

## CANNOCK CHASE DISTRICT COUNCIL

### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

#### STREET TRADING POLICY

##### **Introduction and Scope of the Policy**

This Policy will be applied to all street trading activities within the Cannock Chase District Council area to assist in consistency of decision making and enforcement. Each application will be considered on its own merits so that individual circumstances may be taken into account and exception may be made to this policy where appropriate. The aim of the policy is to ensure that the Council act consistently in their dealing with street trading and that traders operate within the law and act fairly in their dealings with the public.

The Policy is intended to be read in conjunction with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and Staffordshire County Council's Management of Commercial Obstructions Policy.

The whole of the Cannock Chase District Council area and every street within it shall be designated as a Consent Street. This will include private land to which the public have access without payment and on that basis it is intended that no street trading may take place within the area without first obtaining the appropriate Street Trading Consent. This includes both mobile and static street traders as well as Ice Cream Vans and those who travel the district selling goods (including food stuffs and sandwiches etc)

Utilities traders car sales promotions and those who are simply promoting goods, services or events within the area will be dealt with by way of Staffordshire County Council's Management of Obstructions Policy

It should be noted that those who street trade within the Cannock Chase District without appropriate Consent will be dealt with appropriately, having regard to the Service Enforcement Policy.

##### **Exclusions from the Policy**

It is not intended that this Policy should apply to those who are trading with the benefit of a Pedlars Certificate granted under the Pedlars Act 1871 & 1881 or roundsmen or mobile canteens which are dedicated to a work site to which the public have no access. Nor is it intended for those who are simply promoting services or events within the area. Further, it will not apply to the private land known as the Cannock Shopping Centre, Market Hall Street, Cannock or land and parks owned by Cannock Chase Council.

Fetes, festivals, carnivals or street markets which take place on land owned by Cannock Chase Council will not require street trading consent from the Council's Licensing Unit. Permission will be required from the Council's Parks and Open Spaces Division who will also advise of any necessary requirements. Similarly, where such events take place in any of the town centres street trading consent is not required. However, the Council's Licensing Unit must be advised of

any proposed event to ensure that there are no conflicting events or activities scheduled in the same location. Organisers of events must also ensure that the event is notified to the Southern Licensing Unit at Staffordshire Police.

## 1. Definitions of terms used in these Guidelines

Within the terms of the Cannock Chase District Council's Street Trading Consent Scheme, the following definitions apply:

The Council:	Cannock Chase District Council
Street Trading:	The selling or exposing or offering for sale of any article (including a living thing) in any street.
Street:	Includes: <ul style="list-style-type: none"><li>(a) any road, footway, or other area to which the public have access without payment;</li><li>(b) a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.</li></ul>
Consent Street:	Means a street in which street trading is prohibited without the consent of the Council.
Consent:	Consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
Consent Holder:	The person or company who having made appropriate application and to whom the Consent to trade has been granted by the Council.
Authorised Officer:	An officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

This Policy applies to those streets designated as Consent Streets. For the avoidance of doubt, no living thing shall be sold on any street. Nor shall any second hand electrical goods, counterfeit goods, DVD's or similar merchandise be sold on any street. **Only those items specifically permitted by the Street Trading Consent may be sold by the consent holder.**

## 2. Procedure for determining Street Trading Consent applications

The approval procedure stages are set out at Appendix 1.

Applicants who are considering long term Street Trading Consents may wish instead to consider becoming a formal market trader within one of the Council's market halls.

### 3. **Submission of the application**

An application for a Street Trading Consent must be made to the Council in writing. The Application Form is included in this draft policy document at Appendix 2.

The following will be required:

- (a) A completed and signed application form.
- (b) The appropriate fee as for the period of trading applied (see paragraph 4 of this document.) Please note that cash payments cannot be accepted.
- (c) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks with a minimum cover of £1,000,000 (One million pounds).
- (d) A recent passport size photograph of the applicant.
- (e) A recent Criminal Records Bureau basic disclosure from CRB Scotland or a Police PNC equivalent. This is to ensure that the Council properly exercises its duty under s17 of the Crime and Disorder Act 1998 and to ensure applicants' propriety in respect of unspent convictions for matters such as theft or fraud. The Certificate must be issued by CRB Scotland or the Police within a reasonable period of the initial application being made (approximately 1 month) to the Council and will need to be renewed from time to time.

