



General Licensing and Registration Committee

Date Thursday 15 January 2015
Time 10.00 am
Venue Committee Room 2, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Declarations of Interest (if any)
3. The Minutes of the Meeting held on 9 October 2014 (Pages 1 - 6)
4. The Adoption of a Street Trading Policy (Pages 7 - 58)
5. A Proposal for the Removal of the Current Street Trading Designation - Collier Wood Lay-by, A68, Crook (Pages 59 - 62)
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Colette Longbottom

Head of Legal and Democratic Services

County Hall
Durham
7 January 2015

To: **The Members of the General Licensing and Registration Committee**

Councillor C Carr (Chairman)
Councillor E Bell (Vice-Chairman)

Councillors A Batey, D Bell, J Bell, J Blakey, D Boyes, P Crathorne, I Geldard, B Glass, B Graham, O Gunn, C Hampson, J Hart, D Hicks, A Hopgood, K Hopper, I Jewell, J Lee, T Nearney, J Maitland, L Marshall, P May, D Stoker, A Surtees and A Willis

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DURHAM COUNTY COUNCIL

At a Meeting of **General Licensing and Registration Committee** held in Committee Room 2, County Hall, Durham on **Thursday 9 October 2014 at 10.00 am**

Present:

Councillor C Carr (Chairman)

Members of the Committee:

Councillors E Bell (Vice-Chairman), A Batey, J Bell, B Graham, C Hampson, J Hart, D Hicks, K Hopper, I Jewell, J Lee, T Nearney, L Marshall, P May, D Stoker, A Surtees and A Willis

Also Present:

C Rudman – Licensing Manager
C Greenlay – Principal Solicitor (Litigation)
H Johnson – Licensing Team Leader
G Key – Licensing Team Leader

1 Apologies for Absence

Apologies for absence were received from Councillors D Bell, P Crathorne, I Geldard, B Glass, O Gunn, A Hopgood and Mrs J Maitland.

2 Declarations of Interest

There were no declarations of interest.

3 Minutes

The Minutes of the meeting held on 23 April 2014 were agreed as a correct record and were signed by the Chairman.

4 Review of the Council's Statement of Licensing Policy

Consideration was given to the report of the Corporate Director, Neighbourhood Services which sought approval of the draft Statement of Licensing Policy (for copy see file of Minutes).

C Rudman, Licensing Manager provided background to the proposed changes to the Policy which stemmed from recent changes to licensing legislation.

The report gave details of consultees and stakeholders, and their responses, some of which had been incorporated into the Policy. The main proposed changes and revisions were set out in a briefing note circulated to Members.

Councillor P May understood that licensed premises must make available a minimum measure of wine of 125ml but he was aware of establishments where this was not offered. He asked if this was addressed in the Policy.

The Member was advised that this was a statutory condition and failure to comply would constitute a breach of the Premises Licence. The purpose of the Policy was to advise the licensing trade how the Licensing Policy was administered and how the Council managed its licensing responsibilities. However, following a suggestion by Councillor E Bell the Licensing Manager advised that a statement could be included in the draft Licensing Policy to the effect that establishments were expected to comply with the legal requirements of their Premises Licence.

The Licensing Manager continued that one of the key changes to the Policy was the introduction of recommended hours for certain licensable activities for new applications, taking into consideration type, location and the potential impact on local communities.

Members were therefore asked to consider the proposals put forward by the responsible authorities and make recommendations in respect of the framework hours for inclusion in the draft Policy.

The Committee discussed the matter at length. Reference was made to the classification of weekdays, weekends and Bank Holidays. Members were of the view that weekdays should be from Sunday to Thursday with weekends being Friday night into Saturday morning and Saturday night into Sunday morning. This would reduce the potential for disturbance to local residents on an evening before a working day. The comment was made however that working weeks were no longer traditional because of shift work and weekend working. G Keay, Licensing Team Leader advised that the proposed distinction between weekdays and weekends was generally in keeping with applications received by the Licensing Authority.

For Bank Holidays Members considered that the proposal for 'plus one hour' should apply Good Friday, and for all other Bank Holidays an additional hour should be added to the terminal hour of the day preceding the Bank Holiday (ie if the Monday was the Bank Holiday, the Sunday would be normal trading plus one hour).

Members also noted that the Police had requested a distinction between nightclubs and pubs. The Committee questioned the need for this distinction and suggested that it be removed. The licensable activities, and in terms of promoting the licensing objectives, applied to both pubs and nightclubs and therefore a distinction between the two was unnecessary.

In determining the terminal hours for Premises Licences authorising the sale of alcohol for consumption on or off the premises in the City Centre and larger town centres Members had regard for the local economy, whilst also taking into account the well-being of local residents. The comment was made that a terminal hour that

was too early could lead to multiple purchases with excessive consumption of alcohol during 'drinking up time'. With these factors in mind Members agreed with the hours suggested by the Police and were of the view that a terminal hour of midnight on weekdays was appropriate, with 1.00am at weekends, and 'plus one hour' hour on Good Friday. For all other Bank Holidays an additional hour be added to the terminal hour of the day preceding the Bank Holiday.

In terms of premises authorising late night refreshment as the primary licensable activity, Members were minded of the problems of disorder in town centres, however appreciated that if takeaways were to close at the same time as pubs then dispersal could be an issue. Members therefore considered that one hour after licensed premises would be reasonable, and recommended a terminal hour of 1.00am on weekdays, with 2.00am at weekends and 'plus one hour' hour on Good Friday. For all other Bank Holidays an additional hour be added to the terminal hour of the day preceding the Bank Holiday.

For licences authorising the sale of alcohol for consumption off the premises, Members were advised that no distinction should be made between supermarkets and other off-licences such as corner shops. Councillor Batey felt that Members should be guided by the views of the Police as they dealt with the problems associated with excessive alcohol consumption. Councillor May remarked that it was common practice now for young people to have a drink before they went out for the evening.

Councillor Carr was aware that problems could arise when off-licences closed at the same time as pubs. There may be an expectancy by customers leaving pubs that alcohol could then be purchased from a store on their way home. He therefore suggested that off-licences should close half an hour before the terminal hour for pubs. It was recommended that the terminal hour for licences authorising the sale of alcohol for consumption off the premises only be 11.30pm weekdays, with 12.30am on weekends and 'plus one hour' hour on Good Friday. For all other Bank Holidays an additional hour be added to the terminal hour of the day preceding the Bank Holiday.

At this point Members gave consideration to community centres and village halls. The Committee felt that there should be no distinction made between these premises and pubs, and recommended that the terminal hours for licences not including the sale or supply of alcohol should be midnight on weekdays, with 1.00am at weekends and 'plus one hour' hour on Good Friday. For all other Bank Holidays an additional hour be added to the terminal hour of the day preceding the Bank Holiday.

Finally Members were asked to consider the application of these recommended framework hours to premises situated within smaller town centres and mixed commercial residential areas, premises in villages and semi-rural areas, and those in a predominantly rural setting. The Committee felt that in terms of promoting the Licensing Objectives, the same issues could arise irrespective of location. Members were also minded of the potential impact on the local economy, particularly in more rural areas and that the licensing hours should not be restrictive so as to have a detrimental effect on this. The comment was also made that the

recommended terminal hours for larger centres would provide flexibility if applied in these other locations. A pub in a rural or small town centre could close earlier than the terminal hour at such times where there was no demand. It was therefore recommended that the proposed terminal hours be applied across all areas.

It was noted that commencement hours were not included in the consultation and were advised by the Licensing Manager that this was because problems were more likely to occur during an evening. C Greenlay, Principal Solicitor (Litigation) stated that a commencement hour was advisable. Without this a commencement hour beginning immediately after the terminal hour could be applied for.

In discussing this Members noted that some premises already had a commencement hour of 7.00am for occasional sporting events or to serve breakfast, and were not aware that any problems had occurred as a result. The Committee therefore recommended that the commencement hour for all categories of premises be 7.00am, and that this be included in the draft Policy.

Resolved:

That

- a) The summary of consultation responses and the content of the final draft Statement of Licensing Policy be noted and agreed;
- b) The proposed Statement of Licensing Policy incorporating the following framework hours be recommended for adoption by Council:-

Category of Premises	Weekdays (Sunday to Thursday)	Weekends (Friday night into Saturday morning and Saturday night into Sunday morning)	Bank Holidays
For premises licences and club premises certificates authorising the sale or supply of alcohol for consumption on or off the premises	07.00 to 00.00	07.00 to 01.00	<ul style="list-style-type: none"> • Good Friday Plus 1 Hour • For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday (i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour).
For licences authorising the sale of alcohol for consumption off the premises only	07.00 to 23.30	07.00 to 00.30	<ul style="list-style-type: none"> • Good Friday Plus 1 Hour • For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday (i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour).
For licences not including the sale or supply of alcohol (community centres, village halls)	07.00 to 00.00	07.00 to 01.00	<ul style="list-style-type: none"> • Good Friday Plus 1 Hour • For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday (i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour).
For licences authorising late night refreshment as the primary licensable activity (takeaways)	01.00	02.00	<ul style="list-style-type: none"> • Good Friday Plus 1 Hour • For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday (i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour).

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**General Licensing and Registration
Committee**

15th January 2015



The adoption of a street trading policy

**Report of Terry Collins, Corporate Director Neighbourhood
Services**

Purpose of the Report

- 1 The purpose of this report is to recommend the adoption of a Council policy on street trading.

Background

- 2 Prior to LGR some of the former district councils had adopted street trading legislation and others hadn't. This meant that controls existed in some areas of the County but not in others. This caused difficulty in regulating street trading activities as no restrictions were in place in those areas which remained undesignated.
- 3 In December 2011 Durham County Council resolved to adopt the powers to regulate street trading throughout the County provided by Part III Local Government (Miscellaneous Provisions) Act 1982, section 3. The purpose of this was to allow this situation to be harmonised in order to create a consistent approach and allow a degree of control should it be necessary.

