

DRAFT

EAST DEVON DISTRICT
COUNCIL



Street Trading Consents

Policy and Application Guidance

DRAFT

Licensing Service
East Devon District Council
Knowle
SIDMOUTH
EX10 8HL

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Section 1 General Principles

1. East Devon District Council's ('the Council') street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice, and seeks to enhance the character, and ambience of local environments.
2. These guidelines have been developed to assist persons applying for Street Trading Consents in East Devon. They were agreed by the Licensing and Enforcement Committee on the (*date to be entered*) and set out the standards for determining applications and the enforcement of street trading activities in the East Devon area.
3. East Devon has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. The Council has further designated all of its administrative area as Consent Streets for street trading purposes.
4. The purpose of the Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) is to ensure that Councils can properly regulate those who sell without the use of ordinary business premises and, particularly, traders who move from place to place. It is concerned, primarily, with commercial activities, excluding the provision of services, but there are grey areas and each case needs to be considered on its facts.
5. East Devon Council will apply these guidelines to street trading activities in its area to ensure consistency of decision making. However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.
6. The requirement to obtain a Consent for any street trading is wide-ranging and would include, for example, all hot and cold food vendors selling burgers, kebabs, doughnuts, ice cream etc., and all vendors of non-food products from any vehicle, stall, barrow, trailer, or any other moveable or static structure. Mobile artists who sketch or paint, or similar artisans who sell their own work are also likely to be caught by the Act.
7. Advice should be sought from the Licensing Service on the proposed activity/location to see if a Consent is required before starting to trade – see Section 3 for contact details.

1.1 Definitions of terms used in these Guidelines

8. Within the terms of the East Devon District Council's Street Trading Consent Scheme the following definitions apply:

The Council	Means the East Devon District Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street. From this definition, any person offering purely a service e.g. a shoeshine (where there are no tangible goods such as a picture or sketch) will not be caught by the street trading legislation.
Street	Includes: <ol style="list-style-type: none">(a) Any road, footway, beach or other area to which the public have access without payment.(b) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	Means a street in which street trading is prohibited without the consent of East Devon District Council.
Consent	Means a consent to trade on a street by East Devon District Council.

Consent Holder	Means the person or company to whom the consent to trade on a street has been granted by East Devon District Council.
Authorised Officer	Means an officer employed by East Devon District Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

1.2 Exempted Street Trading Activities

9. Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that the activities listed below are not 'street trading' and, therefore, prior consent of the Council is not required:
- (a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
 - (b) 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 an enactment or order.
 - (c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
 - (d) trading as a news vendor i.e. the sale, exposure or offer for sale of newspapers or periodicals, except from a stall or receptacle that exceeds the dimensions set out in schedule 4 of the Act.
 - (e) trading which:
 - (i) is carried on at premises used as a petrol filling station; or
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used as part of the business of the shop.
 - (f) selling things, or offering or exposing them for sale, as a roundsman.
 - (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway.
 - (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
 - (i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.
10. With regard to point (f) above it has been established in law that mobile ice cream sales normally will not be deemed to be exempt from street trading controls on the grounds that they are not roundsmen.

1.3 Street Trading Consents for which fees are not payable

11. The Council may remit the payment or part of the payment of fees for the following street trading activities:
- (a) Fetes or community events held for charitable purposes (None of the trading must involve private gain for an individual or company).
 - (b) Non-Commercial Car Boot Sales (i.e. events organised by organisations that will not involve private gain for an individual or company).
 - (c) Sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it providing this is not a commercial concern. For example selling home grown fruit and vegetables, homemade jams etc. Such sales are seen as disposal of surplus domestic produce rather than trading.
 - (d) Trading Concessions granted by the council on their land (a Street Trading Consent will still be required).

(e) farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people)

