



**Local Government (Miscellaneous Provisions) Act 1982
Section 3 and Schedule 4**

SOLIHULL METROPOLITAN BOROUGH COUNCIL

STATEMENT OF POLICY

**STREET TRADING CONSENT SCHEME –
SOLIHULL METROPOLITAN BOROUGH COUNCIL**

Revised 1st April 2011

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INTRODUCTION

1. The Licensing Sub Committee wish to make known its guidelines in dealing with applications for the consent of the Council to sell, expose for sale, or offer for sale of any article (including a living thing) in any street, road, footway or other area to which the public have access without payment in Solihull Metropolitan Borough, designated for street trading purposes under the provisions of the Local Government (Miscellaneous Provisions) Act 1982. These guidelines do not limit the power nor fetter the discretion of the Licensing Sub Committee but they assist in achieving consistency in determining applications. Each application will, of course, be dealt with on its own merits.

Considerations affecting Street Trading Consents

2. In considering applications for the grant or renewal of a Street Trading Consent the following factors will be considered:

- (a) **Public Safety**

Whether the location of the trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is getting on or off the site.

- (b) **Public Order**

Whether the street trading activity represents, or is likely to represent, a substantial risk to public order.

- (c) **The Avoidance of Public Nuisance**

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.

(d) **Needs of the Area**

The Licensing Sub Committee will always consider the sufficiency of other trading outlets to serve the needs of the area. A new Consent will not be granted where the Licensing Sub Committee consider that adequate outlets already exist.

(e) **Peripatetic Street Trading**

(i) Peripatetic Street Traders will not normally be allowed to trade in Solihull town centre, i.e.:-

Church Hill Road

Drury Lane

Gardener's Walk

George Road

Herbert Road

High Street

Homer Road

Lode Lane (between Warwick Road and Station Road)

Manor Walk

Mell Square

Mill Lane

New Road

Park Road

Poplar Road

Prince's Way

Station Road

The Square

Union Road

Warwick Road cul-de-sac

Warwick Road (between Lode Lane and New Road)

All roadways adjacent to the Solihull Arts Complex, the Council House, Solihull and all forecourts, footways or other areas adjacent to the streets referred to above for a distance not exceeding fifty metres.

- (ii) Peripatetic Street Traders will not normally be allowed to trade on main thoroughfares including the following:-
- Blossomfield Road
 - Chester Road
 - Collector Road
 - Coventry Road
 - Damson Parkway
 - Hampton Lane
 - Kenilworth Road (A452)
 - Lode Lane
 - Monkspath Hall Road
 - Solihull By-pass
 - Stratford Road
 - Streetsbrook Road
 - Warwick Road
 - Widney Manor Road

Time Limits for Applications

3. An applicant for the grant or renewal of a Street Trading Consent should not give less than 60 days notice of the application to:-

The Public Protection Manager
Solihull Metropolitan Borough Council
Licensing Section
Central Depot
Moat Lane
Solihull
West Midlands
B91 2LW

Fees

4. If a consent is granted, the applicant will be invoiced for the requisite annual fee as approved by Solihull MBC.

Plan of Location

5. When considering applications the Licensing Sub Committee will have regard to the following:-
 - (a) The geographical location of the proposed site.
 - (b) The demand for the provision of the articles for sale or intended for sale.
6. An applicant for the new grant of a Street Trading Consent site shall provide a map showing all streets and other public areas within a radius of half a mile from the proposed location of the Street Trading site.
7. The map should be a proper ordnance survey map, or of equivalent or similar standard, to a minimum scale of 1:2500, and shall clearly indicate the location of the proposed Street Trading Site.

Suitability of the Applicant

8. The Licensing Sub Committee may grant an application for a Street Trading Consent if they think fit provided the applicant is not under 17 years of age.
9. The Members will pay attention to the applicant's understanding of the duties and responsibilities of holding a Street Trading Consent.
10. Applicants whose street trading activity includes the provision of food in any form, must be in possession of a current CIEH Level 2 Award in Food Safety Certificate, or suitable equivalent.