Street Trading Policy

- 4 Where the legislation is adopted it is considered good practice for a Council to have a 'street trading code' or policy. The Council therefore agreed that a street trading policy should be produced so that a common approach to street trading activities could be applied across County Durham. The aim of the policy being to aid harmonisation and to promote the Council's rational for street trading, ensuring greater consistency and uniformity of approach.
5. The proposed Street Trading Policy is attached as Appendix 2.
6. The proposed policy provides advice to both current and prospective street traders and to the public on the Council's overall position with regards to the authorisation of street trading activities under the Act. It also provides a decision-making framework for the Council via its Officers and Licensing Committee to exercise its quasi-judicial functions.
7. The policy aims to balance the legitimate needs of businesses with local controls and community interests. It also details the licensing authority's role for administering and enforcing the regime in accordance with the law.

Failure to achieve the correct balance could lead to a policy being overly prescriptive and open to challenge, or ineffective in the protection of the public.

8. The policy will ensure that any street trading applications received are considered on their own individual merits and it will ensure that the grant of consents and licences are dealt with in a consistent, fair, reasoned and proportionate way. The policy will be used in conjunction with the applied legislation and sets out the framework within which the Council will exercise its control of street trading.
9. The adoption of such a policy is not mandatory. It is however considered invaluable for the administration and promotion of an open and transparent licensing process.
10. Street trading was included in the public consultation exercise concerning the growth and enhancement of County Durham's street markets, which led to the adoption of the Market Strategy in January 2013. Consultation and liaison with relevant Council departments and with Durham Constabulary has also taken place in connection with the development of the proposed policy. All consultation responses are attached as Appendix 3.

Legal Considerations

11. In October 2012 the Government began a consultation on Street Trading and Pedlar law reform to bring the UK systems in line with the European Services Directive. This consultation period ended in March 2013. The results were published in October 2014.
12. There are certain aspects of UK street trading legislation that are not wholly consistent with European legislation. The Provision of Services directive allows for free and market forces to prevail however, for example, UK legislation allows for the restriction of goods sold via street trading if they conflict with nearby retailers. Non-conforming elements of current UK legislation such as this have not been included in the proposed policy. It has been designed to be consistent with recently proposed amendments to Schedule 4 of the Local Government Miscellaneous Provisions Act (LGMPA) to ensure compliance with the E U Services Directive.
13. The need to make these changes followed the consensus reached by EU Member States in 2010 that the retail sale of goods is generally a service activity which falls within the scope of the Services Directive. Previously, such activities were not considered to be in scope and this change in interpretation was described in the Government response to the 2009 consultation on reform of the street trading regime which was published in March 2011.
14. The Policy does have some restrictive measures for controlling street trading in consent areas which are described as General Presumptions. These measures have been included following consultation with colleagues based on public health considerations and comments from Regeneration and Economic Development in relation to the protection of historic and cultural significance of certain areas in the County. Such general presumption could

not be applied to any areas of the County designated as Licensed Streets. The Provision of Services Regulations and the guidance will be taking account of when determining our policy and processes for dealing with applications for consents.

15. As street trading can contribute to the success of events, the Policy allows for operators of events or non-established markets to submit a single application for multiple traders. The purpose of this inclusion is to simplify and speed up the application process and would benefit such events as the Bishop Auckland Food Festival, Lumiere and other trading that takes place in, for example, Durham Market place.

Conclusion

16. Following the adoption of the legislation, it was agreed that a street trading policy would be produced that would enable all responsible authorities and interested parties to engage with the process and help shape the future of street trading within the County.

Recommendations

17. It is recommended that:
 - i) Members agree to support the adoption of the proposed street trading policy by Council
 - ii) A further report is submitted to Full Council seeking approval for the adoption of the proposed street trading policy
 - iii) That following adoption of the street trading policy by Licensing Committee, a harmonised schedule of fees is devised for approval by the Director of Neighbourhood Services

Background Papers

Local Government (Miscellaneous Provisions) Act 1982

Contact: Joanne Waller Tel: 03000 260924

Appendix 1: Implications

Finance

There are no Finance implications

Staffing

There are no human resource implications.

Equality and Diversity

There are no equality and diversity implications. The Policy has been subject to an Equalities and Diversity screening assessment. This is included as Appendix 4

Accommodation

There are no accommodation implications.

Crime and disorder

There are no crime and disorder implications

Human Rights

There are no human rights implications

Consultation

Prior to the designation of any streets as prohibited, licence or consent, a consultation process will have to take place which could influence the final decision.

Procurement

There are no procurement implications

Disability Discrimination Act

There are no Disability Discrimination Act Implications

Legal Implications

The adoption of street trading powers is contained in Part III LG(MP)A 1982, section 3. A district council or unitary authority may resolve that Schedule 4 to this Act shall apply to their district and, if a council does this, Schedule 4 (known as the 'street trading code') shall come into force in their district on such day as may be specified in the resolution. The statutory process for the designation of streets under this legislation includes the following steps:

(a) The intention to designate a street must be advertised for two consecutive weeks in a locally distributed newspaper. Notice published via local press and served on Police, Highways and Network Rail giving 28 days for written representations;

(b) The Council (Licensing Committee) is under a duty to consider any representations received. Consideration of any objections and formal resolution designating streets passed;

(c) If the decision is then made to designate the street, a further public notice must be published at least 28 days before the resolution takes place. Notice of resolution published via local press in two successive weeks (the first notice appearing a minimum of 28 days before resolution takes effect);

(d) Controls come into effect on the date specified in the resolution.

Clare Greenlay in Legal and Democratic Services has been consulted and has contributed to this draft policy.

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STREET TRADING POLICY

January 2015

Proposed

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1.0 Foreword

This policy sets out Durham County Council's (the Council) requirements for street trading. It details and describes our roles and responsibilities in relation to the administration and regulation of street trading activities within the County of Durham.

The street trading legislation, Section 3 together with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (often referred to as the Street Trading Code), was adopted by the Council in December 2011. The development of a single, countywide street trading policy and necessary administrative and regulatory processes and procedures took place, culminating in a public consultation exercise and the eventual adoption of the policy by the Council.

In December 2011 the Council approved this policy for the control of street trading in County Durham through the adoption of the street trading code under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. This policy will apply to all street trading activities within controlled or designated areas of County Durham.

The aim of the policy is to ensure that we deal with applications, licences, consents and prohibitions in a consistent, fair and proportionate way and that we will consider each application on its own merits. Subject to this policy we will have regard to the individual circumstances of particular cases as is necessary for the proper exercise of our functions.

We recognise the valuable contribution that street trading can make to communities, culture and the local economy. We also understand the service that street traders can provide to residents of the County, some of whom are unable to travel to centralised shopping centres and districts. Street trading can also provide people with a flexible way of working, to meet the demands of the public where and when that demand arises. Street trading can also add to the richness of Durham County's vibrant street environment.

However, we recognise that problems may arise in situations where individual vendors don't pay proper regard to their location and street trading can create undesirable and unnecessary situations such as obstructions in the street, thereby compromising the safety of pedestrians. Furthermore, certain types of trading in the street may not complement the character of the surroundings.

Uncontrolled street trading activities can also result in unnecessary littering, unreasonable disturbance nuisance to persons in the vicinity and can have a detrimental effect on the amenity of town centres and other neighbourhoods. Excessive numbers of street traders in particular areas can also lead to elevated risks to public safety, in particular in relation to traffic and parking.

It is our intention that the application of this policy, together with the proper application of street trading laws in a consistent, fair and proportionate way, will benefit the people who live, work and visit areas of the County.

We will monitor and periodically review this policy and we will apply it in a manner which is consistent with other Council policies.

2.0 Purpose and objectives of the Policy

The purpose of this policy is to help to create and maintain a commercial setting in County Durham that

- complements trading from fixed premises
- supports the provision of business diversity and consumer choice; and
- is sensitive to the needs of both local residents and visitors alike.

Our policy seeks to defend and where possible improve the character, ambience and safety of the County's trading environments. It highlights the requirements and standards expected of street traders working and operating within County Durham.

2.1 The objectives of this street trading policy are as follows:

- To help protect public health and safety
- To help safeguard public places that may be adversely affected by undesirable or uncontrolled street trading activities
- To harmonize and unify the regulation and control of street trading within the County of Durham
- To help prevent unreasonable disturbance and public nuisance resulting from street trading activities.
- To promote fair trading practices and consumer choice.
- To support retail opportunity and economic growth and development.

2.2 In developing the policy, we considered the legal requirements of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) and our duties under:

- (a) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder.
- (b) The Regulators' Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations set out and to particularly consider the impact of regulations on small businesses.
- (c) The Provision of Services Regulations 2009 to ensure requirements are non-discriminatory justified by an overriding reason relating to the public interest, proportionate to that public interest objective, clear and unambiguous, objective, made public in advance, transparent and accessible.

2.3 In relation to the internal and external exchange of Information, we will exercise our powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the Police and other partners to fulfil our statutory objectives on reducing crime in the area.

Details of applications and objections referred to the Licensing Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

Names and addresses of objectors will not be disclosed or published in public reports in accordance with the 1982 Act although such details will be made available to Councillors on the Licensing Committee. We will not disclose the names and addresses of objectors to applicants without the consent of those who have made objections.

3.0 What is street trading?

Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway, beach or other area to which the public have access without payment. Street trading activities may include hot and cold food vendors, vendors of non-food products who trade on static pitches or fixed locations from any vehicle, a stall, barrow, trailer, or any other moveable construction. The Council can issue 'mobile' consents to the owners of vehicles used as ice cream vans, mobile shops, sandwich vendors etc.

