



# EAST CAMBRIDGESHIRE DISTRICT COUNCIL

THE GRANGE, NUTHOLT LANE,  
ELY, CAMBRIDGESHIRE CB7 4EE  
Telephone: 01353 665555

MEETING: **LICENSING COMMITTEE**

TIME: 09:30am

DATE: Wednesday 9<sup>TH</sup> March 2022

VENUE: Council Chamber, Council Offices, The Grange, Nutholt Lane, Ely

ENQUIRIES REGARDING THIS AGENDA: Adrian Scaites-Stokes

DIRECT DIAL: (01353) 665555 EMAIL: [adrian.scaites-stokes@eastcambbs.gov.uk](mailto:adrian.scaites-stokes@eastcambbs.gov.uk)

## Membership:

### Conservative Members

Cllr Julia Huffer (Chairman)  
Cllr Jo Webber (Vice  
Chairman)  
Cllr Christine Ambrose Smith  
Cllr David Ambrose Smith  
Cllr Lavinia Edwards  
Cllr Alan Sharp

### Substitutes:

Cllr Ian Bovingdon  
Cllr Bill Hunt  
Cllr Lisa Stubbs

### Lead Officer:

Liz Knox, Environmental Services Manager

**Quorum:** 5 Members

### Liberal Democrat Members

Cllr Simon Harries  
Cllr Mark Inskip  
Cllr Alec Jones (Lead  
Member)  
Gareth Wilson

### Substitutes:

Cllr Charlotte Cane  
Cllr Matthew Downey  
Cllr John Trapp

### Independent Group

Cllr Sue Austen (Lead  
Member)

### Substitute:

Cllr Paola Trimarco

## A G E N D A

### 1. **Apologies and Substitutions**

### 2. **Declarations of Interest**

To receive declarations of interest from Members for any items on the Agenda in accordance with the Members Code of Conduct

### 3. Minutes

To receive and confirm as a correct record the Minutes of the Licensing Committee Meeting held on 10<sup>th</sup> November 2021

### 4. Chairman's Announcements

### 5. Local Government (Miscellaneous Provisions) Act 1982 – Review of Street Trading Policy

### 6. Senior Licensing Officer's Update [verbal report]

### 7. Forward Agenda Plan

#### NOTES:

1. Members of the public are welcome to attend this meeting.
2. Members of the public can gain entry by reporting to Reception during Office Hours or can enter via the door in the glass atrium at the back of the building for evening meetings.
3. The Council has adopted a 'Purge on Plastics' strategy and is working towards the removal of all consumer single-use plastics in our workplace. Therefore, we do not provide disposable cups in our building or at our meetings and would ask members of the public to bring their own drink to the meeting if required.
4. Fire instructions for meetings:
  - If the fire alarm sounds please make your way out of the building by the nearest available exit i.e. the back staircase or the fire escape in the Chamber. Do not attempt to use the lifts.
  - The fire assembly point is in the front staff car park by the exit barrier.
  - The building has an auto-call system to the fire services so there is no need for anyone to call the fire services.The Committee Officer will sweep the area to ensure that everyone is out.
5. Reports are attached for each agenda item unless marked "oral".
6. If required, all items on the agenda can be provided in different formats (e.g. large type, Braille or audio tape, or translated into other languages), on request, by calling Main Reception on (01353) 665555 or e-mail: [translate@eastcambbs.gov.uk](mailto:translate@eastcambbs.gov.uk)
7. If the Committee wishes to exclude the public and press from the meeting, a resolution in the following terms will need to be passed:

"That the press and public be excluded during the consideration of the remaining item no(s). X because it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item(s) there would be disclosure to them of exempt information of Category X of Part I Schedule 12A to the Local Government Act 1972 (as amended)."

**LICENSING COMMITTEE**

**LEAD OFFICER: Liz Knox, Environmental Services Manager**

**ANNUAL AGENDA PLAN**

**DEMOCRATIC SERVICES OFFICER: Adrian Scaites-Stokes**

<b>Meeting on:</b> 22 <sup>nd</sup> June 2022 9:30am		<b>Meeting on:</b> 27 <sup>th</sup> July 2022 9:30am		<b>Meeting on:</b> 21 <sup>st</sup> September 2022 9:30am	
<b>Deadline for reports/dispatch:</b> 9 <sup>th</sup> June 2022		<b>Deadline for reports/dispatch:</b> 14 <sup>th</sup> July 2022		<b>Deadline for reports/dispatch:</b> 8 <sup>th</sup> September 2022	
• Chairman's Announcements		• Chairman's Announcements		• Chairman's Announcements	
• Forward Agenda Plan		• Forward Agenda Plan		• Forward Agenda Plan	
• Licensing Officers Update	S Broome Senior Licensing Officer	• Licensing Officers Update	S Broome Senior Licensing Officer	• Licensing Officers Update	S Broome Senior Licensing Officer
<b>Meeting on:</b> 12 <sup>th</sup> October 2022 9:30am		<b>Meeting on:</b> 9 <sup>th</sup> November 2022 9:30am		<b>Meeting on:</b> 14 <sup>th</sup> December 2022 9:30am	
<b>Deadline for reports/dispatch:</b> 29 <sup>th</sup> September 2022		<b>Deadline for reports/dispatch:</b> 27 <sup>th</sup> October 2022		<b>Deadline for reports/dispatch:</b> 5 <sup>th</sup> December 2022	
• Chairman's Announcements		• Chairman's Announcements		• Chairman's Announcements	
• Forward Agenda Plan		• Forward Agenda Plan		• Forward Agenda Plan	
• Licensing Officers Update	S Broome Senior Licensing Officer	• Licensing Officers Update	S Broome Senior Licensing Officer	• Licensing Officers Update	S Broome Senior Licensing Officer

**LICENSING COMMITTEE**

**ANNUAL AGENDA PLAN**

**LEAD OFFICER: Liz Knox, Environmental Services Manager**

**DEMOCRATIC SERVICES OFFICER: Adrian Scaites-Stokes**

Rebecca Chong  
Off the Beaten Truck  
foodPark  
November 2021

# East Cambridgeshire Host Sites

## Feedback and comments

Food vans bring huge value to communities in East Cambridgeshire and the wider area. Food traders and current host sites work cohesively with host sites benefiting from additional footfall, mobile caterers working to earn a living from a wider customer base, and customers experiencing high quality and carefully monitored street food.

Mobile catering contributes to the economic, cultural and social life in multiple communities. We are aware of at least 28 food vans and pop-ups, employing multiple members of staff, who are active food traders working out of at least ten host sites in East Cambridgeshire. Furthermore, food vans visiting rural locations contributes to the green initiative by reducing traffic as people do not have to travel so far for food options.

Sites such as pubs cannot afford to pay chefs and therefore cannot open their kitchens throughout the week. Food vans drive footfall to these locations which increases trade. Charities, religious organisations and community-run sites cannot afford to pay any additional fees as charitable enterprises.

The overwhelming feed back from the host sites is that they simply cannot afford to pay any additional fees on top of their current rents and rates. Furthermore, there is the collective view that as they host vans on their private property, the Council does not have jurisdiction on their land.

The threat of making it mandatory for host sites to pay a fee will result in zero host sites and therefore no vans operating in East Cambridgeshire. All parties will lose out including the host sites, food trades, customers and the council who will not be able to collect any fees from

food traders. We suggest working together with foodPark, and NCASS to help identify alternative cost recovery schemes and takeaway the cost to host sites.

In conclusion, although we are happy that East Cambridgeshire District Council has chosen to adopt a new Street Trading Policy in line with modern street food practices, we feel that the introduction of host site fees will be damaging to multiple hospitality businesses and charitable enterprises in the area and we would welcome further discussions to find a solution that suits all parties involved.

Listed below is information, feedback and comments from host sites that we are aware of who currently invite food vans in East Cambridgeshire.