1.4 Farmers Markets

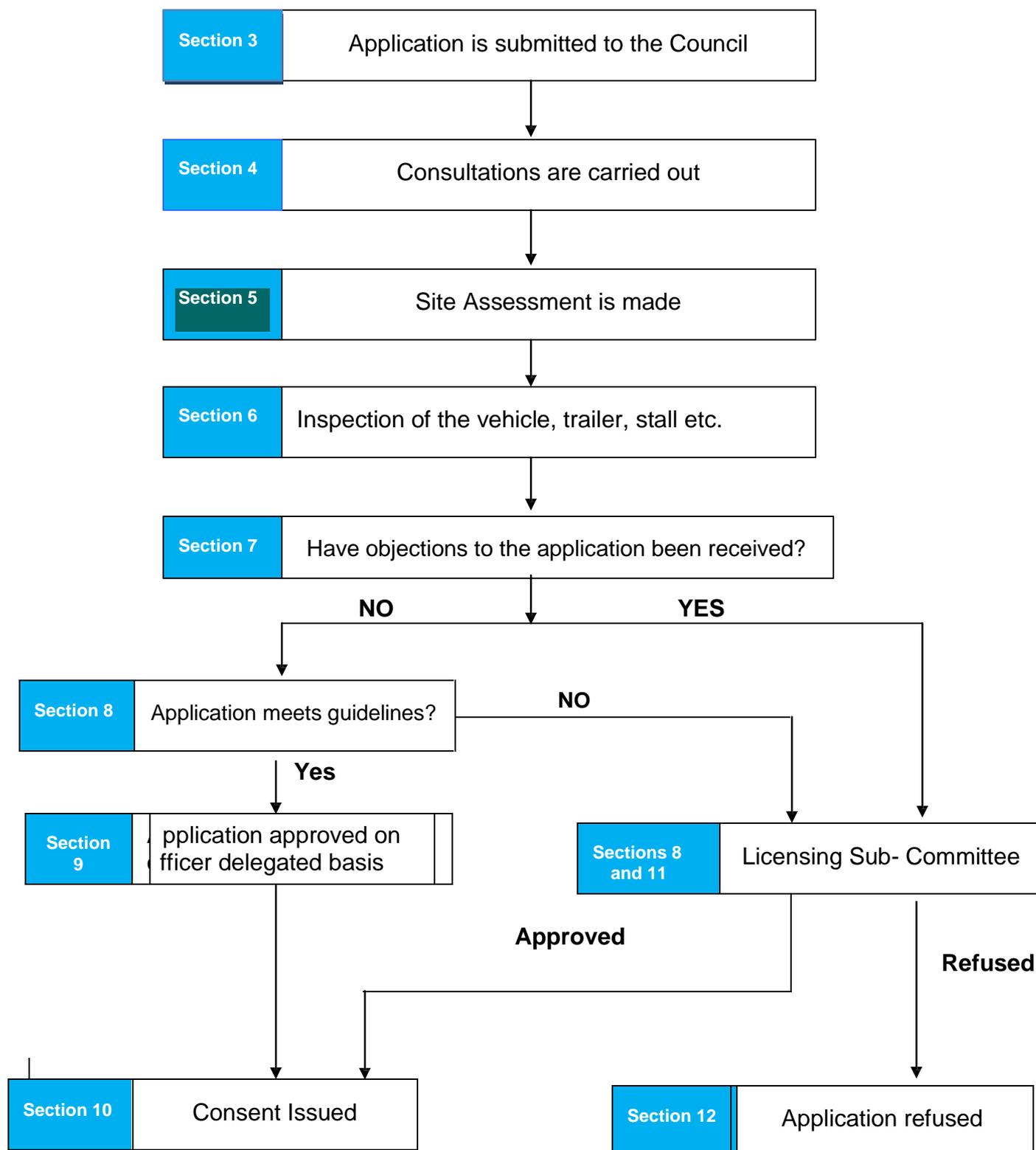
12. Farmers Markets (producer-managed marketplace for local producers to sell their own produce direct to local people) will be subject to the street trading scheme but at a reduced fee.

1.5 Mobile Trading

13. In the case of itinerant street trading (for example an ice-cream van or fish & chip van), where due to the nature of the business there is a genuine need to ply trade in many locations, a general consent will be issued.

Section 2 Procedure for determining Street Trading Consent Applications

14. The application and approval procedure comprises of the following stages. The descriptions on the side of the boxes refer to the explanatory notes in the subsequent sections of this guide:



Section 3 Submission of the Application

15. An application for a Street Trading Consent must be made to East Devon District Council in writing or online. The application form is included in these guidance notes at page 18. If you need any help in completing the application form please contact the Council's Licensing Team on 01395 517410/517411.
16. You will need to submit the following documents and fees with the application:
 - (a) A completed and signed Street Trading application.
 - (b) A deposit of 25% of the full fee for an annual Consent. Fees for all other periods will require submission of the full fee with the application.
 - (c) 3 copies of a map of the trading site to a minimum of 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line. A map is not required for established events – for example applications for Sidmouth Folk Week consents for the Esplanade. If in doubt please check with the Licensing Service.
 - (d) Colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity.
 - (e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000.
 - (f) Written permission from the owner of the land where the street trading is to be carried out on land which is not a public highway. Permissions given by leaseholders to use land for street trading purposes will only be accepted where the terms of the lease permits the type of street trading activity being applied for.
17. An application for a Street Trading Consent will not be entertained where permission of the landowner for the proposed trading site to carry out street trading has not been provided, for whatever reason.
18. Applications may be made in person to the Licensing Team at the East Devon District Council Offices, Knowle, Sidmouth, EX10 8HL during normal office hours however callers are advised to make a prior appointment by phoning 01395 517411 or emailing licensing@eastdevon.gov.uk to ensure an officer will be available. Alternatively you can apply online through the Council's website.
19. Applications will be considered from organisers of Farmers Markets, Commercial Car Boot Sales, Fetes and similar Community Events on the basis of one block consent for each market or event held. The market or event organiser in receipt of a block consent will become responsible for all the individual trading activities, including the collection and payment of the relevant fees to the Council, where appropriate. A separate Consent will be required for each market, car boot sale or event held.
20. An applicant for the first time grant of an annual Street Trading Consent **should give a minimum of 60 days notice to the Council.**
21. Further information about making an application can be obtained by contacting the Licensing Team as follows:

Telephone	01395 517410/517411
Fax	01395 517507
E-mail	licensing@eastdevon.gov.uk

Section 4 Consultations on applications made

22. Before a new pitch is authorised by the Council for the purposes of street trading (non Market) we will, where reasonably practicable, seek comment from:
- The Highways Authority (Devon County Council)
 - Devon and Cornwall Constabulary
 - East Devon District Council Food/ Health and Safety and Pollution Teams
 - The relevant Ward Members
 - The appropriate Parish or Town Council
 - The land owner of the proposed street trading site if it is on private land
23. Where practicable, fourteen days will be given for representations to be received. If no representations are received, the application will be dealt with by the Licensing Manager under delegated authority and granted in the terms applied for, and standard conditions will be considered and may be attached to the consent unless he considers it should be referred to the next available Licensing Sub Committee.
24. All relevant representations relating to the grant of a consent will be referred to a Licensing & Enforcement Sub Committee for consideration as part of the determination.
25. Subsequent renewal of consents to street trade submitted on the same terms as previously granted and for the same site, where there have been no relevant objections to the trading, will be dealt with by the Licensing Manager under delegated authority.
26. No consultation will usually be done on applications for established events or sites – for example applications for Sidmouth Folk Week consents on the Esplanade, the regular applications from registered local charities for consents on the Seaton Esplanade or sites which become established as consent sites in the future.
27. There is no right of appeal to the Magistrates' Court against refusal to issue a consent, however, where an application is refused, payment of the application fee shall be refunded.

Section 5 Site Safety Assessment

28. Street Trading Consents from static locations will **not** be granted where:
1. A significant effect on road safety would arise either from the sitting of the trading activity itself, or from customers visiting or leaving the site, or
 2. Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
 3. There is a conflict with Traffic Orders such as waiting restrictions, or
 4. The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
 5. The trading unit obstructs the safe passage of users of the footway or carriageway, or
 6. The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
 7. The site does not allow the Consent Holder, staff and customers to park in a safe manner, or

8. The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

Section 6 Nature of Trade and Trading Hours

29. The nature of goods which may be sold from any pitch will be specified in the consultation process. No substantial change to the products sold will be permitted without referral back to the Licensing Manager.
30. The Council would not normally grant a new consent for the sale of goods or services which conflict with those provided by nearby traders.
31. Consent holders or their employees are not permitted to sell the New Psychoactive Substances.
32. All street trading consents will normally be limited to daily trading hours between 8.00 am and 10.00 pm. However in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis.
33. On the occasions that consents are issued to commence before 10.15 am then if the consent holder has not occupied the pitch for which they hold a valid consent by 11.45 am on any day when trading is permitted the Council may re-let the pitch for the remainder of the trading hours of that day.
34. The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.

Section 7 Inspection of the Street Trading Unit

35. The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading permissions. The unit to be used for the street trading activity shall comply in all respects to the legal requirements relating to type of street trading activity proposed. In particular the proposed business shall comply with the following legislation:
 - Food Hygiene(England) Regulations 2006
 - The General Food Regulations 2004
 - Regulation 852/2004 on hygiene of foodstuffs
 - Food Safety Act 1990.
 - Health and Safety at Work etc. Act 1974 and any Regulations made under this Act.
 - Environmental Protection Act 1990.

Further advice on any of the above requirements can be obtained from the council's Environmental Health Service on: 01395 517467

Section 8 Objections to the application

36. The application will be referred to a Sub-Committee of the Council's Licensing and Enforcement Committee for determination if relevant objections are received against the granting of a Street Trading Consent from any of the following:
 1. Occupiers of property within the immediate vicinity of the proposed site.

2. East Devon District Council Ward Members (who can object as an individual or on behalf of constituents).
 3. Parish or Town Councils.
 4. Police, Fire or Highway Authorities.
 5. East Devon District Council Food/ Health and Safety or Pollution Teams.
 6. The land owner of the site proposed to be used for street trading.
37. Before such a referral is made officers will assess the objections on the following criteria:
1. Potential, or actual, nuisance to a property occupier from noise, fumes or smells.
 2. Whether any road safety issues have been identified.
 3. Compliance with food and health and safety legislation.
 4. Concern of public order problems resulting from the proposed street trading activity.
 5. Whether there are any fire safety issues present.
 6. Whether the objection is relevant, vexatious or repetitive.
38. If a written objection from the person or organisations listed above is received and deemed appropriate, the application will be referred to the next available meeting of the Licensing Sub-Committee for consideration and determination. The applicant will be informed in writing of the referral of the application to the Licensing Sub-Committee and notified of the date when the application will be considered.
39. Persons making written objections will also be informed of a decision to refer an application to the Licensing Sub-Committee and notified of the date of the hearing of the application.
40. The appropriate Ward Members for the proposed street trading site will be informed of a referral of an application to the Licensing Sub-Committee for consideration.
41. Unless special circumstances apply Licensing Sub Committee meetings are open to the public. Applicants and objectors or their representatives will be permitted to address the Sub Committee.

