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**Draft Street Trading Policy V Final Draft**

*Please note that changes to the current Street Trading Policy are indicated in italics.*

**1 Purpose**

* 1. Bath and North East Somerset Council understands that street trading is important to both the local environment and local economy. Street trading can provide vibrancy and interest to the local environment and an opportunity for small businesses to establish themselves and grow.
  2. The Council’s vision for Bath and North East Somerset is to create a street trading environment which:
* is sensitive to the needs of residents
* ensures that public spaces become active spaces
* provides diversity and consumer choice
* seeks to enhance the character, ambience and safety of local environments
* promotes healthy eating
* supports local food as *defined in the Bath and North East Somerset Local Food Strategy*
* *aligns and supports the ambitions within key strategic documents such as those contained within Local Air Quality Action Plans, the Public Realm and Movement Strategy, the Destination Management Plan and Transport Management Strategy*

* 1. *This document sets out the framework for managing Street Trading in the Bath and North East Somerset area and will guide the Local Authority when it considers applications for Street Trading. It will inform applicants of the parameters in which the authority will make decisions and how their needs will be addressed.*
  2. *The Council will aim to review its Street Trading policy every 5 years*

**2 What is Street Trading?**

2.1 Street trading means selling, exposing or offering for sale any article in a street. The term ‘street’ includes any road, footway or other area to which the public has access without payment.

2.2 The Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated all streets in the area as ‘Consent Streets’ for street trading purposes.

2.3 The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council.

*2.4 Any person engaged in trading without a valid consent may be liable to further enforcement action.*

2.5 Consents may also be issued to mobile artists who sketch or paint, sell their own work and move from location to location.

2.6 Consents *may* be issued *to mobile vendors such as Ice Cream Traders to operate in specific locations outside of the central area of Bath. Mobile street traders who trade in the central areas of Bath will require consent to trade on existing pitches already designated for this purpose.*

*2.7 Street Traders wishing to trade on private land to which the public have access should contact the Council’s Licensing team for further information and advice as other permissions may be required. Generally speaking the Council does not issue consents for private land unless that land is subject to a Walkway Agreement under Section 35 of the Highways Act 1980.*

**3 Exemptions from the need to obtain a Consent**

3.1 The Local Government (Miscellaneous Provisions) Act 1982 states that the following are exempt from the need to obtain Street Trading Consent:

* trading by a person acting as a pedlar under the authority of a pedlars’ certificate granted under the Pedlars Act 1871
* anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order
* trading in a trunk road picnic area
* trading as a news vendor
* conducting a public charitable collection
* trade carried out by roundsmen e.g. milkmen
* trade carried on at a petrol filling station, and
* trade carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop

**4 Pitch assessment**

4.1 The Council will maintain a map showing the location of street trading pitches. This map is available on the Council’s web site at [www.bathnes.gov.uk/services/business/street-trading](http://www.bathnes.gov.uk/services/business/street-trading)

4.2 The Council may from time to time identify new pitches for street trading and will consider applications for new pitches. *Advice on how to make an application is available on the Council’s website.* In determining whether to create a street trading pitch the Council will have regard to:

* an overriding public interest
* any effect on road safety, either arising from the siting of the pitch, or 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
* any obstruction to the safe passage of pedestrians; and
* the safe access and egress of customers and staff from the pitch and immediate vicinity
* any land owners permission which may be required from a private land owner or a relevant Council service

**5 Application Process for a New Pitch**

5.1 Before new pitches are created the Council will consult and seek written observations from:

* occupiers of premises immediately adjacent and opposite
* existing holders of street trading consents in the immediate area
* relevant ward councillors
* relevant parish or town councils
* Avon & Somerset Constabulary
* relevant Council Services
* a relevant land owner
* *the Bath Business Improvement District (BID) for applications received within the BID area*
* any other stakeholder considered by the Council’s Licensing Team to be relevant to the application

5.2 In addition to the above, public notices will be placed in a clearly visible location at the site of the proposed new pitch *and displayed for a period of 21 days.*

5.3 The Council will consider any responses received in relation to public notices and any objection from consultees will be assessed against the criteria in paras 1.2, 4.2 and Section 12 and may be referred to the appropriate Licensing Sub-Committee for determination.

5.4 Any proposed change to conditions attached to a consent will be in consultation with consent holders and others, as specified in 5.1 above, if relevant.

**6 Application Process *for Issue and Renewal of* Street Trading *Consents***

6.1 When an existing or new pitch becomes available, the Council will publish details of the vacancy, inviting applications for the pitch. The details will be published on the Council’s website.

6.2 *Where there is only one application for the pitch,* it will be determined by the Manager responsible for Licensing *having regard to the criteria given in 6.4 below*. If no suitable application is received then the pitch will be re-advertised.