#### **Host Site 1: Pub**

- “We have a successful partnership between our pub and food traders”
- This village pub invites vans to trade at their site on a regular basis because it drives footfall to the pub and partly because they cannot afford to open their kitchen or pay chefs
- If they cannot continue to host vans, it may not be viable for them to stay open on some evening which is detrimental to business
- They believe this is their private property and as they pay council tax, rents and rates, they have the right to use their land how they see fit
- May consider paying a lower rate in line with street traders or stop having vans altogether

#### **Host Site 2: Charity**

- Hosts one van per month
- Benefits the community and residents of the village
- Does not believe the Charity Commission would allow any payment to be made as fee to be a host site owed to the Council would not be considered a charitable donation
- This site has looked at the legislation and they do not accept visits count as street trading
- The food vans operate on private property and there is no public access without consent
- “Visits by the food vans are greatly valued and it would be a great pity if they had to cease because of an unjustified and uneconomic cost being imposed”
- Wishes to challenge the council directly

- Will not pay

### **Host Site 3: PUB**

- Values having food vans on site so much that they do not charge for them to be on site because they are grateful for the footfall
- Will not pay

### **Host Site 4: CHARITY**

- “We host vans once per week , very successfully”
- This charity is totally self funded so any fees paid to the site by the traders goes straight back to the charity
- “Food vans are a high priority for us and have been described as a ‘god send’ and ‘a stroke of genius’ by people who visit them here”
- “If we were forced to pay an imposed as well as the electricity bill for the vans to use our power, we would not be able to afford to have any vans so this is totally unviable”
- Will not pay

### **Host Site 5: Industrial Estate**

- It is not worthwhile
- Will not pay”

### **Host Site 6: PUB**

- "The food vans that visit bring trade to my pub which may not be able to stay open. If this goes ahead then is going to really make my business suffer as a lot of my trade now comes in because of the food vans...I wont be able to afford the fee so if the food vans don't come, I don't have the customers therefore the village wont have a pub.”
- Will not pay

### **Host Site 7: PUB**

- Vans visit one or two times per month
- “I do not have food vans for the pub so much as for the community...this is going to severely impact my business which is already struggling...I find this threatening by the Council”

- Will not pay

**Host site 8: Community Centre**

- “This is a Community centre run by the community. We have a free vans here every so often...We have already had to make redundancies here... we don't even charge the vans because they bring such a huge benefit to the area.”
- Will not pay

**Host Site 9: Parish Council**

- This will need to be discussed further at the at Parish Council meeting but it's unlikely they will move forward with this



# **EAST CAMBRIDGESHIRE DISTRICT COUNCIL**

**LOCAL GOVERNMENT (MISCELLANEOUS  
PROVISIONS) ACT 1982**

# **STREET TRADING POLICY**

Effective: ~~11 November 2021~~TBC

## CONTENTS

Paragraph	Item	Page
1.0	Introduction	3
2.0	Legislation and current provision	4
3.0	The licensing process and delegation of functions	5
4.0	Applications for a street trading consent	6
5.0	Consent conditions	11
6.0	Fees	11
7.0	Markets and special events	12
8.0	Pop-up street food trading on private land	13
9.0	Enforcement	13
10.0	Further information	13
Annex 1	Designated streets	14
Annex 2	Current fees table	14
Annex 3	Standard conditions applicable to street trading consents	16

## 1.0 Introduction

- 1.1 The aim of this policy is to set out East Cambridgeshire District Council's framework for the management of street trading with the aims to prevent obstruction of the streets, ensure the safety of persons using them and prevent nuisance to neighbouring residents and businesses. In doing so, it recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people of the area.
- 1.2 Whilst these factors will be under consideration it should be stressed that the following fundamental principles will also be observed: -
- a) the right of any individual or body to apply for a permission is not undermined and that each application will be determined on its merits;
  - b) the statutory right of any person to make appropriate representations;
  - c) that the statutory function of licensing is primarily concerned with the regulation of activities within the legislation and that any terms and conditions will focus on:
    - i) matters within the control of individual consent holders who are granted any relevant permissions;
    - ii) the premises and places being used for licensable activities;
    - iii) the direct impact of the activities taking place at the relevant
    - iv) premises on the public living, working or engaged in normal activity in the area concerned;
- 1.3 This document will guide the Licensing Authority when it considers applications for Street Trading Consents. It will inform applicants of the parameters in which the authority will make decisions and how their needs will be addressed.
- 1.4 It also highlights the Council's undertaking to avoid duplication with other statutory provisions and the commitment to work in partnership with other enforcement agencies.

### Consultation

- 1.5 In determining this policy, the Council has consulted the following people and bodies:
- Cambridgeshire Police;
  - Cambridgeshire Fire and Rescue;
  - Cambridge County Council highways department;
  - Existing licence holders;
  - Representatives of businesses and residents in the East Cambridgeshire district;
  - City, town and parish councils;
  - District Councillors
  - Nationwide Caterers Association
  - Ely Chamber of Commerce
- 1.6 The views of all the appropriate bodies and organisations have been taken into account in the drafting of this policy.

### Review of the Policy

- 1.7 This policy will be reviewed every five years at which time, further consultation will be undertaken. Additionally, the policy may be reviewed from time to time to take account of changes in legislation or government guidance.

Definitions of terms used in this policy

- 1.8 Within the terms of the East Cambridgeshire District Council's Street Trading Consent Scheme the following definitions apply:

1982 Act	The Local Government (Miscellaneous Provisions) Act 1982
The Council	East Cambridgeshire District Council
Street Trading	Selling or exposing or offering for sale of any article (including a living thing) in any street.
Street	i) Any road, footway, beach or other area to which the public have access without payment. ii) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	A street in which street trading is prohibited without the consent of East Cambridgeshire District Council.
Consent	Consent to trade on a street issued by East Cambridgeshire District Council
Consent Holder	The person or company to whom the consent to trade has been granted to by East Cambridgeshire District Council.
Associate	An "associate" is: (a) the spouse or civil partner of that person; (b) a child, parent, grandchild, grandparent, brother or sister of that person; (c) an agent or employee of that person; or (d) the spouse or civil partner of a person within (b) or (c). A person living with another as that person's husband or wife is to be treated as that person's spouse.
Licensed Street	A street in which street trading is prohibited without obtaining a street trading licence from East Cambridgeshire District Council.
Prohibited Street	A street in which street trading is prohibited at all times.
Static Street Trader	A trader granted permission by East Cambridgeshire District Council to trade from a specified position
Mobile Trader	A trader who moves from street to street but trades for less than 60 minutes at any one point and does not return to a similar trading position within 2 hours.
Host Premises	A privately-owned piece of land, forming part of another business, but not falling within the definition of a highway under section 7A of the Highways Act 1980.
Pop-up Trader	A food trader who trades only upon Host Premises in an ad-hoc manner with the Hosts permission.
Authorised Officer	An officer employed by East Cambridgeshire District Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

## 2.0 Legislation and current provision

- 2.1 Street trading is governed by the 1982 Act. The main purpose of this legislation is to establish an appropriate licensing regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading. This legislation provides local authorities with the power (but no duty) to designate specific areas within their administrative boundaries as either:

- Prohibited streets: those which are not open to street traders
- Consent streets: where street trading is prohibited without local authority consent
- Licence streets: where trading is prohibited without a local authority licence.

- 2.2 At a meeting of Council held on 17 January 1984, it was resolved that Schedule 4 of the 1982 Act should apply to the East Cambridgeshire District Council area. Subsequent resolutions have been passed designating streets within the district as Consent and

Prohibited streets in accordance with Schedule 4 of the 1982 Act. The Council does not have any streets designated as licensed streets.

- 2.3 Any person who wishes to trade on a Consent Street must obtain permission from the Council before they commence trading. Street Trading is not permitted on streets designated as Prohibited Streets at any time.
- 2.4 Annex 1 lists the streets in the district that are currently designated as Consent, and Prohibited streets. The Council may designate or re-designate streets from time to time, but must follow a strict process when doing so. This process includes a requirement to advertise the proposed change.
- 2.5 Street traders who serve hot or cold drink at any time between 11.00pm and 5:00am the following day, or sell alcohol will also require a Premises Licence under the Licensing Act 2003.
- 2.6 Local Authorities can place conditions on any Consent they issue. The Act also creates offences associated with trading in Consent streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine of up to £1000 per offence.
- 2.7 Traders may also be required to obtain planning permission or food registration if applicable to their application.
- 2.8 Street trading consent applicants must have a right to work in the UK. Applications will be refused where any of the applicants listed on the application form do not have this right.
- 2.9 The granting of consent to trade does not provide a right to occupy any land where consent to trade is obtained. The landowner retains the right to control the use of any land in their ownership.

