

General Licensing Committee Agenda



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Date: 27 June 2014

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A meeting of the

General Licensing Committee

will be held on Monday, 7 July 2014 at 6.00 pm

Meeting Room 1, The Abbey House, Abingdon, OX14 3JE

Members of the Committee:

Councillors

Charlotte Dickson (Chairman)

Marilyn Badcock (Vice-Chairman)

John Amys

Eric Batts

Jeanette Halliday

Anthony Hayward

Dudley Hoddinott

Bob Johnston

Bill Jones

Ron Mansfield

Aidan Melville

Elizabeth Miles

Gill Morgan

Val Shaw

Alison Thomson

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A handwritten signature in black ink, appearing to read "M Reed".

Margaret Reed

Head of Legal and Democratic Services

Agenda

Open to the Public including the Press

Council's vision

The council's vision is to take care of your interests across the Vale with enterprise, energy and efficiency.

1. Notification of substitutes and apologies for absence

To record the attendance of substitute councillors, if any, who have been authorised to attend in accordance with the provisions of standing order 17(1) with notification having been given to the proper officer before the start of the meeting and to receive apologies for absence.

2. Minutes

To adopt and sign as a correct record the minutes of the committee meeting held on 14 May 2014 (previously published).

3. Declarations of interest

To receive any declarations of disclosable pecuniary interests in respect of items on the agenda for this meeting.

4. Urgent business and chair's announcements

To receive notification of any matters, which the chair determines, should be considered as urgent business and the special circumstances, which have made the matters urgent, and to receive any announcements from the chair.

5. Statements, petitions and questions from the public relating to matters affecting the general licensing committee.

Any statements, petitions and questions from the public under Standing Order 32 will be made or presented at the meeting.

6. Street trading policy

(Pages 4 - 27)

Purpose: To present the General Licensing Committee with a revised street trading policy following public consultation.

Recommendations: That the committee

- 1) recommends Council to adopt the proposed street trading policy.
- 2) subject to Council adopting the policy in (1) above:
 - a. appoints sub-committees comprising any three members, or their appointed substitutes, of the General Licensing Committee
 - b. agrees that the sub-committees be known as street trading panels
 - c. appoints each member or substitute of the General Licensing Committee to serve on any street trading panel which is convened so as to include them in its membership
 - d. authorises each street trading panel to discharge all functions relating to matters

- referred to the panel by the council's licensing officer under the street trading policy
- e. agrees that, wherever possible, applications should be heard by a panel comprising the chairman or vice-chairman of the committee plus two other members of the committee, but that this should not affect the principle that any three members or their substitutes of the committee will constitute a properly appointed panel
 - f. authorises the Head of Legal and Democratic Services to invite an appropriate panel to conduct a scheduled hearing having regard to members' availability and eligibility to take part and ensuring that as far as possible all members of the committee have the opportunity to conduct hearings.
- 3) authorises the Head of Legal and Democratic Services to make any further minor editorial changes to the policy.

Exempt information under Section 100A(4) of the Local Government Act 1972

None

General Licensing Committee Report

Report of Head of Legal and Democratic Services

Author: Robert Draper

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Wards affected: All

To: General Licensing Committee

DATE: 7 July 2014

Street Trading Policy

Recommendations

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- 2) subject to Council adopting the policy in (1) above:
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 - d. authorises each street trading panel to discharge all functions relating to matters referred to the panel by the council's licensing officer under the street trading policy
 - e. agrees that, wherever possible, applications should be heard by a panel comprising the chairman or vice-chairman of the committee plus two other members of the committee, but that this should not affect the principle that any three members or their substitutes of the committee will constitute a properly appointed panel
 - f. authorises the Head of Legal and Democratic Services to invite an appropriate panel to conduct a scheduled hearing having regard to members' availability and eligibility to take part and ensuring that as far as possible all members of the committee have the opportunity to conduct hearings.
- 3) authorises the Head of Legal and Democratic Services to make any further minor editorial changes to the policy.

Purpose of Report

1. To present the General Licensing Committee with a revised street trading policy following public consultation.

Strategic Objectives

2. A revised street trading policy will promote economic development through consistent standards. In addition, it will improve the efficiency of the council licensing team by ensuring that processes and procedures are consistent.

Background

3. Vale of White Horse District Council adopted its current Street Trading Guidance in 1996 with a minor revision in 2009. The guidance is partly based on a system of prohibited streets and areas in addition to consent streets. Large areas of the district have no formal designation; furthermore new roads and streets have been constructed since 1996 when the original guidance was written. The guidance has become unfit for purpose and requires replacement with a new policy.

Proposed policy

4. The key changes that are proposed are summarised in Appendix 1 to this report and reflected in the draft policy in Appendix 2.
5. In accordance with best practice, the council consulted for a period of 12 weeks from 27 January to 19 April 2014 to ensure that all interested parties had the opportunity to engage with and respond to the draft policy. The consultation papers were posted on the council website. Comments were sought from:
 - Thames Valley Police
 - Oxfordshire Fire and Rescue Service
 - Oxfordshire County Council Highways
 - Oxfordshire County Council Trading Standards
 - Parish and Town Councils
 - Current street traders
 - Local business organisations
 - Residents
6. In addition the council's regulatory and enforcement services were consulted. These included:
 - Planning
 - Environmental health
 - Economic development
 - Parks and leisure
 - Car parks

Consultation responses

7. There were nine comments on the proposed policy across both councils as shown in Appendix 3. Overall the comments were positive and supportive of the policy. The only change to the policy resulting from the consultation is an amendment to

the wording of paragraph 5.6 (h) as requested by the council's Food and Safety team.