Section 9 Determination of the Application

42. The Licensing Sub-Committee and officers on a delegated basis will use the criteria listed below in the determination of Street Trading Consents. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case though will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

9.1 Site Safety

43. The location of the proposed street trading activity should not present additional risks to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 5 on site safety assessment criteria and observations made by the Highways Authority.

9.2 Public Order

44. The street trading activity should not present a risk to public order in the locality in which it is situated. Observations from the Devon and Cornwall Constabulary will be taken into consideration under this heading.

9.3 Avoidance of Nuisance

45. The street trading activity should not present a substantial risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council's Environmental Protection Team shall be taken into consideration under this heading.

9.4 Conflict with other like trading outlets and school premises

46. The presence of other like trading outlets and proximity of schools shall be taken into consideration as follows:
1. The presence of like trading outlets already existing in the immediate locality of the proposed street trading site.
 2. Fast food vendors will not normally be permitted to trade within 500m of a school.
 3. On lay-bys and trading estates there shall be no other street trading consents granted within 500 metres of an existing Consent.

9.5 Compliance with legal requirements

47. The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Observations made on the compliance with the requirements of Food Safety and Hygiene, Health and Safety, Environmental Protection and fire safety legislation shall be taken into consideration.

9.6 Observations from members of the public or representative organisations

48. In relation to points 9.1 – 9.4 above consideration will also be given to written observations from other persons or organisations. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made under the criteria set out in this section.

9.7 Permitted Trading Hours

49. All street trading consents will normally be limited to daily trading hours between 8.00 am and 10.00 pm. However in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis. Any trading between 2300 – 0500 hours must be subject to a separate application under the Licensing Act 2003 where hot food is proposed to be sold.
50. The Council retains the right to specify permitted hours of trading that are less than those applied for if local circumstances require it.

9.8 Compatibility of the proposed street trading operation

51. The proposed trading operation should complement the trading area in which it is situated. In assessing this criterion consideration should be given to the type and nature of locality, the type of street trading that will be carried out and the visual appearance of the trading operation being proposed.

9.9 Other Criteria

52. Pitches will be allocated on a first come first served basis
53. Where the imposition of conditions is not adequate to control potential problems, applications will normally be refused.

54. Refusal or withdrawal of street trading consents will be normal in the following circumstances:
- a) That there are not enough pitches available in the street for the applicant to engage in the trading in which she/he desires without causing undue interference or inconvenience to persons using the street.
 - b) That there are already enough Consent Holders or people employed by them trading in the street from shops or otherwise, in the goods in which the applicant desires to trade.
 - d) That a Consent Holder or people employed by them have failed to comply with the conditions attached to the Consent.
 - e) That the street trading may damage the structure or surface of the street.
 - f) When adverse comments are received from the consultees.

9.10 Officer decisions on applications made

55. If a relevant objection is made against an application for a Street Trading Consent, the applicant will be offered a meeting to discuss the reasons for a potential refusal of the application. At the meeting the applicant will be informed of the criteria from these Guidelines which are considered to have not been met. The applicant will be given an opportunity to discuss any relevant matters in relation to the application that has been made. If after the meeting the applicant wishes to continue with the application, the application will be referred to the Licensing Sub-Committee for determination.
56. If an applicant refuses an offer of attending a meeting with officers, or fails to attend, a letter will be sent to the applicant confirming the referral of the application to the Licensing Sub-Committee for determination.

Section 10 Approval of Applications

57. The Council's Licensing Sub-Committee or officers on a delegated basis (where no representations have been made against the application) may approve applications meeting the criteria contained within these guidelines.
58. On approving the application the Council will issue a Street Trading Consent to which conditions will be attached. The Consent will also contain specific terms such as days and hours when street trading is permitted, and goods that may be sold. A copy of the Council's standard conditions, which is attached to Street Trading Consents, is shown at page 20 to 22. Additional conditions may be attached to the Standard Conditions if special circumstances apply to the Consent being granted by the Council.
59. The conditions attached to the Consent form part of the approval to carry out street trading in East Devon. They **MUST** be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed. Consent Holders are therefore requested to familiarise themselves with the terms and conditions attached to the Street Trading permission and comply with the requirements at all times.

Section 11 Issue of Street Trading Consents

60. Street Trading Consents will be issued for a maximum period of 12 months. Annual Consents issued will be renewable on the 1 April of any particular year. Shorter term Consents may be issued on a daily or weekly basis. These particular Consents will expire, unless renewed by the expiry date.

