



HERTSMERE BOROUGH COUNCIL
STREET TRADING POLICY
2023-2028

A Policy to regulate street traders in the Borough of Hertsmere pursuant to the Council's powers under the Local Government (Miscellaneous Provisions) Act 1982.

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1. INTRODUCTION

1.1. The legal provisions

- 1.1.1. The Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) permits a Council to regulate “street trading” by adopting Schedule 4 (“the Schedule” of the Act.
- 1.1.2. The Schedule allows the Council to designate the streets in its area as either not being suitable for street trading (“prohibited street”), requiring permission from the Council (“a licence street” or “a consent street”) or to be suitable for street trading to occur without any form of restriction at all (streets without designation).
- 1.1.3. Hertsmere Borough Council has adopted the provisions of Schedule 4 and on 23 November 2022 designated all the streets in its Borough as “consent streets”.
- 1.1.4. From 1 January 2023 it is a criminal offence for any person to engage in a street trading activity in the Borough of Hertsmere without the consent of the Hertsmere Borough Council.
- 1.1.5. Anyone wishing to trade will first need to apply to the Council for consent to be granted.

1.2. Historical background in Hertsmere

- 1.2.1. Prior to the above date and the adoption of this Policy Hertsmere Council had designated some streets in its area as “prohibited” for street trading.
- 1.2.2. The Council however chose to leave all other streets in its Borough without any designation and street trading could occur without the protection to the public or residents that could be offered by the Council under the Act.
- 1.2.3. The Council has chosen to change this and, for simplicity, designate all streets as consent streets. Those previously “prohibited” streets however retain special status in this Policy and a list of them is contained at appendix B.

1.3. Rationale for the regulation of street trading

- 1.3.1. The types of activities that can fall within the concept of street trading are wide ranging and the potential impact of those activities on the local environment and the risk of harm the public is vast.
- 1.3.2. For example, nuisance can be caused by the noise, odour and fumes from a trader or littering by its customers. A street traders’ vehicle or stall can impact on road safety by blocking the lines of sight of other road users or

inhibit the flow of traffic. Traders cooking and selling food may have inadequate hygiene standards or not comply with labelling requirements. Some traders may display conduct that poses a risk to the public and certain activities may not be suitable in certain locations, such as by schools, hospitals, religious buildings or other businesses.

- 1.3.3. The Council hopes to prevent these issues from occurring whilst also allowing those who carry out street trading activities be supported in doing so in suitable locations as a viable part of a vibrant and prospering borough.
- 1.3.4. Local residents will be given the opportunity to express their views about traders and object to them trading if they cause a nuisance to them.

1.4. Reason for this policy

- 1.4.1. This policy sets out the Council's proposals to fairly regulate street trading and to create ensure any street trading activity complements the surrounding environment and retail offer without causing harm to the public.
- 1.4.2. The Council wishes to encourage investment from street traders and to facilitate an environment where a high-quality street trading activity is achieved that is beneficial to all. The Council must balance the needs of a trading business with the needs and rights of other people to live or work safely and peacefully in the Borough. Where possible and within the constraints of this policy, the Council will support new street trading opportunities.
- 1.4.3. There is no absolute right for an individual to "street trade" in Hertsmere and the granting of a consent to trade is entirely at the discretion of the Council. However, as a public body, the Council is mindful of the need for it to make reasoned decisions.
- 1.4.4. In order to allow applications for consents to be made and fairly considered this policy sets out the framework by which Street Trading will be controlled across the Borough, the process of applying for a consent, the types of consent that may be granted and the conditions attached to them.
- 1.4.5. This policy shall also clarify the Council's interpretation of certain provisions and concepts within the Act and the relevant exempt activities. Lastly this policy will set out the objectives that the Council will consider when exercising its discretion and determining where, when and to whom consents may be granted.

1.5. Applications for Consent

- 1.5.1. How to make an application is set out at part 7 of this policy. The Council's considerations when determining to grant a licence is set out from part 11 onwards.
- 1.5.2. All applications will undergo a consultation and persons near to any proposed trading location will be able to make representations about the grant of a consent.

2. APPLICATION OF THIS POLICY

2.1. How this Policy will be applied

- 2.1.1.** The Council will apply this policy only so far as necessary to achieve its aims. In order to provide a fair process to both applicants and the public the Council has set out its aims in the form objectives and will focus on the promotion of these as restrained only by the matters it considers relevant to the proposed activity of street trading.
- 2.1.2.** The Council has 4 primary objectives aimed at protecting the public which it will seek to ensure are promoted by all traders. In addition to the primary objectives the Council will consider 4 secondary objectives.

2.2. The Primary Objectives

2.2.1. The primary objectives are:

- ◆ Public Health and Public Safety
- ◆ Prevention of Nuisance
- ◆ Protection of children and vulnerable people
- ◆ Prevention of crime and disorder

- 2.2.2.** No consent will be granted where any of the four primary objectives will be undermined by a proposed trading activity. If the Council is satisfied that the primary objectives will not be undermined it will then consider if the trading activity aligns with the Council's aspirations as set out in its secondary objectives.

2.3. The Secondary Objectives

- 2.3.1.** In addition to the above the Council will also give consideration to the following secondary objectives:

- ◆ Consumer choice and protection
- ◆ Promotion of fair business practices
- ◆ Encourage suitable economic growth in the right location
- ◆ Protecting the environment.

2.4. Relevant Matters

2.4.1. When making decisions in relation to the grant of a consent or any enforcement action the Council will apply the above objectives only to the matters that it considers relevant to the street trading activity.

2.4.2. The matters that the Council considers relevant are:

- ◆ The suitability of the applicant
- ◆ The trading location;
- ◆ Any vehicle, stall, unit or similar;
- ◆ The safety and suitability of product to be sold.

2.5. Policy Status

2.5.1. Whilst the legislation does not place any limits on the Council's discretion when granting consents, the Council is mindful of the need to make reasoned decisions. As with all licensing regimes the Council seeks to balance the needs of a business with the needs of other people.

2.5.2. The Council shall not take into account any matter that does not fall within the policy objectives unless it considers a matter to be of such relevance that had it been known to the Council whilst formulating this policy, it would have been an objective of it.

2.5.3. If the Council departs from its stated Policy it shall give clear reasons for doing so.

3. DEFINING STREET TRADING

3.1. What is Street trading?

- 3.1.1. Street Trading is defined in paragraph 1 of Schedule 4 of the Act as: “the selling or exposing or offering for sale of any article (including a living thing) in a street.”
- 3.1.2. The Act defines “street” as meaning “any road, footway, beach or other area to which the public have access without payment” as well as any motorway service area.
- 3.1.3. Some activities are excluded from being classed as street trading by the Act even though they involve the selling of articles in a public street.
- 3.1.4. Whilst some street trading activities are fairly common the breadth of activity that can fall into the definition is quite wide. The Council will consider all activities on their own merits in line with the legislation. The following however is an indicator as to how the Council seeks to interpret the legislative provisions.

3.2. What is an article?

- 3.2.1. The Act does not further define an “article.” An article can be something that has a monetary value, sentimental value, or indeed no value at all. It can be something that is temporary, perishable and immediately usable after which it may cease to exist, or something more permanent.
- 3.2.2. It does not have to be a physical object – for instance it could be a computer game downloaded from one server to another, or a ticket for a show that is sent by email. The article does not have to be sold for profit.
- 3.2.3. The Council’s interpretation is that for something to be an article, it must be a tangible and identifiable item that can be owned or possessed by someone, or confers an individual right or benefit, to someone which only they can redeem. Where the ownership, right or benefit is transferred from one person to another the Council consider that a sale has occurred.

3.3. Articles and service?

- 3.3.1. The 1982 Act uses the term “article” as opposed to “goods”, “products” or “objects” – all of which would better describe physical objects. The use of the term “article” therefore does not rule out “services”.

- 3.3.2. The Council recognises that there is a difference between the performance of a service and the offering or sale of that performance. Performing a service in the street is not “street trading” but the sale of a service, rather than the performance of it, does constitute street trading.
- 3.3.3. For instance, commercial companies that set up units, or stalls on the highway offering to sign customers up to their latest energy tariff, or tv channel are selling, offering or exposing for sale an article. The article being the right to access or be provided with the service.

3.4. When is an article sold?

- 3.4.1. An article will be sold when an agreement is made for the ownership of the article to be transferred from one person to another in return for consideration (i.e. money, or money’s worth).
- 3.4.2. The exchange of money may be an indicator of a street sale, but it is not required for that to occur, if the agreement has been made the sale has occurred. If this agreement occurs in a street, the activity would be street trading.

3.5. Articles Exposed for Sale

- 3.5.1. Articles that are on visible display for purposes of engaging other people in communication regarding the sale of the article will be considered as being exposed for sale.
- 3.5.2. An individual making it known that they have an article by presenting it in a public street where it is visible to the public will be considered as exposing the article.
- 3.5.3. Whether the article is exposed for sale depends upon the intention of the owner and each case would be considered by the Council on its individual merits.

3.6. Articles Offered for Sale

- 3.6.1. An offer to sell an article may occur in situations where a vendor approaches individuals in a street or hands out flyers or leaflets with the intention of making a sale shortly after.
- 3.6.2. Such matters will be considered on their individual facts and merits. For instance, handing out a leaflet advertising items for sale which can only be purchased online or from a shop would not be street trading. However, an individual approaching someone to purchase an item kept in their parked car parked 1 minutes’ walk could be.

3.7. What is a street?

- 3.7.1. In order to be considered as street trading, the article must either be sold in the street, exposed for sale in the street or offered for sale in the street.

3.7.2. The term “street trading” is a misnomer as the Act defines “street” to mean “any road, footway, beach or other area to which the public have access without payment.”