- 7.1 An additional condition has been added to paragraph 7.4 requiring peripatetic food traders to hold a food hygiene certificate in line with the requirements for static traders.

Financial Implications

8. Currently there are 12 known street traders within the district. None of these has a valid street trading consent because they are not located in the currently designated consent areas. The proposed consent fee level is £400 per annum per location. This would generate an income of £4,800. The setting of street trading consent fees must reflect the costs of administering the scheme and the fees will therefore recover the council's costs. It is proposed that new applicants for street trading consents will pay a non-refundable application fee of £300 per location. This fee covers the cost of undertaking the consultation including a site visit. If the location is approved then the £400 annual consent fee is payable for the issuing of the consent and subsequent enforcement inspections. The total cost for a new street trading consent will be £700. The cost of an annual renewal would be £400.

In accordance with the scheme of delegation, the fees will be agreed by the Head of Legal and Democratic Services in consultation with the relevant Cabinet member and the chairman of the Scrutiny Committee.

Legal Implications

9. The policy has been drafted to reflect current legislative requirements. All applications for consents under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, have to be made and determined in accordance with the council's street trading policy.

Risks

10. Failure to reflect the requirements of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, in the policy for street trading could result in the council not complying with the legislation. Having a clear policy helps to ensure that decisions comply with the legislation and are made fairly and consistently.

Conclusion

11. The committee is asked to:
 - 1) recommends council to adopt the proposed street trading policy
 - 2) to appoint sub-committees as set out in the recommendations, 2a-2f.
 - 3) authorise the Head of Legal and Democratic Services to make any further minor editorial changes to the policy.

Background Papers

None

APPENDIX 1

Street Trading Policy



Change to a consent based approach for Vale

The current street trading guidance dates from 1996 and it was last revised in 2009. The guidance is partly based on a system of prohibited streets and areas in addition to consent streets. Large areas of the district have no formal designation; furthermore new roads and streets have been constructed since 1996 when the original guidance was written. Under the current guidance, it is not possible to issue consents to businesses that trade outside of designated consent areas. The removal of prohibited areas and replacing them with a single consent area does not automatically grant the right to trade. All of these areas would become consent areas and as such, any applications for street trading would be considered on their own merits. In addition, it makes it an offence to trade without a street trading consent issued by the council.

Consent vs licensed based system

Street trading consents offer a more straightforward and flexible mechanism of control for the councils than street trading licences. The use of consents as an approach is better suited for ad-hoc applications over a wide geographical area. Licence holders may appeal decisions on licences to the magistrate's court whereas the only statutory appeal against a council's decision on a street trading consent is by judicial review.

Consultation process

The proposed consultation process increases the visibility of applications to local residents. A yellow, A4 sized notice will be prominently displayed within 50 metres of the proposed location. The notice will give details of the proposed consent including type of business, trading days and hours and how to comment on the proposed consent. This plus the use of existing mechanisms for consulting with district councillors, town and parish councils will ensure that all parties that may be affected by a street trading business can have their voices heard. The county highways department, Thames Valley Police and the Fire and Rescue Service, will consider all applications. Any objections on the grounds of highway safety will lead to the rejection of an application (Highways Act 1980 Section 147a).

Peripatetic street traders

There is clear case law confirming that mobile ice cream vans and similar fall within the remit of street trading. The council does not currently issue street trading consents for mobile ice cream vans or mobile sandwich sellers operating in the district. It is proposed to bring these businesses under the street trading consent system but to avoid the requirement for a consultation. This reflects the limited impact of such traders upon any single location.

Peripatetic street traders must comply with additional restrictions to minimise any potential impact upon residents or local people. These restrictions include: maximum wait of 10 minutes in any location and no trading within 100 metres of a school entrance.

Fee structure

The new policy encourages all applicants to make informal contact with the licensing team prior to formally submitting an application. This will enable officers to advise applicants regarding the likely success of an application at a given location or for a particular activity.

Activity	Proposed Fee	Notes
Application for consent (per location)	£300	Non-refundable
Issue of consent (new or renewal) per annum	£400	
Administration fee for changes to existing consents	£30	

An analysis of the costs of issuing consents shows that a substantial amount of officer time would be spent on the original application and consultation process. It is proposed to set a separate application fee and an annual fee for the issuing of the consent. An application fee of £300 is proposed to cover the licensing officer time and travel involved in undertaking the consultation process and erecting notices on site. This fee would be payable upfront as part of any formal application and would be non-refundable. A calculation of the costs of administering and enforcing consents puts the cost at £400 per annum. This fee would be payable for the issuing or renewal of any street trading consent. A £30 fee is proposed to cover any administrative changes or updates required to consent documents for example change of vehicle or owners address.