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

4.0 Street trading activities exempt from street trading law

Certain forms of street trading are outside the legal controls. There are a number of lawful exemptions removing certain activities from the need to obtain a street trading licence or consent including the following:

- Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871 Pedlars are itinerant traders who travel and trade on foot. Certificated Pedlars are free to trade without consent or licence and may even trade in prohibited streets;
- Anything done in a market or fair the right to hold which was acquired by virtue of the grant (including a presumed grant) or acquired or established by virtue of an enactment or order;
- Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- Trading as a newsvendor, including sellers of newspapers, magazines, periodicals etc. If such vendors trade in other items in addition to newspapers etc. the exemption is lost;
- Trading which is carried out at premises used as a petrol filling station; or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the businesses of the shop;
- Selling things, or offering or exposing them for sale, as a roundsman. (Roundsman include milkmen, coalmen etc. who have established or recognized customers in the street);
- The use of trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;

- The doing of anything authorized by regulations made under section 5 of the Police, Factories, and etc. (Miscellaneous Provisions) Act 1916.
- Trading on private land may under certain circumstances not need consent for example, when the public do not have free access (where a fee for entry onto the land is demanded by the organizer).
- Trading in and around shops in a street adjoining premises used as a shop where the business is part of the business of the shop. This does not mean that a trader who positions a stall or display outside his or her shop on the highway is lawful as they may cause an obstruction. Permission to place such items on the highway should always be obtained from the Highways Authority in advance.
- Trading in a street which is not designated as a Licence, Consent or Prohibited Street by the Council. Such undesignated streets are not covered by this policy and the provisions of the street trading legislation, even if adopted by the Council do not apply unless and until a particular designation has been passed in the correct manner.

5.0 Street trading controls and authorisations

The Council is permitted to apply the measures contained within Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (often referred to as the Street Trading Code). Where the 'code' applies, it is an offence to engage in unlicensed street trading (trading without a licence, street trading consent or to trade in a prohibited street).

The law allows councils to 'zone' areas for street trading control purposes. For example, zoning permits a council to prohibit street trading or to confine it to certain designated areas. Under paragraph 2 of Schedule 4 of the 1982 Act, we may designate any street in the County according to the following categories:

- 5.1 Prohibited Streets** – if a street is designated as a prohibited street, all street trading within that street is prohibited.
- 5.2 Consent Streets** – designation of a street as a 'consent street' prohibits street trading in such a street without the consent of the Council. This system of control gives the Council more extensive, discretionary powers than is the case for street trading licences (see 5.3). the consent system was designed to regulate itinerant traders including those that operate from vehicles or barrows and in practice will most often apply to traders selling from vehicles. It is a more stringent system than the quasi-judicial one applicable to street trading licences.
- 5.3 Licence Streets** – The Council may alternatively designate a street as a 'licence street'. This has the effect of prohibiting street trading in that street unless the trader obtains a licence granted by the Council. The licensing system was intended to apply to those who trade from a fixed position including a stationary barrow, cart or stall.

It is important to note that a trader who disregards the designations and trades without permission commits an offence punishable by a fine.

6.0 The designation of streets for streets trading purposes

The designation of streets will be made by resolution of the full council following public consultation and advertising of the proposals in accordance with the provisions of the code. The process for the designation of streets is shown in Annex I.

7.0 Street trading application processes.

Anyone wishing to trade from a street in a designated area will be required to make an application to the Council. The process for applying for street trading authorisation is shown in Annex C.

7.1 Street trading Licences

A licence grants a conditional permission to trade. A licence will be valid for a maximum of 12 months.

Licences will be issued to specified individuals. Licence holders may employ trading assistants however, there is an obligation on all licence holders to trade in person and we may revoke a licence if the licence holder without reasonable excuse fails to trade personally to what the Council would consider a reasonable extent.

Licences will specify “**principal terms**” such as the street or streets in which we permit trading and the times at which this is so. Licences will also specify the class or classes of goods that traders are entitled to offer for sale. If we only permit trading in a particular place in a street, the licence will stipulate this and we will identify the permitted trading location.

In addition, we may also impose other ‘**subsidiary**’ conditions on the licence holder if it appears reasonable for us to do so. These subsidiary terms may include for example conditions relating to the size and type of stall, identification of the licence holder, the prohibition of the leaving of trade refuse and litter etc.

Traders should also be aware that there is a requirement to obtain a premises licence or a Temporary Event Notice under the Licensing Act 2003 should they be selling alcohol at any time or providing late night refreshment after 11.00 pm.

A licence does not confer an absolute or indisputable right to trade. If it is resolved by the Council that a licensed street becomes a prohibited street, the street trading licence will cease to be valid once the re-designation of the street takes effect.

We will grant an application for a street trading licence or the renewal of an existing licence unless we are satisfied that there are reasonable and satisfactory grounds for refusal. In some instances, even if such grounds for refusal do exist, we may still grant the licence but subject to special terms or conditions.

7.1.1 Appeals against the refusal of a street trading licence.

We will always serve a notice specifying the grounds on which the decision to refuse a street trading licence application might be based. We will make any applicant or licence holder aware of the reasons for refusal and we will give them the opportunity to make representations on this matter to us in advance of any statutory appeal.

If we refuse either to grant or to renew a street trading licence, any person aggrieved may appeal to the magistrates court against the decision so long as the reason for the decision falls within one of the categories designated under paragraph 3 (6) (d) – (g) of the Act.

There is no right of appeal where refusal is based on grounds in 3 (6) (a) – (c). of the Act. Proceedings by way of judicial review are the only means available by which refusal on these grounds may be challenged.

A right of appeal must be exercised within 21 days of the date when the decision to refuse a licence was notified to the applicant or licence holder.

7.1.2 Variation of the terms of a street trading licence

We may vary the terms of a licence when a trader applies to renew a licence. If the change affects one or more of the ‘principal’ terms of the licence the variation will only take place following the use of the notice procedure referred to above. We may vary a ‘subsidiary’ term at any time.

We will not reach a final decision on any variation of a principal term until a trader has actually made representations or has not exercised the right to do so within the permitted period. If a trader has replied asking to be heard on the matter, we will not proceed until representations have actually been made or, if they have not, until a reasonable period has expired without the trader exercising his or her right.

7.1.3 Appeals against variations of street trading licences

A right of appeal must be exercised within 21 days of the date when the decision to vary the street trading licence was notified to the applicant or licence holder.

7.1.4 Revocation of street trading licences

Subject to the statutory notice procedure, we may at any time revoke a street trading licence on one or more of the grounds listed in Para 5 (1) of the Act.

7.1.5 Appeals against the revocation of a street trading licence

A right of appeal to the magistrate’s court against the decision of a Council to revoke a street trading licence, provided the grounds for revocation are only those given in Para 5 (1) (b) to (d) of the Act. Judicial review provides the only means of challenging a revocation on the ground of insufficient space.

An appeal must be commenced within 21 days of the date on which the trader was notified of the Council's decision to revoke an existing licence.

7.2 Street trading consents

The grant of a street trading consent is a matter that falls within our discretion. Consent may be granted if we think it fit and proper to do so provided that:

- The applicant is not under 17 years of age, or
- The application does not relate to any trading on the highway in relation to which a control order has been made.

In contrast to the provisions of regulation the grant of licences, there are fewer limitations on the grounds on which we may refuse an application and we are entitled to have regard to matters that we consider relevant, subject only to the requirement that we must act reasonably.

We have prescribed the information that applicants must supply and which we will take into account.

We will notify applicants for street trading consents of the substance of any objections to the granting of consent and we will give them the opportunity to respond to those objections. We will fully consider such representations and in certain cases, this *may* be by way of an oral hearing but in most cases, written representations from the applicant will suffice.

We may attach such conditions to the street trading consent as we consider necessary and in particular, conditions designed to prevent obstruction of the street, danger to those using it, crime and disorder and nuisance or annoyance. In relation to the prevention of annoyance, conditions may address any effects of street trading on the neighbourhood that might fall short of a nuisance in law.

We may exercise the power to attach conditions to the consent when we grant the consent or when it is renewed and traders operating under consents issued by us may be subject to different terms on renewal in comparison to previous consents.

We may also vary the conditions of a street trading consent at any time but are bound by the general duty to act fairly and reasonably when exercising this power.

Unless the consent stipulates to the contrary, its holder cannot trade from a van or other vehicle or from a stall, barrow or cart. We will expressly permit such trading however, the consent may be conditional on the holder obeying restrictions as to the places in which he or she can trade and the times at which trading may take place.

7.2.1 Revocation of street trading consents

We may revoke a street trading consent. This may be for a variety of reasons such as non-compliance with conditions, non-payment or because other agencies such as the utility companies require access to the trading location.

Street traders do not benefit from any statutory procedural safeguards before we revoke consents. If consent is revoked, there is no statutory right of appeal against the decision other than judicial review. In the absence of statutory procedures, we will observe the rules of natural justice before we will impose a revocation and we will treat the consent on this basis as an existing privilege.

Following a revocation, the person or company issued with the street trading consent shall have no claim against the Council.

7.2.2 Appeals relating to consents

No right of appeal to the criminal courts exists in respect of a refusal, revocation or variation of a street trading consent. We will exercise discretion in these matters that are subject only to the principles exercised by the courts in judicial review proceedings.

8.0 Non-established markets

Markets that have not been established (see glossary) are not exempt from street trading law. By agreement with the organiser, the Council may issue trading consent to the person organising the non-established market. In the absence of such an agreement, each individual trader will be required to apply for consent. This policy is aimed at promoting the economy and encouraging more traders to attend.

When a single consent is issued to a market organiser to cover a number of traders, the following categories will apply:

- Category 1 – Up to 10 traders
- Category 2 – Between 11 and 30 traders
- Category 3 – Between 31 and 50 traders
- Category 4 – Between 51 and 70 trader
- Category 5 – Over 71 traders

The fees and charges associated with these categories are available on the Council's website.

In such cases it is expected that the organiser will have the necessary permissions from the landowner for the use of the land.

As there will be an identified organiser of the market, who will be considered responsible for its delivery, management and supervision of stall holders, the Council will not require DBS disclosure from each individual street trader. When this occurs it will be expected that the organiser has regard to the

requirements of this policy, in particular Annex H Guidelines on the Suitability of Applicants, and ensures that each trader is suitable based on these requirements.

9.0 General Presumptions

There will be a general presumption that we will normally refuse street trading consents for the following:

- Street trading in consent areas involving the sale of takeaway foods close to schools and other children's educational facilities
- Individual applications for street trading consents in some market town locations on non-market days unless the trading forms part of an organised event. Such locations have special historic, cultural and public interest and the Council considers that they require a greater level of protection and control
- In developing a uniform approach to the regulation of street trading, Licensing Services consult with DCC planning services on street trading applications. If the response is that planning permission is needed, this aspect will be brought to the attention of the applicant. It will be the applicant's responsibility to comply with any existing or future requirements under planning policy or legislation. Should a street trading permission be granted and subsequently, relevant planning permissions are refused by the Council, the street trading application fees and any associated charges will not be refunded to the applicant.