6.3 In situations where there are competing applications the *manager responsible for Licensing* will decide the most appropriate applicant in consultation with the *Group Manager or Divisional Director*. The pitch will be offered to the applicant whose proposal is considered the most suitable for the particular location *having regard to the criteria in 6.4.*

*6.4 In considering applications for the grant or renewal of a Street Trading Consent the following factors will be taken into consideration*

*Section 1.2 above*

*Public Safety  
Public Order  
The avoidance of Public Nuisance  
The appearance of the stall or vehicle  
The needs of the area  
Environmental credentials  
The need for Highway access and maintenance  
The outcome of any consultation exercise*

*6.5 An application for street trading consent or the renewal of such a consent shall be made formally to the Council. Details of how to do this, together with guidance notes can be found on the Council’s website*

*6.6 Street Trading Consents are issued for a period of up to one year and renewed annually for the period 1 April to 31st March, unless granted for a reduced period*

6.7 Consents will not normally be issued for a period of less than six days per week, unless the applicant can provide an alternative scheme acceptable to the Council.

6.8 Where a Consent has expired the pitch will become subject to paragraphs *6.1 to 6.4 above*

6.9 Any application received by a person less than 17 years of age will be considered by taking into account the provisions contained in the Children and Young Persons Act 1933 and the Children and Young Persons protection at Work regulations 1998

6.10 An application for an existing pitch may be refused or revoked if the applicant is found to be unsuitable to hold the consent by reason of having been convicted of a relevant offence, or for any other reason.

6.11 The issue of a street trading consent will not normally be delayed where other approvals, permits, licences are required by other departments or statutes except in the case where advice is required from the Council’s Food Safety and Health and Safety teams.

6.12 *Any comments regarding decisions made with respect to the issue or renewal of street trading consents should be made in writing to the manager responsible for licensing using contact details given on the Council’s website.*

**7 Mobile Street Artists**

7.1 Mobile street artist consents *are required by* persons who sketch or paint and sell their own work and move from location to location. *Consents will be issued for a period of one month.*

7.2 Applicants for mobile street artist consents must give a minimum notice period of 48 hours to the Licensing Team in relation to their application.

**8 Mobile Traders**

8.1 Any mobile trader e.g. ice cream vans, will require a street trading consent.

8.2 Before issuing a consent the Council will consult with relevant bodies, as specified in section 5.1, and will require details of the daily routes and times of the rounds.

**9 Street Markets**

9.1 The Council actively supports the provision of temporary street markets within the district and special consideration will be given to markets which are considered beneficial to the local area.

9.2 *For the purposes of this policy markets are defined as 5 or more separately owned stalls which are in the management of a single person or organisation. Organisers of temporary markets should contact the Council’s Events team for further information and advice.*

*9.3* Applications for temporary street markets will be considered using the same criteria set out in *section 1.2* and in sections 4 and 5 of this policy.

**10 Pitches for Buskers**

*10.1 All Buskers who wish to sell items associated with their performance (e.g.) CDs will require street trading consent*

10.2 Applications for pitches for buskers will be considered using the same criteria set out in section 1.2 and sections 4 and 5 of this policy.

**11 Pitches for Charitable Street Trading**

11.1 *The Council issues permits to enable charitable street trading. Charitable street trading must not be undertaken in any street or public place unless the Promoter has obtained a consent from the Council. The only exception to this is where the collection is exempt under schedule 4 of the 1982 Act (see section 3)*

*11.2 In relation to charitable street trading, the Council has a designated street trading pitch for this purpose at Kingston Parade, Bath. This pitch will be available to registered charities, or organisations demonstrating that they are a ‘not-for-profit’ organisation. Use of this pitch will be subject to the Council’s standard street trading conditions.*

*11.3 The charity or organisation must obtain permission from the Principal Consent Holder responsible for the pitch at Kingston Parade whose details can be obtained from the Licensing Team.*

**12 Nature of Goods and Trading Hours**

12.1 The nature of goods which may be sold from any pitch and the trading hours will be specified in the consultation process *and included within the trading consent.* Any subsequent application for a change in the nature or type of goods sold or the trading hours *may* require a further application and will be subject to the level of consultation as set out in section 5.1 above.

12.2 Goods will normally consist of craftwork, fresh flowers, fresh fruit and vegetables, ice cream or soft drinks. Other types of goods, including services, will be considered on a pitch by pitch basis and have particular regard to local needs, product diversity and balance with other retailers in the immediate vicinity.

12.4 Street trading hours will normally mirror those of shops in the immediate vicinity. Extended trading hours will be determined on a pitch by pitch basis.