#### Exempted activities

- 2.10 The Act makes certain activities exempt from the requirement to hold a Consent. These are:
- a) Pedlars acting 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 on a trunk road picnic area under Section 112 of the Highways Act 1980
  - d) News vendors selling only newspapers or periodicals
  - e) Petrol filling stations
  - f) Shops forecourts
  - g) Rounds men (as they have defined customers, defined routes, this is the traditional milk round delivering to order).
  - h) Objects or structures placed on, in or over a highway under Part VIIIA of the Highways Act 1980
  - i) Operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980
  - j) Street Collections (covered by the Police, Factories, Etc (Miscellaneous Provisions) Act 1916)

### **3.0 The licensing process and delegation of functions**

- 3.1 This part of the document sets out how applications for street trading permissions in the East Cambridgeshire District will be dealt with. The Council aims to provide a clear, consistent licensing service for service users whilst at the same time aiming to protect the safety of highway users and to prevent nuisance or annoyance.
- 3.2 Delegation is laid out in the Council's Constitution. In certain circumstances, e.g. when a representation has been made to a licence application, applications will be referred to the relevant Committee for determination.

- 3.3 Minor amendments to this policy may be made by the Environmental Services Manager following consultation with the Chair and/or Vice Chair of the Licensing Committee and the Legal Services Manager.

#### **4.0 Applications for a street trading consent**

##### **Advice for new applicants**

- 4.1 New applicants must be at least 17 years of age, and are advised to contact the Council, Cambridgeshire Constabulary and Cambridgeshire County Transport at their earliest opportunity, preferably before an application is made. This allows the Authorised Officers to provide advice, as well as clarifying any areas of uncertainty.
- 4.2 Street Traders wishing to trade from a static location in the East Cambridgeshire district area must obtain written permission from the landowner of where they are proposing to trade prior to submitting a street trading application.
- 4.3 The Council can also provide advice in relation to other legal requirements of a new licence holder, for example, planning permission, or food registration approval.
- 4.4 Applications will be considered from organisers of Markets, Car Boot Sales, Fetes, Carnivals and similar Community Events on the basis of one Block Consent for the market or event in question. The market or event organiser in receipt of a Block Consent will become responsible for all the individual trading activities, including the collection and payment of the relevant fees to the Council, where appropriate.
- 4.5 An applicant for the grant of a first time Consent should give a minimum of 90 days notice of application to allow time for a determination. It may be possible to obtain a Consent having given less than 90 days notice, but this cannot be guaranteed.

##### **New Applications**

- 4.6 Applications will only be considered if submitted on the Council's prescribed application form available from [www.eastcamb.gov.uk](http://www.eastcamb.gov.uk).
- 4.7 Each application must be accompanied by the published application fee. An application will not be considered as duly made until the prescribed application fee has been received. The application fee will be refunded if the Consent is refused.

##### **Supporting Documentation**

- 4.8 Depending upon the type of street trading application being submitted, certain supporting documentation will be required. For ease of purpose these are specifically listed in the checklist of the individual application forms, but the types of documentation which may be required are listed below:
- Where the proposed street trading is from a fixed position, a copy of a map clearly identifying the proposed site position by marking the site boundary with a red line.
  - Details of the proposed activity, including the nature of goods being sold, times and days of operations.
  - Confirmation that third party and public liability insurance for street trading with a minimum of £2,000,000 liability cover is, or will be in place during the street trading activity.
  - Written permission from the land owner of the proposed trading location (not applicable to mobile traders)
  - Proof of right to work in the UK
  - A Passport style photo of the applicant(s)

- A photo of the front, rear, left and right aspects of the van, cart, barrow, other vehicle or stall from which trading is intended to take place.
- Gas safety certificate issued by a Gas Safe registered gas engineer, if applicable.
- Written report of electrical safety issued by a NICEIC registered electrical contractor, if applicable.
- Evidence to confirm food handlers have undertaken a satisfactory level of food hygiene training, if applicable.
- Confirmation that the mobile unit is registered under the Food Premises (Registration) Regulations 1991, if applicable.
- It is a requirement on the application form to disclose previous unspent convictions. Where an offence is declared, the Council reserves the right to request a basic DBS criminal record certificate.

### **Processing of an Application**

- 4.9 On receipt of an application an acknowledgment will be sent to the applicant.
- 4.10 An officer may visit the applicant and inspect the vehicle, barrow, cart, van, portable stall or other vehicle or premises/site which the applicant intends to trade from.
- 4.11 Before a Street Trading Consent is granted the Council will carry out a consultation process with various persons and groups. The scale of the consultation will be dependent upon the nature of the application, but may include the following organisations or persons:
- Cambridgeshire Constabulary,
  - Cambridgeshire Fire and Rescue Service,
  - Cambridge County Council highways department,
  - Environmental Health
  - Planning
  - Ward, City, town and parish councils
  - Property owners within 100metres who directly overlook the proposed location (static pitches only)
  - Town centre manager
- 4.12 Twenty-eight days will be given to consultees to make comments / objections. If no comments are received, the application will be granted in the terms applied for with standard conditions attached to the Consent. If representations are received, then the relevant Committee will be required to determine the application.
- 4.13 A reduced consultation period will be applicable to event and daily permit requests.
- 4.14 More information on Member determinations can be found in the “Determination of application by relevant Committee” section on page 9.

### **Key Considerations**

- 4.15 The Council may have regard to the number, nature and type of traders already trading within a consent area when determining an application.
- 4.16 In considering applications for the grant or renewal of a Street Trading Consent the following factors will be considered:
- a) Public Safety  
Whether the street 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 accessing 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) Highway

The location and operating times will be such that the highway can be maintained in accordance with the Cambridgeshire County Council's requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access.

## e) Compliance with legal requirements

Trading should only be conducted from a trading unit that complies with relevant legislation. Observations from relevant officers will be considered on this point.

## 4.17 The Council will normally grant a Street Trading Consent unless, in its opinion:

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site;
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited;
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes;
- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes but note that competition issues will not be a consideration;
- There is a conflict with Traffic Orders such as waiting restrictions;
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes;
- The trading unit obstructs the safe passage of users of the footway or carriageway;
- The trading unit is not considered to be suitable in style or in keeping with the location requested.
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities;
- The site does not allow the Consent Holder, staff and customers to park in a safe manner;
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.
- In the case of a renewal application the previous year's fees have not been settled, and/or the consent holder has been the subject of substantiated complaints.

### **Departure from Policy**

- 4.18 In exercising its discretion in carrying out its regulatory functions, East Cambridgeshire District Council will have regard to this Policy document and the principles set out therein.
- 4.19 Notwithstanding the existence of this Policy, each application will be considered on its own merits based on the licensing principles detailed in this Policy.
- 4.20 Where it is necessary for the Council to depart substantially from this Policy, clear and compelling reasons for doing so will be given. Members of the determining Committee, or the Environmental Services Manager may authorise a departure from the policy in accordance with this section if he/she/they consider it necessary in the specific circumstances. In cases where the Environmental Services Manager departs from the policy he/she will advise Councillors of the action taken at the next available Licensing Committee.

### **Renewal applications**

- 4.21 Renewal applications will only be considered if submitted on the Council's prescribed application form available from [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk).
- 4.22 Renewal applications will only be accepted where the trading location, trading days, and the nature of the goods being sold is identical to that of the Consent that is due to expire.
- 4.23 A reduced list of supporting documents will be required to be submitted with a renewal application and the appropriate fee. These are indicated on the renewal application form.
- 4.24 Upon receiving a renewal application, the Council may consult further to determine if the street trader is a cause for concern or has been the subject of complaints.
- 4.25 Where a renewal application has been made and there have been no justifiable complaints, no enforcement issues, and all fees have been paid on time, the Consent will be renewed within 28 days of receipt.
- 4.26 Where there have been complaints or enforcement issues, or fees have not been paid on time, a renewal application may be referred to the relevant Committee for determination. For this reason, Consent holders are advised to submit their renewal application two months prior to the expiry date.

