is expected to attend the hearing. The applicant can be represented by a solicitor, or supported by a friend or colleague. The Licensing Committee will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.

The decision of the Licensing Committee will be confirmed in writing to the applicant within 5 working days of the meeting at which the application was considered.

The Licensing Committee will always adhere to the rules of natural justice when it is considering an application to ensure that all persons get a fair hearing.

1213. Refusal of Applications

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to the refusal of Street Trading Consents. A person aggrieved by a decision of the Council may seek a Judicial Review of the decision, should it be felt necessary.

1344. General Information on Street Trading Consents

Reimbursement of Fees: Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Consent to the Council. Any reimbursement will be strictly from the date the Consent is surrendered to the Council.

Refund of any fee paid in connection with the granting of a Street Trading Consent will be based on the following formula:

Number of complete days remaining divided by the fee paid **less** the current administration fee.

Persons under the age of 17 years: The Council will not grant a Street Trading Consent to persons under the age of 17 years.

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Access by Council and Police Officers: Consent Holders should allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

Street Trading Consents: The conditions attached to all Street Trading Consents stipulate that a Consent Holder shall not assign, sub-let or part with his interest or possession of a Street Trading Consent.

Variance of conditions: The Council may at any time vary the conditions of a Street Trading Consent.

*The Consent granted is specific to the person to whom it is issued and is **non-transferable and there can be no sub-letting.***

1445. **Enforcement of Street Trading**

The Council will ~~actively~~ enforce the provisions of the Street Trading legislation within its area in a fair and consistent manner. All enforcement activities will comply with the relevant Service Enforcement Policy.

1546. **Complaints against the Service**

The Council has a Corporate Complaints Procedure copies of which are available from the Council Offices or on the Council's website www.testvalley.gov.uk.