3.7.3. Any area which the public may access without payment creates a wide concept and includes private land as well as indoor or covered areas. It is not necessary for members of the public to actually access the area, simply that they may be able to do so.

3.7.4. Access by the Public

3.7.5. Businesses trading to a private class of people will not be street trading even if they are on the street (other permissions may of course be required). This means that a caterer at a private event for a specific client or customers will not need the consent of the Council.

3.7.6. The Council will apply the following thought process to determine if a trader is “street trading”

- ◆ Is the trader on land that the public can access without payment directly from a public street or area?
- ◆ Is the trader visible from land that the public can access without payment;
- ◆ Does the trader take any reasonable steps to prevent access to their trading area;
- ◆ If the land is private, is the trader there with the permission of the land owner;
- ◆ Is there reasonable custom for the trader from people present on the private land at the time of trade to rebut any presumption that the trader is there to attract custom;

3.7.7. Access with payment

3.7.8. The Act uses the concept of access without payment to distinguish between the public and a private class of individuals. It is the Council’s responsibility and duty to protect the public whereas those who have paid to enter onto private land are expected to be protected by the landowner. Occupiers of land are expected to safeguard those that they allow to enter on to their land from injury or harm.

3.7.9. However, the Council does not believe this to be as straightforward a distinction as it may seem. The purpose of regulating street trading is to protect the public in situations where an operation carried out for profit could cause harm. It would undermine parliament’s intention in setting the Act and the Council’s duties to protect the public if ‘token’ payments resulted in traders avoiding regulation.

3.7.10. Even if payment is made to enter on to land the activity may still be considered as street trading by the Council where one or more of the following are present:

- ◆ The land is generally used by the public without payment;
- ◆ The event has every appearance of a public event;
- ◆ Payment is not directly for access on to the land and/or services provided on that land – for instance:
 - car parking fee;
 - charitable donations;
 - Entry ticket to an attraction;
- ◆ Payment can be made upon entry from a public street (i.e. not booked in advance);
- ◆ There is an advertisement encouraging attendance by the public visible to the public from an area they can access without payment;
- ◆ Payment to enter comes with an article or right (i.e. drinks or food voucher, redeemable token).
- ◆ There is no sign or indication that the land is private or pre-ticketed;
- ◆ There is no indication that payment includes access to any person selling or exposing or offering for sale any article.

3.7.11. When considering the above the Council will make a judgment on the individual facts and merits of a case bearing in mind the objectives of this Policy.

4. STATUTORY EXEMPTIONS

4.1. General

4.1.1. Schedule 4 of the Act states that the following are not street trading:

- ◆ A pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's' Act 1871;
- ◆ anything done in a market or fair, the right to hold which was acquired by virtue of a grant, 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 news vendor;
- ◆ trading carried on at premises used as a petrol filling station;
- ◆ trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop;
- ◆ selling things, or offering or exposing them for sale, as a roundsman.

4.1.2. The Council considers it to be reasonable to expect any person carrying out an activity of selling articles to the public to have considered the legalities of doing so and, if unsure, take reasonable steps to ascertain those legalities.

4.1.3. The Council expects that any trader relying on any exemptions to be able to produce satisfactory evidence that the exemption applies to their trading activities.

4.2. Pedlars

4.2.1. To be exempt from the requirement for the Council's consent under Schedule 4 a person must hold a Pedlars certificate and be trading as a pedlar.

4.2.2. The Pedlar's' Act 1871 defines a "pedlar" as: "any hawker, pedlar, petty chapman, tinker, caster of metals... or other person who, without any horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered".

4.2.3. Despite the dated terminology a pedlar is a person who trades in the public street on foot and by moving from location to location. Moving around by a

vehicle or stopping in a stationary position to serve or attract customers is contrary to being a pedlar.

4.3. Markets or Fairs

- 4.3.1. Trading at a market or fare that has an existing authorisation is exempt from further regulation. An authorisation may have been granted in a variety of ways from historical royal charters, planning permission, the Market Fairs Clauses Act 1847, or by the local authority under the Food Act 1984.
- 4.3.2. Market organisers are responsible for establishing that they have a right to hold a market and any person trading at that market is authorised by them.
- 4.3.3. In order for a trader to be classed as trading as part of a market, the trader must not be trading alone but as part of a concourse of other traders with permission of the market organiser.
- 4.3.4. The Council does not wish to specify the number of traders needed to form a market where there is an existing permission in place. A legitimately held market could have just one trader in unforeseen circumstances but provided they are trading under the authorisation with the permission of the market organiser it will be acceptable.
- 4.3.5. Trading, whether alone, or as part of a concourse of other traders without permission from a market organiser or under a market authorisation is street trading and requires permission under this Policy.

4.4. Trunk road picnic area

- 4.4.1. "Trunk road picnic areas" are designated by The Secretary of State under section 112 of the Highways Act 1980. These areas may be distinguishable from motorway service stations by the fact that there is no provision of fuel or indoor catering facilities and distinguished from picnic areas created by a district Council under the Countryside Act 1968. The "trunk road picnic area" must be on designated as such by the Secretary of state.
- 4.4.2. These facilities are rare and any person trading on a site under this exemption will be required to produce the proof that the site has been so designated by the secretary of state and remains as such.

4.5. Trading as a news vendor;

- 4.5.1. This exemption applies if the trader only sells, exposes or offers for sale, articles that are newspapers or periodicals.
- 4.5.2. A news vendor can trade with a stall or receptacle if:
 - ◆ It does not exceed one metre in length or width or two metres in height; or
 - ◆ It does not occupy a ground area exceeding 0-24 square metres or;
 - ◆ Does not stand on the carriageway of the street.

4.6. Premises used as a petrol filling station;

- 4.6.1. The 1982 Act does not define a “petrol filling station”. The Council is of the view that the original intention of the Act was to permit services to be provided where there would otherwise be none for the travelling public. At the time the legislation was enacted petrol filling stations would provide nothing other than petrol and in more rural areas or on a long journey, an additional trader may have been welcome.
- 4.6.2. The Council is of the view that the trader must be clearly within the forecourt of the station predominantly serving those who attend the site to purchase petrol and not simply using the land of a petrol station to seek and attract other custom.
- 4.6.3. Petrol stations have evolved into wider retail premises and the Council recommends that traders should not rely on this exemption without taking their own legal advice. The mere presence of the sale of petrol does not indicate that the premises is used as a petrol filling station and the exemption applies.

4.6.4. Petrol stations selling Alcohol under the Licensing Act 2003

- 4.6.5. Any premises which retails petrol but which also holds an authorisation to sell alcohol will not be considered to meet the definition of a “petrol filling station.” Section 176 of the Licensing Act 2003 prevents a premises used primarily to retail petrol from holding a licence to sell alcohol.
- 4.6.6. Land and premises can be used for a variety of activities to differing degrees at different times. The Council therefore believes that when considering what a premises is used for, its primary use, particularly were stated by the land owner or occupier, is the overriding factor.
- 4.6.7. For this reason it is considered unreasonable to accept that a premises can be used as a petrol filling station under one piece of legislation whilst not being primarily used as such under another. Therefore, the Council’s interpretation is that a premises licensed to sell alcohol is not in use as a petrol station and the exemption to street trade on such premises does not apply. A consent will be needed in such instances.
- 4.6.8. Notwithstanding the above, trade may still be exempt if falling within the definition of exemptions applicable to shops (below).

4.7. Shops

- 4.7.1. Trade carried on at premises used as a shop or in a street adjoining a shop is exempt only if the trade is carried on as part of the business of the shop. The trader must be part of the business of the shop, whether as the owner, employee or contractor engaged by the owner. The goods sold must be in line with the business of the shop.

4.7.2. Whether a trader is exempt in such instances rests on the facts and merits of the individual circumstances. By way of an example, a shop selling fruit indoors may fall within the exemption if selling vegetables on the street, but not if they were selling bicycles.

4.8. Roundsman.

4.8.1. “Roundsman” has no statutory definition and the term was clarified in the cases *Stubbs v Torfaen County Borough Council* (2014) and *Kempin v Brighton and Hove Council* (2001).

4.8.2. A roundsman conducts an activity of taking orders for goods or delivering goods previously ordered by “going the round of his customers” (for example, milkmen or coal men). Ancillary street sales made by a roundsman when acting in that capacity are exempt.

4.8.3. The “street trading” must be “ancillary” to the non-street trading activity of a roundsman. The mere fact that someone has set routes or rounds that they travel, does not fulfil the definition of a roundsman and is not exempt from Street Trading controls.

4.8.4. For example, a business that delivers milk ordered in advance by established customers, is not street trading. On the other hand, an ice cream van primarily has no pre-ordered custom but drives around playing chimes to invite or attract the public to make speculative purchases.

4.8.5. Persons conducting trading activities are expected to ensure that they comply with relevant legislation and where they seek to rely on the exemption of being a roundsman they shall be expected to produce evidence of the number of pre-orders taken and fulfilled.

4.8.6. Orders taken and fulfilled in the street will be considered to be street trading unless evidence to the contrary is provided. It is for an individual to evidence to the Council that the exemption above applies.

4.8.7. When determining the evidence of whether someone is or is not a roundsman, the Council will give consideration as to the length of time between an order and the fulfilment of that order, the location of that order, the means used to make and fulfil that order and whether at the time of making the order, the goods were sold, exposed or offered for sale in a designated street.

5. NON- STATUTORY EXEMPTIONS

5.1. Reason for non-statutory exemptions.

5.1.1. Whilst the Act and Schedule 4 protect certain activities from being regulated as street trading, the Council considers that it is also reasonable to exempt some other activities that are not set out within statute.

5.2. Charitable Collections and Sales

5.2.1. Charitable collections, whether done house to house or in a street are governed by other legislation and exempt from street trading requirements.