Consultations

11. Before a Street Trading Consent is granted the Licensing Sub Committee must be satisfied that an adequate consultation process

has been completed. In particular consultation must have taken place with the following:-

Highways Authority, Solihull Metropolitan Borough Council
The Chief Officer of Police, Police Station, Homer Road, Solihull
West Midlands Fire Service, Fire Safety Centre
Corporate Land & Property, Solihull Metropolitan Borough Council
The Mell Square Traders' Association – Town Centre applications only
The Town Centre Management Group - Town Centre applications only
The Shirley Chamber of Trade – Shirley applications only
Other relevant Traders' Associations

12. Notices giving details of any application for a new Consent must be delivered by the applicant to the occupiers of all premises situated within a radius of 100 metres, or other distance as deemed appropriate by the Licensing Office, of the proposed location of a Street Trading Site. An official site notice giving details of the application will also be posted at the proposed site by Solihull MBC for a period of 21 days following receipt of the application.
13. If appropriate the Licensing Sub Committee must be satisfied that the Fire Service has been consulted in respect of any relevant hazard. Under the Regulatory Reform (Fire Safety) Order 2005 a fire risk assessment must be carried out by the applicant prior to the commencement of trading.
14. The Licensing Sub Committee shall consider any representation which has been made to the Council, in writing, in respect of any application for a Street Trading Consent.

Conditions that apply to the grant of a Street Trading Consent

15. The Licensing Sub Committee will have to be satisfied that the applicant has a good knowledge of the conditions under which a

Street Trading Consent is granted and that the applicant intends to comply with the any condition imposed.

16. These conditions will include the following:-

Definitions

Street Trading	means the selling or exposing or offering for sale of any article (including a living thing) in any street, road, footway or other area to which the public have access without payment
The Council	means the Solihull Metropolitan Borough Council
Public Protection Manager	means the Public Protection Manager, Solihull Metropolitan Borough Council
Authorised Officer	means a Licensing or other Officer employed by Solihull Metropolitan Borough Council and authorised by the Public Protection Manager in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

17. The Street Trading Consent is valid for not more than a period of one year.
18. The Consent may be revoked by the Council at any time or surrendered by the Consent Holder at any time, providing that the Council shall repay to the applicant that part of the Consent fee considered by the Council appropriate for the unexpired period of the Consent, less an amount considered appropriate for administration purposes, being not less than 25% of the annual fee.

19. A copy of the Consent must be prominently displayed at the Street Trading Site to which it relates so that it can be seen and read by persons intending to purchase any article.
20. The Consent Holder shall not trade in such a way that is likely to cause undue obstruction of any part of any street or public place.
21. The Consent Holder shall not trade in such a way that is likely to cause any injury to any person using the street or public place.
22. The Consent Holder shall not trade in such a way that is likely to cause damage to any property in the street or public place.
23. The Consent Holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity. Noise from equipment used will not be persistently audible in nearby residences.
24. The Consent Holder shall not sell any type of food, goods, or merchandise other than that specified in the Consent.
25. All waste must be stored and disposed of on accordance with Section 34 of the Environment Protection Act 1990. It must only be disposed of at a site licensed to accept commercial waste, or transferred to a registered waste carrier. At the close of each trading day, and at regular intervals throughout the day, the consent holder shall ensure that any litter related to the business is collected from the vicinity and disposed of appropriately. A litter bin must be provided and placed on the footway adjacent to the business only during the hours of business and the contents disposed as described.
26. The Consent Holder shall make such provision as is necessary to prevent the deposit in any street of solid or liquid refuse and shall

not discharge any water to the street surface or to the surface water drains. Liquid oils and fats must not be disposed of through highway gullies. They should be allowed to cool, solidify and disposed of in accordance with 25 above.