Vale income

There are currently 12 street trading businesses operating in the Vale area. None of them are in current consent areas and as such none have a formal street trading consent and no fees are collected. Bringing these businesses into the consent regime would generate an annual income stream of £4,800. It is proposed that all existing businesses would be exempted the initial application fee of £300.

Motion passed by Vale Council on 17 July 2013

At the full council meeting on 17 July 2013 officers were asked to bring forward the review of the street trading guidance and specifically to consider the options for street trading within Abingdon at the following locations:

- a. The Market Place
- b. The Undercroft of the County Hall Museum

- c. The Abbey Gateway
- d. Bath Street from the High Street to Stratton Way
- e. The Square
- f. The High Street from the Market Place to Ock Street

The street trading review has been brought forward by three months.

With regard to the above locations if the Vale adopts a single consent area approach as proposed, all of these areas would become consent areas and as such, any applications for street trading would be considered on their own merits. It is important to note that the issue of a street trading consent does not over-ride any restrictions that may be in place due to historic market charters or acts of parliament (such as the Abingdon Market Place Act 1978).

Consents for existing street traders in Vale.

The existing street traders in the Vale do not generate any significant complaints from the public or local businesses. It is proposed that all these businesses, whilst having to make formal applications for street trading consents under the new policy, will be granted consents so long as the application is complete and in order. It is proposed that the date of 1 January 2014 is used to determine if a business is classed as existing.

Street trading businesses in 'prohibited' areas in Vale

There are currently four businesses that trade within the Abingdon area which operate on land that is designated as prohibited under the current guidance document:

1. Sami's kebab van trades in the Abingdon market place under a permission granted by the town council dating back to the 1970's. It appears that when the street trading guidance was introduced in 1996 a decision was taken to grant the business grandfather rights.
2. Larman's burger stall operates out of the B&Q car park serving the surrounding industrial estate. It is unclear as to how long the stall has been trading but it is a well established business.
3. Mr Whippy ice cream van trading out of Abbey Gardens car park. This is an established business than seems to have been operating for over 40 years. As such, it pre-dates the current guidance and appears to have been granted grandfather rights.
4. Mr Softee ice cream van operates out of the Fairacres retail park car park at weekends; again it is unclear as to how long this van has operated.

APPENDIX 2



Joint Street Trading Policy

This policy was adopted by the Vale of White Horse District Council at the meeting of Council on ##### and South Oxfordshire District Council at the meeting of Council on ##### and comes into force on ##### 2014 and will be reviewed five years from that date unless previously amended.

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GLOSSARY

The councils	South Oxfordshire District Council and Vale of White Horse District Council.
The applicant	The trader who has submitted an application for a street trading consent.
Consent holder	An individual that holds a street trading consent.
Street trading	The selling, exposing or offering of articles for sale in a street.
A street	Includes any road, footway, beach or other area to which the public have access without payment.
Consent street	A street in which street trading is prohibited without the consent of the council.
Street trading consent	A permission to trade, which is granted by a council subject to conditions and the payment of a fee.
A roundsman	An individual who visits a 'round' of customers and delivers the orders of those customers, for example a milkman. A person operating an ice-cream van is not classed as a roundsman.
A pedlar	A pedlar is a trader who must: <ul style="list-style-type: none"> • keep moving, stopping only to serve customers at their request • move from place to place and not circulate within the same area • carry all goods for sale and not use a trolley or stall • hold a valid pedlar's certificate, issued by a Chief Constable of Police.
Peripatetic trader	A peripatetic street trader is one that: <ul style="list-style-type: none"> • continually moves from location to location • moves at least 50 metres from the last trading location and does not return to that location within four hours • does not wait in one location for more than 20 minutes • does not trade within 100 metres of any entrance to any educational establishment (without formal invitation from the establishment)
Licensing officer	An officer employed by the councils and authorised by the councils to act in pursuance of the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
A town:	A location that has a town council as opposed to a parish council.
Activities not requiring consent	Trading: <ul style="list-style-type: none"> • as a pedlar under a pedlar's certificate • at an established market or fair • as a news vendor • at a petrol station or shop or from a street adjoining a shop which is used as part of the business of the shop • as a roundsman (i.e. delivering pre-ordered goods to customers) • from a licensed highway area • under a street collection permit for charitable purposes

1 Purpose of the policy

- 1.1 This policy sets out the framework for the management of street trading in the area of South Oxfordshire District Council and Vale of White Horse District Council.
- 1.2 The powers to control street trading within the councils' areas are conferred by Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, 'the Act', which has been adopted by the councils. Under Schedule 4 of the Act the councils can manage street trading by designating streets as 'consent streets', 'licence streets' or 'prohibited streets'.
- 1.3 The councils recognise the valuable contribution that street trading can make to the local culture and economy, and the services that street traders provide to residents and visitors. Street trading can provide people with a flexible way of working, to meet the demands of the public where and when that demand arises.
- 1.4 The councils are also committed to improving the support provided to small businesses, ensuring there are no unnecessary burdens placed on them and they are provided with sufficient guidance and advice to enable them to operate safely and successfully.
- 1.5 Issues can arise where street traders do not pay due regard to their location and operation or make it dangerous for people and road users to move around them. Street trading can also result in littering and other nuisance to persons in the vicinity.
- 1.6 This document sets out the criteria the councils will use when they consider applications for street trading consents. It sets out the grounds upon which decisions are made about street trading applications and enforcement actions if required.
- 1.7 The policy supports both of the councils' commitment to work in partnership with other agencies and avoiding duplication with other statutory controls.