10.0 Fees and charges

Fees and charges will be set and reviewed annually. Such fees will be set as we reasonably consider will cover the total cost of operating the street trading scheme.

We may determine different fees for different types of licence or consent, having regard to such matters as:

- The duration of the licence or consent
- The street in which trading is authorised

We also have the power to impose 'charges' under paragraph 9 (6) of the Act. These are charges for any particular services provided to traders by the Council. The charging component of the fees is concerned with the recovery of reasonable costs associated with services to traders including the collection of refuse, the cleansing of streets and will be incorporated into the fees.

Enforcement costs associated with authorised traders are included within fees and charges. It should also be noted that the fee structure does not include any rates which may be payable. The onus/liability is on the consent holder for the payment of rates when/where applicable.

10.1 Non-fee paying Street trading activities

Fees will not ordinarily be required for the following events or activities:

- A. Sales of articles by householders on land within the curtilage of their homes (yard or garden sales);
- B. Non-commercial or charitable activities and events

Events that fall within category A for which fees are not payable will also be exempt from the application process.

10.2 The issuing of licences and consents and designated pitches

Where a designated “pitch” system is in operation and an existing or new pitch becomes available, we will normally publish a notice inviting applications for that pitch.

Authorisations may be granted for short periods for the purpose of organised street markets, events, promotions and for mobile street artists. Normally, authorisations will be issued for block periods and we will not normally permit traders to specify set days of the week that they wish to trade.

Existing traders and prospective traders will normally be required to pay all fees for authorisations in full in advance subject to exemptions (see 10.1). Failure to make payments may result in us revoking or refusing to renew an authorisation.

Any person granted a street trading authorisation should be aware that it might be necessary for the Council to clean and maintain pavements, verges or the highway within the area.

There may be times when a permitted area will be unavailable due to utility, maintenance or construction. This is a normal function of the Highway Authority and utility companies and therefore will not be subject to compensation although we will make reasonable efforts to identify an alternative trading site during such occasions.

A member of the Licensing Services team in consultation with other appropriate Council Officers will normally determine uncontested applications. Where the Licensing Manager or other designated officers decide that they are unable to determine an application, the Licensing Committee may determine it.

11.0 Offences

The adopted street trading legislation is statutory in nature. There are criminal sanctions available for street traders in breach of obligations imposed by the law.

The following are street trading offences:

- Engaging in street trading activities in a prohibited street
- Engaging in street trading in either a licence or a consent street without the appropriate authorisation granted by the Council
- Contravention of any of the principal terms of a street trading licence

- Breach of any of the conditions included in a consent in relation to the time and place in which trading is permitted
- Trading as a consent holder from a stationary van, cart, barrow or other vehicle unless permission has been granted
- Trading as a consent holder from a portable stall unless permission has been granted to do so
- Knowingly making a false statement in support of a licence application

11.1 Enforcement

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

Licensing enforcement staff will act fairly and consistently when enforcing the provisions of the Street Trading Scheme. The Council's policy on enforcement is available on the Council's website.

A highway authority has the power to remove obstructions from the highway and so may remove stalls or trestles or any other structures used for trading which cause an unlawful obstruction.

Persons trading without authorisation and not subject to exemptions (see 4.0) will be the subject of pro-active enforcement action in accordance with our policy on enforcement.

In general, the Licensing Services Enforcement Team will take the lead role on the investigation and, where appropriate, the prosecution of unlawful street trading.

Licensing Services will work with the police and other enforcing authorities to provide for the targeting of agreed problem or high-risk areas and issues. A lighter touch will be applied to those Consent Holders that are shown to have well managed and maintained operations.

In cases where action of a more formal nature is considered appropriate, the key principles of consistency, transparency and proportionality will be applied.

11.2 Conditions attached to authorisations for street trading

The Council will normally apply standard conditions to street trading authorisations. The standard conditions listed in Annex G are not exhaustive and other conditions may be added to individual consents where appropriate. The standard conditions relate to public safety, public nuisance and amenity of localities.

It will be necessary for street traders and prospective street traders to provide us with evidence that they have obtained public liability insurance to the minimum value of £5 million and that they have registered their business with the Council if food sales are proposed. Applications will not be considered without this evidence.

Street traders may be liable for any damage caused to the verge, pavement, highway or any other item of street furniture caused through the operation of his/her business.

11.3 Street trading sites, locations and pitch assessments

If necessary potential 'pitch' locations may be identified and made available for street trading. In these circumstances, only applications for the designated pitches will be accepted. We will however be receptive to proposals wherever possible.

In determining whether to grant a particular street trading consent to the following will be considered:

- any adverse effects on road safety, either arising from the siting of the pitch/activity or from customers visiting or leaving
- any loss of amenity caused by noise, traffic or smell
- existing Traffic Orders e.g. waiting restrictions
- any potential obstruction of pedestrian or vehicular access and/or access to shops
- any obstruction to the safe passage of pedestrians
- the safe access and egress of customers and staff from the pitch and immediate vicinity (including adequacy of lighting)
- disabled access
- any relevant or significant implications and conflicts with nearby shops and/or businesses
- suitability for the particular varieties of street trading and activities

11.4 The nature and characteristics of trading activities and trading times.

Street trading hours will normally mirror those of shops in the immediate vicinity. In the case of hot food takeaways, trading hours will be determined on a pitch-by-pitch basis.

The design and appearance of the stall, barrow, van or cart etc will be considered as part of the application process.

11.5 Other relevant legislation

In addition to conditions attached by us, applicants should always ensure that they comply with the requirements of any other relevant legislation, which may influence their business.

12.0 Changes to street trading policy

We reserve the right to amend this policy and its appendices from time to time, following proper consultation where appropriate. If you have a hard copy of this document, to ensure that it is current, please contact the Licensing Services section or refer to the Council's website. If you have any comments as regards this policy, please do not hesitate to contact us.

13.0 Glossary of Terms

“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.
“Consent”	Consent to trade on a designated street granted by the Council pursuant to paragraph 7, schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
“Consent Holder”	The person, company or organisation to whom the consent to trade has been granted by the Council
“Consent Street”	A street in which street trading is prohibited without the consent of the Council
“Council”	Durham County Council
“Licence”	A licence to trade on a designated street granted by the Council pursuant to paragraph X, schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
“Markets”	A market is defined as a concourse of buyers and sellers.
“Non-established markets”	These are markets that have not been established in law either by charter, prescriptive rights or by statute. They are not exempt from street trading legislation.
“Street”	Any road, footway, beach or other area to which the public have access without payment.

Annex A Useful contacts

Contacts	Telephone	Email
Licensing Services	03000 265107	Licensing@durham.gov.uk
Highways	03000 263582 03000 263577 03000 263690	dave.lewin@durham.gov.uk dave.wafer@durham.gov.uk keith.jameson@durham.gov.uk
Planning	03000 262830 0191 3872171 03000 262830 03000 263959	DMCentralEast@durham.gov.uk dmnorth@durham.gov.uk dmsouthwest@durham.gov.uk james.taylor@durham.gov.uk
Food Hygiene	03000 261142 03000 264666	Janet.hutchinson@durham.gov.uk shirley.sorrell@durham.gov.uk
Pollution Control	03000 260995	pollution.control@durham.gov.uk
Police	0191 3752304	AHRU@durham.pnn.police.uk maxine.stubbs@durham.pnn.police.uk jim.lincoln@durham.pnn.police.uk
City Centre Management	03000 267198 03000 269457	carol.feenan@durham.gov.uk Ben.Simpson@durham.gov.uk
Health and Safety	03000 264656	john.benson@durham.gov.uk

Annex B Equality, diversity and equal opportunities

This policy takes into account our Equal Opportunities Policy, which aims to achieve equality for all by removing direct and indirect discrimination and barriers on the following grounds:

- Age.
- Gender or transgender identity.
- Race, colour, national or ethnic origin.
- Disability including people with hearing or visual impairments, learning disabilities, mental illness and those living with HIV and AIDS.
- Religious belief, non-belief or other beliefs.
- Marital status, family circumstances or caring responsibilities.
- Sexual orientation.
- Income, employment status or housing circumstances.
- Membership or non-membership of trade unions or involvement in trade union activity
- Offending status
- Any other grounds not specified here, that are not justified. This is not an exhaustive list.

Proposed

Annex C The application process – how to apply for a street trading consent or licence

Please refer to the flow chart on page 21. If you are applying for new street trading authorisation or you are wanting to renew an existing authorisation you must apply in writing, using the prescribed DCC application form. Application forms are available from the Council's website and from Licensing Services (see list of useful contacts in annex A).

Once you have completed and signed it, the application form should be returned to Licensing Services together with the following:

- The application/renewal fee (details of which can be obtained from the Licensing Section or from the Council's website), which will be amended from time to time.
- A location plan setting out any fixed location; or If mobile, a list of the streets/villages/areas where the proposed trading is to take place – the plan should meet the requirements set out in the application specifications.
- Three photographs of any van, other vehicle, cart, barrow, or stall from which street trading is intended to take place
- An endorsed passport sized photograph of the applicant and of any proposed assistants detailed in the application form
- A copy of the certificate of insurance covering third party and public liability risks to the level of £5 million
- Disclosure and Barring Certificate. All application forms must be accompanied by a basic disclosure as the Council must be satisfied that the applicant is a suitable person. Apply for a basic disclosure online via <http://www.disclosurescotland.co.uk>

The processing of street trading applications takes time as consultation with other interested parties and responsible authorities is required. It is anticipated that the application process will be completed within twenty-eight days of our receipt of any application but if it takes longer than this you will be advised of the delay.

Applicants will be notified of the outcome as soon as possible. It is important to note that you must not trade until and unless authorisation is granted. It would be an offence to trade in a consent street without the appropriate consent to do so.

Licensing Services personnel may refuse to accept any application that is not made in accordance with the above procedure or; which does not take into account the site assessment factors detailed in 9.4 or; is contrary to adopted street trading policy.