5.2.2. The sale of an item (even if done alongside a collection) falls within street trading regime. The Council, however, consider that the provision of items such as poppy's or stickers are not to be being sold.

5.2.3. The sale of items for the purpose of supporting a charity will be considered exempt by the Council where;

- ◆ The sale takes place at an event organised for charitable purposes;
- ◆ At or outside the land or premises of a charity;
- ◆ The sale is not carried out by a commercial company or contractor;
- ◆ No profit is made by any person from the sale and all proceeds (save for those that cover expenses) are donated to the charitable purpose.

5.2.4. Existing Planning permission

5.2.5. If a trader has already been authorised by the planning authority to trade in a location and in a certain manner, the Council shall consider them to be exempt from street trading.

5.2.6. The grant of a street trading consent shall not however override the need for planning permission.

5.3. Restaurants, Café's etc.

5.3.1. Premises, such as cafes, that have tables and chairs outside normally fall within the above statutory exemptions as the items sold for consumption on the tables and chairs are part of the business of the shop. The placing of chairs and tables on the public highway requires a separate licence.

5.4. Vehicles

- 5.4.1. Vehicles exposed or offered for sale in a public street may fall within the remit of the legislation and the requirements of this Policy. The Council however recognises that many people will seek to sell their car as a non-commercial transaction by placing a sign in its window. The Clean Neighbourhoods and Environment Act 2005 regulates the potential nuisance and road safety risks caused by the sale of such vehicles.
- 5.4.2. The domestic sale of a car by its owner will not normally be considered as street trading.
- 5.4.3. The Council will only consider a vehicle owner to be street trading if the provisions of the Clean Neighbourhoods and Environment Act 2005 do not apply and:
- ◆ The vehicle is placed outside of a reasonable radius of the owner's residential property or any other place that the owner has reason to be at,
 - ◆ The vehicle is exposed in a prominent position where it can be viewed by the public without sufficient reason;
 - ◆ The vehicle is exposed or offered for sale in the street along with another vehicle or vehicles exposed or offered for sale;
- 5.4.4. Additionally, any person selling more than one vehicle at a time or with such frequency so as to indicate a business, will be considered to be trading from the street.

5.5. Domestic sales

- 5.5.1. There is not a statutory exemption permitting the sale of items onto the street from a domestic or residential property. Such sales would be classed as street trading.
- 5.5.2. However, the Council does not propose to enforce its policy against people who may choose to have non-commercial sales outside of their own place of residence, where such sales are to sell items previously owned and used by them. For instance, yard or garage sales.
- 5.5.3. Such sales should be solely from the property or land that forms the domestic premises and not encroach on the public highway, cause any obstruction or nuisance to neighbour.
- 5.5.4. The Council would consider the sale of items that have been purchased by the seller for the purpose of being sold by them to the public to be street trading. This includes the sale of items that have been formed from other products or ingredients purchased for that purpose by the trader.

6. MARKETS AND EVENTS

- 6.1.1. Where a market is not exempt, or where the trader does not have permission to trade as part of that market, a street trading consent is necessary.
- 6.1.2. The Council may grant street trading consents to individual traders trading as part of a market or, where there is to be 5 or more traders, may grant an overall consent to the organiser.
- 6.2. **Car boot sales**
- 6.2.1. Car boot sales and similar events on private land that are predominantly non-commercial will be exempt. It would be expected that any proceeds received by the organiser are given to charity or other good cause and the traders will on the whole be amateurs selling second hand items previously owned by them. An entry charge will need to be levied and land owner permission required. Commercial traders at such a car boot may wish to apply to the Council for an individual consent for that day.
- 6.2.2. Where a car boot sale is commercial in nature, or involves a number of commercial traders the Council may consider the requirements set out in part 3 of this Policy to ascertain if the activity or event as a whole should be considered as falling within this policy. Organisers may therefore wish to regulate the event in line with this policy.
- 6.3. **Community events, Fetes, Carnivals and events**
- 6.3.1. The Council wishes to support local events carried out in the borough that add vibrancy to our local area. However, such events can attract speculative traders on the street that are not part of the event. As such it is necessary for the Council to regulate street trading activity at such events in order to safeguard the public and the event organisers.
- 6.3.2. The exemptions set out elsewhere in this Policy may apply and consent is not necessary, particularly for events on private land that charge an entry fee and do not make a profit.
- 6.3.3. However, in other respects the event organisers may apply for a blanket consent covering the whole event and take responsibility for all traders or individual traders will be required to obtain their own consent.
- 6.3.4. The Council will therefore consider granting special event consents to organisations or individual traders either on a one off basis or as an annual permit. Further details can be found in the section of this policy about the types of consent available.

6.4. **Farmers markets and seasonal speciality markets**

6.5. Farmers markets, seasonal or speciality markets operated on a commercial basis can be licensed by the Council as a street trading. The Council wishes to encourage such events to add vibrancy to the High streets in the Borough. Applications for a consent to hold such an event will be welcome as an event consent,

6.6. **Council owned land and parks**

6.6.1. Street trading on Council land owned by Hertsmere Borough Council, including its parks, will require 2 separate permissions. 1 from the Council for permission to be on the land and one to cover the street trading activity.

6.6.2. Any form of trading on Council land will require approval regardless of whether any exemptions apply.

6.6.3. Events on Council owned parks are managed by Inspireall on behalf of the Council and may require notification to the safety advisory group.

7. APPLYING FOR A CONSENT TO TRADE

7.1. General

- 7.1.1. An applicant should establish where and how they wish to trade and operate their business. The Council cannot advise on the business merits of an application or the commercial suitability of a location.
- 7.1.2. Bespoke pre-application advice may be provided by the Council's licensing team upon request but will be clearly limited to professional advice and assistance and cannot guarantee a consent will be granted.
- 7.1.3. The Council's considerations when determining whether to grant a consent are set out at section 11 and applicants should consider these when deciding where to trade.

7.2. Types of consent

- 7.2.1. The application forms will be available from the Council's website or by contacting the Licensing team. Individual traders may apply for one of the following types of consent:
 - ◆ Location (pitch) Consent (fixed location)
 - ◆ One off event Consent (fixed location)
 - ◆ Mobile Consent (Boroughwide)
 - ◆ Borough wide Event pass Consent (Borough wide)
- 7.2.2. In addition, organisers of events may also apply for an umbrella consent covering specific events, festivals or markets. The types of consent are explained in an appendix to this Policy.
- 7.2.3. Consents will not be granted for longer than 12 months but traders may choose the length of time they wish their consent to be granted for as:
 - ◆ 12 months;
 - ◆ 6 months;
 - ◆ 1 Month;
 - ◆ 1 day;
- 7.2.4. A trader may make a special request for a consent to be granted for any duration (less than 12 months), calculated in whole days, whole weeks or whole months. The relevant fee will be calculated and charged accordingly.

7.2.5. Traders may specify the times they wish to trade each day. The Council will not adopt any fixed or zoned hours and each application will be considered on its own merits. The suitability of times will be judged in accordance with this Policy.

7.2.6. The Council have the right to grant a consent for a lesser duration and may do so in situations where it wishes to assess the impact of a trader in a new area.

7.3. Location

7.3.1. Applicants are responsible for finding a location from which they wish to trade and ensuring that they have the legal right to occupy and trade from that location with the relevant permission from any landowner.

7.3.2. The Council is unable to enter into discussions with applicants about proposed sites and their suitability for trading or the potential commercial viability of a location. These are considerations that a potential business must assess for themselves.

7.3.3. The Council will not maintain a list or record of suitable spots.

7.4. Documents to submit:

7.4.1. The following documents will be required with all applications;

- ◆ A completed and signed application form;
- ◆ A plan of the proposed location;
- ◆ Public liability insurance covering third party and public liability risks of a minimum of £1,000,000;
- ◆ A photo of the applicant and any other person working in a face to face customer service role;
- ◆ A Basic Disclosure and Barring Service (DBS) criminal record check dated within the 3 months prior to the application of the applicant and any other person working in a face to face customer service role.

7.4.2. Applicants that intend to sell food will also be required to provide the following:

- ◆ Food registration;
- ◆ Hygiene rating;
- ◆ Training certificates (i.e. level 2 award);
- ◆ Confirmation of water source arrangements for cleaning hands etc.

7.4.3. Applicants intending to trade from a vehicle, stall, kiosk, unit or other structure must provide:

- ◆ Photos of the street trading vehicle, stall, kiosk, unit or structure;
- ◆ A current MOT certificate for any vehicle that will be placed on the highway or road;

- ◆ The measurements/dimensions of the vehicle and or unit to be used;
- ◆ Any relevant proof that the vehicle, stall, kiosk, unit or other structure is constructed in compliance with any applicable legal standards;
- ◆ DVLA shared driving code;
- ◆ Suitable vehicle insurance;

7.4.4. Applicants that use a power source, such as electricity or gas must provide:

- ◆ Relevant safety certificates confirming it meets legal requirements;

7.4.5. Applicants who wish to trade as itinerant traders around the borough will be expected to provide some detail as to any regular places they intend to visit or route they wish to operate.

7.4.6. The application form will also require the applicant to provide:

- ◆ Detail of the products to be sold;
- ◆ Risk assessments in relation to road safety, fire safety and the health and safety of the public.
- ◆ Risk assessment to the impact on the public of the siting of the location;

7.5. Validation of an application

7.5.1. Once an application has been received and the relevant fee paid the application will be checked, and if correct, validated by a Licensing Officer. The Licensing Officer will assess the application in line with this policy and if the application meets the set requirements it will undergo consultation.

7.5.2. If the application, or the proposed consent if granted, would not meet the grounds of this policy, the licensing officer will discuss the matter with the applicant. If the matter cannot be resolved the application will be refused.