2 Consultation

- 2.1 In determining this policy, the councils have consulted the following:
 - Thames Valley Police
 - Oxfordshire Fire and Rescue Service
 - Oxfordshire County Council Highways
 - Oxfordshire County Council Trading Standards
 - Parish and Town Councils
 - Current street traders
 - Local business organisations
 - Residents
- 2.2 In addition the councils' regulatory and enforcement services have been consulted. These include:
 - Planning
 - Environmental health
 - Economic development
 - Parks and leisure
 - Car parks

3 Duration of policy

- 3.1 This policy will be reviewed every five years. When required, periodic updates may be undertaken.

4 Legislation and current provision

- 4.1 The Act sets out a number of definitions and provisions:

‘Street Trading’ is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions:

- (a) Trading as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871.
 - (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order.
 - (c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
 - (d) Trading as a news vendor.
 - (e) Trading at premises used as a petrol filling station or from a street adjoining a shop premises as part of the business of the shop.
 - (f) Offering or selling things as a roundsman.
 - (g) The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
 - (h) The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
 - (i) The doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 for charitable purposes.
- 4.2 Schedule 4 defines a street as any road, footway, beach or other area to which the public have access without payment and a service area as defined in section 329 of the Highways Act 1980.
- 4.3 A consent street is a street in which street trading can only take place if the consent of the local authority has first been obtained.
- 4.4 All streets within the councils’ areas are designated as consent streets.
- 4.5 Prohibited streets are streets where no street trading may take place.
- 4.6 There are no prohibited streets within the councils’ areas. The A34 and M40 are designated as a trunk road and motorway respectively. No street trading is permitted on motorways and Oxfordshire County Council Highways department will not approve any street trading applications for lay-bys or slip roads along the A34.
- 4.7 A licence street is a street that requires a formal licence before any form of street trading can take place.

- 4.8 There are no licence streets within the councils' areas.
- 4.9 Street traders that serve hot food or drink at any time between 11.00pm and 05.00am the following day will also require a premises licence that authorises late night refreshment under the Licensing Act 2003.
- 4.10 All applications for street trading consents must include written permission from the land owner for the business to operate from that location.
- 4.11 All applications for street trading consents must include written confirmation that planning permission has been granted for the business or that planning permission is not required.
- 4.12 Street traders who can demonstrate an established presence at a particular location as at 1 January 2014, with no outstanding complaints or enforcement action, will be granted a street trading consent subject to the submission of a valid application. These businesses will not be subject to the requirement for a formal consultation or associated fee provided they do not seek to vary the nature or location of the business as at 1 January 2014.

5 Licensing process and delegation of functions

- 5.1 The councils aim to provide a clear, consistent licensing service for applicants and consent holders.
- 5.2 The General Licensing Committee of the relevant council:
- recommends and reviews the street trading policy
 - determines applications for and reviews consents
- 5.3 The General Licensing Committee appoints a street trading panel to:
- determine the granting, modification or revocation of street trading consents when requested by the Head of Legal and Democratic Services.
- 5.4 The Head of Legal and Democratic Services is authorised to:
- (a) issue street trading consents and attach such conditions as are considered reasonably necessary under the Local Government (Miscellaneous Provisions) Act 1982.
- (b) vary the conditions attached to an existing street trading consent when necessary to promote public safety and/or prevent nuisance or annoyance to affected parties.
- (c) refuse any application for a consent that:
- (i) in the opinion of the Head of Legal and Democratic Services does not comply with the councils' policy or consent conditions,
 - (ii) has been subject to objections from Thames Valley Police, Oxfordshire Fire and Rescue Service or Oxfordshire County Council highways on the grounds of public or highway safety.

(d) refer consents granted to existing street traders to the street trading panel:

(i) when there has been a substantiated complaint about the trader or the trader has breached the conditions of his/her street trading consent.

(e) refer new applications for street trading consents to the street trading panel:

(i) when valid public objections have been received.

APPLICATIONS FOR A STREET TRADING CONSENT

5.5 All new street trading consent applications (except from peripatetic street traders) will be subject to a 28 day consultation period. The consultation will seek the views of local residents and businesses that may be directly affected and statutory agencies whose responsibilities may be impacted by the proposed business. Consideration will be given to all written objections, which are not irrelevant, frivolous, vexatious, or repetitive.

5.6 The following criteria will be considered in deciding whether or not a street trading consent will be granted and on what conditions:

(a) Public safety

Whether the street trading activity represents, or is likely to represent, a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site. Oxfordshire County Council Highways department will be consulted on all applications to ensure high standards of road safety for applicants, customers and other road users.

(b) Public order

Whether the street trading activity represents, or is likely to represent, a risk to public order. Thames Valley Police will be consulted on all applications regarding public order.