12.5 In the case of stalls selling hot food, trading hours will be determined on a pitch by pitch basis.

12.6 Late night food traders operating after 11:00 pm will be subject to the requirements of the Licensing Act 2003 regarding the need for a Premises Licence *in addition to the requirement for consent to trade.* Greater consideration will be given to the impact on the night time environment and the possibility of crime and disorder on the streets as a result of the granting of a street trading consent.

**13 Design and Appearance of Stall, Barrow, Van, Cart etc.**

13.1 The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.

13.2 The Council has a preferred set of standards of design and appearance that they wish to achieve for all street trading pitches based in the central area of Bath. *Guidance can be found on the Council’s website*

* All new applicants will be required to use an approved design unless a suitable alternative is agreed
* All existing Consent Holders will be required to change to an approved design *by 31st March 2019*, or upgrade the whole or parts of their units, as appropriate

13.3 The condition of all pitches will be monitored regularly to ensure that the required standards are maintained.

13.4 All consent holders trading in food products are required to be registered and inspected by the Council’s Food Safety Team. *It is expected that all Food Traders will be rated as ‘level 4’ under the national Food Hygiene Rating Scheme. Failure to achieve this level may result in a withdrawal of the Street Trading consent.* Contact details for the Food Safety team *and further information* can be found on the Council’s website.

13.5 All consent Holders are required to comply with relevant health and safety regulations including those relating to electrical and gas safety.

**14 Transfers**

*14.1 Street Trading Consent cannot be transferred or sold to another person (but may be transferred to a member of the Consent Holder’s immediate family or business partner in the event of the death or incapacity). The sub-letting (for commercial gain) of a pitch is prohibited*

**15 Fee Structure**

15.1 The Council may charge such fees as it considers reasonable having regard to pitch location, the size of the pitch, trading days, hours and the description of goods offered for sale.

15.2 The fees will be reviewed and set on an annual basis and any variation advertised by notice in a local newspaper. *Fees will be determined on a full cost recovery basis.*

15.3 *Consents will be subject to a fee, renewable annually and which* must be paid:

* in the case of Direct Debits, *in advance* on a monthly basis
* all other methods, *in advance for the whole consent period*

15.4 Failure to maintain payments as above may result in the consent not being renewed. Where a payment is not made by the due date the Council may charge an administration fee as determined by the Manager responsible for Licensing. This will include cheques or Direct Debit requests that are not honoured.

*15.5 In the case of markets on highways (5 stalls or more in separate ownership and in the management of a single person or organisation), the authority will reduce standard charges by 50%, this reduction to be reviewed annually in line with the authority’s charging structure and its costs.*

15.6 The Council cannot guarantee that pitches will be available every day and accepts no liability for the loss of earnings in relation to street trading consent holders or their employees.

15.7 In the event of roadworks, utility or service repairs and other genuine circumstances that affect the use of any pitch, the Licensing Manager will consider appropriate refunds on a case by case basis, provided a written request has been made by the consent holder.

**16 Street Trading Consents for which fees are not payable**

16.1 The Council will not require the payment of fees for the following street trading activities:

* fetes, carnivals or similar community based and run events
* non-commercial or charitable events, and
* sale of articles by householders on land contiguous with their homes

**17 Conditions and Enforcement**

17.1 Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.

17.2 Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.

17.3 Failure to comply with conditions may lead to revocation or non-renewal of a consent. *Revocation of any street trading consent will normally be considered by the Licensing Sub-Committee.*

*17.4 Any comments regarding decisions made with respect to revocation of a street trading consent should be made in writing to the manager responsible for licensing using contact details given on the Council’s website. This does not prevent an individual’s right of redress through the Ombudsman or via judicial review.*

17.4 Persons trading without consent and who are not exempt (see 3 above for examples) will be the subject of enforcement action in accordance with the Council’s Enforcement Policy. Copies of the Enforcement Policy can be obtained from the Council’s Licensing team or website.

17.5 The consent Holder is required to obtain and maintain their own Public Liability Insurance to a minimum of £5m. This will be required to be produced for inspection before any consent is issued and on demand when requested by an officer of the Council.

**18 Equality**

18.1 The Council is committed to equality of opportunity and believes that the diversity of the community is a major strength which contributes to the social and economic prosperity of the area.

18.2 The Council commits to ensure that no resident of, or visitor to, the area or other person associated with the Council is treated inequitably or in an unlawful or unjustifiably discriminatory manner.

18.3 The Council will take positive steps to stop any unfair/unlawful discrimination, and will carry out positive action where discrimination is found.

**19 General**

19.1 The Council will seek opportunities to promote street trading activities.

19.2 This policy will complement and inform other Council initiatives including those on street markets and the public realm.

19.3 This policy will be the subject of periodic monitoring and review.

19.4 This policy will inform the detailed conditions attached to every street trading consent.

19.5 This policy will be applied in a manner which is consistent with the Council's equalities policies.