### **Transfer applications**

- 4.27 A transfer application will only be accepted where the van, cart, barrow, other vehicle or stall from which trading is intended to take place by the proposed consent holder is the same van, cart, barrow, other vehicle or stall from which trading is currently taking place. No aspects of the Consent can be amended other than the consent holder's details.
- 4.28 Applications will only be considered if submitted on the Council's prescribed application form available from [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk).
- 4.29 Each application must be accompanied by the published transfer application fee. An application will not be considered as duly made until the prescribed application fee has been received. The application fee will be refunded if the transfer is refused. A refund of in advance fees will be provided to the previous consent holder. The new consent holder will be liable for in advance fees which must be settled before the transfer can be granted.
- 4.30 No consultation will take place, but the following will also be required to be submitted with the transfer application:

- Confirmation that third party and public liability insurance for street trading with a minimum of £2,000,000 liability cover is, or will be in place during the street trading activity.
- A transfer consent form completed by the existing consent holder, or confirmation that the consent holder has passed away.
- Proof of right to work in the UK
- A Passport style photo of the applicant(s)
- Evidence to confirm food handlers have undertaken a satisfactory level of food hygiene training, if applicable.
- Confirmation that the mobile unit is registered under the Food Premises (Registration) Regulations 1991, if applicable.
- It is a requirement on the application form to disclose previous unspent convictions. Where an offence is declared, the Council reserves the right to request a basic DBS criminal record certificate.

### **Determination of application by the relevant Committee**

- 4.31 The Council's Licensing Committee and Licensing (Non-Statutory) Sub-Committee have been established to consider applications in relation to licensing matters. Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature. The role of the Committee with regards to Street Trading is to determine applications to which objections have been made.
- 4.32 On receipt of a written objection arrangements will be made to have the appeal or application heard at the next available meeting of the Licensing (Non-Statutory) Sub-Committee or main Licensing Committee.
- 4.33 Once arrangements have been made for the application to be heard by the Committee all parties will be advised in writing of the date, time and place where the application will be heard. The Council will endeavour to have applications heard as quickly as possible.
- 4.34 A report will be produced by the Licensing Officer. Members of the Committee and the applicant will be provided with a copy of the report which will include the letters of objection. Further copies of the report will be made available on the day of the Committee.
- 4.35 The person submitting an application will be expected to attend the hearing. The applicant can be represented by a solicitor, or supported by a friend or colleague. The Committee will follow a set procedure that will be notified to all attending parties in advance of the meeting.
- 4.36 In determining an application, the Committee will consider both the written word, and oral submissions relating to their application or representation, as well as the statement of fact from the Council's Licensing Officer.
- 4.37 Witnesses may be used, and supporting documentation may be submitted to the Committee for consideration providing this information is provided at least two working days prior to the hearing commencing. Witnesses and supporting documentation may only be used without prior notice with the agreement of all parties on the day of the hearing.
- 4.38 The Committee will consider all the evidence presented to it during the hearing and members may ask questions of officers and all other parties. After hearing the evidence presented to it, the Committee will retire and come to a decision on the application. A

decision will be made on the day, and will be communicated to all parties within 5 working days.

- 4.39 The Committee will always strive to ensure that when it is considering an application, all persons get a proper and fair hearing through:
1. Considering each case on its own merits.
  2. Using these guidelines to assess applications where it is felt appropriate.
  3. Ensuring that the rules of natural justice are applied in any hearings held.
  4. Giving all parties sufficient opportunity to present their case, ask questions of officers and members of the Panel and present information for consideration in support of their case.

### **Refusals**

- 4.40 Where an application is refused, reasons for refusal will be provided. The decision of the Officer or Committee is final. The 1982 Act does not allow any legal appeals against the decision of the Council in relation to the issue of Street Trading Consents. A person aggrieved against a decision of the Council may though seek a Judicial Review of the decision of the Licensing Panel, should it be felt necessary. The Council recommends taking legal advice prior to commencing any action following the refusal of a Consent application as legal costs may become payable.

### **Duration of consents**

- 4.41 Consents will be issued for a period of up to one year. Fees will be payable per quarter in advance.
- 4.42 Consents that have not been renewed by their expiry date will cease to exist and trading must cease until such time as a new Consent has been granted.
- 4.43 A Consent cannot be transferred or sold to another person unless the Licensing Authority are informed by way of the proposed owner submitting a transfer application. In the event of the death or incapacity of the Consent Holder a member of the Consent holder's immediate family may apply for an interim Consent whilst the normal transfer is processed. For more information refer to the section on transfers.
- 4.44 The sub-letting of a pitch is prohibited.

## **5.0 Consent Conditions**

- 5.1 Standard conditions will be attached to every issued Consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality. These are detailed in annex 3.
- 5.2 Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size and location of the pitch.
- 5.3 Failure to comply with conditions may lead to the revocation or non renewal of Consent.
- 5.4 In certain circumstances, the Council may wish to add, alter or amend the conditions on a trading Consent. Any amendments or variations to specific consent conditions that are requested by Consent holders must be made in writing. An administration fee will be charged to the consent holder for any amendments or variations made. There is no right of appeal against the Council's decision to refuse to amend or vary a Consent condition.

## **6.0 Fees**

- 6.1 The 1982 Act permits a Council to charge reasonable fees for the grant and renewal of Consents. The level of fees applicable takes into account the duration of the Consent, the trading hours, location and the nature of the articles being sold. Details of the current fees can be found in annex 2 and on [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk). Fees must be paid in advance and

arrangements are in place to enable annual fees to be paid quarterly in advance. One month's notice of ceasing to trade must be given. Where trading ceases during the term of a Consent refunds will not be given for any outstanding period of less than 1 month.

6.2 Applications for annual Consents should be accompanied by an application fee which is set at 10% of the annual fee. If the application is approved, the balance of the quarterly fee will be due in advance of the Consent being issued. If the application is not successful the application fee will be refunded. Daily and Event consents must be accompanied by the full fee.

6.3 Reduced fees will be payable by organisers of:

- Non-commercial fetes, carnivals or similar community based and run events.<sup>1</sup>
- Non-commercial, civic, or charitable events.<sup>1</sup>
- Farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people)
- Sales of articles by householders on land contiguous with their homes.<sup>2</sup>

<sup>1</sup> *In order to be considered eligible for reduced fees, an event must be promoted with the intention that all money raised (proceeds) from the event will go entirely to purposes that are not for private gain. Money raised by third parties i.e. traders at the event will not be considered as proceeds from the event, and so may be appropriated for private gain, and will not be taken into account when determining eligibility under this paragraph.*

<sup>2</sup> *For the purposes of this paragraph "land contiguous" will be construed to be land owned by the householder not including the house itself, i.e. the articles must be placed within any garden or hard-standing area, not on the public highway. Consent may be obtainable to trade on the public highway in such circumstances, but no reduced fee will be available.*

## **7.0 Markets, special events, commercial events, and individual trader one off daily permits.**

7.1 The authorised weekly markets held throughout the week in Ely, the Christmas Food Flower and Craft held on or around the last Sunday of November, and the Christmas special market held on or around the 23 December are outside the scope of the street trading scheme. Trading at these events/markets is dealt with by the Markets' Team. More information is available on the Council's website.

7.2 For special events, and commercial events such as continental street markets, street fairs, craft shows, and events such as those mentioned in paragraph 6.3 above, the Council will issue one Consent to the person organising the event, rather than to each individual trader. This policy is aimed at promoting events and encouraging more traders to attend them. Applicants wishing to use this provision must provide at least twenty-eight days notice, and availability is strictly on a first come, first served basis.

7.3 The Council will require that the applicant produces a list of the individual traders before the trading day, and a signed declaration that the organiser is satisfied that all the traders hold the necessary insurances and certificates for the stall they are running.

7.4 Applications for markets, special events, and commercial events will be subject to a reduced consultation process than that required of normal annual consent applicants, however, determination may take up to the full 28 day limit.

7.5 Daily permits for individual traders wishing to trade on a consent street are available. The applicable documents stated on the application form from the list of items detailed in paragraph 4.8 must accompany an application, but when determining the application, the consultation stage shall be omitted. No more than sixteen days of trading, per Consent Street location, or per trader and/or their associate, will be permitted under this provision per annum. All other considerations will be taken into account when determining an application. Applicants wishing to use this provision must provide at least ten clear working

days' notice, and availability is strictly on a first come, first served basis. Registered "Pop-up" traders (see paragraph 8.3) trading on private land (that does not hold a Host Premises Consent (see paragraph 8.2) will require a daily permit, but may provide less than ten clear working days' notice. However, trading may not commence until their application has been approved, and they have received confirmation of this.