The following process shows how the Council determines applications for street trading consents:

- a) Copies of the application are sent by Licensing Services to the following consultees: Durham Constabulary including the Police Road Traffic Management section, Planning Department, Highways Department, Town and City Centre Management, Environment, Health and Consumer Protection (Food Safety, Health and Safety and Pollution Control Teams).

b) Applications for fixed trading locations may require a site assessment to be undertaken. In such cases, following the site assessment a report and accompanying recommendation is made, taking into account the factors set out at 9.4.

c) The application will then be assessed by the Licensing Services personnel having due regard to the DBS certificate and any consultation responses, which will take into account the criteria set out the annexes to this policy.

d) If the application is not opposed by any of the Consultees and is in accordance with all relevant policy requirements, Licensing Services will issue an authorisation to the applicant. The authorisation will include the standard and any other relevant conditions. The authorised trader will be required to take all reasonable and practicable steps to comply with all conditions.

e) Authorisation will normally be given in writing to the applicant within five working days of the determination of the application.

The consultation process

Within three working days of receipt, Licensing Services will send a copy of the completed application form and accompanying documentation to each of the consultees.

All consultees will be asked to provide representations in respect of street trading applications by written response to Licensing Services within 14 working days from their receipt of the application forms.

Following consultation Licensing Services will forward details of any responses to the applicant.

Representation to the Licensing Manager

If any of the consultees oppose an application or the application is not in accordance with the requirements of this policy, the applicant will be invited to respond in writing to the Licensing Manager. Further considerations and consultations with relevant parties will then take place. Following this, the Licensing Manager may then grant authorisation and impose any conditions as may be necessary.

As a result of further consultation, should opposition to the application remain, the applicant will be notified of the refusal. The Licensing Manager will notify the applicant of this decision within 10 working days.

Representation to the Licensing Committee

If an application is refused, upon the applicants request the Licensing Manager will arrange for the application together with any written representations received to be considered at a hearing before the General Licensing Committee.

The General Licensing Committee may grant consent and impose any conditions as may be necessary or refuse to grant consent. This process is set out in detail below.

The applicant will be notified of the committee's decision within fourteen-working days of the application being determined by the committee.

There is no statutory right of appeal against a decision made by the committee concerning street trading consents.

The application specifications

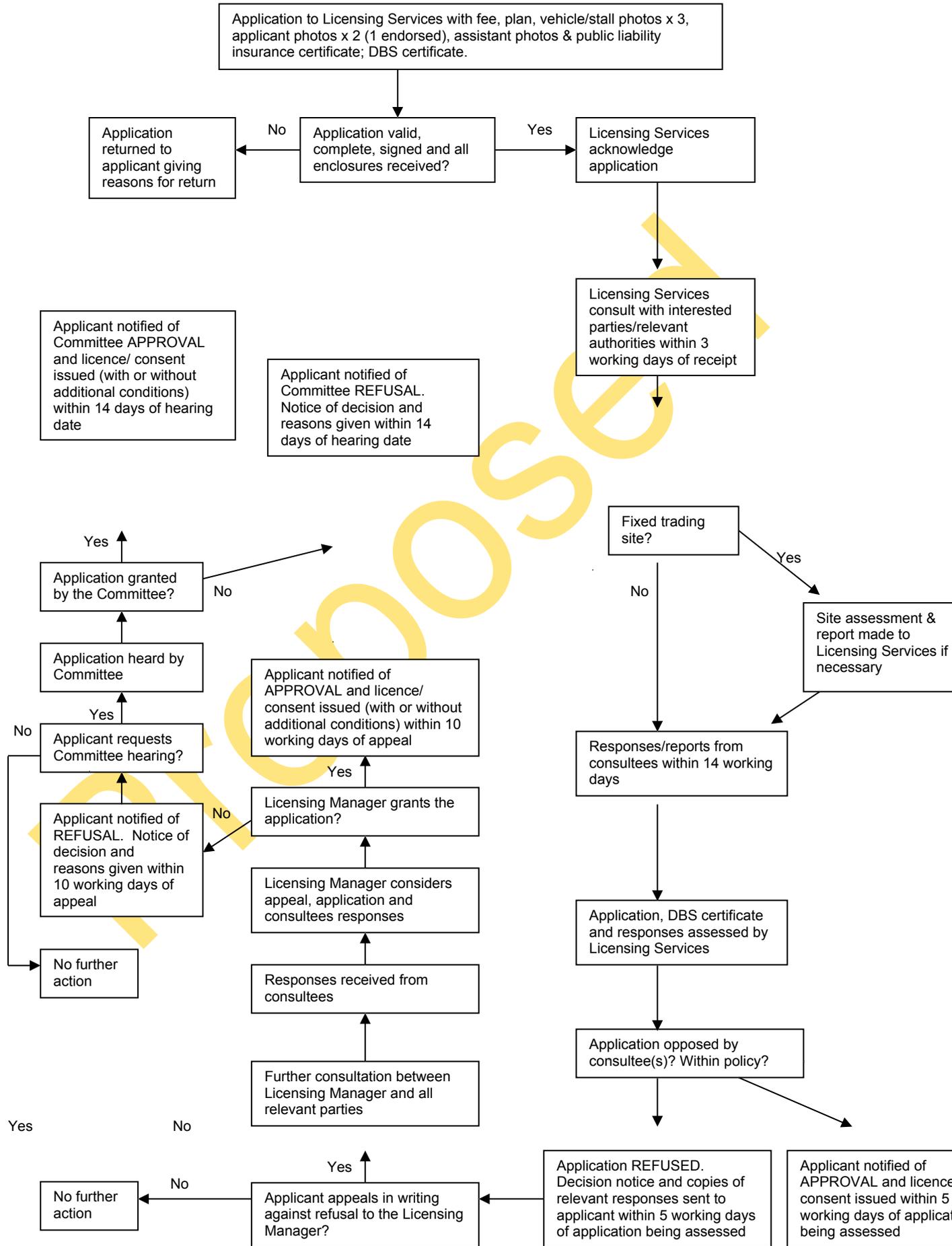
(i) The Plan

- The plan accompanying the application should be an appropriate scale (1:1250 suggested) and should show all residential and commercial premises in a 100m radius of the proposed site.
- The Council may require applicants to provide further plans detailing the exact position of vans, carts, barrows etc on sites where this is considered necessary.

(ii) The Photographs

- The photographs accompanying the application should clearly show the nature of the van, cart, barrow, other vehicle or stall from which the trading is intended to take place, or similar vehicle.
- The photographs should show the front, side and rear views of the van, cart, etc.
- The photographs should be colour pictures.

Durham County Council – Street Trading Application Process



Annex D Site Assessment factors

Road safety	Is the siting of the street trading likely to have an adverse effect on road safety, either because of the siting itself or from customers arriving, attending and/or leaving the site?
Parking	Is there adequate parking available to staff and customers?
Obstruction	Will the siting cause an obstruction to pedestrians or road users?
Sight lines	Will the siting interfere with the lines of sight of pedestrians or road users?
Loss of amenity	Would there be a significant loss of amenity in the vicinity from the siting of the proposed street trading?
Lighting	If it is proposed that the activities will take place at night, is the siting adequately lit?
Local Orders	Are there any relevant restrictions that would prevent the Consent being exercised at certain times or on certain dates, e.g. parking or waiting restrictions?
Cart, barrow, etc	The adequacy of the cart, barrow, etc to be used / being used to conduct the street trading activities, having regard to the siting, and the nature of the vehicle.
Other	There may be other issues relevant to the individual site

Annex E List of Consultees

(i) Consultees who will always be consulted

- Durham Constabulary Alcohol Harm Reduction Unit
- Durham Constabulary Traffic Section
- Durham County & Darlington Fire Safety
- Planning Authority
- Highways Authority

(ii) List of Consultees who may also be consulted

- DCC Trading Standards
- DCC Environmental Health – Food Safety
- DCC Environmental Health – Health & Safety
- DCC Environmental Health – Pollution Control
- DCC Public Health
- Town/City Centre Management
- DCC Legal Services
- DCC Children and Young People Service
- Health & Safety Executive
- Such other bodies as the Council deems appropriate in the circumstances.
- Business Improvement Districts

Proposed

Consultees may have regard to the following criteria when considering whether to oppose the grant of an authorisation, or to review an existing authorisation. Consultees should specifically refer to the relevant criteria when setting out their grounds of opposition / review.

The applicant / authorisation Holder should normally satisfy all of these criteria.

Note: Licensing Services personnel and all consultees shall consider each application / authorisation on its own individual merits, and taking into account the individual circumstances.

Public safety - Applicants and authorisation holders should ensure that public safety is not compromised by their activities. The proposed street trading should not present a substantial risk to members of the public, including customers. Particular regard should be given to road safety, the potential for disorder, and to avoiding the possibility of creating an obstruction or fire risk.

Nuisance - Applicants and authorisation holders should ensure that their activities do not result in significant risk of nuisance, particularly to residents and businesses near their site. 'Nuisance' can include littering, noise, smells, etc.

Compliance with relevant legislation - Applicants and authorisation holders should be aware of relevant legislation, and should ensure that they comply with any requirements that affect their activities.

Trading hours - The permitted hours of trading are generally 06:00 – 18:00 hours. Persons wishing to carry on street trading outside these hours should ask us to consider amending the relevant standard condition.

The nature of the activity - Applicants and authorisation holders should ensure that the items being offered or exposed for sale are not of a nature that may cause offence; and that the manner of offering or exposing the things for sale is not of a nature that may cause offence.

Please note: The Council will keep a record of complaints received regarding authorisation holders and officers will investigate complaints as necessary. This may result in reviews being initiated by the Licensing Enforcement Team Leader or any by of the Consultees.

The character of the area - Applicants and authorisation holders should be sensitive to the character of the area in which they propose to operate.

Consideration will be given as to whether the area is appropriate for the proposed activities, in particular with regard to conservation areas and 'feature areas' of cultural and historical interest or sensitivity. Other issues may also be relevant in the individual circumstances of each application / authorisation.

Annex G Standard Conditions

These conditions will normally apply to all consents/licences unless there is good reason not to do so.