(c) Preventing nuisance or annoyance

Whether the street trading activity represents, or is likely to represent, a risk of nuisance or annoyance to the public from noise, odour, fumes, litter or the discharge of fluids, particularly in residential areas. The relevant council's environmental protection team will be consulted on all applications regarding the prevention of nuisance.

(d) Written objections or support from local residents or their representatives

Residents will be alerted to street trading applications via a yellow A4 notice erected at the proposed consent location. The relevant town or parish council and district ward councillor will be consulted on applications for street trading consents in their area.

(e) Proximity to schools and colleges

Street trading consents for businesses supplying hot or cold food or confectionery between 08:00 and 16:00 will not be granted for locations within 100 metres of the boundary of a school or college.

(f) Planning permission

A street trading consent will only be issued where planning permission has been granted or there is written confirmation that permission is not required.

(g) Appearance of the stall or vehicle

Any stall or vehicle from which trading is permitted must be maintained and presented to the same standard as originally manufactured. Internal and external finishes must be free from defects or damage. Any stall or vehicle must meet the criteria, including size, laid down in the standard consent conditions.

(h) Food traders

Applicants for stalls or vehicles selling food must hold a current Level 2 Food Hygiene Certificate accredited by The Chartered Institute of Environmental Health, or The Royal Society of Health, or The Royal Institute of Public Health and Hygiene. All businesses must be registered with the Food and Safety team in the district within which the stall or vehicle is kept overnight. If this is not within the Vale of White Horse district or South Oxfordshire district the business should notify the Food and Safety team of the location from which they intend to trade. Any changes must be notified to the Food & Safety Team 28 days prior to the change.

(i) Proximity of similar businesses

Objections based on the proximity of similar business will be considered but limited weight will be given to objections based solely on grounds of competition.

CONTENTS OF A STREET TRADING CONSENT APPLICATION

5.7 All applications for the grant of a new street trading consent site shall include:

- completed application form downloaded from the relevant council website
- application fee (non refundable)
- written consent of the landowner
- written confirmation or the existence or requirement for planning permission
- a copy of a map showing all streets and other public areas within a radius of 100 metres from the proposed location of the street trading site. The map shall be to a scale of 1:2500 and clearly indicate the location of the proposed site in the centre of the map, and the locations of other street traders, and shops trading in similar commodities to those proposed
- current photographs of the vehicle/stall showing external condition and signage.

5.8 The 28 day consultation period will start when a completed application has been received and acknowledged by the licensing team.

5.9 If there are no valid objections or the application can be amended or conditions set in agreement with all parties a street trading consent can be issued. In addition to the application requirements above the following will be required prior to a consent being issued:

- street trading consent fee
- electrical/gas safety certificates as required. Certificates must be less than 28 days old at time of submission
- a valid insurance certificate for £5,000,000 public liability and public indemnity cover
- food hygiene certificates (for food businesses only)

DURATION OF STREET TRADING CONSENTS

5.10 Street trading consents are issued for 12 months from the date of approval unless granted for a reduced period. Consents may be revoked at any time.

RENEWALS

5.11 Applications for renewal must be submitted no later than 15 working days prior to the expiry date of the current consent. Renewal applications made after this date will not be valid and a new application will have to be made. No trading may take place until the new consent is issued.

5.12 All applications for the renewal of a street trading consent site shall include:

- a completed application form downloaded from the relevant council website
- street trading consent fee
- a valid insurance certificate for £5,000,000 public liability and public indemnity cover
- current photographs of the vehicle/stall showing external condition and signage
- electrical/gas safety certificates as required. Certificates must be less than 28 days old at time of submission
- food hygiene certificates (for food businesses only)

TRANSFERS

5.13 A street trading consent cannot be transferred or sold to another person except that the consent may be transferred to a documented business partner or member of the consent holder's immediate family in the event of the consent holder's death or incapacity.

5.14 All transfers will be subject to a fee.

5.15 The sub letting of a street trading consent location or pitch is prohibited.

DECISIONS

5.16 Where an application is referred to the street trading panel, it will determine each application on its own merits. Members of the street trading panel will consider all information attached to the application.

5.17 Following the determination of an application, the Head of Legal and Democratic Services will notify the applicant of the decision in writing within ten working days of the decision.

5.18 There is no statutory right of appeal against refusal to issue a street trading consent or against conditions that may be included in a street trading consent.

DETERMINATION OF APPLICATIONS

5.19 The Head of Legal and Democratic Services (or officers authorised by the Head of Legal and Democratic Services) may determine an application for a street trading consent under

delegated powers or may refer the application to the Street Trading Panel for consideration. Officers will evaluate applications against the criteria and consider all valid objections. Valid objections are those that relate to the criteria and aims of the street trading policy.

- 5.20 A street trading consent will be automatically granted if the application meets the criteria and there are no valid objections.
- 5.21 If the application does not meet the criteria, or there are valid objections the relevant council may contact the applicant and objectors to discuss changes that could be made to the proposed location, goods or trading hours and/or additional conditions that could be introduced.
- 5.22 If changing the application and/or introducing additional conditions can resolve the objections and/or criteria failures a street trading consent will be issued.
- 5.23 If making changes to the application or introducing additional conditions cannot resolve the objections and/or criteria failures a street trading consent will not be issued.