7.5.3. If the applicant disagrees with the Licensing Officers opinion or the requirements of this policy they may submit a request in writing for further consideration. If, in the opinion of a Licensing Officer, the grounds of the request have significant persuasive merit the request will be referred to the Licensing Committee or a sub-committee, to give fair consideration to departing from, or amending, the policy.

7.5.4. The applicant will be required to pay an additional fee for this consideration which will not be refunded if the request is refused. However, if the applicant is successful the fee will be put towards their application and grant fee

7.6. Renewals of consents

7.6.1. The application process will largely be the same as that for a new application and undergo the same consultation.

- 7.6.2. A complete and valid application to renew a consent must be submitted at least 2 calendar months prior to date of expiry. This is to enable it to undergo a 1-month consultation and, if necessary, be determined by a licensing sub-committee.
- 7.6.3. A Consent shall expire at midnight on the expiry date stated on the consent permit. There is no right for a consent to continue pending the determination of a renewal application.
- 7.6.4. Where a consent holder has applied to renew their consent at least 2 calendar months before the consent expires, they will be permitted to continue to trade until their application to renew is determined.
- 7.6.5. Where an applicant for renewal has not applied to renew their consent 2 calendar months prior to expiry, the consent will expire on the date shown on the consent and the trader will not be authorised to trade until such time as a renewed consent is granted.
- 7.6.6. Notwithstanding the above, the Council may grant a short-term consent to allow a trader to continue to trade between the expiry of a consent and the determination of a renewed one if:
- ◆ There have been no complaints about the trader in the preceding 3 months;
 - ◆ There have been no substantial alteration to the previous consent applied for;
 - ◆ The Council considers it fair and reasonable to allow the applicant to continue to trade;
- 7.6.7. An additional fee will be required for the Council to determine to grant a short-term consent pending the determination of a renewal.
- 7.6.8. A renewal consent that is submitted earlier than 2 months prior to expiry this will be accepted but may not be determined until closer to the expiry date so that any Council decision is based on the most up to date information. The Council may require an applicant to provide updated documentation before determining any application, particularly one made earlier than 2 calendar months.
- 7.6.9. A renewed consent shall start either on day following the expiry of the consent being renewed or the day of determination (whichever is the later).

7.7. Transfers of a street trading consent

- 7.7.1. A consent cannot be transferred to another individual. Where an individual wishes to no longer trade they may surrender their consent back to the Council.

7.7.2. Where a consent has been surrendered, a new person may, within 7 days apply for an interim consent on the exact same terms if using the exact same vehicle or stall, or one which is predominantly of the same appearance.

7.7.3. An interim consent will be granted by Officers provided that:

- ◆ The applicant provides a valid Basic DBS
- ◆ There are no questions about the suitability of the applicant following receipt of the DBS;
- ◆ A new consent application has been submitted and is, or is due to go, under consultation.

7.8. Variations to Consents

7.8.1. A consent cannot be varied so as to change the location the consent applies to or the duration it was granted for. An applicant may submit an application to vary a consent in order to change:

- ◆ The product(s) sold;
- ◆ The vehicle, vessel, stall, unit, kiosk or structure used;
- ◆ The days or times of operation;
- ◆ Change in name/address of the consent holder;
- ◆ Change in name/address or addition/removal of any person working for or with the consent holder in a customer facing role;

7.8.2. Variations will be split into minor variations and major variations. Minor variations will be granted by Officers, subject to the requirements of this policy. Major variations will require a full consultation and the process will be the same as that related to new applications.

7.8.3. An application will be considered to need a Major Variation if:

- ◆ It requests to operate either before 6am or after 6pm;
- ◆ It seeks to significantly extend the overall operating hours;
- ◆ The trading location is in a residential area;
- ◆ The consent holders previous application received objections;
- ◆ In the opinion of a Licensing Officer it is probable that it will undermine the licensing objectives.

7.8.4. Applicants will be required to notify the Council of any change in their details, products or vehicle etc used within 7 days of a change occurring. Upon notification the Council will, if necessary, amend the consent permit

7.9. Surrender

7.9.1. A consent holder may surrender their consent at any time by notifying the Council in writing and returning the consent permit to the Council. A refund of some fees may be due to a consent holder surrendering.

7.10. Multiple applications for the same location

- 7.10.1. Applications can be made by different parties for the same location. However, the Council will only consider 1 application at a time in respect to the same, or significantly the same, location. This will be based on the party that submitted a valid application first. The later application(s) will be processed after the first has been determined.
- 7.10.2. If the applications cannot be split by time, all applications will be processed and considered. If the Council is minded to grant more than one application, and neither applicant wishes to withdraw, the Council will either grant the consents on a pro rata basis of its choosing or draw lots.

7.11. Fees

- 7.11.1. Fees will be calculated by the Council as part of the general budget setting process and in line with legal requirements applicable to the setting of licence fees.
- 7.11.2. Fees will be in 2 parts. The first part will the application fee will relate to the administration costs of the Council and is not refundable. The second part, the grant fee, will be calculated to cover the general enforcement of the consent for the duration of the grant. This fee, or a pro rata amount of it, will be refunded if consents are withdrawn or surrendered.
- 7.11.3. Where granted, a consent will not take effect until the grant fee has been paid.

8. CONSULTATION

8.1. Council's Consultation duty

8.1.1. A consultation shall be carried out for all New, renewal and major variation applications and will be for 1 calendar month from the date the application is validated.

8.1.2. Within 5 working days of an application being validated the Council will notify the following bodies:

- ◆ Hertfordshire Constabulary
- ◆ County Council Highways
- ◆ Relevant Parish/Town Council
- ◆ Ward Councillors
- ◆ Environmental Protection
- ◆ Environmental (Commercial team)
- ◆ Planning department
- ◆ Street Scene;
- ◆ County Council Trading Standards
- ◆ Asset management
- ◆ Public Health;
- ◆ Any other consultee that officers consider appropriate.

8.1.3. The Council will also advertise the application and the details on its website.

8.2. Applicants Consultation Duty

8.2.1. Once an applicant, for a fixed site, has submitted a valid application, they will be provided with at least one laminated notice to display in the area surrounding the site.

8.2.2. The notice will be given to the applicant within 5 working days of the application being received by the Council or validated (whichever is the latter).

8.2.3. Depending on the size of the location or site, the applicant may be given more notices to display around the area with the intention of bringing their application to the attention of people living or working in the area.

8.2.4. It is generally expected that three notices would be displayed, one at the exact location proposed and one at each end of the street. However, for long roads or proposed spots in isolated locations this may not be

practicable or necessary. A Licensing Officer will therefore direct the applicant as to where to display the notices.

- 8.2.5. An officer shall check that the notices are displayed on a regular basis to ensure that they remain visible to members of the public. The applicant will be responsible for ensuring the notices are visible 24 hours a day for the entire 1 calendar month consultation period.
- 8.2.6. If the notices are removed or defaced in anyway so as to obscure their content, mislead the public or prevent information about the application being reasonably known the 1-month consultation period shall re-start.
- 8.2.7. The Council may chose not to re-start the consultation period if satisfied that no prejudice will have occurred to the public.
- 8.2.8. These notice requirement will not apply to borough wide street trading consent applications.

9. OBJECTIONS TO AN APPLICATION

9.1. Who can object?

- 9.1.1. Any person can object to an application for a street trading consent. All the bodies that the Council consult with, as well as any other person may raise a concern to the Council.
- 9.1.2. Concerns must be made in writing and contain the name and address of the objector. It is an offence for any person to make an objection on false grounds or give false and reckless information to the Council. Objections will be a matter of public record and names and addresses will be published as part of any report to the Licensing sub-committee.
- 9.1.3. Anonymous objections will not normally be accepted. It is right that a person who may be prevented from trading knows who has objected and why, in order to have a fair hearing and address any issues. In rare cases an objector whose identity is verified by the Council may have their name redacted if they do not wish to be known to the applicant or consent holder due to realistic fears of reprisals. It is expected that in such instances there is evidence to support such a fear.

9.2. Timescale for an Objection

- 9.2.1. Objections can be made at any time during the calendar month representation period. Objections made outside of this time will not be considered.
- 9.2.2. Whilst the Council has discretion in many of the matters relating to street trading consents it will apply the representation period cut off strictly.

9.3. What should an objection contain

- 9.3.1. An objection should refer to the objectives of this policy and set out clearly why the activity would undermine the objectives if permitted.

10. DECISION MAKING PROCESS;

10.1. New/renewal applications

10.1.1. All applications will be granted automatically by Officers if:

- ◆ There are no objections to the application and
- ◆ The requirements of this Policy are met and

10.1.2. Where objections are made the application will be determined by a Licensing Sub-Committee. If an applicant does not comply with, or wish to comply with this Policy (or parts thereof) they may also request to have an opportunity to have a decision made by a Licensing Sub-Committee.

10.1.3. Traders operating prior to the commencement of this policy will be permitted to continue to trade pending the determination of their first application, even if any objections are made. In all other circumstances a trader is not permitted to operate until a consent is approved.

10.2. Licensing Sub-Committee Hearings

10.2.1. If a sub-committee is necessary to determine a matter, this will be done as a formal hearing.

10.2.2. The Council will maintain a specific hearing procedure document that will be provided to the applicant and objectors.

10.2.3. Whilst there is no time limit imposed on the Council within which a hearing must be held, the Council shall aim to hold it within a month following the end of the consultation period.

10.3. The Imposition of conditions

10.3.1. Conditions can be imposed either by a Licensing sub-committee or an officer. Officers may impose conditions where reasonable to promote the objectives of this policy. Any party aggrieved at a condition may submit a request in writing for a review by a superior officer.

10.3.2. In the trader remains aggrieved an “appeal” may be made to a Licensing Sub-Committee. A fee may must be paid before the appeal is listed, but will be refunded if the sub-committee uphold the appeal or consider the appeal had substantive merit.