Street Trading Standard Conditions

1. The consent/licence holder and any other persons engaged in street trading shall at all times offer full co-operation to an authorised officer of the Council to ensure compliance with all conditions
2. Street trading will be permitted between 06.00 – 18:00 hours
3. The consent/licence holder will vacate the site within 15 minutes of the end of their permitted hours
4. Consent/licence holders must, at all times, have a copy of their consent/licence on display on their stall/van/cart/barrow or vehicle. **the home address of the holder may be “blacked out” on this display copy.*
5. Where a consent/licence holder is allocated a designated fixed location or “pitch”, trading is restricted to the location indicated on the consent/licence
6. Without prior written approval, mobile street trading within consent streets is restricted to a maximum period of 15 minutes, after which the van/cart/barrow or vehicle must be moved a minimum distance of 200 metres before trading can re-commence, return is prohibited within 2 hours.
7. Consent/licence holders must wear any identity “badge” issued by the Council, when street trading is taking place. The Council may also approve a maximum of 2 assistant. Identity “badges” issued to any assistants must be worn when Street Trading is taking place.
8. Only approved consent/licence holders and their authorised assistants may trade from the consent/licence site.
9. The consent/licence holder shall supply a copy of these street trading conditions to all authorised assistants engaged in street trading under their authorisation.
10. The consent/licence holder must ensure that the Council are informed immediately of any new assistants employed by them.
11. Where issued, a street trading consent/licence plate will be issued along with the consent/licence. The plate must be clearly displayed on stall/van/cart/barrow or vehicle in a way as to be clearly visible to the public.
12. The consent/licence holder must at all times have available for inspection a valid Certificate of Insurance with a level of public liability cover being a minimum of £5,000,000.

13. Consents/licences are personal to the holder. Holders must not assign, transfer or in any way permit anyone else to benefit from their consent/licence.
14. Consent/licence holders may not change their mode of trading or range of goods or articles as specified in the consent/licence without an application to vary the consent/licence being made by the holder and approved by the Council.
15. The holder of a consent/licence must comply with all reasonable directions of the Police, the Council or the Highway Authority whether verbal or in writing
16. The holder of a street trading consent/licence shall take all reasonable precautions to prevent obstruction of the street, danger to persons using it and nuisance or annoyance to other users and residents. Stalls or vehicles shall not be positioned in such a way so as to obstruct the view of drivers of other vehicles.
17. Consent/licence holders must not display or advertise their goods or articles on the surface of the carriageway or pavement.
18. The consent/licence holder must only trade from the size and type of vehicle, stall or trailer specified in their consent/licence.
19. Any change of vehicle or changes to vehicles must be authorised by the Council.
20. A consent/licence holder shall not permit any person under the age of 17 years to be left in charge of a street trading stall/van/cart/barrow or vehicle.
21. The consent/licence holder shall maintain the stall/van/cart/barrow or vehicle in a clean condition and its structure shall be kept in good repair. A consent/licence holder must present any van/cart/barrow or vehicle for inspection when reasonably requested to do so by an authorised officer of the Council.
22. The consent/licence holder is responsible for the collection, temporary storage and subsequent removal and disposal of all refuse and other waste generated by and within the immediate curtilage of their trading activity.
23. The use by any consent/licence holder or their authorised assistant, of loud speakers, horns, flashing lights or any other instruments used to attract customers' attention is forbidden.
24. The consent holder shall be responsible for and reimburse the Council in respect of, any damage they cause to the carriageway/pavement or any fittings or fixtures on it.
25. The consent/licence holder shall at all times obey all road traffic regulations in force in the consent/licence area.

26. The Council reserve the right, should the need arise, to direct that street trading is temporarily suspended and the consent/licence holder may not trade during any such period.
27. The consent/licence holder shall not place on the street any furniture or equipment or advertisement other than as specified in the consent/licence.
28. This consent/licence will expire on the date given. The Council are under no obligation to renew any consent/licence
29. The Council reserve the right to remove, add, alter or amend the standard conditions attached to street trading consents/licences

Conditions Specific to Food Traders

30. All consent/licence holders trading in food and/or drink must ensure that they comply with food safety requirements at all times and have their facility regularly inspected by the relevant 'food authority'. A record of inspections should be kept by the consent/licence holder and must be produced to an authorised officer of the Council on request.
31. The consent holder must only employ persons who are suitably qualified in food hygiene.
32. Nothing from the stall, vehicle, barrow etc shall be allowed to discharge to the ground. The consent/licence holder must ensure that no waste liquids (including grease) of any description are deposited on to the site, highway or into rainwater gullies / drains serving the site. All liquids must be removed from the site and disposed of in a proper manner.
33. The consent/licence holder must provide at least one refuse container, which should be positioned near to the stall/van/cart/barrow or vehicle for use by customers. A notice must be displayed requesting customers to deposit litter in a waste container.
34. The consent/licence holder must ensure that adequate precautions are in place to prevent the risk of fire at their stall/van/cart/barrow or vehicle. Where an electrical generator or bottled gas is used, then current safety certificates must be in force and available for inspection by any authorised officer of the Council
35. The consent/licence holder must ensure that a current price list of articles sold is prominently displayed on the stall/van/cart/barrow or vehicle.

Where the holder of a street trading consent/licence fails to or refuses to comply with any of the conditions attached to their consent/licence it may be suspended, revoked and in certain circumstances they may be liable to prosecution.

Annex H Guidelines on the suitability of applicants

General Principles

The primary aim of this policy is public protection. To help in achieving that aim, the Council will consider the suitability of applicants to be authorised as street traders. Street traders and their commercial activities are often subject to minimum levels of supervision. They interact closely with members of the public and it is important that the public, especially vulnerable people are protected from harm and from those who may harm them, where ever possible.

The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a licence unless satisfied that the applicant is suitable. In determining this, the authority may have regard to any information, which it considers to be relevant, in particular:

- (a) whether the applicant has been convicted of any relevant offence;
- (b) whether the applicant has been the subject of any relevant enforcement action;
- (c) any previous refusal of an application for the issue or renewal of a street trading consent or licence (and the reasons for the refusal);
- (d) any previous revocation of a street trading consent or licence (and the reasons for the revocation);

For the purposes of this policy, relevant offences include unspent convictions relating to dishonesty, the use and supply of controlled drugs, violence and offences of a sexual nature.

Therefore, having regard to the aims of this policy, the Council has determined that applicants with unspent convictions and cautions, for offences involving dishonesty, the use and supply of controlled drugs, violence and offences of a sexual nature, which are less than 3 years old from the date of application, will be included in the consideration of whether the applicant is a suitable person to hold a licence.

A person with a conviction for a relevant crime will be expected to have remained free of conviction for three years, according to the circumstances, before an application is granted. Some discretion may be exercised if the offence is isolated, minor in nature and there are mitigating circumstances. However, the overriding consideration will always be the protection of the public.

Notwithstanding the above, the Council is aware of its duty not to fetter its discretion and it shall permit representations from the applicant as to any exceptional circumstances indicating that it may nevertheless be appropriate to receive a licence.

The following examples afford a general guide on the action to be taken where relevant convictions and cautions are evident:

Offences involving violence

Applicants with convictions for offences involving violence will be considered carefully. When applicants have convictions for causing grievous bodily harm,

wounding or assault, or even more serious offences involving violence, at least three years free of convictions should elapse before an application will be granted.

Drug- related offences

An isolated conviction for a drug offence, whether for unlawful possession only or involving the supply of controlled drugs, will not necessarily prevent an applicant from obtaining a street trading consent or licence, provided the applicant has at least three years free of convictions.

Sexual offences

Applicants with any unspent sexual related offences will not normally be granted a street trading consent or licence.

Dishonesty

Convictions for isolated minor offences will not necessarily prevent an applicant from obtaining a street trading consent or licence but in cases involving serious theft or fraud, at least three years should elapse before an application is granted. When offences of dishonesty have been accompanied by violence, at least five years free of convictions should elapse before an application will be granted.

In all cases, each individual application will be decided on its own merits.

Disclosure and Barring

All application forms must be accompanied by a basic disclosure as the Council must be satisfied that the applicant is a suitable person. Apply for a basic disclosure online via <http://www.disclosurescotland.co.uk>

If any unspent convictions or cautions are declared, depending on their nature, then the Council *may* as part of the application process hold a hearing to determine whether the applicant is a suitable person to hold a street trading licence or consent. The application will not proceed until the suitability of the applicant has been determined.

Annex I Process for designation of streets

Before passing such a resolution various statutory consultation and notification requirements apply.

We will publish a notice in the statutory form of the proposals in a local newspaper. The notice will include a draft of the resolution and state that representations concerning it may be made in writing to the Council within a period of not less than 28 days from the date of the publication of the notice.

Notification will be made to the Chief Officer of Police, to the Planning Authority and to the Highway Authority responsible for the streets in question. If the street is to be a licensed street and is maintained by the Highway Authority, *consent* of the Highway Authority is required. If the street is owned by any other relevant 'corporation', their consent will also be required.

If, after having taken into account any representations it has received, Council pass a resolution, we will publish a notice to that effect in a local newspaper in two consecutive weeks. The first publication will be at least 28 days before the day specified in the resolution for the coming into force of the regulatory scheme.

Under paragraph 2 (11), we have further powers in relation to streets designated or to be designated as a licence street. We may stipulate the number of days on which we will expect traders to trade. We may also decide that we will not grant licences to those who intend to trade on fewer days.

We may impose these requirements either in an initial resolution or in any subsequent resolution. If we take this step in a subsequent resolution, we will apply the same procedures as those relating to the designation of streets regarding notification and the publication of notices.