61. In all cases when a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the application will be required to go through the full consideration process outlined in these guidelines.
62. Fees for Annual Consents may be paid either in full in advance or on a three monthly basis via direct debit with the fees being due on the following dates:
- 1 April
 - 1 July
 - 1 October
 - 1 January
63. Failure to maintain payments of the fee on a three monthly basis will be a breach of the conditions attached to the Consent. If fees paid on an instalment basis are not made to the Council, the Consent issued by the Council will be considered for revocation. It is essential that traders electing to pay on an instalment basis ensure that such payments are made on the due dates. These payments must be made by direct debit. Please ask for information if you wish to pay by this method.
64. Cheques should be made payable to "East Devon District Council". Payment can also be made by card by telephoning the Licensing Service on 01395 517411.
65. Please note, if a cheque is dishonoured by a bank this may result in revocation of the Street Trading Consent unless payment of the outstanding fees is made in cash within 5 working days. In such cases an administration charge may also be imposed on the Consent Holder.
66. The Council offices are open to members of the public between the hours of 8.30 am and 5.00 pm Monday to Fridays. It is advisable to contact the Licensing Team on 01395 517411 prior to visiting the council offices in order that a member of staff will be available to see you. It will also allow us to prepare in advance any documentation that you might need.

Section 12 Consideration of applications by the Licensing Sub - Committee

67. The Council's Licensing Sub-Committees are established to consider applications in relation to licensing matters. The Sub Committee consists of elected members drawn from the East Devon District Council Licensing and Enforcement Committee who have received specific training in licensing issues. The Committee and Sub Committees are supported by a clerk and a solicitor and meet on a regular basis. Committee and Sub-Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.
68. The role of the Licensing Sub Committee is to: -
1. Determine applications to which objections, as defined in section 8 above, have been made.
 2. Review existing Street Trading Consents where a breach or breaches of the permission granted have occurred.
 3. Review Street Trading Consents where relevant representations have been received regarding the operation of a current trading site.
69. On receipt of a written objection, breach of a Consent condition or an unresolved application that does not meet the criteria in this guidance, arrangements will be made to have the application or matter heard at the next available meeting of the Licensing Sub-Committee.
70. Once arrangements have been made for the application to be heard by the Licensing Sub-Committee persons making the objection or reference to the Sub-Committee will be advised in

writing of the date, time and place where the application will be heard. The Council will endeavour to have applications heard as quickly as possible.

71. The person making a representation against an application or an existing Street Trading Consent to the Licensing Sub-Committee will normally be expected to attend the hearing. The applicant can be represented by a solicitor, or supported by a friend or colleague. The Licensing Sub-Committee will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.
72. In determining an application the Licensing Sub-Committee will consider presentations from the applicant, a person or organisation making an objection and the Council's Licensing Officer. Applicants and persons making objections to an application should notify the Council's Licensing Service at least five working days in advance of the meeting of any witnesses they intend to call and details of any evidence (written, photographic or other material or media) they intend to present at the hearing.
73. Where objections have been raised to the granting a Street Trading Consent the Licensing Sub-Committee will consider the objections or representations made. Only persons who have raised objections to the application will be allowed the opportunity to address the Licensing Sub-Committee and ask questions relating to the application. Letters of objection that have been received by the Council will be published in full in advance of a meeting where a contested application is being considered. Copies of objection letters will also be sent to the applicant.
74. The Licensing Sub-Committee will consider all the evidence presented to it during the hearing and members may ask questions of the applicant, officers and persons making an objection. After hearing the evidence presented to it, the Licensing Sub-Committee will retire and come to a decision on the application. When a decision has been reached the Sub-Committee will inform the applicant of their decision, and the reasons for coming to that particular decision. The decision of the Licensing Sub-Committee will be confirmed in writing to the applicant and objectors within 5 working days of the meeting at which the application was considered.
75. The Licensing Sub-Committee will always strive to ensure that when it is considering an application that all persons get a fair hearing through:
 1. Considering each case on its merits.
 2. Using these guidelines to assess applications where it is felt appropriate.
 3. Dealing with the application in a balanced and impartial manner.
 4. Ensuring that the rules of natural justice are applied at all hearings.
 5. Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Sub-Committee and present information for consideration in support of their objection.

Section 13 Refusal of Applications

76. Where the Council refuses an application the applicant will be informed in writing of the reasons for the refusal.
77. There is no right of appeal to the Magistrates Court against decisions of the Council in relation to Street Trading Consents under the Local Government (Miscellaneous Provisions) Act 1982. A person aggrieved by a decision of the Licensing Sub-Committee may make an application to the High Court for Judicial Review of the decision. There are strict time limits for making such applications. For further information about the potential grounds for Judicial Review and the procedure for making an application, applicants should seek legal advice from a solicitor as soon as they receive notice of the decision.

78. Where a deposit/licence fee has been made with an application, 50% of the deposit/fee will be refunded to the applicant in the case of an application not being granted.

Section 14 General Information on Street Trading Consents

14.1 Planning Permission

79. The issue of any street trading consent in relation to any particular land does NOT constitute the grant of any permission under the Town & Country Planning Act 1990 or any other legislation for the use of the land for that purpose. Use of the land for trading may, therefore, amount to a material change of use for which planning permission is required notwithstanding that a street trading consent may have been granted. You should contact the Council's Development Control on 01395 516551 and seek advice as to whether an application for planning permission needs to be made in respect of the proposed use of the land. Planning enforcement action could be taken in situations where planning permission is required but not obtained.

14.2 Use of biodegradable materials for food packaging

80. Wherever possible food traders will be expected to use biodegradable materials in connection with the packaging of food served to members of the public.