## 8.0 "Pop-up" Street Food Trading on Private Land

8.1 Pop-up street food trading on private land is a relatively new concept, which is growing in popularity. The pop-up nature of this type of trading requires a different approach to be taken to provide the flexibility necessary, whilst ensuring that such trading from private locations including, pub and social club car parks, and village hall and community centre car parks is suitably controlled to promote the objectives of the street trading policy within the district. Due to this a specific scheme has been set up with the kind assistance of the National Caterers Association. Details of this scheme can be found in the following paragraphs.

### Host Premises

8.2 Any business wishing to permit a food van to trade from their private land in a way that is controlled by the 1982 Act must apply for a Premises Consent using the specific application form for this purpose. A consultation period will take place in accordance with paragraphs 4.11 and 4.12 of this policy, and the application will be determined in accordance with the same parameters as those for all other applications, as detailed in this policy. Once issued, the premises will be permitted to host any pop-up street food trader holding a street trading consent with the Council.

### Pop-up food traders

8.3 Any trader wishing to trade freely from any registered host premises in the district, must first apply for an annual "Pop-up trader Consent" using the specific ~~notification application~~ form for this purpose. No consultation period will be required, and if you are registered with the National Caterers Association, a reduced number of supporting documents will be required to be submitted with your ~~notification application~~. The ~~notification application~~ will be ~~approved~~~~determined~~ in accordance with the same relevant parameters as those for all other applications, as detailed in this policy. Once issued, the trader will be permitted to trade from any location holding a Host Premises Consent within the times permitted on the Host Premises Consent, subject only to requiring the host premises permission to use their land. They will also be able to apply for daily permits to trade on private land without a Host Premises Consent without having to wait the requisite 10 working days for a daily permit to trade.

## 9.0 Enforcement

- 9.1 The Council is committed to enforcing the provisions contained within the relevant legislation, and will work in partnership with all enforcement agencies to provide consistent enforcement on licensing issues.
- 9.2 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.
- 9.3 In pursuing its objectives detailed in this Policy, the Council will operate a proportionate enforcement regime in accordance with the Council's Enforcement Policy.
- 9.4 The responsibility for the overall supervision of street trading lies with the Environmental Services Manager.

## 10.0 Further Information

Further information on the Authority's licensing policy and application process can be obtained from:

Licensing Team  
East Cambridgeshire District Council, The Grange, Nutholt Lane, Ely, Cambs, CB7 4EE  
T: 01353 665555

E: [licensing@eastcambs.gov.uk](mailto:licensing@eastcambs.gov.uk)  
Website: [www.eastcambs.gov.uk](http://www.eastcambs.gov.uk)

**Annex 1 – Designated Streets**

Consent Streets
All streets as defined by the 1982 Act with the exception of the prohibited streets listed below.
Prohibited Streets
Trunk Road A10 within the District Trunk Road A11 within the District Trunk Road A14 within the District

**Annex 2****Current fees applicable to Street Trading Consents**

Type of goods	Ely (central zone) daily consent fees		Annual	All other areas (daily consent fees)		Annual	Transfer
	Sun to Wed	Thurs to Sat		Sun to Wed	Thurs to Sat		
Clothing	£20	£30	£1040	£15	£20	£740	£48
Electrical spares							
DIY products							
Hot food and drink							
Furniture							
Records, CD's and DVD	£20	£30	£780	£15	£20	£480	£48
Household cleaning goods							
Books							
Fresh fish	£20	£20	£520	£15	£15	£320	£48
Fresh meat							
Fruit and Veg							
Delicatessen							
Flowers and Plants							
Ice-cream vendors							
Cakes/ Bakery							
Arts and crafts							
All other traders	£20	£30	£1040	£15	£20	£740	£48
Host Premises	N/A	N/A	£1040	N/A	N/A	£740	£48

The application fee for annual consent applications is set at 10% of the full annual fee. This must accompany all applications, and will be refunded if the application is unsuccessful.

Replacement consent certificates can be provided. The cost is £10.50.

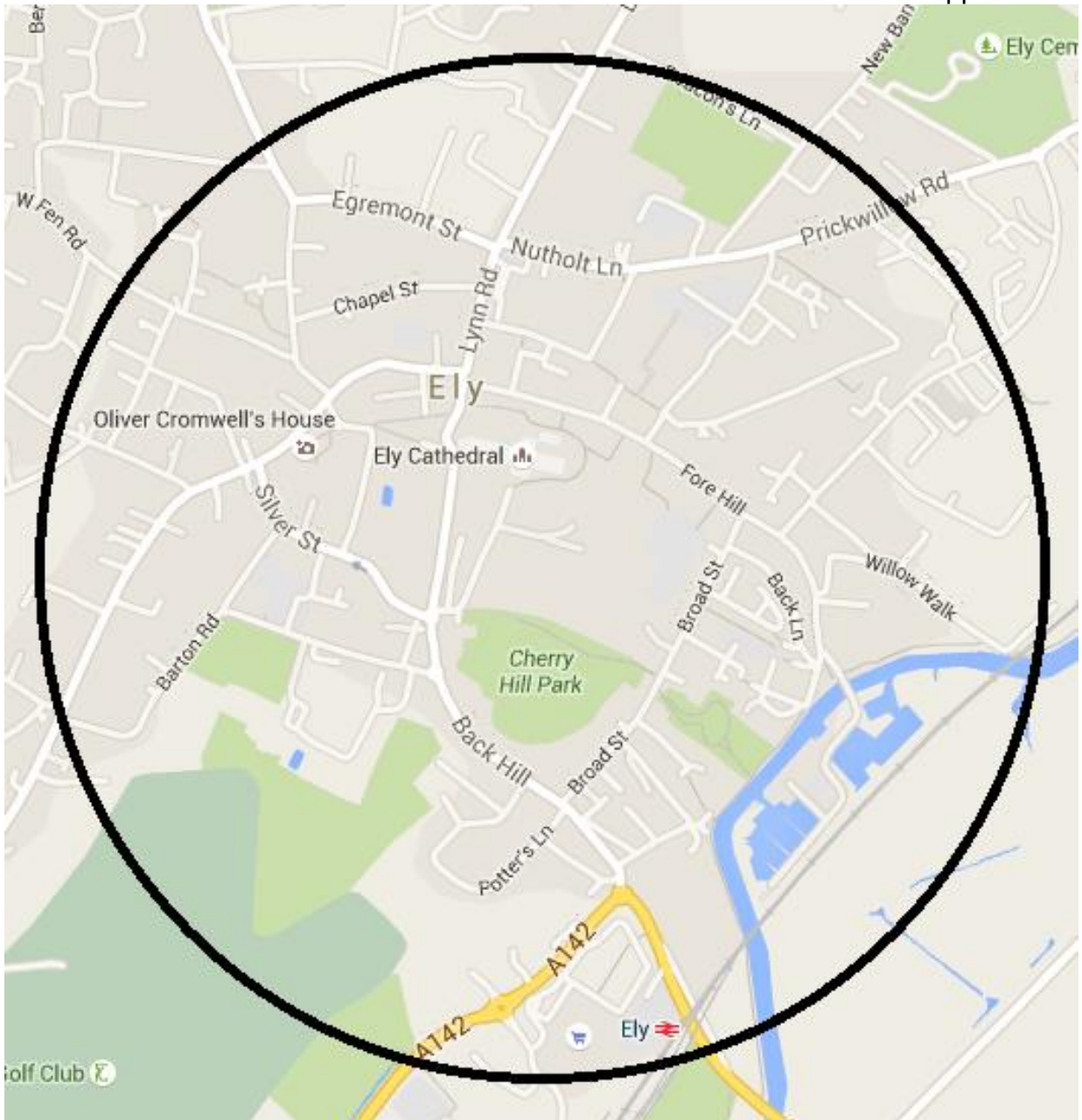
**Special Events/Markets/Commercial Events**

Number of stalls	Fee per day of the event
10 – 20	£100
21 – 40	£200
41 or more	£500

**Events listed in paragraph 6.3**

Fee per day of the event
£20

**Ely central charging zone**



## Annex 3

### Standard conditions applicable to Street Trading Consents

#### General

These Standard Conditions will apply to all licences unless dis-applied or varied by the Environmental Services Manager, or they are over-riden by the special conditions for special events/markets.