Where the Council considers it appropriate, the following must also be provided:

- (f) Where the proposed street activity is from a fixed position outside any of the three town centres (Cannock, Hednesford or Rugeley), a copy of a map of at least 1:1250 scale is required. The map should clearly identify the proposed site position by marking the site boundary with a red line.
- (g) A copy of any food registration certificate and any food safety management system documentation if selling high risk foods.
- (h) ADIPS Certificates for funfair or similar rides.
- (i) A photograph of the pitch/stall/vehicle etc.
- (j) A completed risk assessment where a large or complex street trading event is proposed. The risk assessment must be completed by a competent person.
- (k) Evidence that the applicant is entitled to work within the UK
- (l) Certificate of Inspection for LPG and gas appliances.
- (m) If a portable generator is to be used, the make and model

All applications should be marked for the attention of:

Head of Environmental Health, Licensing Unit, PO Box 28, Beecroft Road, Cannock, Staffs., WS11 1BG.

**A new applicant for an initial Street Trading Consent should give a minimum of 15 working days notice of the application.** This will allow for a proper consultation period to be undertaken. Applicants should have a reasonable command of the English language and be aware that false statements or misrepresentation may result in the refusal of the application or revocation of the Consent.

Where convenient, shorter term Consents may also be issued on either a daily, weekly or monthly basis and these will be encouraged by the Council particularly where new applicants intend to trade in non established goods or within a new area. Consents will expire on the date specified and care should be taken to ensure that applications for renewal are submitted in sufficient time for a new Consent to be issued.

**Renewals will normally take 5 working days, unless the Consent holder has been the subject of complaint to the Council, in which case a further consultation with appropriate agencies may be required and the time for processing the application may be extended.**

#### 4. **Fee Structure**

The Council will employ a three tiered fee structure in the administration of its street trading policy. Please note that cash payments cannot be accepted.

Tier 1 will encompass all those who are street trading on private land to which the public have access without payment. It should be noted that this will be the case even where the public rarely visit. The fee payable to trade within this environment is a one off fee per annum. This includes ice cream vans and others who travel within the Cannock Chase district selling goods (including foodstuffs) and are not defined as roundsmen.

Tier 2 will include all those who street trade upon highways land such as main and side roads, roadways on industrial estate and laybys. The fee payable to trade within this environment is payable on a daily basis.

Tier 3 is designed to ensure that those who street trade within the more lucrative areas of the district such as one of the town centres pay accordingly for the benefit of doing so. The fee payable to trade within this environment is Payable on a daily basis.

All of the above fees are reviewed on an annual basis and are published on the Council's website under "fees and Charges". A hard copy of the fees and charges can be viewed on request.

Registered charities and non profit making organisations may be exempt from paying the fee. A written request on letterhead paper, signed by an appropriate person such as a director or trustee must be made to the Head of Environmental Health in each case.

#### 5. **Consultations on applications made**

Before a Street Trading Consent is granted (or on renewal if it is considered appropriate), the Council will consult with appropriate organisations and agencies. In particular, the following organisations or agencies may be consulted.

- Staffordshire Police
- Staffordshire Fire & Rescue Service
- Staffordshire County Council Development Services Directorate (Highways)

- Staffordshire County Council Trading Standards
- CCDC Food & Health & Safety Team
- CCDC Environmental Protection Team
- CCDC Planning Department
- CCDC Property Services Department
- Any appropriate Parish or Town Council
- South Staffordshire Chamber of Commerce
- Other Local Authorities

The above list is not exhaustive and others may be consulted as appropriate. Written observations will be sought within a **7 working day period** and their responses will be taken into consideration when determining an application. In some cases relating to applications for street trading upon highways such as main roads etc, it may be necessary to extend the consultation period to **14 working days**.