14.3 Production of Consent Document

81. A copy of the Street Trading Consent must be displayed whilst trading and the the consent holder or people employed by them must produce it on demand when so required by a duly authorised officer of East Devon District Council, a Police Officer or a Police Community Support Officer.

14.4 Reimbursement of Fees

82. Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Consent to the Council. Any fee reimbursement will be on the following basis:

1. From the date the Consent is surrendered to East Devon District Council

83. Any refunds of a fee paid in connection with the surrender of a Street Trading Consent will be based on the following formula:

- a) Number of complete days remaining multiplied by the Daily Fee **less** the current administration fee.
- b) For Consents granted on an annual basis the daily fee will be calculated by dividing the annual fee due by 365.

84. Should the Council revoke a Street Trading Consent the Council shall not in any circumstances whatsoever be liable to pay any compensation or reimburse any fees to the Consent Holder or people employed by them in respect of such revocation.

14.5 Persons under the age of 17 years

85. The Council will not grant a Street Trading Consents to persons under the age of 17 years.

14.6 Access by Council and Police Officers

86. Consent Holders should allow access to Authorised Officers of the Council and Police Officers at all reasonable times. Council officers will carry with them and produce on request official identity cards issued by East Devon District Council. If you have any doubts about a person claiming to be from East Devon District Council ask to see their official identification card. If you remain uncertain please contact the Council on 01395 516551 and ask to speak to the Licensing Manager or the Strategic Lead – Legal, Licensing and Democratic Services.

14.7 Transfer of Permissions Granted

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

The Consent granted is specific to the person it is issued to and is non-transferable.

A change of ownership of the business will require a new application to be made to the Council and the full application and consultation process will apply.

14.7 Miscellaneous Policy Considerations

88. Applications on the Sidmouth Esplanade for Sidmouth Folk Week will be encouraged provided they are for goods to be sold from a stall, cart, barrow or other non-motorised vehicle that is in sympathy with the surroundings, adds colour and character to the locality and complies with all relevant legislation.
89. As there is ample food and take away outlets in close proximity to the Sidmouth Esplanade and in order to prevent excessive littering the sale of food including take away food and ice creams will be permitted from a stall which holds a consent to trade on the Esplanade at Sidmouth.
90. The siting and operation of any stall, barrow etc. operated by a Consent Holder or people employed by them shall be such that it does not cause any problems of highway safety, obstruction to users of the highway, or conflict with the requirement of emergency vehicles.
91. The appearance of associated equipment or structures shall be of good quality and the precise appearance of the facility shall be identified before consent is granted.
92. The use for which the pitch is put shall not be likely to cause problems of noise, smell or litter, or be inappropriate to the character of the event with which the permit is connected.
93. The Council will not permit trading unless, where necessary, a road closure order has been obtained by the event organiser or individual applicant.
94. The Council may at any time revoke a consent or vary the conditions of an existing consent where there are reasonable grounds for so doing.
95. Double pitches will only be issued in exceptional circumstances where demand for consents does not exceed the number of pitches available. This will especially apply to pitches on the Esplanade at Sidmouth
96. The measures set out in Section 19 shall apply to the procedure, policy and guidance in respect of any application for a Street Trading Consent in Seaton made by a Registered Charity.

Section 15 Enforcement of Street Trading

97. East Devon District Council will actively enforce the provisions of the Street Trading Policy within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Licensing Service's Enforcement Policy, copies of which are available free of charge. If you require a copy please contact the Licensing Team on 01395 517411.
98. Our regulatory activities are focussed upon allowing and encouraging economic progress and supporting businesses, individuals and voluntary and community organisations to meet their legal obligations. As part of that we will:
- Keep our regulatory activities and interventions under review to reduce their burden on businesses, clubs and individuals, as much as possible
 - Risk assess our regulatory activities so as to target our resources where they will have greatest effect
 - Carry out inspections only where there is a reason for doing so, for example, as a response to intelligence or as part of our risk assessment process
 - Provide advice when it is requested and to do so proactively where this is practicable
 - Only require data and information when it is strictly necessary for us in carrying out our regulatory activities

Complaints against the Service

99. East Devon District Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of Street Trading Services you should in the first instance contact the Licensing Manager, telephone 01395 517587.
100. If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

Section 16 Licensing Act 2003

101. Under the Licensing Act 2003 persons selling hot food between the hours of 2300 and 0500 hours are required to hold a Premises Licence or a Temporary Event Notice (TEN). This requirement is in addition to the requirement to hold a Street Trading Consent.
102. These notes are intended to cover the Street Trading permissions only, and separate application and consultation arrangements are required under the Licensing Act 2003.
103. If you are intending to sell hot food between the hours of 2300 and 0500 hours, please contact the Licensing Service on 0395 517411 to obtain further information and advice.

Section 17 Renewal and Reviews of Consents

104. Annual/Period Street Trading Consents will be renewed on application by the Consent holder. The Licensing Service will usually send out a reminder to annual/period consent holders along with a renewal form prior to a Consent expiring. The final responsibility for renewing a Consent remains with the licensee. Applications for renewal must be made in plenty of time for the renewal process so that the consent is renewed before it expires.