#### Standard Conditions

1. Definitions
  - i. 'street' includes –
    - a) any road, footway, beach or other area to which the public have access without payment, and
    - b) a service area as defined in section 329 of the Highways Act 1980 and also includes any part of a street
  - ii. 'street trading' means –
 

the selling or exposing for sale of any article (including a living thing) in a street
2. The Consent granted by the Council is personal to the holder.
3. The consent holder (or a person nominated by the consent holder) shall attend in person at the Consent position for not less than 75% of the time on any day which trading is carried out.
4. The street trading consent only relates to the vehicle/premises stipulated within the Consent.
5. The consent holder can only trade in the goods stipulated in the consent.
6. Ancillary items can be sold where relevant to the goods being traded.
7. Any van, vehicle, barrow, cart or stall shall only be positioned within the designated area as outlined on the plan attached to the Consent, and goods should not migrate outside of the permitted area.
8. Where appropriate the consent holder of any street trading consent and the stall and/or vehicle must comply with all relevant road traffic and highways legislation.
9. Any stall, vehicle, van, barrow, or cart authorised by the Council must be equipped with safe and adequate lighting for operation during the hours of darkness.
10. Where appropriate the consent holder of the street trading consent and the stall and/or vehicle must comply with all relevant food hygiene legislation.
11. The consent holder shall only trade from a stall or vehicle approved by the Council in writing.
12. The Consent may only be transferred to another person with the prior written consent of the Environmental Services Manager.
13. The consent holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
14. The 'permitted hours' will be those stipulated within the Consent.
15. Unless stipulated within the Consent, the van, vehicle, barrow, cart or stall shall be removed from the site at the end of each trading day.

16. The consent holder will vacate the site within 30 minutes of the end of the permitted hours.
17. The consent holder shall not trade in any street designated by the Council as a prohibited street.
18. WC facilities must be made available for staff and members of the public if seating is made available for consumption of food on site.
19. The consent holder shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition to the satisfaction of an Officer of the Council authorised in writing under the appropriate legislation.
20. The consent holder shall conduct his/her business in such a manner to ensure that he/she does not:
  - a) Cause a nuisance from noise, vibration, smoke or smell to the occupiers of adjoining property.
  - b) Cause an obstruction to the vehicles or pedestrians in the street.
  - c) Cause a danger to occupiers of adjoining property or to other users of the street.
21. The consent holder shall not seek to attract attention or custom by shouting or making undue noise or by permitting the playing of music, music reproducing or sound amplification apparatus or any musical instruments, radio or television sets whilst trading under this Consent, other than as specified in the Consent.
22. Refuse storage must be provided adjacent to the sale area. The storage must be of a substantial construction, waterproof and animal proof. The trade waste must be removed at the end of each working day or if the amount of refuse warrants it, when the container is full, whichever is the sooner.
23. The consent holder shall ensure that the whole of the lay-by and adjacent verge/ footpath (but not the carriageway) to a distance of 10 metres be kept free of litter and refuse at all times whilst resident.
24. A copy of the Consent, suitably protected against the weather shall be displayed in a prominent position on the stall or vehicle at all times when trading is taking place.
25. The holder, or any employee of the holder, shall produce a copy of the Consent on demand when required by a Police Officer or an authorised officer of the Council.
26. Nothing in any consent shall purport to grant to the holder any other licence or permissions required under any other Enactment or requirement and the consent holder is specifically advised to obtain such other approvals as may be required.
27. The holder shall not place on the street any furniture or equipment or advertisement other than as specified in the Consent.
28. No poster, advertisement, signage or decoration of an unsuitable material or nature shall be displayed, sold or distributed on or about the vehicle or premises. For the purpose of this condition, material is unsuitable if in the opinion of an Officer of the Council authorised under the appropriate legislation, it is indecent, scandalous, offensive or likely to be harmful to any person likely to apprehend it. Items including but not limited to items used for sexual stimulation, and/or weapons likely to cause harm would be considered unsuitable. Material may also be considered to be unsuitable if it is of such a nature as to distract motorists driving on the highway.
29. The name and business address of the consent holder and other address at which the trailer is normally kept or garaged must be conspicuously and legibly displayed upon it in a place where the public may view it. Where this is a private address, suitable contact details must be displayed. The sign must be approved in writing by the Environmental Services Manager.

30. No signage or objects shall be placed on the highway or area surrounding the vehicle / premises without the appropriate permit.
31. Where a structure is not removed at the end of the trading day, no additional permanent or semi-permanent additions or paving shall be erected or constructed adjacent to the structure for which Consent has been granted.
32. Failure to comply with any condition attached to the street trading consent may result in the revocation of such Consent.
33. The holder shall notify the Environmental Services Manager at the Council Offices, The Grange, Nutholt Road, Ely, CB7 4EE in writing of any criminal convictions or other legal proceedings arising out of the use or enjoyment of the Consent.
34. The holder of a Consent shall carry public liability insurance of not less than £10 million, evidence of which shall be supplied to the Council prior to the grant of the Consent.
35. The Council may revoke the Consent at any time.
36. The holder will return the Consent to the Council immediately upon revocation or surrender.
37. In the event of the Consent being surrendered or revoked no refunds will be given. Where Consent is withdrawn by the Council for reasons other than an offence or breach being committed, a proportioned refund will be given.
38. The Council may at any time vary these Conditions without notice.
39. If the Consent Holder Street Trades from any Council Land he/she shall indemnify the Council from and against all loss, damage, costs, liabilities and claims whatsoever arising from its use and occupation of the land.22.
40. The Consent Holder and persons manning the stall will ensure their activities do not cause direct and permanent damage the grass and gardens and/or disturb wildlife.

#### **Additional conditions applicable to Special Events/Markets**

41. All stalls to be issued with a number that must be displayed on the stall.
42. The consent holder should keep records of each stallholder present on the market, to include the stallholder's pitch number, name and company name, their address, vehicle registration and a contact telephone number. This must be produced on request to an authorised officer.
43. The consent holder must not allow the sale of offensive weapons (including imitation fire-arms, standard firearms, airguns, swords and crossbows)
44. The consent holder must not allow the sale of materials considered offensive, indecent, or considered adult in nature.
45. If the Public Conveniences are required to open beyond 17:00 a charge will be levied in accordance with the Council's fees and charges.
46. If additional Street Cleaning is required as a result of the event, a charge will be levied in accordance with the Council's fees and charges.

#### **Specific conditions applicable to Host Premises**

47. The "Host Premises" Consent holder shall ensure that all traders they allow to trade from the host premises pitch are vetted to ensure that the following documents are held:

- Trader/Public Liability Insurance
- Food Hygiene certificates

- Food business registration with their local Council
- Pop-up trader badge from ECDC licensing
- Current gas and/or electricity safety/test certificates if such facilities used

Or

- Current NCASS membership
- Pop-up trader badge from ECDC licensing

48. The “Host Premises” Consent holder shall ensure that a record is maintained of all “Pop-up Traders” trading at their pitch. This record shall be retained for a period of six months, and shall be made available to an authorised officer upon request. The record shall record:

- The name of the trader
- A contact number for the trader
- The registration number of the trading unit, or vehicle towing the trading unit
- The trading name

## Street Trading Consent Fees

### Individual stall fees

Type of goods	Ely (central zone) daily consent fees		Annual	All other areas (daily consent fees)		Annual	Transfer
	Sun to Wed	Thurs to Sat		Sun to Wed	Thurs to Sat		
Clothing	£20	£30	£1040	£15	£20	£740	£48
Electrical spares							
DIY products							
Hot food and drink							
Furniture							
Records, CD's and DVD	£20	£30	£780	£15	£20	£480	£48
Household cleaning goods							
Books							
Fresh fish	£20	£20	£520	£15	£15	£320	£48
Fresh meat							
Fruit and Veg							
Delicatessen							
Flowers and Plants							
Ice-cream vendors							
Cakes/ Bakery							
Arts and crafts							
All other traders	£20	£30	£1040	£15	£20	£740	£48

The application fee for annual consent applications is set at 10% of the full annual fee. This must accompany all applications, and will be refunded if the application is unsuccessful.