10.4. How decisions will be reached

- 10.4.1.** When determining any application or enforcement measure the decision maker(s) will apply the objectives of this policy, as detailed in section 11, to those matters the Council considers relevant to the control of a street trading activity as set out in sections 12 through to 15 of this policy.

- 10.4.2. The Council may grant, withdraw, suspend and condition a consent as it considered reasonable to promote the intent of this Policy. It may grant a consent for lesser duration than that applied for in order to offer an applicant a trial period.

11. THE COUNCIL'S OBJECTIVES

11.1. Applying the Objectives

11.1.1. In order to promote the objectives of this Policy the Council's requirements and the matters that it shall consider when deciding if to grant a consent are set out in this part. Applicants are encouraged to ensure that they have considered the requirements of this part.

11.1.2. As a reminder, the primary objectives are:

- ◆ Public Health and Public Safety
- ◆ Prevention of Nuisance
- ◆ Protection of children and vulnerable people
- ◆ Prevention of crime and disorder

11.2. Public Health and Public Safety

11.2.1. The Council shall consider applications with a view to ensuring that no trading activity poses a risk to the health or safety of the public. The Council considers that issues of road safety, water safety, hygiene standards, product safety and the safety of any structure, stall, vessel, or vehicle used fall within this objective, however the Council will consider any issues that gives rise to a safety concern.

11.2.2. Applicants must ensure that they assess the activity that they carry out and take reasonable measures to prevent any aspect of their activity causing harm to the public or being carried out in such a way that there is a possible harm to the public

11.3. Prevention of crime and disorder

11.3.1. Street trading activities will not be permitted if they present a risk to public order, encourage or facilitate crime. This includes anti-social behaviour.

11.3.2. The suitability of an applicant will be relevant to this objective and the Council will not grant a consent to anyone who it considers likely to commit or use their position as trader to facilitate, crime or will otherwise endanger the public. Consent will not be given to sell articles that are unlawful.

11.3.3. Applicants who wish to trade during the evening or night time hours should consider carefully the potential for their activity or trading location to cause crime and disorder.

11.4. Prevention of public nuisance

- 11.4.1. The Council considers any effect resulting from a trader's acts or omissions that cause disturbance to one or more members of the public falls under this objective.
- 11.4.2. Consideration will be given to the measures proposed to be taken by a trader to reduce and control the risk of nuisance from noise, litter, vermin, fumes, odours and the disposal of associated waste. Traders must have measures in place to prevent littering and have a commercial waste contract. The impact of the trader on traffic and pedestrians will also be considered as a potential nuisance as well as a safety issue.
- 11.4.3. The Council seeks to balance business needs with the protection of the public and will take into account the general area and location when considering if a nuisance is being, or will be, caused. The nuisance must be more than a minor irritation and the Council will consider what is reasonable in the area in which the trader seeks to operate. In commercial, industrial or busy areas certain activities may be more reasonable but here a trader proposes to trade near residential properties higher standards will be expected.
- 11.4.4. The Council is aware that it would be unwise and unfair on the public to operate a policy that would result in an area becoming saturated with street traders. Save for specific market events, traders will not normally be permitted to be within 100 metres of each other.

11.5. Protection of children and vulnerable people

- 11.5.1. The activity, the location, the product, the target audience and the suitability of a trader will be given due consideration as to any risk posed to children and other vulnerable people. Traders selling products aimed at children will be expected to reach a higher standard of suitability. Traders must not conduct activities in a way that takes advantage of anyone who is vulnerable.
- 11.5.2. The Council does not wish to list any lawful articles that it considers unsuitable to be sold as each matter will be considered on their own merits. Certain articles may not be suitable to be sold in certain locations or to certain demographics and when the Council has this view, a consent will not be granted. For instance it would be unwise to allow alcohol to be sold outside a school or a treatment centre for those with alcohol dependency issues.

11.6. The Secondary Objectives

- 11.6.1. In addition to the above primary objectives the Council will also give consideration to the following secondary objectives:

- ◆ Consumer choice
- ◆ Promotion of fair business practices

- ◆ Encourage suitable economic growth in the right location
- ◆ Protecting the environment

11.6.2. When considering applications the Council's first criteria is to ensure that the primary objectives are promoted. If they are not, the consent will not be granted. However, once established that those objectives will not be undermined, or can be regulated, the Council will consider the secondary objectives.

11.6.3. The secondary objectives are aims and aspirations that the Council will adopt to encourage any street trading offer to meet its aspirations and contribute to the wider benefit of the Borough.

11.6.4. Where it is reasonable to do so the Council will depart from these secondary objectives.

11.7. Consumer choice

11.7.1. The Council wishes to encourage, and allow, a wide range of activity subject to it not undermining the objectives of this Policy. Providing a wide range of consumer choice will hopefully inspire creative and innovative traders, reflecting the Council's identity and cultural heritage and contribute to thriving and vibrant town centres.

11.7.2. However, all products sold must reach the same level of standard as those sold from any other outlet and the protections set out in consumer legislation apply.

11.7.3. Fair business practice

11.7.4. The Council recognises that in some instances it is appropriate to allow 'market forces' to dictate the success or failure of a business venture but also recognises that in comparison with a fixed shop, a street trading business may have reduced overheads in terms of not having to pay rent, business rates or require planning permission.

11.7.5. The Council wishes to protect its high streets and town centres whilst at the same time encouraging more vibrant town centres. It would be unfair to allow a street trader to take advantage of the benefit of their lower overheads to operate near to a fixed premises selling similar produce at a lower cost. This would likely result in the shop being put out of business.

11.7.6. The Council would also not wish to licence a street trader to operate directly outside of, or close to, a shop selling a similar category of products. No consent will be granted that would allow, or result in, a trader blocking, obscuring or impinging on the operation of another business.

11.7.7. Consent is unlikely to be granted within 100 metres of an existing street trader unless the location is suitable for more than one and the activities are complimentary.

11.7.8. The Council may depart from the above policy where it is considered reasonable to do so in order to permit special events or markets of a limited duration.

11.8. Encourage suitable economic growth in the right location

11.8.1. The Council believes that street trading can contribute to the borough but it must be in the right locations.

11.8.2. Street trading in commercial or shopping areas should add to the overall appearance of the area in which the trader is to be located. This will not only encourage customers to the street trader, but the wider commercial area.

11.8.3. Street trading that is carried out in such a way as to be unsightly, cause noise or odour nuisance may put off visitors to the area.

11.8.4. The Council will therefore consider the location, the surrounding buildings and those who attend the area to determine if the trader is suitable for that location.

11.9. Protecting the environment

11.9.1. The Council has declared a climate emergency and wishes to encourage all those trading and operating in the Borough to take steps to reduce the impact on the environment.

11.9.2. The Council understands that it cannot require premises trading from a shop or other fixed premises to adopt environmentally friendly practices, but could do so in respect to those wishing to have consent to trade. The Council therefore seeks to gain an appropriate balance and encourage continuous improvement from traders.

11.9.3. Upon application traders will be asked to consider their impact on the environment and what steps they will take to limit their environmental impact. Those that have annual or regular consents will be judged upon each renewal as to whether they are moving forward and improving.

11.9.4. Where there are concerns about the environmental suitability of traders operation the Council may give them instruction to improve over a period of time.

11.9.5. If the Council considers that a trader is not taking any steps to improve a consent may be refused.

11.9.6. Steps a trader could consider are using paper cups and plates made from recycled sources, discouraging single use plastics, providing free drinking water to those who have their own cup, wrapping food items in sustainable material, not bagging purchased items in plastic bags, taking steps to reduce food waste, use of environmentally friendly power sources and vehicles.

11.9.7. The Council do not wish to see traders using plastic, polystyrene, Styrofoam, plastic bags and other items that are not recyclable and slow to break down at landfill. The majority of items used in food sales are single use and the Council will take a dim view of this. Energy sources as well are encouraged to be as environmental as possible.

11.9.8. A sub-committee may refuse a consent if it considers that the trading activity does not do enough to minimise any negative effect that it poses to the environment.

11.10. Relevant matters

11.10.1. When determining if to grant a licence the Council will give apply the four primary objectives, and where appropriate the secondary objectives, to the consideration of the following matters relevant to a street trading activity.

- ◆ The trading location;
- ◆ Any vehicle, stall, unit or similar;
- ◆ The safety and suitability of product to be sold.
- ◆ Suitability of the applicant

11.10.2. The requirements of the Council's expectations are therefore set out in the following chapters.

12. TRADING LOCATION

12.1. The Trading Location

- 12.1.1.** The Council does not maintain a list of acceptable places to trade, nor does it have any such places ear marked for traders to use. It is the responsibility of an applicant to find a suitable location that meets this part of the policy and make an application for a consent to trade there.
- 12.1.2.** Traders will be expected to trade without causing any unreasonable disturbance or nuisance to near-by properties, businesses and homes. The steps that the Council would expect a trader to take will differ depending on the location.

12.2. Previously Prohibited Streets

- 12.2.1.** Prior to the adoption of this Policy the Council had prohibited some street from being used for street trading. Whilst the prohibitions are now removed the Council's policy is to presume that these streets are not suitable for trading and a consent will not be granted. This presumption can be rebutted by the applicant but suitable evidence will be required in order to satisfy the Council that a consent is suitable for that area and trading in that area would not undermine any of the considerations set out in this Policy. An application without sufficient evidence, or that would give a licensing sub-committee sufficient cause to consider departing from this policy, will be refused

12.3. Residential areas

- 12.3.1.** Whilst trading will not be prohibited in any area, locations where the majority of buildings are residential dwellings will likely require stricter control measures in order for a consent to be granted.
- 12.3.2.** The Council will also consider the matter in relation to the customers the trader seeks to attract. Where a trader wishes to trade in an area in which he or she expects the majority of their customers will already be at, the impact on the local area will be less.
- 12.3.3.** For instance, an Ice-cream van will normally be in a residential area to attract custom from residents. Where the trader expects the majority of their customers to travel into the area, the Council will give consideration as to the impact of this and it is less likely to be suitable.
- 12.3.4.** The Council acknowledges that some residents may not like a street trader in their neighbourhood for aesthetic reasons. However, the Council will not consider this a reason to refuse a consent to trade. If a trader has a viable business offer with customers in a certain location and no legal restrictions

on their ability be at that place, the Council will only restrict that right, if satisfied it is right to do so to promote the objectives of this Policy.