## 6. **Site Assessment**

Street Trading Consents from static locations will **not** normally be granted where there is one or more of the following:

- There is valid objection from any of the above organisations;
- A significant detrimental 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 is proposed to be sited;
- There would be a loss of amenity caused by traffic, noise, litter, rubbish, vermin, odour or fumes;
- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes;
- There is a conflict with Traffic Orders such as waiting restrictions;
- The proposed site/pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes;
- The proposed trading unit would obstruct the safe passage of users of the footway or carriageway;
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities;
- The proposed site does not allow the Consent Holder, staff or customers to park in a safe manner;
- The street trading activity is proposed to be 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.

## 7. **Inspection of the Street Trading Unit**

The vehicle, van, trailer, stall, unit or other device to be used for the proposed street trading activity may need to be inspected by an Authorised Officer of the Council prior to the issue of any Street Trading Consent. This will particularly be the case where Food & Safety Officers need to inspect trailers etc from which it is proposed to sell food

items. The unit to be used for the street trading activity shall comply in all respects with the legal requirements relating to the type of street trading activity proposed. In particular, any vehicle, van, trailer, stall, unit, or other device to be used shall comply with the following legislation and any other Regulations made thereunder or relating to or modification or re-enactment:

- Food Safety Act 1990
- General Food Regulations 2004
- Food Hygiene (England) Regulations 2006
- Regulation (EC) No.852/2004.
- Health and Safety at Work etc. Act 1974
- Environmental Protection Act 1990.
- Licensing Act 2003
- Health Act 2006

## 8. **Determination of the Application**

The Head of the Environmental Health, using delegated powers, will use the criteria listed below to determine any street trading application. The criteria will assist in the determination of what is in the best interests of the Council when making a decision but is not exhaustive in this respect. Any objections received will be considered against these criteria. All of the said criteria should normally be satisfied with appropriate weight applied to the criteria listed. Each case will be assessed on its own merits.

- a) **Public Safety:** The location of the proposed street trading activity shall not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to customers availing themselves of any street trading activity, as well as other members of the public using the street. In particular, reference will be made to the guidelines set out in section 6 on site assessment criteria.
- (b) **Public Order:** The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations and comments from Staffordshire Police will be taken into consideration.
- (b) **Avoidance of Nuisance:** The street trading activity must only take place in the area designated by the Licensing Unit. This will normally be by means of a plan provided with the street trading consent. Trading must not cause unnecessary obstruction and must not present a significant risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from council licensing officers, other enforcement officers and the Police shall be taken into consideration.

Traders should be aware that the Health Act 2006 prohibits smoking within substantially enclosed premises. Where a vehicle, van, trailer, stall, unit, or other device used for street trading is not substantially enclosed, the Council strongly discourages traders from smoking within them. This will help avoid unnecessary complaints.

- (d) **Visual Amenity:** The Council expects a high standard of presentation and appearance from its street traders. Tables or stalls used for street trading shall not normally be more than 4 metres in length and 1 metre in width. The size of specialist or bespoke stalls will be considered on their own merit. The stall shall be covered with an appropriate clean and non patterned sheet or other covering in order to ensure they are not cause for complaint to the Council because of the poor visual amenity they afford. No items shall be placed on the floor or within half a metre of it. Bread trays/baskets or similar containers must not be used to provide storage, shelving, support or display for goods. Any items placed next to the stall or table must be immediately adjacent to it.
- (e) **Needs of the Area:** The sufficiency of other trading outlets will be taken into consideration in relation to:
- The presence of like outlets (mobile or otherwise) already existing in the immediate locality of the proposed street trading site. This is normally a distance of 50 metres within town centres but may be much further in other areas such as on roadsides or industrial estates.
  - The general needs of a locality, should no comparable outlets exist.
  - Under normal circumstances, no two street traders selling the same goods will be permitted to trade in the same location on the same day.