APPROVAL OF APPLICATIONS

- 5.24 The applicant will be advised by letter that their application for a consent has been granted. Applications may be approved subject to additional conditions. Additional conditions form part of the street trading consent and must be complied with at all times.

REFUSAL OF APPLICATIONS

- 5.25 Where the council refuses an application the applicant will be informed in writing of the reasons for not granting the application.
- 5.26 There is no right of appeal to the Magistrates Court.
- 5.27 A person aggrieved by a decision of the council may make an application to the high court for judicial review of the decision. For further information on potential grounds for judicial review applicants should seek advice from an independent solicitor as soon as they receive notice of the decision.

6 Markets

- 6.1 Markets and temporary markets held in the market towns of both districts are outside the scope of the street trading policy.

7 Peripatetic Street Trading

- 7.1 Street traders that meet the conditions below will be classed as peripatetic. Ice cream vans and mobile sandwich sellers would typically be deemed to be peripatetic street traders.
- 7.2 Traders must meet all of the below conditions to be classed as peripatetic.
- move from location to location
 - move at least 50 metres from the last trading location and do not return to that location within four hours

- do not wait in one location for more than 20 minutes
- do not trade within 100 metres of any entrance to any educational establishment (without formal invitation from the establishment)

7.3 Due to the nature of their trade over a wide geographical area and their limited impact upon a single location peripatetic street traders will automatically be granted a street trading consent subject to meeting all the above conditions and submitting a complete application.

7.4 All applications for the grant or renewal of a new peripatetic street trading consent site shall include:

- a completed application form downloaded from the relevant council website
- street trading consent fee
- a copy of a map showing the proposed area of trading
- current photographs of the vehicle/stall showing external condition and signage
- a valid insurance certificate for £5,000,000 public liability cover
- food hygiene certificates (for food businesses only)

8 Community and charity events

8.1 Traders at an event organised and run by a registered charity or recognised community association or other not for profit organisation for public benefit will be exempt from the requirement to obtain a street trading consent for that location, subject to the following restrictions:

- traders cannot remain at the location more than 72 hours or return to the location more frequently than once in any four week period
- traders must be invited to trade at the event by the organisers
- hot food traders operating after 23:00 must submit a Temporary Event Notice prior to the event, meeting the requirements of the Licensing Act 2003.

9 Fees

9.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the administrative cost of issuing the consent and the cost of enforcement officers to ensure compliance with the conditions in the consent.

9.2 Fees will be set for initial processing of applications, issue and compliance of consents and transferring or amending consents.

9.3 Where trading ceases during the term of a street trading consent, refunds will not be given for any outstanding period of less than three months. Details of the current fees can be found on the council's website or on application to the licensing team. Fees must be paid in full and in advance.

10 Conditions

10.1 The councils will apply standard conditions to all street trading consents.

- 10.2 The standard conditions applied to street trading consents are attached to this policy as Annexe 1. The standard conditions applied to peripatetic street trading consents are attached to this policy as Annexe 2. These lists are not exhaustive and other conditions may be added to individual consents as required to meet the policy criteria.
- 10.3 Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. The council must approve any changes to or replacement of the stall or vehicle.

11 Enforcement

- 11.1 The councils are committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues.
- 11.2 The licensing team aims to work closely with other enforcement authorities when dealing with issues related to street trading.
- 11.3 Where licensable activities are conducted without the benefit of a street trading consent or where conditions are breached, the council will gather evidence and take enforcement action as required.

12 Contacts

Licensing Team
South Oxfordshire District Council
Benson Lane,
Crowmarsh Gifford,
Wallingford, OX10 8ED

01491 823209
licensing@southoxon.gov.uk

Licensing Team
Vale of White Horse District Council
Benson Lane,
Crowmarsh Gifford,
Wallingford, OX10 8ED

01235 540534
licensing.unit@whitehorsedc.gov.uk

ANNEXE 1

Generic conditions for annual street trading consent

1. No trading to which the attached consent relates shall take place except between the dates of:
2. The operational hours shall be:
Between the hours of and on Mondays
Between the hours of and on Tuesdays
Between the hours of and on Wednesdays
Between the hours of and on Thursdays
Between the hours of and on Fridays
Between the hours of and on Saturdays
Between the hours of and on Sundays
3. The street trading consent relates to the following area/site only:
4. The street trading consent relates to the following vehicle/stall only:
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. The relevant council must approve any changes to or replacement of the stall or vehicle.
6. The consent holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent holders must pay particular attention to the requirements of the Health & Safety at Work Act 1974, the Food Safety Act 1990 and associated regulations, The Food Hygiene (England) Regulations 2006 and the Environmental Protection Act 1990. Advice on these requirements is available from the relevant council.
7. All businesses selling food must be registered with the environmental health team in the district where the business address is located.
8. The consent holder shall not be the cause of any nuisance or annoyance to any other user of the highway or the occupier of any adjacent land or building. Consent holders shall have special regard to and must take positive action to prevent excessive noise.
9. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade to a licensed waste carrier. The consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The consent holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times.
10. The consent holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The street trading consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
11. The consent holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and possess a current MOT certificate.
12. The consent holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the location/s for which the street trading consent is

issued. All goods must be displayed on the stall/vehicle and no freestanding racks or displays are permitted. If a consent holder or operator/assistant is requested to move the vehicle/stall by a licensing officer or Police officer they shall immediately comply with that request.