27. The Consent Holder shall not use any television, tape recorder or other device for the reproduction or amplification of sound whilst trading which is audible beyond 5 metres of the site.
28. The Consent Holder shall not trade outside the time and days permitted by the Consent.
29. The Consent Holder shall not trade within the Consent area other than at the location permitted by the Consent.
30. Any vehicle, stall or container used by the Consent Holder in the course of trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council as to its construction, safety, appearance, hygiene standards and display of advertisements. A high standard of presentation and appearance will be expected.
31. The use and storage of liquefied petroleum gas shall comply with the requirements of the Council and of the Fire Service.
32. The Consent is personal to the Consent Holder and shall not be assigned or transferred to any other person or company.
33. The Consent Holder must vacate and move any van, barrow, stall etc from the Street Trading Site immediately upon the instruction of a Police or Fire Officer.
34. The Consent Holder shall produce his Consent if required to do so by a Police Officer or an authorised officer of the Council at the time or within a period of 48 hours from the request being made by any such officer either at Solihull Police Station, Homer Road;

North Solihull Police Station, Ceolmund Crescent; Shirley Police Station, Stratford Road; or at the Licensing Office, Council House, Solihull.

35. The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy to the value of £5 million and shall produce a valid certificate of such insurance at any time.
36. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his employees or agents from any legal duty or liability and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from the Consent.
37. The conditions attached to the Consent may be varied by the Council at any time.
38. The Consent Holder, or authorised assistant, shall be expected to be in regular attendance at the site.
39. The Consent Holder, and/or authorised assistant, shall wear the identity badge provided at all times whilst on duty at the street trading site.
40. The Consent fees will be fixed from time to time by the Council and shall be paid to the Public Protection Manager or other duly appointed officer on demand. A receipt will be issued in respect of all fees paid.
41. The Consent Holder shall at all times conduct his business in a clean, honest, civil and businesslike manner without interfering with the business of other Traders and Consent Holders and always in compliance with any reasonable instructions given from time to time by the Public Protection Manager or duly authorised officer.

42. The Consent Holder must confine and sell goods and merchandise within the area of the trading site as approved and will not be allowed to sell or permitted to erect additional tables, awnings or any other structure.
43. Any Consent Holder who wishes to employ an assistant who will be left in sole charge of the Street Trading Site during the course of a days trading shall be required to:-
- (a) obtain written permission from the Public Protection Manager
 - (b) provide name, age and address of such assistant
 - (c) pay the requisite fee for the issue of an identity badge
 - (d) ensure that the assistant is in possession of a current CIEH Level 2 Award in Food Safety Certificate, or suitable equivalent, if the street trading activity includes the provision of food in any form.
44. The Council retains the right to revoke the Street Trading Consent without notice and without being liable to the Consent Holder or any other person for any loss sustained directly or indirectly, if it is considered to be in the best interest of the Council and, if in the opinion of the Public Protection Manager, that such action is necessary.
45. Where Street Trading includes the provision of food any van, barrow, other vehicle or stall used shall be designed, constructed and kept clean and maintained in good repair and condition so as to avoid the risk of contaminating food stuffs and harbouring pests. A written Food Safety Management System is required and must be made available for inspection to an authorised officer on request. The Consent Holder shall maintain a high degree of personal cleanliness and shall wear suitable, clean and where appropriate, protective clothing. In addition, the Consent Holder shall ensure that:-

- (a) appropriate facilities are available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities);
 - (b) surfaces in contact with food are in a sound condition, easy to clean and/or disinfect. This will require the use of smooth, washable, non-toxic materials, unless the Consent Holder can satisfy the authorised officer that other materials used are appropriate;
 - (c) adequate provision is made for the cleaning and, where necessary, disinfecting of work utensils and equipment;
 - (d) adequate provision is made for the cleaning of foodstuffs;
 - (e) an adequate supply of hot and/or cold wholesome water is available;
 - (f) adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) are available;
 - (g) adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions are available;
 - (h) foodstuffs are so placed as to avoid, as far as is reasonably practicable, the risk of contamination.
46. Any lighting provided at the Street Trading Site by the Consent Holder must be approved by the Public Protection Manager. If the trading site is located on, or adjacent to, the public highway, the lighting must also be approved by the Highway Authority.
47. Strobe lights will not be used without the specific permission in writing of the Public Protection Manager.
48. The Consent Holder shall ensure that suitable fire extinguishers are immediately available at the Street Trading Site if required by the Fire Service or the Public Protection Manager.

