

## **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.