Appendix 3: Consultation Responses

Respondent Comments	Licensing Services Comments
<p>1. Keith Jameson Traffic & Community Manager Durham County Council Green Lane Offices Spennymoor County Durham DL16 6JQ (03000) 263690</p> <p>I presume Craig's main concern is the designed Market Place areas such as Bishop Auckland, Barnard Castle, Crook etc. some of which are covered by LGMPA1982, but I suspect Craig will also wish to cover the many shopping streets where it is known that traders do congregate.</p> <p>Looking further afield, Highways continue to have problems with the likes of Burger Vans applying for trade from the public highway whether this is from a lay-by or a street. I know that the former Wear Valley District Council licensed a couple of lay-bys and I seem to recall this did not rest well with DCC Legal Team when this was brought into question.</p> <p>Also, I am sure Craig will be mindful of the Highways Act 1980 (Section 147A) which prevents trading from public highway. Many take this provision as read, but the small print in the Act means the provisions only apply to lay-bys adjoining a principal 'A' class road therefore in many cases we are powerless to take action.</p> <p>The issue of Burger vans remain an on-going concern as we do receive complaints from motorists and nearby commercial premises / residential properties. We typically tend to tolerate burger vans knowing they provide a vital service to motorists who wish to take a</p>	<p>The policy will apply to the areas of the County with designated streets.</p> <p>Points noted.</p> <p>Points noted.</p> <p>Points noted.</p>

<p>break from driving. As such, we tend only to act on complaints that arise and this task can be difficult to control. What I am alluding to is some form of licensing for burger vans also but this may not rest well with our legal team??</p> <p>I above tend to bring with it the issue of illegal advertising signs e.g. 'A' frames being located on public highway land, which are considered obstructions to the right of passage under S137 Highways Act. Maybe this too could be given some consideration within Craig's Policy.</p> <p>Finally, we also have problems at Election times with certain Political parties setting up stalls in shopping streets, which again brings complaints. This too I believe should be covered by the Policy.</p> <p>I have known Craig for many years and I am happy to work with him if we feel there is benefit in tackling some of the above matters as part of his policy.</p>	<p>Issues involving obstruction of the highway are covered in the policy.</p> <p>Such activities do not constitute street trading and are outside the scope of the policy.</p>
<p>Sgt 413 Steve Norris Durham City Beat Team New Elvet Durham 01913752813 07970983735</p> <p>The issue of street trading is one that I have an interest in, as you are probably aware it can be quite a problem in Durham City and it is an issue that I am keen to be involved in. If you or the county council want, any police input I am more than willing to assist in the process.</p> <p>In addition, will the new policy look at Buskers? They too, cause us problems in the city.</p>	<p>Points noted.</p> <p>Such activities do not constitute street trading and are outside the scope of the policy unless they also engage in street trading activities..</p>

From: Vincent Addison Durham
Constabulary

This is an interesting reply from our Sgt at Seaham.

I worked at the Lumiere event in Durham and saw a similar problem there (you'll no doubt be aware of the issue too?)

NOT PROTECTIVELY MARKED

From: James Peel
Sent: 28 December 2011 10:46
To: Vincent Addison
Subject: RE: [NOT PROTECTIVELY MARKED]

NOT PROTECTIVELY MARKED

The only street trading in Seaham is at the market on Friday mornings to which you are not including however during last years fire work display a number of Eastern Europeans were selling lights and toys on the streets, much to the annoyance of the Round Table who were selling similar items. I checked the pedlars certificates and they weren't issued by DCC but mainly Greater Manchester Police, at the time of checking at 7pm I had no way of confirming whether the identification was genuine.

This has been the only issue I have experienced with regard to street traders.

Point noted.

Point noted.

Pedlars and their trading activities are outside the scope of the policy because they are currently exempt from street trading legislation.

From: Carol Feenan
Sent: 27 January 2012 19:01
To: Helen Johnson; Craig Rudman
Subject: Street Trading

A few points for the Street Traders Consultation:

If this were to go ahead, I'd like to have involvement in approving requests for Permits in Durham City Centre, I'd want to safeguard my existing Rate Paying Businesses (e.g. wouldn't want a Calendar seller to tip up outside of Card Warehouse in the Market Place).

I think the blanket approval of permits that would last for 12 months is far too long, we could approve a permit to a particular seller where nothing of that type surrounds the pitch we agree with him/her, but then find a business rate payer opening up after a few months adjacent to him.

Also, if we have a Hog Roast Street Trader (with a permit with 'x' months to run) pitched up next to a A3 or A4 Property we're trying to fill, they would be put off leasing the premises knowing they have this competition with a Permit that has 'x' amount of months to run!

Also, when/if these permits are agreed to be issued and they are for pitches in Durham City Centre, I would like to be in a position to charge them ground rent.

Sent: 22 April 2013 11:37

As promised at our last meeting, please see below my draft outline for Acceptable Trading in the Market Place, as a starting point for everyone to kick about/debate etc:

Quality:

Appearance - vintage/antiquated eg bicycle ice cream seller

Product - no fast food unless on Market Day or part of a Market Place event

Standards of Expectation:

All vehicle body work to be rust free, with no engine oil emanating onto the Market Place road surface

All waste to be taken off site at the end of the trading period

The City Centre Management Team/RED will be consulted in relation to applications for street trading consents in the market Place in the City Centre.

Points noted.

The City Centre Management Team/RED will be consulted in relation to applications for street trading consents in the market Place in the City Centre.

This is a matter for RED and is outside the scope of the policy.

Points noted. The City Centre Management Team/RED will be consulted in relation to applications for street trading consents in the market Place in the City Centre.

There will be a general presumption that we will normally refuse street trading

<p>No external generators</p> <p>Regularity Monday to Friday, first week of every month</p> <p>Where: Outside of seating area (ie backing upto seating), facing WHSmith, Card Warehouse, Lloyds Bank</p> <p>How many: No more than 3 at any given time.</p> <p>Carol Feenan Durham City Centre Manager County Durham Best Bar None Manager PHYSICAL DEVELOPMENT TEAM Durham County Council Tel: 0191 3831898 or 07584 217019</p>	<p>authorisations for Individual applications for street trading in some market town locations on non-market days unless the trading forms part of an organised event. Such locations have special historic, cultural and public interest and the Council considers that they require a greater level of protection and control</p> <p>Points noted. The City Centre Management Team/RED will be consulted in relation to applications for street trading consents in the market Place in the City Centre.</p>
<p>From: Kate James Sent: 30 January 2012 13:22 To: Alison Foggon; Craig Rudman Subject: RE: Invitation to comment on future street trading policy</p> <p>If we are to continue programming into the city spaces it is essential that some element of flexibility is built into the licensing arrangements. This would be to be allow for the following:</p> <ul style="list-style-type: none"> · Displacement of existing traders from the Market Place, primarily on a Saturday during the day. The current arrangement where festivals must compete with the traders is totally unworkable and is likely to result in festivals no longer programming into this area on a Saturday. · One-off, curated markets as part of major festivals (a potential significant revenue driver for the festivals programme). The key word here is curated! · Food and drink provision at major events. Even when all the 	<p>There two main issues in relation to street trading in County Durham: The 'correct' designation of streets and areas for street trading purposes and the 'way' in which the traders and their applications are dealt with by the authority (the procedures, rules, fees, application/re-application processes and enforcement etc.).</p> <p>The County (licensing) policy on street trading brings the various different existing processes and procedures together under one umbrella. This policy I includes matters to do with the application process and the consultations that will take place when the Council is looking to designate/re-designate streets etc. as either prohibited, licence or</p>

established retailers remain open we still cannot cater for a large festival audience. Additional, temporary food and drink retailers are required to increase the dwell time in the city at events. These need to be pushed towards the edges of the city as food and drink areas tend to generate static crowds which only add to the congestion experienced at most major festivals when they have to be situated in the two main squares (Market and Millennium Place).

Another consideration is the 'policing' of illegal traders and the enforcing of guidelines. Lumiere was plagued by numerous pedlars selling cheap plastic lights, which not only looked awful, but added significantly to the congestion as the traders stood in the middle of the main streets. The police did not view managing illegal traders as part of their role, so who is responsible?

Obviously I appreciate that there are numerous considerations to weigh up - these are just the elements directly impacting on the festivals programme.

Kate James
Festivals and Events Manager
Visit County Durham

03000261229
07792678359

Visit County Durham
2nd Floor, 17 Claypath, Durham DH1
1RH

consent AND when a person applies or reapplies for a licence or consent to trade.

Most of the streets around the market place are prohibited streets at the moment. The prohibited streets around the Market Place are a specific area-based issue and would not appear in the Street trading policy. However, the policy indicates *how* DCC will consider areas of the County for the control of street trading. If any individual or organization is advocating the removal of the current street trading prohibitions in Durham City or a change in the designations this should be made as a formal request so it can be formally considered by the Director.

Markets per se are outside the remit of street trading policy and are subject to market strategy which has recently been subject to review. If a market wished to be placed somewhere other than a current designated market area, then unless the new area/market had been designated as such e.g. under the Food Act 1984, the 'market' would be classed as street trading and then be subject to any existing prohibitions, consent or licence requirements.

We are currently bound by the designations of the streets as they currently are - if you want the designations changed a formal request to do so need to be received so it can be looked into.

We can process applications for street trading on current or future 'Licence' or 'Consent' streets and rely on the responsible and relevant authorities to give their views, opinions and advice during the application process or during e.g. SAG approval processes.