105. Consultations will be held with the following organisations to ensure that they are satisfied that the Consent should be renewed:
1. Devon and Cornwall Constabulary
 2. Environmental Health (Food/Health and Safety/Pollution)
106. An annual/period Consent will be renewed unless objections are received from the organisations detailed in paragraph 105 above.
107. If during the lifetime of a Consent relevant objections are received from the organisations or persons mentioned in Section 4 of this document, or members of the public, regarding the operation of the permission, the Licensing Service will endeavour to resolve any non-compliance with permissions granted with the Consent Holder. If the matters raised remain unsolved a request to review the permission granted will be referred to a Licensing Sub-Committee for determination.
108. Failure to pay Consent fees will also be the subject of a referral to a Licensing Sub-Committee for a review of the permission.

Section 18 Fee Structure

109. Fee levels and fee structure for Street Trading Consents will be set by Council and will be reviewed, normally, on an annual basis.

Section 19 Seaton Registered Charities Consents

Applications for Street Trading Consents in Seaton made by Registered Charities

110. The organising charity must apply in the usual manner using the Charity Street Trading Consent Form.
1. The fee will be set by Council to reflect the applicant's charitable status.
 2. A copy of the charity's public liability insurance will be required.
 - a) If the policy covers all people who may be trading at the event then no further action will be required.
 - b) If the policy does not cover all people who may be trading at the event the organising charity will be required to ensure all traders have the necessary insurance.
 3. No photograph of the stalls will be required for charity street markets.
 4. Details of individual traders and numbers of stall should be provided with the application or as soon as possible before the event.
 5. A description of goods to be sold will be required for each stall. This information should be provided with the application or as soon as possible before the event.
 6. A Street Trading consent will be issued to the organising charity for the esplanade.
 7. The Licensing Authority will maintain a light touch overview of the event.
 8. The organising charity will be responsible for the allocation of pitches and ensuring that all traders comply with any imposed conditions.

Changes to Guidance

Section 3 – Para. 16

16. You will need to submit the following documents and fees with the application:

- (d) Colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity

This will not apply to applications received from registered charities for charity street markets in Seaton

These measures only apply for events/street markets arranged and operated by registered charities in Seaton.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Application for the GRANT or RENEWAL of a Street Trading Consent



PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS AND IN BLACK INK

I/We _____

Address _____

Telephone Number _____

Email Address _____

Trading a _____

APPLY FOR THE GRANT/RENEWAL of a Street Trading Consent in accordance with the following particulars:

The Street/Location I/We wish to trade is: _____

I/We wish to trade as detailed below

	MON.	TUES.	WED.	THURS.	FRI.	SAT.	SUN.
FROM							
TO							

Date or dates Consent is sought _____

The articles I/We wish to trade in are _____

Please detail toilet facilities for persons working on a static site:

Will the Consent Holder be present when street trading takes place? Yes No

If no, name of the person who will be present and responsible for the unit/stall:

We will be trading from a:

Stall Van Trailer Cart Barrow

Other (describe) _____

Dimensions: _____

Colour _____

Will you have tables and chairs on the site? Yes No

If yes, Number of Tables: _____ Number of Chairs: _____

Will you be trading on private land? Yes No

If yes, name and address of landowner: _____

Do you hold, or have you previously held, or been refused, a Street Trading Consent with this or any other Council? If yes, please give details

I/We declare that I am/we are NOT under the age of 17 years

Date of Birth(s) _____

I/We declare that the information given in this application is true.

Signature of applicants _____

Date _____

Please return this form to:

Data Protection Act 1998

East Devon District Council
Licensing Service
Council Offices
Knowle
Sidmouth
EX10 8HL

The personal data you provide on this form will be used by East Devon District Council to administer your permission. In order to protect public safety, this may include the use of sensitive personal data (criminal offences) to help assess whether you are a fit and proper person to hold a permission.

We may occasionally share your personal data with other Council departments and with other bodies (notably Housing Benefits, the Police, Inland Revenue) for the purposes of protecting public money, preventing and detecting crime and/or fraud and ensuring public safety. Such sharing will only occur on a case-by-case basis where a justifiable purpose in line with legislation has been demonstrated. The information may also be used for internal training.

STREET TRADING CONSENT CONDITIONS



Standard conditions that the Council may seek to impose upon any street trading consents

1. The Consent Holder (which expression where appropriate includes joint holders of this Consent) and any person employed by him to assist him in his trading shall produce the Consent on demand when so required by a duly authorised officer of the East Devon District Council, or by a Police Officer.
2. A copy of this Consent shall kept onsite by the holder and available for inspection by an authorised officer of the Council, or a Police officer.
3. The Consent Holder or people employed by them must notify the Licensing Manager immediately of any convictions or proceedings arising out of the use or enjoyment by the Consent Holder or people employed by them of this Consent.
4. The Consent Holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but may surrender it to the Council at any time.
5. The Consent Holder shall observe and comply with any directions in relation to the use of the street or public place by a duly authorised officer of the Council.
6. Nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent.
7. The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy for a minimum of 5 million pounds to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
8. This Consent does not infer or grant exclusive right rights to the holder for use of the location specified in the permission. If at any time at the permitted trading location other statutory bodies or organisations require access and use of the location to carry out emergency or other remedial works, they shall be afforded such access for such time as the required works need to be completed.
9. The Council may vary the Conditions attached to the Consent at any time, subject to reasonable notice being given to the Consent Holder.