12.4. High Speed Roads

- 12.4.1. Consent will not be granted for any trader directly abutting a road with a speed limit of 31 mph or above. Any trading near to a road with a speed limit higher than 31 mph will need to be sufficiently located away from the road, either in a substantive lay-by or service road.

12.5. Road Safety

- 12.5.1. Consent will only be granted where the Council is satisfied that the trader, their unit/stall or trading location will not adversely impact on other road users and pedestrians and will not impinge significantly on the traffic flow in the vicinity of the trading location.
- 12.5.2. The proposed location of street trading activity should not present a significant risk to the public in terms of highway safety or/and obstruction. This would include consideration of factors such as: - interference with sight lines for other road users and access to pedestrian crossings.
- 12.5.3. The Times of day that the traders proposes may be considered if it can be shown that traffic levels are lower at the times proposed and the traders impact would not undermine road safety at such times.
- 12.5.4. The location of a trader should not impact on pedestrians travelling with prams, pushchairs, wheelchairs or who have mobility or disability issues.
- 12.5.5. The Council will consult with the Highways department at Hertfordshire County Council. Applications in respect of sites that have previously been the subject of a refusal due to the unsuitability of the location are unlikely to be accepted.

12.6. Parking facilities

- 12.6.1. Any street trader will be required to park lawfully. Provided that the trader is able to park lawfully the Council will not ordinarily intervene over issues of parking availability.
- 12.6.2. However, where an area has insufficient parking availability the Council may consider that it is unfair for a trader to cause a nuisance to members of the public by denying a parking space to a legitimate user. This may be particularly relevant in residential or high demand areas.
- 12.6.3. If a trader wishes to park in a controlled parking zone (CPZ) that is regulated by the Council they will need to apply for a dispensation from the Council's parking team. It may be acceptable for a trader to park in a CPZ space and simply pay the requisite parking fee – however the parking team (who are consultee for any application) may object to this.

12.6.4. A consent will not be granted in respect to any area in which the Council cannot be satisfied that the (proposed) consent holder will be able to lawfully park in.

12.7. Smoke control areas

12.7.1. The Council will not grant consent to any person to operate in a smoke control area if producing smoke or fumes from their activities.

12.8. Noise, odour and other nuisance

12.8.1. The level of noise acceptable will depend on the area in which a trader is situated. In a commercial or industrial area or near to a busy road the noise level acceptable may be higher than in a quiet area.

12.8.2. The Council will not only consider the location of the trader but also the times, frequency and duration of operation.

12.8.3. Certain types of food or food preparation will generate odours which may not be pleasant to some people. Strong smells and smoke fumes are incompatible with residential areas as they may impact on residents being able to live in their homes.

12.9. Locations near to other businesses and traders

12.9.1. Trading near to other businesses is not automatically precluded. In fact, it could evidence that an area is suitable dependant on the type of commercial activity occurring and that of the proposed street trader. However, the Council will consider the fairness of similar traders as set out in part 11.

12.10. Littering

12.10.1. Traders will also be expected to ensure that they have adequate receptacles for litter generated by their customers to be disposed of and will be expected to clear around their trading unit at the end of trade.

12.10.2. There should be at least one bin provided by the trader – however, if the trader encourages customers to sit and eat around the area in which they trade (as opposed to taking away) an additional number of bins may be required.

12.10.3. The Council will not take that into account any public bins located in area when considering the adequacy of a traders provision.

12.10.4. Traders should also ensure that have adequate measures in place to prevent ancillary litter from customers such as cigarette ends or newspapers that may be left.

12.11. Waste Contracts

12.11.1. All commercial traders must have a waste contract in place. This is required upon application. It is an offence for a trader to place waste generated through their business activity in domestic rubbish.

12.12. Customer seating or consumption areas

12.12.1. Traders that wish to provide an area for their customers to sit must indicate this on the plan submitted to the Council and take responsibility for the behaviour and action of their customers.

12.12.2. The trader may need a pavement licence or other similar permission in order to place seats and tables on the public highway.

12.12.3. If the trader wishes to use furniture to provide an area to consume food and drink they must ensure that this does not impact on the safety of any pedestrian, road user or other person.

13. SUITABILITY OF VEHICLE, VESSEL, ETC.

13.1. Suitability of the vehicle, vessel, trailer, stall, unit or other structure.

- 13.1.1. Where the trader uses any form of vehicle, trailer, vessel, stall, unit or other structure the trader must satisfy the Council that it is safe for use and does not pose any danger to the public. It may be inspected by the Council for its safety and suitability before a consent is granted and at any time after.
- 13.1.2. The vehicle, trailer, vessel, stall, unit or other structure must be of a good quality design/ build and should not be of an appearance to the detriment of the quality of the street scene in its given area.
- 13.1.3. The vehicle, trailer, vessel, stall, unit or other structure must be kept in a clean and well maintained condition suitable for the area in which it is located.

13.2. Motor Vehicles

- 13.2.1. Any vehicle that is kept on a public road needs to have Road Tax and a valid MOT unless the trader can satisfy the Council that they are exempt from those legal requirements. Appropriate insurance will be required for any vehicle used on the road.
- 13.2.2. Any vehicle used for towing a trailer or unit to and from its proposed location must also be taxed, insured and have a valid MOT.
- 13.2.3. Applicants are advised to check with their insurance company that any activity is permitted within the confines of their policy. The Council may contact insurance companies in order to check that an applicant is covered.

13.3. Electrical and Gas Safety and Storage of LPG cylinders, Petrol generators

- 13.3.1. Electrical or gas equipment must be in good condition, serviced and regular maintained and tested for safety in accordance with the current applicable law or manufacturer guidelines. The Council reserves the right to request that appropriate documentation is provided to verify the safety of any unit used.
- 13.3.2. Liquefied Petroleum Gas (LPG) cylinders, or Petrol and diesel generators are commonly used to power a trading unit but pose risks, particularly in respect to fire safety.

- 13.3.3. Some units, particularly those cooking food, will be powered in a variety of ways. This could be by an electricity supply from the mains or a generator, Liquid Petroleum Gas (LPG) or a petrol motor. Certificates must be produced confirming that any equipment installed has been done so correctly and any service requirements have been carried out.
- 13.3.4. Traders will be expected to understand the safe storage requirements of such power sources and to have carried out the appropriate risk assessment. The Council will condition the trader to keep any such power source in a safe manner and ensure that the source is maintained in line with the manufacturer's instructions.

14. SAFETY AND SUITABILITY OF THE PRODUCT SOLD

14.1. Consumer protection

- 14.1.1. Traders that sell consumer products (including the making, importation and distribution of the products) are responsible for making sure they are safe for consumers to use and following the legal requirements in relation to labelling. Consents are granted on the presumption that the trader has confirmed that the products sold complies with relevant legislation, such as the General Product Safety Regulations 2005 (GPSR).
- 14.1.2. Products should only be sold if their compliance with product safety regulations has been demonstrated appropriately. It is the trader's responsibility to ensure that their products are compliant and failure to do so will result in enforcement action.
- 14.1.3. Advertisements and statements made in relation to articles sold must be accurate. Misleading statements are an offence which can result in prosecution by trading standards. Traders found to be intentionally or recklessly responsible for misleading or inaccurate statements will have a consent revoked.
- 14.1.4. Any trader who fails to comply with the above or sells items that could cause harm will not receive a consent or have any consent granted revoked.

14.2. Product type

- 14.2.1. Consideration will be given to the type of products sold and the suitability of the product at the location concerned. It should be noted that applications which propose to sell articles of firearms, replica firearms, tobacco or animals will not be accepted as they are prohibited by law.
- 14.2.2. Age restricted products, those which may cause offence or that are aimed at an adult audience will be looked at carefully bearing in mind the location and weather any other regulatory permission is required to sell that product. Such consents, if granted, are likely to have additional conditions imposed.
- 14.2.3. Where some of the concerns are dealt with by another form of regulation the Council may be less minded to have concerns. If there is no other form of regulation the Council is unlikely to grant consent.

14.3. Food Safety

14.3.1. Whilst a vast range of activities can fall within street trading the most common product sold is food. There is a range of legislation that food businesses, particularly those operating from commercial premises need to comply with. It is important for the safety of the public that food sold on the street in Hertsmere by street traders is done so by traders who must reach similar standards.

14.3.2. Food Registration

14.3.3. Traders selling food must be registered as a food business. If the unit they sell food from is kept overnight at their home address they must register with their local Council, which may not be Hertsmere. If their unit is kept in the Borough of Hertsmere they must be registered with Hertsmere Borough Council.

14.3.4. The Council will not grant consent to any person to sell food who is not registered as a food business.

14.4. Food Hygiene

14.4.1. The Council require all street traders selling food to have a food hygiene rating of at least 3 (satisfactory). Food hygiene ratings range from 1 (the lowest) to 5 (the highest). Ratings of 1 and 2 are given where improvement in the standard of hygiene is necessary. Given the nature of selling food on the street the Council considers it is an increased risk to permit a trader to serve the public if they do not have a rating of at least 3.