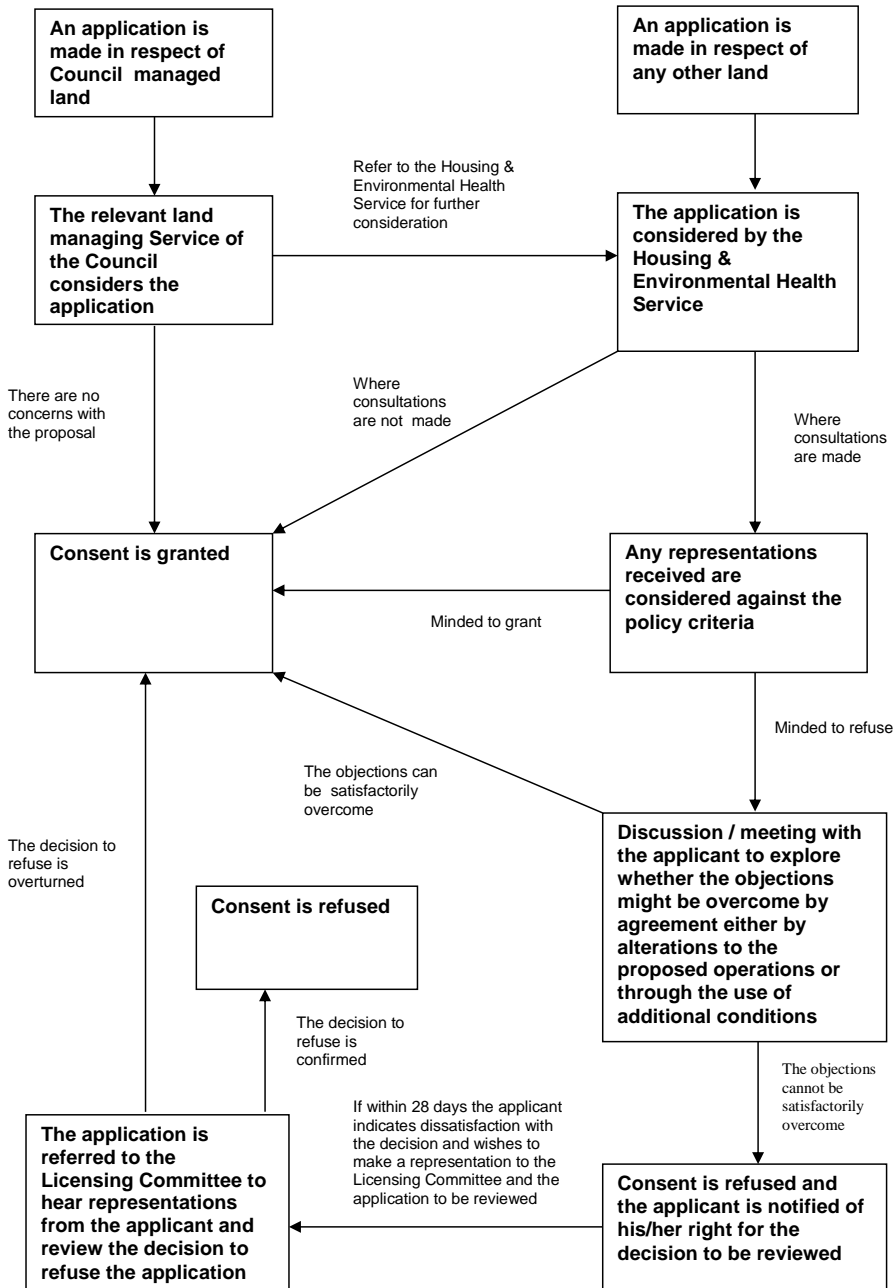
Appendix 1

Summary of the Procedure for Determining Street Trading Consents

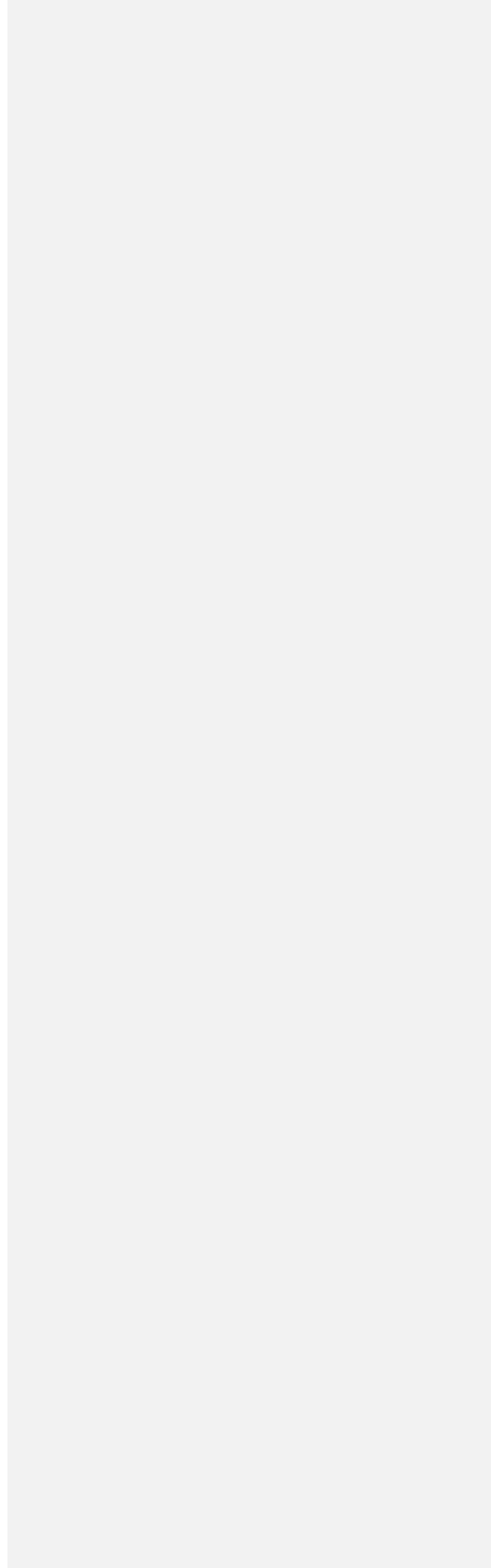
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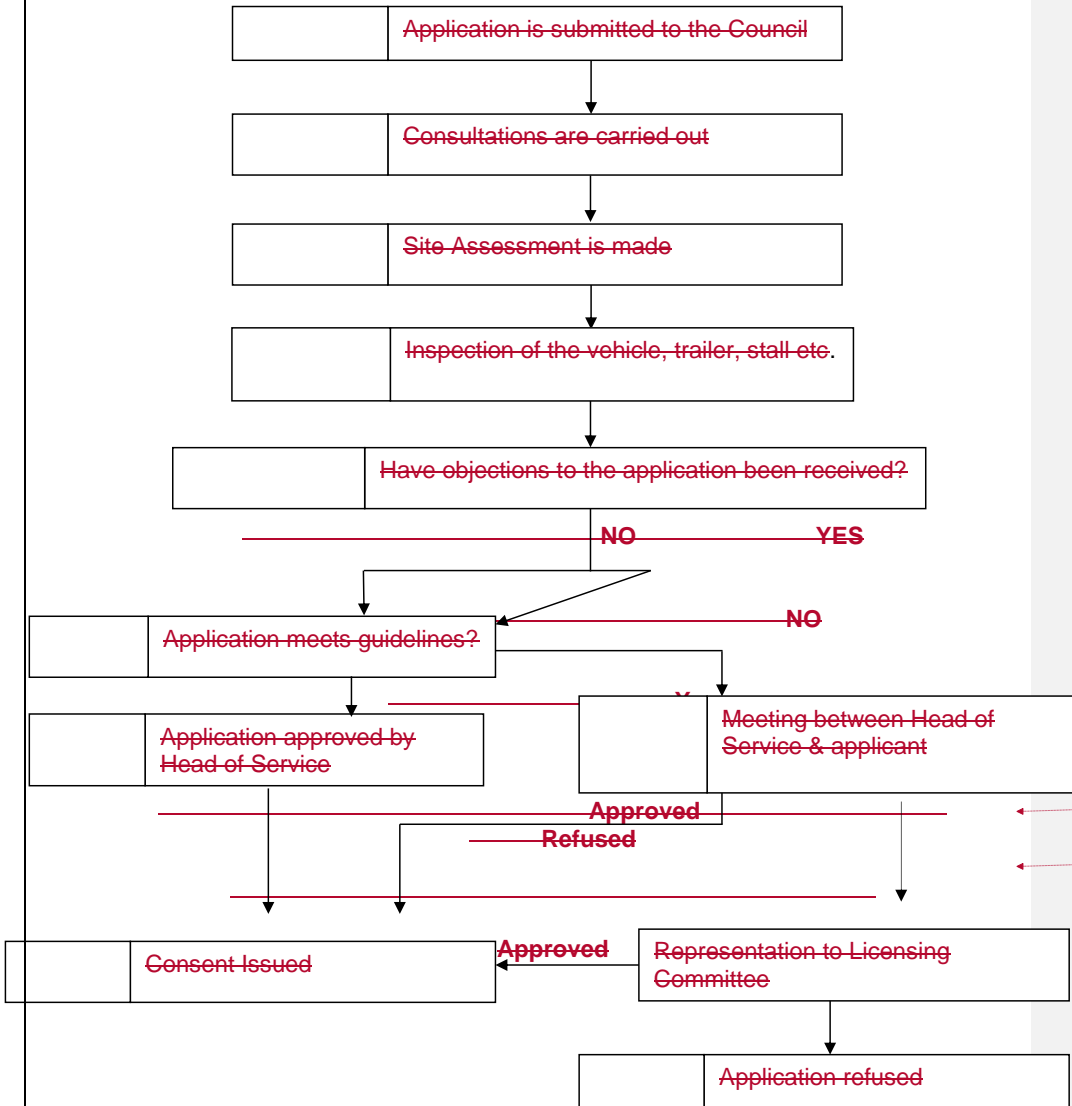