13. The consent holder's vehicle or stall shall not exceed 3.5 metres in height nor occupy an area greater than 8m x 3m.
14. The consent holder must take adequate precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment. Where the vehicle or stall has a 240 volt electrical system an annual electrical safety certificate is required. A serviceable fire blanket and suitable fire extinguisher/s shall be provided at all times.
15. All hot food vans/trailers are required to carry a basic first aid kit. The consent holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vans should have access to a minimum of one mobile phone that must be serviceable at all times.
16. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal institute of Public Health and Hygiene.
17. A street trading consent cannot be transferred or sold to another person except that the consent may be transferred to business partner or a member of the consent holder's immediate family in the event of the consent holder's death or incapacity on payment of a fee.
18. The sub letting of a street trading consent location is prohibited.
19. The consent holder must be the principal operator and have day-to-day control of the stall/vehicle. The consent holder may employ any other person to assist in operating the stall/vehicle.
20. The consent holder may terminate a street trading consent by written notice to the relevant licensing team. A refund of the portion of the fee equal to the remaining full months (not less than three months) may be payable.
21. The consent holder shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.
22. A copy of the consent shall be clearly displayed by the operator when trading and must be produced on demand to a licensing officer or Police Officer.
23. The consent holder shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. Proof of cover must be produced to a licensing officer as required.
24. These general conditions, which apply to all street trading consents, may be varied, having regard to a particular location. Additional conditions may be required and will be displayed and listed on the street trading consent.
25. Annual fees must be paid in advance.

Failure to comply with these conditions

If the consent holder fails to comply with any of the conditions attached to a street trading consent, the consent may be revoked. The consent holder may also be prosecuted for trading outside of the location or times specified in the street trading consent.

ANNEXE 2

Generic conditions for annual peripatetic street trading consent

1. No trading to which the attached consent relates shall take place except between the dates of:
2. The operational hours shall be:
 - Between the hours of and on Mondays
 - Between the hours of and on Tuesdays
 - Between the hours of and on Wednesdays
 - Between the hours of and on Thursdays
 - Between the hours of and on Fridays
 - Between the hours of and on Saturdays
 - Between the hours of and on Sundays
3. The street trading consent relates to the following area:
4. The street trading consent relates to the following vehicle:
5. The vehicle must move from location to location within the above area.
6. The vehicle must move at least 50 metres from the last trading location and must not return to that location within four hours.
7. The vehicle must not wait in one location for more than twenty minutes.
8. The vehicle must not trade or park within 100 metres of any entrance to any educational establishment (without formal invitation from the establishment).
9. Street trading can only be carried out from the vehicle identified under the conditions of the consent. The relevant council must approve any changes to or replacement of the vehicle.
10. The consent holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent holders must pay particular attention to the requirements of the Health & Safety at Work Act 1974, the Food Safety Act 1990 and associated regulations, The Food Hygiene (England) Regulations 2006 and the Environmental Protection Act 1990. Advice on these requirements is available from the relevant council.
11. All businesses selling food must be registered with the environmental health team in the district where the business address is located.
12. The consent holder shall not be the cause of any nuisance or annoyance to any other user of the highway or the occupier of any adjacent land or building. Consent holders shall have special regard to and must take positive action to prevent excessive noise.
13. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade to a licensed waste carrier. The consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property.
14. The consent holder's vehicle shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The street trading consent bearing the name of the consent holder shall be displayed conspicuously on the vehicle so that members of the public can clearly see it during hours of business.

15. The consent holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and possess a current MOT certificate.
16. If a consent holder or operator/assistant is requested to move the vehicle by a licensing officer or Police officer they shall immediately comply with that request.
17. The consent holder's vehicle shall not exceed 3.5 metres in height nor occupy an area greater than 8m x 3m.
18. The consent holder must take adequate precautions to prevent the risk of fire at the vehicle. All hot food vehicles are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment. Where the vehicle has a 240 volt electrical system an annual electrical safety certificate is required. A serviceable fire blanket and suitable fire extinguisher/s shall be provided at all times.
19. All hot food vehicles are required to carry a basic first aid kit. The consent holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vehicles should have access to a minimum of one mobile phone that must be serviceable at all times.
20. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal institute of Public Health and Hygiene.
21. A street trading consent cannot be transferred or sold to another person except that the consent may be transferred to business partner or a member of the consent holder's immediate family in the event of the consent holder's death or incapacity on payment of a fee.
22. The consent holder must be the principal operator and have day-to-day control of the vehicle. The consent holder may employ any other person to assist in operating the business.
23. The consent holder may terminate a street trading consent by written notice to the relevant licensing team. A refund of the portion of the fee equal to the remaining full months (not less than three months) may be payable.
24. The consent holder shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.
25. A copy of the consent shall be clearly displayed by the operator when trading and must be produced on demand to a licensing officer or Police Officer.
26. The consent holder shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle and any additional equipment under their control. Proof of cover must be produced to a licensing officer as required.
27. These general conditions, which apply to all street trading consents, may be varied. Additional conditions may be required and will be displayed and listed on the street trading consent.
28. Annual fees must be paid in advance.