14.4.2. New traders may not be able to obtain a rating until they have started trading (as the rating requires an inspection). The Council will therefore allow new trader to operate without their hygiene inspection and rating provided that:

- ◆ The applicant has registered as a food business;
- ◆ The applicant holds a level 2 food safety award (as a minimum)
- ◆ And a food safety officer is satisfied that there is no other reason to consider the public health and safety objective will be undermined.

14.4.3. This prevents a trader being unfairly penalised for a minor matters that lower their hygiene rating and which can be rectified easily. When considering if the objectives will be undermined, in relation the above, the Council will consider if the applicant has previously had a poor hygiene rating in respect to another business, any previous convictions relating to food safety or if the food, or the manner in which the food is to be prepared, cooked, is of increased risk.

14.4.4. Applicants who have a rating of less than 3 but are granted a consent will be expected to obtain the 3 star rating promptly. They will be given a time limit in which to book a re-inspection with the relevant Council. A separate re-inspection fee may be due.

14.5. Food training

14.5.1. All traders must have a level 2 award in food safety.

14.5.2. Where more than one person will be involved in the preparation or cooking of food the following will apply:

- ◆ Each person must have a level 2 award: or
- ◆ If one person is the manager they must have a level 3 award.

14.6. Water

14.6.1. Food sellers must have a suitable supply of water for both use in cooking as well as to wash equipment and their hands.

14.6.2. As part of the application process the seller will be required to confirm what access they have to a potable water supply.

15. SUITABILITY OF APPLICANT

15.1. Introduction

- 15.1.1. The individual who is carrying out a street trading activity may come into contact with all types of members of the public, from children, to those with disabilities or who are vulnerable.
- 15.1.2. An individual could use their position to take advantage of any such person to commit crime. It is therefore important that the Council check the suitability of an individual.
- 15.1.3. When determining an application for the grant or renewal of a street trading consent the council will consider relevant information relating to the suitability of the applicant to hold such a permission including whether the applicant has any relevant unspent convictions.

15.2. Requirement for Basic DBS

- 15.2.1. A Basic Disclosure from the Disclosure and Barring Service (DBS check) shall be submitted with an application. The certificate must not be older than three months at the time of its submission.
- 15.2.2. Additionally a basic DBS should be provided for any person employed by the trader who deals with members of the public by taking orders, supplying goods or handling cash must be assessed by the Council following the provision of a DBS check.
- 15.2.3. Applicants are expected to name any person working for them in such a role and notify the Council of any changes during the life of a consent. A consent permit holder who employs someone in such a role without a DBS check or fails to notify the Council is likely to have their street trading consent reviewed and/or revoked.
- 15.2.4. Additionally the Council will consult with the police who may provide information or intelligence about an applicant not shown on the DBS.
- 15.2.5. **Consideration of criminal convictions**
- 15.2.6. The Council has a duty to ensure that a person is deemed suitable to operate as a street trader. Traders will be authorised to deal with members of the public on a day to day basis and often without supervision. It is imperative that the Council are satisfied that the public will be safe when dealing with the trader.

- 15.2.7. The applicant must declare all unspent convictions and cautions at the time of application. Failure to do so may result in the application being refused.
- 15.2.8. The Council's starting principle is that a consent will not be granted to any person who has an unspent conviction.
- 15.2.9. Convictions resulting in a custodial sentence may be spent after 2, 4 or 7 years depending on the sentence and never spent if a custodial sentence of more than 4 years was imposed. The Council may therefore have to consider an application of an individual with an unspent conviction fairly on its own merits.
- 15.2.10. The Council accepts the principle of rehabilitation and that an unspent conviction should not automatically prevent an individual being granted a consent.

15.3. Driving Endorsements

- 15.3.1. Traders who drive around the borough must have a suitable driving standard. The Council is unlikely to grant consent to any person with more than 6 points on their driving licence. Particularly if such record indicates a lack of care and attention which may raise concerns about their ability to check if members of the public are walking out behind or in front.

15.4. Conduct

- 15.4.1. Traders should conduct themselves in a professional manner when dealing with the public and the Council. Consents may not be granted, or could be withdrawn, where a trader conducts themselves in an unsuitable manner.

15.5. Right to work

- 15.5.1. The Council has a responsibility under the Immigration Act 2016, to ensure that licence holders have the right to work in the UK and do not employ anyone who does not have the legal right to work.
- 15.5.2. Applicants and any employee will be required to provide proof of their right to work either by obtaining a right to work code, or for British and Irish citizens, producing their passport or other acceptable documentation.
- 15.5.3. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked.

15.6. Modern slavery, safeguarding etc.

- 15.6.1. The Council will take action to investigate any circumstances where an individual employed by a trader appears to be a victim of modern slavery, is not legally employed or paid less than the minimum wage.

15.6.2. Traders should be expected to have an understanding of safeguarding issues and the potential risk of their activities or conduct to children and vulnerable.

15.7. Tax

15.7.1. Whilst it is not a legal requirement for a street trader to confirm that they are correctly registered for tax purposes, applicants will be required to confirm that they understand their tax duties. Such information is shared with the other enforcing agencies.

16. CONDITIONS AND ENFORCEMENT

16.1. Standard conditions

- 16.1.1. The Council assumes that all traders who obtain a consent will understand it and its conditions. At the very least, a trader who is unsure of the conditions applicable to them should request advice from the Licensing team before trading.
- 16.1.2. General conditions (attached at Appendix A) will be attached to every consent detailing the holder's responsibility to promote the objectives of this Policy.
- 16.1.3. Additional conditions bespoke to the type of consent granted will be attached if necessary.
- 16.1.4. The Council can, at any time, vary the conditions attached to a consent by notifying consent holder in writing and specifying the date the change will take effect.
- 16.1.5. Persons engaging in street trading without a consent or who fail to comply with the conditions imposed on any consent granted, will be liable to prosecution.
- 16.1.6. Where an application is to be determined by a licensing Sub-Committee, the committee may amend any of the standard conditions to be attached to the street trading consent or add additional ones.

16.2. Complaints

- 16.2.1. Complaints may be made to the Council. Partner agencies, such as the Police, Trading standards, Highways and Environmental Health, have their own professional expertise and are expected to carry out suitable investigations into any complaints they receive and notify the Licensing Authority of any outcome.
- 16.2.2. Complaints made by residents to the Licensing team will be investigated by Licensing Officers where they relate to non-compliance with the terms of a consent or the objectives being undermined. Substantiated complaints or any other reasonable grounds could trigger a review of a street trading consent.
- 16.2.3. Complaints will be recorded on file and taken into account when considering an application to renew a street trading consent.

16.3. Enforcement Actions

- 16.3.1. Failure to comply with a street trading consent and its conditions is an offence which could result in the consent holder being prosecuted, or their consent reviewed with the result of revocation, suspension or further conditions. The Council aims to enforce in a proportionate manner and an immediate review may not be the most proportionate step.
- 16.3.2. For minor issues the Council will issue a warning letter or a rectification notice and provide a reasonable time for compliance to be achieved. Further issues may be dealt with by further letters or notices at the discretion of officers taking into account the extent of the non-compliance and any steps taken to rectify the matter.
- 16.3.3. If the issues of minor non-compliance are not resolved having been given a reasonable time to comply the consent may be suspended by Officers.
- 16.3.4.** Where a consent holder, or their trading activity, poses an imminent and serious danger to the public or is significantly undermining the licensing objectives immediate suspension will occur. A warning or discussion with the trader may occur prior to a suspension in order to allow for any representations to be made by the consent holder before a decision is made. However, in some circumstances the issues may be of such concern that a decision is made without any warning to the consent.
- 16.3.5.** Upon inspection or investigating a complaint officers may impose further conditions on the consent holder if necessary for the promotion of the objectives. These conditions will take effect immediately.
- 16.3.6. Where a consent holder has additional conditions placed on their consent by an officer or has their consent suspended, they will be permitted to submit representations against the decision to Chief Environmental Health Officer.. Such representations will not delay or prevent the sanctions taking place but will be fairly considered by the Council.
- 16.3.7.** The Chair of the Licensing Committee will be notified of any of the following:
- ◆ **The imposition of an additional condition on a street trading consent holder;**
 - ◆ **Suspension of a consent;**
 - ◆ **Proposal to lift the suspension of a consent;**
 - ◆ **Any representation by a consent holder in respect to the above.**
- 16.3.8. If the chair is satisfied that the issues are resolved and officers have conducted themselves fairly, no further action will be necessary. If the chair is not satisfied the matter will be referred to a licensing sub-committee. The sub-committee will then review the consent. A consent holder may be permitted to continue to trade until such time as the review hearing takes place at the discretion of the Council.

16.3.9. It may be necessary for the Council to carry out a further inspection or make some additional checks before lifting a suspension. In such instances the trader may be required to pay a fee for the additional work.

16.4. Reviews of Consents

16.4.1. Consents will be granted by the Council subject to traders' compliance with the objectives set out in this Policy. Consent can be withdrawn by the Council following a review at any time by an officer or, if referred, by a Licensing Sub-Committee

16.4.2. Any persons effected by a trader can apply to the Council for a consent to be reviewed. The review of a consent will be considered by a Licensing Sub-Committee.

16.4.3. Applications for a consent to be reviewed must be supported by sufficient evidence of the problem alleged. Officers will not accept an application for review without evidence.

APPENDIX A

CONDITIONS

GENERAL CONDITIONS TO BE ATTACHED TO FIXED STREET TRADING CONSENTS

A consent is issued without prejudice to any other statute, by-law or regulation. This consent does NOT over-ride any regulations regarding parking, food hygiene, obstruction, etc.