SITE CONDITIONS

10. The Consent Holder when operating on a static site shall have access to suitable and sufficient sanitary accommodation for both the Consent Holder, and any persons employed in the street trading activity. The sanitary accommodation arrangements shall be approved by the local authority.
11. The Consent Holder or people employed by them must not use or suffer or permit any music playing, music re-production or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent.
12. The Consent Holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever except with the previous consent in writing from the Council.

13. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without the approval of the Council. The Consent Holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street, or place or fix equipment or markings of any description in the said surface except with the previous consent from the Council in writing.
14. The Consent Holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Council and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
15. The Consent Holder shall keep his trading position and the area within 25m of the pitch in a litter free condition during the permitted hours and also leave the same in a litter free condition at the end of each daily period of use under the terms of this Consent.
16. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
17. Litter and Trade Waste arising from the activities of the Consent Holder shall be removed from the site on a daily basis and disposed of in an approved manner.
18. The Consent Holder shall make such provision as is necessary to prevent the deposit in any street or public place of solid or liquid refuse and shall not discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
19. All stalls, vehicles or other equipment associated with the street trading activity must be removed within 30 minutes of the expiry of the trading (consent) hours for the day.
20. The Consent Holder or people employed by them are not permitted to hold any Auction Sale.
21. The Consent Holder or people employed by them or his employees are expressly forbidden to sell, display or wear any article which is or is intended to be offensive either in writing or pictures.
22. The Consent Holder or people employed by them shall not trade in or issue any glass items or vessels whilst trading on the Esplanade in Sidmouth.
23. Consent holders or their employees shall not sell the New Psychoactive Substances.
24. The Consent Holder or people employed by them must comply with all reasonable requirements of the Licensing Manager, or any other authorised officer of the Council, a Police Officer or a Police Community Support Officer.
25. Any special costs, other than those legally required to be borne by the Council, incurred in preparing a pitch fit for purpose shall be borne by the applicant.

TRADING CONDITIONS

26. The Consent Holder shall not carry out street trading activities other than those permitted by the Consent.
27. The Consent Holder shall not trade outside the time and days permitted by the Consent.
28. The Consent Holder shall display a copy of the consent issued by the Council on any van, cart, barrow or other vehicle or stall in a conspicuous position that is visible to members of the public.
29. The Consent Holder shall not trade in such a way that is likely to cause undue obstruction to any part of any street or public place.

30. The Consent Holder shall not trade in such a way that is likely to cause any injury to any person using the street or public place.
31. The Consent Holder shall not trade in such a way that is likely to cause damage to any property in the street or public place.
32. The Consent Holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity. Noise from equipment used in connection with consented street trading activity shall not be audible inside nearby residences so as to be deemed a Statutory Nuisance.
33. All street Trading fees are due in advance on the 1 April of any year. Annual fees may by agreement be paid by instalments. Failure to pay an annual or instalment fee will render the consent holder liable to action by the Council to revoke this consent.
34. The Consent Holder shall at all times conduct his business in a clean, honest, civil and businesslike manner without interfering with the business of other Traders and Consent Holders.

LEGAL PROVISIONS

35. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his employees or agents from any legal duty or liability.
36. At all times the Consent Holder shall comply with the legislation in force. Particular attention, where appropriate, should be paid to Health and Safety, Food Safety and Food Hygiene, Nuisance and Highways legislation.

REVOCAION OR SURRENDER OF CONSENT

37. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
38. The holder shall return this Consent to the East Devon District Council immediately on revocation or surrender of the Consent.

NOTES TO THE CONDITIONS

Within the terms of these conditions the following words have the meanings as described:

The Council	Means the East Devon District Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street,
Street	Includes: (c) Any road, footway, beach or other area to which the public have access without payment. (d) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	Means a street in which street trading is prohibited without the consent of the district council.

Authorised Officer

Means an officer employed by East Devon District Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

THIS CONSENT DOES NOT:

- 1. Permit trading outside the terms of the Consent.**
- 2. Indicate that planning permission is not required.**

Please note:

- (a) That the requirement to obtain planning permission applies to all streets, whether they have been designated Consent Streets or not.**
 - (b) That the grant of one or more street trading consents does not give the trader immunity from planning control.**
 - (c) The Council has discretion whether or not to enforce planning laws in relation to street trading.**
- 3. Indicate that the unit is exempt from business rates.**
 - 4. Over ride parking restrictions or any other traffic regulations.**
 - 5. Imply approval from the highway authority or any other person or authority.**