49. If fire extinguishers are required they must be maintained in a satisfactory condition and regularly checked by a competent person.
50. If a proposed Street Trading Site is located on private land, including forecourts, satisfactory evidence must be provided to the Council that the permission of the landowner or lessee has been obtained.
51. Street Trading Consent Holders must not park vehicles or place structures in the vicinity of a trading site so as to obstruct street parking facilities, vehicular access, and vehicular and pedestrian routes available for members of the public visiting the area.
52. Advertisements or other notices must not be placed outside the perimeter of the Street Trading Site, without the approval of the Public Protection Manager. If the trading site is located on, or adjacent to, the public highway, the advertisement or other notice must also be approved by the Highway Authority.
53. Street Trading from lay-bys is not permitted.

Other Matters

54. The size and location of a Street Trading Site shall be clearly shown and identified on the Street Trading Consent to which it refers.
55. An applicant for Street Trading consent will be required to complete an application form supplied by the Public Protection Manager. It must be signed and dated by the applicant.
56. Applicants must clearly identify the proposed Street Trading Site and the ground dimensions it will cover.

57. There are 5 agreed sites in Solihull town centre, which have been approved as Street Trading sites. A waiting list of interested applicants will be maintained and should a site become available, it will be offered to the first available applicant. All applicants on the list will be invited to renew their interest in a site on an annual basis. Officers will first determine the suitability of the applicant and the intended product before placing details on the list.
58. Full details of any van, barrow, other vehicle or portable stall which the applicant intends to use must be supplied to the Council at the time of making the application or other time that is agreed with the Public Protection Manager. Arrangements shall be made for the van, barrow, other vehicle or portable stall to be inspected by the duly authorised officer prior to the application being considered.
59. Suitcase salesmen and similar itinerant traders will not be issued with Consents.
60. An applicant for a Street Trading Consent shall be notified of the substance of any objection to the granting of a Consent and will be given an opportunity to respond to such objections.
61. There is in law no right of appeal in respect of the refusal, revocation or variation of a Street Trading Consent by the Council, other than by means of a judicial review of the administrative action in reaching the decision.
62. The Council shall normally review fees annually. They shall endeavour to ensure that fees charged would provide adequate funds to administer the Scheme and enforce the conditions under which Street Trading Consents have been granted by the Council.
63. The Council shall consider any representations made in writing regarding the level of fees.

64. Street Trading will not normally be authorised in Solihull town centre before 8am or after 6pm, Monday to Saturday or at any time on a Sunday. Permanent Street Trading will not be permitted within Mell Square
65. Street Trading Consents will not authorise trading in Solihull town centre during those occasions when the town centre is used for the purpose of a “Themed Market”, with the permission of Birmingham City Council, or under the provisions of the St. Alphege Market Charter unless the consent holder has obtained the specific written authority of the Public Protection Manager.
66. Mobile street traders are not exempt from Street Trading regulations and will, therefore, require a consent. A mandatory fee will apply for a 12-month consent, and there will be no proportional fee for shorter periods of trading.
67. Any consent granted to a mobile trader will not permit trading in any of the Borough’s Parks, Solihull Town Centre or any other fixed site.
68. One trading consent per Park, at a fixed fee, will be issued. However, additional applications within the same Park, will be considered by a Committee of this Authority.
69. Any person who engages in Street Trading in a designated area unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable on conviction to a fine not exceeding £1,000.