1. The consent is granted to the named person(s) on the front of the consent. Subletting or transfer of this consent is prohibited.
2. The consent holder shall only trade on the day(s) and between the times stated on the consent. No additional hours or days are permitted.
3. The consent holder shall not sell, offer or expose for sale any goods or articles other than those stated on the consent.
4. A valid third Party Public Liability Insurance certificate indemnifying the consent holder up to a minimum sum of £5million shall be held by the consent holder at all times.
5. The consent holder is only permitted to trade in the area approved by the Council.
6. The consent holder is permitted to place any stall, vehicle, vessel, kiosk, unit or other structure authorised by the Council only in the area approved by the Council.
7. Any stall, vehicle, vessel, kiosk, unit or other structure shall be maintained in a clean and safe working order and in compliance with any legislative requirements.
8. Any motor vehicle used for the purpose of street trading shall at all times be in a roadworthy condition and have the relevant documents i.e. insurance, tax and MOT to make the use of that vehicle on a road legal. These documents will be produced by the consent holder to any police officer or authorised officer of the Council.
9. Any trailers used for the purposes of street trading shall be in a road worthy condition and removed from the highway when the consent is not in operation

10. Advertisements, signs or notices shall not be placed on the stall, vehicle, vessel, kiosk, unit or other structure or in the immediate area of the trading location without the approval of the Council.
11. Advertisements, signs or notices that may cause offence or distress to the public will not be permitted.
12. The consent holder shall not cause any obstruction to road users or cause obvious danger to any person using the street.
13. The consent holder shall not cause nuisance or annoyance to persons using the street or to the occupants of any properties in the vicinity.
14. The consent holder shall not place any furniture to be used by customers of the consent holder to sit, gather or loiter without permission.
15. The consent holder shall be responsible for the temporary storage of refuse, liquid and other material accumulated or created whilst trading and shall ensure that any waste is disposed of correctly.
16. The consent holder must have a commercial waste contract in place and provide it to the Council upon request.
17. Where the consent authorises the sale of food the consent holder must ensure that they hold a food hygiene rating of 3, unless otherwise permitted to trade by the Council pending an inspection.
18. If during the term of any consent any material change occurs in the trading arrangements (such as new staff or a trading vehicle), the consent holder must report such changes to the Licensing Authority within 72 hours of that change and where necessary apply for the relevant variation.
19. The Council reserves the right to alter or amend these conditions at any time.
20. If the consent holder or customer facing staff are convicted of any criminal or foreign offence they must notify the Licensing Authority in writing within 7 days from the date of conviction.
21. Any stall, vehicle, vessel, kiosk, unit or other structure shall be removed from the street trading location when no trading activity is permitted, save for 1 hour before trading is due to commence and 1 hour after trading has ceased.
22. The Council may permit a stall, vehicle, vessel, kiosk, unit or other structure to remain on the street at its discretion.
23. This consent may be temporarily suspended by the Council at any time where the consent holder is not complying with the conditions of a licence. The suspension may be lifted only following confirmation of a satisfactory inspection which may require an additional fee to be paid.

GENERAL CONDITIONS TO BE ATTACHED TO MOBILE STREET TRADING CONSENTS

A consent is issued without prejudice to any other statute, by-law or regulation. This consent does NOT over-ride any regulations regarding parking, food hygiene, obstruction, etc.

1. The consent is granted to the named person(s) on the front of the consent. Subletting or transfer of this consent is prohibited.
2. The consent holder shall only trade on the day(s) and between the times stated on the consent. No additional hours or days are permitted.
3. The consent holder shall not sell, offer or expose for sale any goods or articles other than those stated on the consent.
4. A valid third Party Public Liability Insurance certificate indemnifying the consent holder up to a minimum sum of £5million shall be held by the consent holder at all times.
5. This consent permits the holder to trade on any street or public place within the Borough of Hertsmere subject to the condition that the consent holder shall not trade any more than 20 minutes in any one 100 metre part of any one street on any one day.
6. The consent holder shall not carry on business from any vehicle or vessel other than that stated on the consent without permission from the Council.
7. The vehicle or vessel shall be maintained in a clean and safe working order, in compliance with any legislative requirements.
8. Any motor vehicle used for the purpose of street trading shall at all times be in a roadworthy condition and have the relevant documents i.e. insurance, tax and MOT to make the use of that vehicle on a road legal. These documents will be produced by the consent holder to any police officer or authorised officer of the Council.
9. Advertisements, signs or notices shall not be placed on the stall, vehicle, vessel, kiosk, unit or other structure or in the immediate area of the trading location without the approval of the Council.
10. Advertisements, signs or notices that may cause offence or distress to the public will not be permitted.
11. The consent holder shall not cause any obstruction to road users or cause obvious danger to any person using the street.
12. The consent holder shall not cause nuisance or annoyance to persons using the street or to the occupants of any properties in the vicinity.

13. Ice cream traders shall comply with the requirements of the Code of Practice on Noise from Ice-Cream Van Chimes Etc. 2013
14. The consent holder shall not place any furniture to be used by customers of the consent holder to sit, gather or loiter without permission.
15. The consent holder shall be responsible for the temporary storage of refuse, liquid and other material accumulated or created whilst trading and shall ensure that any waste is disposed of correctly. Where required by law, the consent holder must have a commercial waste contract in place and provide it to the Council upon request.
16. Where the consent authorises the sale of food the consent holder must ensure that they hold a food hygiene rating of 3, unless otherwise permitted to trade by the Council pending an inspection.
17. If during the term of any consent any material change occurs in the trading arrangements (such as new staff or trading vehicle), the consent holder must report such change to the Licensing Authority within 72 hours of that change and where necessary apply for the relevant variation to their consent.
18. The council reserves the right to alter or amend these conditions at any time.
19. If the consent holder or customer facing staff are convicted of any driving, criminal or foreign offence they must notify the Licensing Authority in writing within 7 days from the date of conviction.
20. This consent may be temporarily suspended by the Council at any time where the consent holder is not complying with the conditions of a licence. The suspension may be lifted only following confirmation of a satisfactory inspection which may require an additional fee to be paid.

APPENDIX B – FORMER PROHIBITED STREETS

- A1** From the County boundary – 1km South of A1(M)/M25 Intersection northwards to the commencement of the A9M) at the M25 intersection.
- A41** From the County boundary 0.75m North West of Brockley Hill roundabout A41/A5183 junction to Watford Borough boundary 0.5km North of Berry Grove roundabout M1
- A6** From A1(M)/M25/A6 intersection at South Mimms to The Bell roundabout A6/B556 junction.
- A5183** From the County boundary 0.8km North of Brockley Hill roundabout to Hertsmere Borough boundary at the River Colne.
- A411** From Hertsmere Borough Western boundary at London Road, Bushey to Hertsmere Eastern boundary at Stirling Corner (A1)
- A1000** From Hertsmere Southern boundary at Hadley Highstone, Barnet to Hertsmere Northern boundary at Little Heath.
- A111** From the junction with the A6 at South Mimms Eastwards to the London Borough of Enfield boundary at Stag Hill.
- A5135** From the junction with A5183 Eastwards to the junction with the A1 at the Elstree Moat House hotel.
- A1081** From Hertsmere boundary with London Borough of Barnet Northwards to the A1(m)/M25 interchange.
- A4140** From the junction with A411 South Eastwards to the London Borough of Harrow boundary.
- A4008** From the junction with The Avenue/Bushey Hall Road North Eastwards to the junction with A41.
Park Avenue, Bushey with the junction with A4008 Eastwards to The Otter roundabout.
- B462** From the junction with A41 Eastwards to the junction with A5183 at Radlett
- C116** Darkes Lane, Potters Bar from the junction with A111 Northwards 0.9km to the junction with The Avenue.
Leeming Road, Borehamwood
Aycliffe Road, Borehamwood
Harcourt Road, Bushey

APPENDIX C – TYPES OF CONSENT

1.1. Types of Consent

1.1.1. The Following types of consent may be applied for and granted by the Council.

1.2. Fixed Location (pitch) Consent

1.2.1. Location based consents are granted in respect to a fixed pitch, or area which can easily be defined and identified on a map.

1.2.2. The applicant must state clearly the area which they are to trade and permission will not be given for them to trade over an area larger than that which is reasonably necessary for their activity.

1.2.3. A trader will not, for example, be permitted to trade “anywhere they can find to park on X road” or “anywhere in a field”.

1.2.4. These consents suit static traders who will operate from the same spot on a regular basis. However, they may be applied for in order to trade for any frequency or duration (less than 12 months).

1.3. Single Event Consent (fixed)

1.3.1. A one off event consent is suitable for a trader who will be trading at an event in the Borough but neither they, nor the event organiser, can give an exact location. As the impact of the overall event will be considered by a range of agencies, the Council will grant consents for the area of the event rather than a specific identified spot.

1.4. Borough wide Event Consent

1.4.1. Where a trader attends regular events in the Borough they may wish to avoid the hassle of applying for single event consents and register with the Council to attend all events during a 12 month period.

1.4.2. This provides assurance to both them, the Council and the event organiser that the trader can operate without increased administration.

1.5. Mobile Consents

1.5.1. Traders that do not operate from a fixed location and instead move around the borough or parts of the borough will need a mobile consent. They will be restricted to only trading for 20 minutes at one location before having to move on.

1.6. Umbrella Consents

- 1.6.1. Organisers may apply for an umbrella consent covering specific events, festivals or markets.
- 1.6.2. Rather than each trader forming part of the event applying individually, the organiser can apply for one consent and take responsibility for collating the details of all individual traders and providing them to the Council.
- 1.6.3. These consents will enable the Council to work in a light touch way with Town or parish Councils, community event organisers and businesses looking to add vibrancy to the borough.
- 1.6.4. The conditions and process for each consent may vary in discussion with the organisers.
- 1.6.5. Charitable and non-profit making community events may be exempt from paying a fee if the event is organised through the Council's Safety Advisory Group and no profit is made by any party associated with the event or any trader.