Replacement consent certificates cost is £10.50.

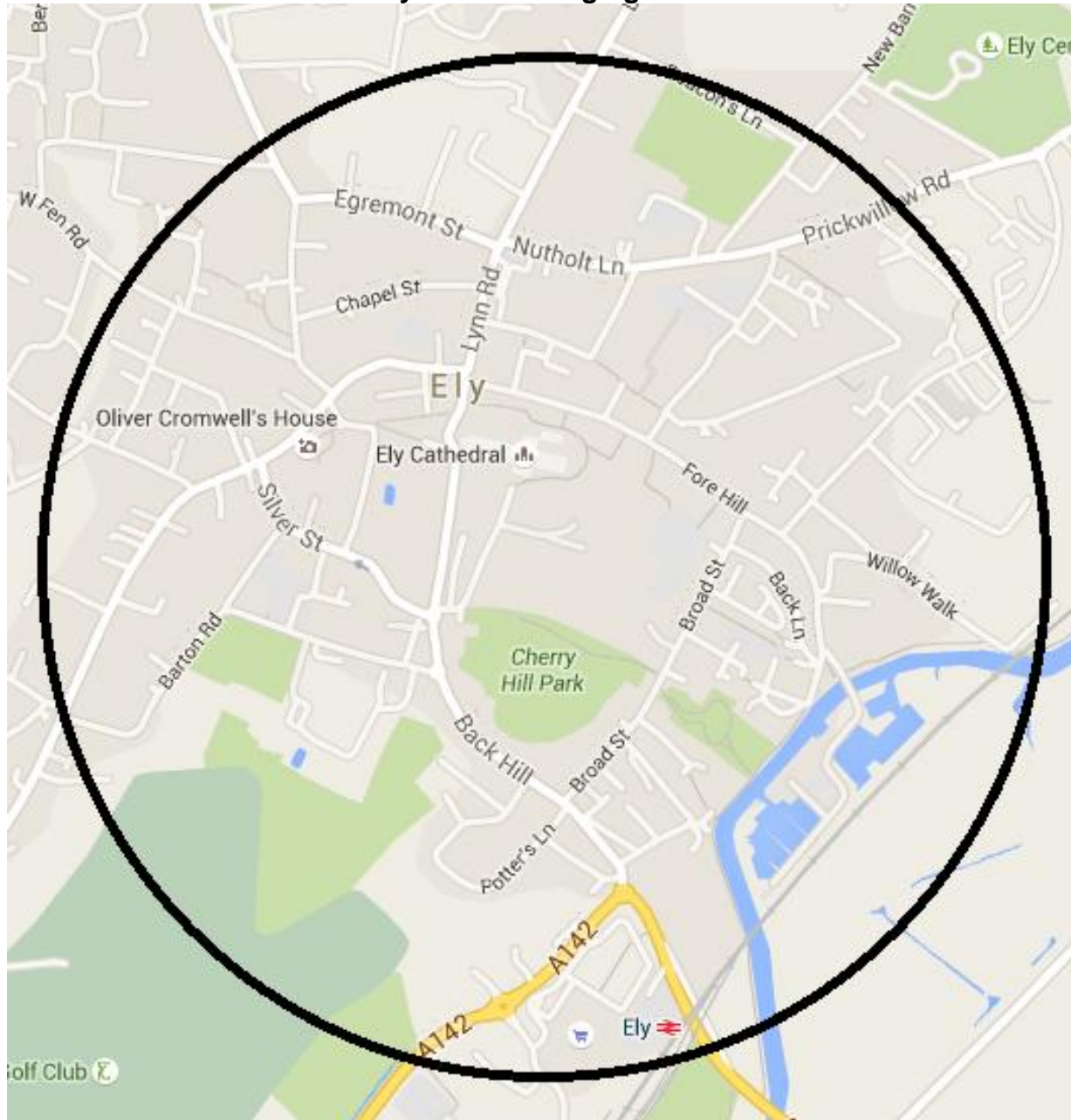
### Special Events/ Markets/Commercial Events fees

Number of stalls	Fee per day of the event
10 – 20	£100
21 – 40	£200
41 or more	£500

### Charity/non-commercial events (see paragraph 6.3 in the street trading policy)

Fee per day of the event
£20

Ely central charging zone



**EQUALITY IMPACT ASSESSMENT – INITIAL SCREENING TEMPLATE (IST)**

Initial screening needs to take place for all new/revised Council policies. The word ‘policy’, in this context, includes the different things that the Council does. It includes any policy, procedure or practice - both in employment and service delivery. It also includes proposals for restructuring, redundancies and changes to service provision. This stage must be completed at the earliest opportunity to determine whether it is necessary to undertake an EIA for this activity.

<b>Name of Policy:</b>	Street Trading Policy
<b>Lead Officer (responsible for assessment):</b>	Stewart Broome
<b>Department:</b>	Licensing
<b>Others Involved in the Assessment (i.e. peer review, external challenge):</b>	
<b>Date Initial Screening Completed:</b>	1/2/2022

**(a) What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

A framework to assist members of the public, Officers and Committee Members with regards to controlling street trading in the district.

**(b) Who are its main beneficiaries?** i.e. who will be affected by the policy?

Persons who wish to sell goods, or hold events that will sell goods on controlled streets (as defined by the Local Government (Miscellaneous Provisions) Act 1982 within the district.

**(c) Is this assessment informed by any information or background data?** i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

Yes, previous consultation in 2015 and working with the policy

**(d) Does this policy have the potential to cause a positive or negative impact on different groups in the community, on the grounds of any of the protected characteristics? (please tick all that apply):**

<b>Ethnicity</b>	<input type="checkbox"/>	<b>Age</b>	<input type="checkbox"/>
<b>Gender</b>	<input type="checkbox"/>	<b>Religion or Belief</b>	<input type="checkbox"/>
<b>Disability</b>	<input type="checkbox"/>	<b>Sexual Orientation</b>	<input type="checkbox"/>
<b>Gender Reassignment</b>	<input type="checkbox"/>	<b>Marriage &amp; Civil Partnership</b>	<input type="checkbox"/>
<b>Pregnancy &amp; Maternity</b>	<input type="checkbox"/>	<b>Caring Responsibilities</b>	<input type="checkbox"/>

**Please explain any impact identified:** i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

This policy affects all applicants and licence holders equally.
---

- (e) Does the policy affect service users or the wider community?
- (f) Does the policy have a significant effect on how services are delivered?
- (g) Will it have a significant effect on how other organisations operate?
- (h) Does it involve a significant commitment of resources?
- (i) Does it relate to an area where there are known inequalities, e.g. disabled people's access to public transport etc?

YES
NO
NO
NO
NO

If you have answered **YES** to any of the questions above, then it is necessary to proceed with a full equality impact assessment (EIA). If the answer is **NO**, then this judgement and your response to the above questions will need to be countersigned by your Head of Service and then referred to the Council's Equal Opportunities Working Group (EOWG) for scrutiny and verification. Please forward completed and signed forms to the Principal HR Officer.

**Signatures:**

**Completing Officer:** Stewart Broome **Date:** 1/2/2022

**Head of Service:** Liz Knox **Date:** 1/2/2022

**TITLE: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – REVIEW OF STREET TRADING POLICY**

**COMMITTEE: LICENSING COMMITTEE**

**DATE: 9 MARCH 2022**

**AUTHOR: SENIOR LICENSING OFFICER**

[W150]

1.0 ISSUE

1.1 To consider minor amendments to the Council’s Street Trading Policy.

2.0 RECOMMENDATION(S)

2.1 That Members:

- i. note the contents of the report, and approve the revised policy attached at Appendix 2 to come into effect immediately.
- ii. approve the reversion back to the previous fees in relation to Street Trading, and instruct Officers to reflect this in the 2022/2023 annual fees and charges document.