The policing of street trading normally falls to the Licensing Enforcement

	<p>service. However, resources are limited and we do not have personnel who can attend each and every festival or event.</p> <p>Pedlars are policed by the police and pedlars are certificated (or should be) by the police, not by the Council. A certified pedlar can trade anywhere on the street throughout the Country and are not subject to consents, licences or street trading prohibitions.</p> <p>If the Council wants to alter the current designations Licensing Services would work with whatever was decided - again, the policy is only part of this and is needed to unify our approaches and processes. The decisions in relation to which streets should be subject to which kind of street trading designation if any are outside the scope of the policy</p>
<p>Received from Sandra Robertson Heritage, Landscape and Design Team Leader 02.02.12</p> <ul style="list-style-type: none"> • consider potential affect on adjacent businesses as potential conflict if street traders are selling similar goods, competition may contribute to closures and empty shops (which is a team concern). Is it normal or appropriate for businesses to be consulted on specific licence applications, perhaps this should be considered, if not • not withstanding the above, seasonal considerations may be appropriate, i.e. traditional ice cream barrows in summer, hot roast chestnuts Winter/Christmas, etc. could add character to street environment • regular siting of burger vans, particularly in Conservation Areas, to be reconsidered as competition to nearby take away businesses may contribute to closures and empty shops. Also litter problems 	<p>Points noted however, fair and open competition is enshrined in European trading legislation. This is the area of UK street trading law that appears to conflict with the European Services Directive and the Provision of services legislation.</p> <p>Points noted</p> <p>Points noted</p>

<p>and other anti social behaviour problems associated with such</p> <ul style="list-style-type: none"> • perhaps additional controls should apply within Conservation Areas, i.e. requirement for Conservation Officer to be consulted • is it intended to control buskers and beggars, perhaps consideration of appropriate controls should be included i.e. if buskers allowed, time limit to specific locations, as could be off putting and some businesses do complain. <p>Craig - we are currently surveying and preparing a Draft Durham City Conservation Area Appraisal ready to commence open public engagement in early March. Street character and what influences it, is an important part of the remit. I would appreciate being kept in your loop for future comment and influence if relevant, to ensure joined up thinking Corporately.</p> <p>Sandra Robertson Heritage, Landscape and Design Team Leader Environment and Design RED Durham County Council County Hall Durham DH1 5UQ</p> <p>0191 383 4015 sandra.robertson@durham.gov.uk</p>	<p>Points noted. The City Centre Management Team/RED will be consulted in relation to applications for street trading consents in the market Place in the City Centre.</p> <p>Pedlars and their trading activities are outside the scope of the policy because they are currently exempt from street trading legislation. Buskers are not within the scope of this policy unless they also engage in street trading activities.</p> <p>Points noted.</p>
<p>Received from Mel Campbell on Friday 10th March 2012</p> <p>Further to your letter to Adults Wellbeing and Health Service Grouping I would like to make the following comments in relation to the consultation on future street trading policy in County Durham.</p>	

At a recent DCC cross service workshop an audit of service provision against the NICE CVD assessment tool was made. Participants noted that street trading particularly of fast food was potentially undermining the work of local agencies in tackling diet and obesity in our schools. We would be keen therefore to follow the example of other local authorities and explore the use of an exclusion zone or other such measure that could ensure that the availability of fast foods from street traders was limited within the proximity of schools and particularly during school lunch times and after school.

Looking more broadly to the issues of fast foods and the rising problem of obesity across our county, we would wish to use any licensing or other measure available to the local authority to restrict street trading particularly where harmful trans-fatty acids and highly saturated fats are used together with high levels of salt. You may be aware that we are in the process of developing a Healthy Food Award, which we are seeking to use to highlight good practice in fast food provision, so any licensing restriction would be seen within the context of rebalancing fast food towards more healthy practice.

I am aware that you may require some details and further information about the levels of obesity and the impact of fast food trading upon heart disease in County Durham, and will be happy to forward this on to you

Melanie Campbell

There will be a general presumption that we will normally refuse street trading authorisations for street trading involving the sale of takeaway foods in consent areas close to schools and other children's educational facilities.

Points noted however, the ability to control the types of foodstuffs available would be limited to those, which have legal restrictions applied to them. Fair and open competition is enshrined in European trading legislation. This is the area of UK street trading law that appears to conflict with the European Services Directive and the Provision of services legislation.

The Licensing Manager is a member of the Public Health, Food and Health Working Group. He will feed back issues that may positively influence the future development of this policy in the area of healthy eating.

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Equalities and Diversity Impact Assessment

Street Trading Policy



NB: Equality impact assessment is a legal requirement for all strategies plans, functions, policies, procedures and services. We are also legally required to publish our assessments.

You can find help and prompts on completing the assessment in the guidance from page 7 onwards.

Section one: Description and initial screening

Section overview: this section provides an audit trail.

Service/team or section: Environmental Health and Consumer Protection – Licensing

Lead Officer: Craig Rudman

Start date: July 2013

Dorothy Emerson Service Improvement Officer (Equalities)

Subject of the Impact Assessment: (please also include a brief description of the aims, outcomes, operational issues as appropriate)

The Street Trading Policy sets out the Council's approach to the regulation of street trading activities.

Who are the main stakeholders: **Public / Employees / Elected Members** / Partners/ Specific audiences/**Other** (please specify) – **street traders, customers, visitors, businesses**

Is a copy of the subject attached? **Yes**

Initial screening

The adoption of a county wide policy on street trading, together with the proper application of street trading laws in a consistent, fair and proportionate way will benefit the people who live, work and visit areas of the county.

Street traders will also benefit as there will be clear transparent rules governing street trading, equitable for traders and public alike.

The policy also highlights instances where street trading authorisations will be refused for the overall protection of young people and locations of specific historic, cultural and public interest.

There will be a general presumption that the council will refuse street trading authorisations for the following:-

- Street trading involving the sale of takeaway foods close to schools and other children's educational facilities.
- Individual applications for street trading in some market town locations on non-market days unless the trading forms part of an organised event. Such locations have specific historic, cultural and public interest and the Council considers that they require a greater level of protection and control.

The Policy has been subject to a public consultation

Prompts to help you:

Who is affected by it? Who is intended to benefit and how? Could there be a different impact or outcome for some groups? Is it likely to affect relations between different communities or groups, for example if it is thought to favour one particular group or deny opportunities for others? Is there any specific targeted action to promote equality?

Is there an actual potential negative or positive impact on specific groups within these headings Indicate :Y = Yes, N = No, ?=Unsure

Gender	n	Disability	n	Age	n	Race/ethnicity	n	Religion or belief	n	Sexual orientation	n
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What evidence do you have to support your findings?

The Policy sets out a consistent approach to street trading across the county

Decision: Proceed to full impact assessment – No Date: December 2013

If you have answered 'No' you need to pass the completed form for approval & sign off.

Section two: Identifying impacts and evidence- Equality and Diversity

Section overview: this section identifies whether there are any impacts on equality/diversity/cohesion, what evidence is available to support the conclusion and what further action is needed.

	Identify the impact : does this increase differences or does it aim to reduce gaps for particular groups?	Explain your conclusion, including relevant evidence and consultation you have considered.	What further action is required? (Include in Sect. 3 action plan)
Gender			
Age			
Disability			
Race/Ethnicity			
Religion or belief			
Sexual Orientation			

How will this promote positive relationships between different communities?

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Section three: Review and Conclusion

Summary: please provide a brief overview, including impact, changes, improvements and any gaps in evidence.			
Action to be taken	Officer responsible	Target Date	In which plan will this action appear
When will this assessment be reviewed?	Date: January 2015		
Are there any additional assessments that need to be undertaken in relation to this assessment?			
Head of Service - sign off: Joanne Waller			Date: 30.1.14
Service equality representative - sign off: Mary Readman Customer Relations, Policy and Performance Manager			Date: 30.1.14

Please email your completed Impact Assessment to Dorothy Emerson, Service Improvement Officer (Equalities) at dorothy.emerson@durham.gov.uk

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**General Licensing and Registration
Committee**

15th January 2015



**A proposal for the removal of the
current street trading designation –
Collier Wood Lay-by, A68, Crook**

**Report of Terry Collins, Corporate Director Neighbourhood
Services**

Purpose of the Report

1. The purpose of this report is to ask Members whether they would support a proposal for removing the current street trading designation for the Collier Wood Lay-by on the A68 near Crook and to go out to public consultation on the same in accordance with statutory procedures.

Background

2. On the 15th October 1997 the former Wear Valley District Council adopted a number of street trading designations for licensed streets under the Local Government (Miscellaneous Provisions) Act 1982.
3. From the 1st January 1998 the agreed designations for the streets to be licensed including Collier Wood lay-by on the A68 and the Park Head / Westerton lay-by on the Coundon bypass, Bishop Auckland came into operation.
4. These two lay-bys remain designated as licensed streets and the Council continues to allow only controlled 'licensed' trading at these locations. Only one licence to trade from each location is presently allowed.

Details

5. A request has been made by Mr Christopher Pounder who currently holds a street trading licence to trade from the Collier Wood layby on the A68 asking the Council to consider removing the current street trading designation of licensed street for this lay-by.
6. If Mr Pounder's request is supported and his proposal is accepted by Members of this committee, a statutory consultation process would take place involving the publishing of a notice in a local newspaper stating the intention to remove the designation of the licensed street and informing the relevant authorities e.g. Planning, Highways, Durham Constabulary.

7. The consultation period would be 28 days allowing members of the public or relevant authorities to submit any written representations either in support of or in opposition to the proposal.
8. Following the consultation period, any relevant representations received regarding the intention to remove the designation would be subject to further consideration by Members of the General Licensing and Registration Committee.
9. If no representations were received, the Council would publish another notice stating when the removal of the designation would come into effect.

Current representations

10. Following Mr Pounder's recent request for the removal of the designation and following a previous request of a similar nature, informal consultation with relevant organisations and departments of the Council took place including Durham Constabulary and DCC Highways. The Police have not objected to this proposal however the proposal is not supported by Mr Keith Jameson, Neighbourhoods Services Traffic Asset Manager and is also opposed by Licensing Services.
11. DCC Neighbourhood Services consider that the control of street trading at this location should continue. Should the designation be removed, it is possible that many traders could seek to occupy this layby which could adversely affect road safety at this location. Uncontrolled street trading activities at this layby could also lead to littering in the area.

For Decision

12. To ask members whether to go out to public consultation on removing the current street trading designation for the Collier Wood Layby on the A68 near Crook.

Background Papers

Local Government (Miscellaneous Provisions) Act 1982

Contact: Craig Rudman Tel: 03000 260090

Appendix 1: Implications

Finance

If the removal of the designation is approved, the Licensing Authority would no longer control this location and any the fees currently taken for this location would no longer apply.

Staffing

There are no human resource implications.

Equality and Diversity

There are no equality and diversity implications.

Accommodation

There are no accommodation implications.

Crime and disorder

There are no crime and disorder implications

Human Rights

There are no human rights implications

Consultation

Prior to the intention to remove of any streets as prohibited, licence or consent, a consultation process will have to take place which could influence the final decision.

Procurement

There are no procurement implications

Disability Discrimination Act

There are no Disability Discrimination Act Implications

Legal Implications