_APPENDIX 1

PROCEDURE FOR DETERMINING STREET TRADING CONSENT APPLICATIONS

The application and approval procedure comprises of the following stages

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APPENDIX 2

TEST VALLEY BOROUGH COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SCHEDULE 4

APPLICATION FOR STREET TRADING CONSENT

1. Name

2. Address
.....
.....

3. Telephone Number: Home Work

4. Have you been granted a street trading consent by the Council previously? – Yes/No
(delete as appropriate)

5. If you answered Yes please state expiry date of the consent.....

6. Goods/articles to be sold:

7. Date from which consent is required:.....

8. Do you require permission to trade from a stationary van, cart, barrow or other
vehicle or from a portable stall?—
Yes/No (delete as appropriate)

9. Description of stall, vehicle etc (including registration number if appropriate)
Please include 3 colour photographs of the stall, vehicle etc. (see copy of policy
attached)
.....
.....

10. Address where stall, vehicle etc is kept (if different from 2 above):-
.....
.....

If you answered Yes to Question 9 above:

11. At what precise location(s) do you wish to trade from?, (please attach a copy of a
map of at least 1:1250 scale. The map should clearly identify the proposed site position
by marking the site boundary with a red line). (see copy of policy attached)
.....
.....

12. Duration of consent required
.....

13. On what day(s) do you wish to trade?
.....

14. Between what times do you wish to trade? (see copy of policy attached)
.....

15. Fee enclosed - see notes for applicants (cheques should be made payable to Test Valley Borough Council).....

Date Signature of Applicant

NOTES FOR APPLICANTS

The Council will normally attach Standard Conditions to a street trading consent. These are given in APPENDIX 3 which is included in these guidance notes.