Failure to comply with these conditions

If the consent holder fails to comply with any of the conditions attached to a street trading consent, the consent may be revoked. The consent holder may also be prosecuted for trading outside of the location or times specified in the street trading consent.

APPENDIX 3

Street Trading Consultation Responses 27/1/2014 - 19/4/2014

Source	Comment
Existing Vale Street Trader	The proposed street trading policy looks to be really positive for the area. We hope to see it be approved in its current format, and if so would certainly be applying for street trading consent within the south & vale area.
Shrivenham Resident	Please can we ensure that Shrivenham High Street and it's environs. Will be designated a street-trading free area as soon as possible. This is essential if we are to preserve our village life and peace, especially with the huge increase in planned housing. When the kebab van was here, life was intolerable, with the noise, litter, and increased vehicular use and pollution. The noise was the worst thing. And it looked so ugly.
Existing Vale Street Trader	I think that it's a good move to review the street trading policy. I have noticed that the consultation process is pretty much all uniform with other councils. I do feel that there should be a better understanding of what kind of street food is sold. I am a high end operator that actually only sells food between the hours of 4pm & 9:30pm as the demographics show me that our clientele only will buy from me in those times. I think there must be a clear distinction between late night food sellers and quality food street traders. Environmental factors need to be considered as the lower end of street food vendors are using cheap packaging which is cheap to buy at the front end but very expensive at the end user as most of the packaging they use is not recyclable or damages the environment. The standard of the vehicles should be greatly improved in ways to make more like a commercial kitchen with running hot water and cold water. I have seen street traders doing the bare minimum to get by the environment health officers. If we are going to take this industry seriously there must be robust systems to tackle standards. Compartment of license premises to make sure they understand that as street traders, we are allowed to trade in places that have been granted a street traders licenses. As I have witnessed too many times my staff being harassed by small take away shops shouting the odds that they pay this and that, they must stay within the law and use the correct channels to communicate their frustrations.
Shrivenham Parish Council	On behalf of Cllr Elaine Ware and myself, representing the Shrivenham Ward, we would like to make the following representations on behalf of residents for the Consultation on Street trading policy. We have had a number of people approach us on this subject expressing concerns, and so wish to represent their views. We note in the Policy that all streets within the councils areas are designated as consent streets. Thus allowing trading should consent be granted. Whilst no prohibited streets are called out in the draft Policy, we feel that this is an opportunity missed, as some areas of the Vale could benefit from such a Policy. In particular the Parish Council of Shrivenham have

	<p>previously requested a review and requested that the High Street in Shrivenham be granted this status. This request followed an incident where a Kebab van was allowed to trade for a short period in the High Street Shrivenham, which in our view was wholly inappropriate for a village High street, which is a mix of residential and small village shops. The Policy itself is reasonable as long as it is then appropriately applied and enforced, and in particular the consultation process is visible and local residents are able to comment appropriately and that their views will be fairly represented. Thanks for the opportunity to comment and hope that our views will be noted. Cllr Simon Howell and Cllr Elaine Ware.</p>
Abingdon Resident	<p>The documents allow for waste disposal but are not clear as to what constitutes a licensed waste carrier. Street Trading Food Vans invariably create rubbish which can find its way into municipal waste bins and are thus cleared at the tax payers' expense. Street Traders should provide their own waste bins and take the waste which is generated by the public from food wrappings and waste food. I give as an example, the waste bin outside the Coffee Shop in the market place in Abingdon - this gets really full of waste cups/wrappings/napkins from the Coffee Shop at busy times as people use the benches in the square, and these bins are presumably emptied at the Vale's expense.</p>
Street Trader Wallingford	<p>I have now read the new street trading policy and would like to make a comment about the licence fee. As business has been quite bad for some time now it is often a struggle to cover this cost and I would ask that you take this into consideration when setting the new charges.</p>
Environmental Health (Food and Safety Team)	<p>Section 5.6 (h) currently states</p> <p>"All businesses must be registered with the food safety team in the district within which the consent holder lives."</p> <p>We would like this amended to</p> <p>"All businesses must be registered with the food safety team in the district within which the stall or vehicle is kept overnight. If this is not within Vale of White Horse or South Oxfordshire the business should notify the Food & Safety Team of the location from which they intend to trade. Any changes must be notified to the Food & Safety Team 28 days prior to the change."</p>
Henley Town Council	<p>Members considered an invitation from South Oxfordshire District Council to take part in a Street Trading Consultation (consultation closes 19 April 2014), and after acknowledging that Henley would be regularly consulted RESOLVED to RECOMMEND that this council supports the new street trading Consent application</p>
Oxfordshire County Council Highways	<p>Thank you for consulting us on this policy. We have no adverse comments to make.</p>