3.0 BACKGROUND

3.1 In November 2021 Members approved minor amendments to the Council’s Street Trading Policy. Amongst these amendments was the introduction of two new forms of street trading permission designed to cover pop-up trading on private land. These permissions were termed “Host Premises” and “Pop-up Trader” Consent.

3.2 Following the resolution made on 10 November, Officers received feedback from food traders via Off the Beaten Truck (OTBT) (an organisation representing food truck operators, who had worked with Officers in 2021 on the new proposal) raising concerns over the impact of the new policy. This feedback is attached as (**Appendix 1**).

3.3 There are many points raised in the feedback regarding the legality of street trading, and the perceived introduction of new requirements, and so the table below has been included to answer these points.

*Table 1*

<i>Point</i>	<i>Answer</i>
<i>This is their private property and as they pay council tax, rents and rates, they have the right to use their land how they see fit</i>	<i>A premise is required to comply with regulations regardless of ownership, i.e planning and waste management regulations. To this extent they are also required to comply with street trading regulations if the location is within the definition of a street, and one of the exemptions does not apply.</i>

<i>Does not believe the Charity Commission would allow any payment to be made as fee to be a host site owed to the Council would not be considered a charitable donation</i>	<i>The Council cannot comment on whether the Charity Commission would or would not permit a payment to be made in specific cases, but Officers are aware that a great many charities and community not for profit organisations hold various licensing permissions that are subject to fees without issue.</i>
<i>This site has looked at the legislation and they do not accept visits count as street trading</i>	<i>Each case will be assessed on its own merits to determine whether Consent is required, but visits from traders exposing products for sale in locations falling within the very wide definition of a street in the Local Government (Miscellaneous Provisions) Act 1982 do require Consent to conduct such trade unless an exemption applies.</i>
<i>The food vans operate on private property and there is no public access without consent</i>	<i>See above answers. Consent is not a factor to be considered.</i>
<i>“If we were forced to pay an imposed (fee) as well as the electricity bill for the vans to use our power, we would not be able to afford to have any vans so this is totally unviable”</i>	<i>The host premises fee is not a new proposal. Venues wishing to allow street trading on their car parks have required Consent since 2016.</i>
<i>“I do not have food vans for the pub so much as for the community...this is going to severely impact my business which is already struggling...I find this threatening by the Council”</i>	<i>The host premises fee is not a new proposal. Venues wishing to allow street trading on their car parks have required Consent since 2016.</i>
<i>“This is a Community centre run by the community. We have a free vans here every so often...We have already had to make redundancies here... we don't even charge the vans because they bring such a huge benefit to the area.”</i>	<i>Venues hosting on limited occasions (less than 16) per annum can apply for daily permits (providing the required notice period is observed), or they can rely on the trader applying for on, subject to the same restriction..</i>

3.4 Following the receipt of the trade feedback Officers met with representatives of OTBT and the Nationwide Caterers Association (NCASS) to discuss potential options moving forward. The two biggest issues raised were the issue of fees, and the impact that requiring both the host premises and the trader to register would create.

3.5 It was argued that the trader registration fee of £240 would reduce the potential for traders to register due to the collective costs of trading in multiple district areas, which would be too much of a financial burden to them to make it financially viable. It was also argued that the fee for charitable venues was too high and should be set lower than that of commercial operations. Linked to the issue of the trader fee was the second point raised regarding requiring both parties to register. It was argued that this scheme creates a chicken and egg scenario where hosts will be reluctant to register if there are not enough traders to use, and traders will not register if there are not enough hosts to use.

#### 4.0 CONCLUSION

4.1 Officers are confident that the policy adopted in November 2021 is lawful, and that trading on private land adjoining Consent Streets, such as trading on car

parks, business parks, etc does fall within the realms of requiring Street Trading Consent, and has done in this district since 2016 (when the Council resolved to designate all streets in the district Consent Streets)

- 4.2 As detailed in this report, the suggestion that the decision in November 2021 introduced additional burdens on the trade is a misconception, as the requirement to obtain Consent to trade in the District was already present. The amendments were hoped to remove some of the constraints that existed and were not compatible with pop-up trading. To this end, the “Host Premises” scheme is essentially the same as the Static Trader permission contained in the original policy adopted in 2016 with one distinct difference, the strict one pitch, one trader at all times condition has been removed to allow greater flexibility for private venues wishing to allow pop-up trading on their land.
- 4.3 The only additional permission introduced in November 2021 was the “Pop-up Trader” Consent scheme and the associated fee of £240, which was introduced with the intention of simplifying the process for venues, whilst removing the risk of rogue traders putting customers at risk with substandard food and hygiene practices.
- 4.4 Whilst the amendments adopted in November 2021 can be considered lawful, it is clear from the feedback that the scheme will not have the desired impact that Officers and Members wished to see. To this end, Officers would recommend that the “Pop-up Trader” Consent scheme is scaled back, and the fee is removed entirely. To mitigate this recommendation, and in order to ensure that public safety is not put at risk, additional conditions are recommended to be added to the current standard conditions of a static street trading consent, to specifically cover “Host Premises”. These can be found below.

#### **Condition 1**

The “Host Premises” Consent holder shall ensure that all traders they allow to trade from the host premises pitch are vetted to ensure that the following documents are held:

- Trader/Public Liability Insurance
- Food Hygiene certificates
- Food business registration with their local Council
- Pop-up trader badge from ECDC licensing
- Current gas and/or electricity safety/test certificates if such facilities used

Or

- Current NCASS membership
- Pop-up trader badge from ECDC licensing

#### **Condition 2**

The “Host Premises” Consent holder shall ensure that a record is maintained of all “Pop-up Traders” trading at their pitch. This record shall be retained for a period of six months, and shall be made available to an authorised officer upon request. The record shall record:

- The name of the trader
- A contact number for the trader
- The registration number of the trading unit, or vehicle towing the trading unit
- The trading name

4.5 The scaled back “Pop-up Trader” Consent scheme would require all traders wishing to trade from “Host Premises” to complete a simple one-page notification form with the Council, so the Licensing Authority has a simple record of all traders wishing to trade throughout the district. This will tie in with the Host Premises scheme, and enable checks to be made if the “Pop-up Trader” is not a registered food business with the Council.

4.6 In the feedback a suggestion was made to work with OTBT and NCASS to identify alternative cost recovery schemes and take away the cost to host sites. The issue the Council has in this regard is that the Council has a duty to ensure that the amenity of the areas surrounding street trading pitches are promoted, and that those in the immediate areas affected are given the opportunity to comment on any proposed use of the pitch for trading. All of this work relates to the site, not the numerous (and at the time of considering the site’s appropriateness) unknown traders that may frequent it over future years. The fee charged for Annual Static Traders, Annual Mobile Traders, and Annual Host Premises covers these upfront costs as well as a portion of the general costs of running the department, and all street trading fees are on a not for profit cost recovery only basis. Any alternative cost recovery scheme would be hard to calculate and justify, and could result in higher than cost recovery income.

4.7 The Council is not blinkered to the impact that Covid has had on the economy, but Officers believe the recommendations in this report create a balance between the rights and needs of the various interested parties, and creates a level playing field with those trading on public land via Annual Static and Annual Mobile Consents. The recommendations all but revert back to the original policy which has been in place successfully since 2016, but they do provide greater flexibility to enable pop-up street trading to occur, with no new fees. With the ability to spread the cost of the Consent over the trading year, which in most cases amounts to £15 a week, as well as the ability to apply for daily permits, Officers believe the recommendations in this report creates the best possible solution to a very complex area of regulation.

## 5.0 FINANCIAL IMPLICATIONS

5.1 There are no financial implications other than Member and Officer time which is already budgeted for.

5.2 An Equality Impact Assessment (EIA) has been completed showing there is no adverse impact on the community if Members follow the Officer recommendations.

6.0 APPENDICES

- 6.1 Appendix 1 Trade feedback document
- 6.2 Appendix 2 Draft amended Street Trading Policy 2022
- 6.3 Appendix 3 Fees table.
- 6.4 Appendix 4 Equality Impact Assessment (EIA)

---

**Background Documents**

**Location**

**Contact Officer**

Local Government  
(Miscellaneous Provisions)  
Act 1982

Room SF208  
The Grange,  
Ely

Stewart Broome  
Senior Licensing Officer  
(01353) 616477