Fees and Charging Scheme

The following fees are payable in respect of street trading consents and applications must be accompanied by the full fee. Any annual street trading consent shall run from 1 June to 31 May.

Short Term Consent (up to seven days as a block)

Fee payable £18

Annual consent for one day/night per week

Subject to availability, applicants will be able to make a block booking for a consent to trade on particular days/nights of the week over an annual period.

Fee payable £443.00

Annual consents for more than one day/night per week

Fees payable — £443.00 plus £64 per additional day/night per week a consent is required.

Example: an annual consent to trade for 7 nights a week is required.

Fees payable are £443.00 plus 6 x £64 = £827 pa

Exemptions from consent street charging fees

Street trading consents issued to registered charities on non-market days in Romsey Town Centre are exempt from the consent street trading charges. (Romsey market days will be on Tuesdays and Fridays)

Safe Use of Liquefied Petroleum Gas (LPG) in mobile catering units

Guidance notes are enclosed on the safe use of LPG and applicants will be expected to comply with the advice contained therein.

Enforcement Policy Refusal or Revocation

The following grounds will be considered for refusing an application or revoking a consent:-

- 1) That the applicant/consent holder has, without reasonable excuse, failed to avail himself to a reasonable extent of a previous, or as the case may be, current, street trading consent.

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~~2) — That there is not enough space in the street for the applicant/consent holder to engage in the trading in which he desires to trade without causing undue interference or inconvenience to persons using the street. This is relevant even if the circumstances have reasonably arisen since the granting a consent.~~

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~~3) — That the applicant/consent holder has failed to comply with the conditions of a consent or any statutory requirement relevant to street trading (e.g. hygiene or safety requirements).~~

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~~4) — That the applicant/consent holder is unsuitable to hold a consent by reason of having been convicted of an offence material to safety of the public, or public order, littering or pollution.~~

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~~5) — That the consent holder's stall has been the focus for incidents involving public disorder or nuisance.~~

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APPENDIX 3 – To be removed from the policy – for information only

Standard Conditions

1. The following standard conditions will normally be attached to a street trading consent:-
 - (a) The subletting of consents is prohibited
 - (b) Any van, stall, barrow, ~~vehicle etc~~ used in connection with a street trading consent shall be kept in good condition and so presented as not to detract from the appearance of the street.
 - (c) The consent holder shall be responsible for the temporary storage of refuse, liquid and other deleterious material accumulated or created whilst trading and its subsequent removal from the site and shall satisfy the Council regarding its proper disposal.
 - (d) The consent holder shall be responsible for collecting and, removing all litter associated with the business within 100 metres in any direction of the stall or vehicle and disposing of it in a proper manner.
 - (e) No sullage water from the washing of food equipment or hand washing shall be allowed to discharge to the ground and the consent holder shall satisfy the Council regarding its proper disposal.
 - (f) The consent holder shall ensure that at all times whilst trading in a consent street, ~~a sign bearing his name and address and the expiry date of his consent~~ the Street Trading Consent, or a copy of it, shall be displayed on the vehicle /stall etc in such a position as to be clearly visible to all customers at the vehicle/stall.
 - (g) The consent holder must at all times comply with the relevant legal provisions of the Health and Safety at Work etc Act 1974 and, if intending to sell food from a stationary vehicle/stall, must be registered with the appropriate local authority and must at all times shall operate from a purpose made vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations currently in force ~~within the provisions of the Food safety Act 1990~~.
 - (h) The consent holder shall not obstruct the street or cause danger to persons using the street.
 - (i) The consent holder shall not cause any nuisance or annoyance (whether to persons using the street or otherwise).
 - (j) Those Consent Street licensees who have consent to trade in the Andover or Romsey town centres will not be able to do so on Market days without written agreement from the Council to do so.
 - (k) The consent holder shall pay all applicable fees in connection with the holding of the Street Trading Consent.

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(l) The consent holder shall co-operate fully with Council Officers if/when undertaking any compliance checks or other regulatory functions in connection with the street trading. Any obstruction of Council Officers in the course of their regulatory functions will be deemed as grounds for revocation of this consent.

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(m)The consent holder shall hold public liability insurance (a suitable policy of at least £1million unless otherwise agreed with the Council) at all times when trading.

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(n) The consent holder shall take reasonable steps to ensure that all work activities in connection with the street trading activity are conducted by workers who have the legal right to work in the UK.

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