Where problems arise, applicants may have to demonstrate to the Council the need for the proposed street trading activity in relation to either of the 2 bullet points above.

There is limited space available for street trading within the district town centres. The trading spaces vary in size, shape and suitability for a variety of different types of stalls etc. Therefore, it might be necessary to refuse an application because an appropriately sized trading pitch is not available. For this reason, it is important that all traders' trade in the position allocated to them by means of a town centre plan which is attached to the Street Trading Consent.

Consent holders may be asked to move their trading position from time to time if it is considered necessary to do so by the Council. This may be with immediate effect on occasions.

- (f) **Compliance with legal requirements:** The proposed street trading activity should be carried out from a trading unit which complies with the relevant legislation set out in section 7 on inspection of the street trading unit.
- (g) **Consultee Observations:** In relation to points (a) – (e) above, consideration will also be given to written observation from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.

- (h) **Permitted Trading Hours:** The Council will generally only permit street trading between 0700 hours and 1700 hours on any one day. The Council, however, retains the right to specify permitted hours of trading that are less than those given above if local circumstances dictate. The individual needs of the applicant will be considered on every occasion and in particular where evening events are taking place within the town centres.

Street trading late at night will be assessed in terms of the criteria detailed above as well as the requirements of the Licensing Act 2003 in relation to late night refreshment between the hours of 23.00 hours and 05.00 hours.

- (i) **Market days:** Street Markets will take priority over consent holders however care will be taken to ensure that both can be accommodated at the same time where possible.

## 9. **Approval of Applications**

The Head of Environmental Health, using delegated powers may approve or refuse applications using the criteria contained within these guidelines.

On approving an application, the Council will issue a Street Trading Consent to which conditions will be attached. The Consent will also contain specific terms such as days, hours and place that street trading is permitted and the goods that may be sold. Care must therefore be taken by the applicant when listing the goods which are to be sold. **No goods may be sold or displayed which are not specified on the Street Trading Consent.**

Changes to the consented goods may require a new application to be made and further consultation to be sought. Minor amendments such as the addition of related items to the Consent may be made however, the current administration fee will be charged.

The Council's standard conditions, which are attached to Street Trading Consents, are shown at Appendix 3. Additional conditions may be attached if special circumstances apply.

The conditions attached to the Consent or printed upon the back of it form part of the approval to carry out street trading in the Cannock Chase district. They **MUST** be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed.

Consent Holders are therefore encouraged to familiarise themselves with the terms and conditions attached to the Street Trading Consent and to comply with the said requirements.

## 10. **Issue of Street Trading Consents**

A Street Trading Consent for any particular Pitch will be issued for a maximum period of 12 months. Consents may be issued on an annual basis and invoiced on a quarterly



basis. They may also be paid for in monthly instalments. Non payment of fees or instalments will lead to the Consent being revoked.

In all cases, when Consent has expired and an application has not been submitted for renewal at least 5 days earlier, a new application will have to be made. In such cases, the application may be required to go through the full consultation process outlined in this Policy.

If a cheque is not honoured by a bank this will result in the revocation of the Street Trading Consent issued by the Council unless payment of the outstanding fees is made immediately upon request of the Licensing Unit. In such cases, an administration charge may also be imposed on the Consent Holder.

Normally, Street Trading Consents will be posted to the applicant. In all other cases, the Consent will be issued at the Council Offices in Beecroft Road, Cannock. The applicant must attend in person to collect any documentation as early in the day as possible.

Street Trading Consents may be revoked without notice if it is considered in the best interests of the Council to do so.

#### **11. Refusal of Applications for Street Trading Consent**

If the Head of Environmental Health refuses the grant of a Street Trading Consent, the applicant will be notified in writing of the decision and the reason for the refusal within 7 working days.

The Local Government (Miscellaneous Provisions) Act 1982 does not facilitate any legal appeal against the decision of the Council in relation to the refusal of Street Trading Consents. Any decision to refuse an application will involve consideration of what is in the best interests of the Council. The Head of Environmental Health will use the criteria given in paragraph 8 on determination of the application, in determining what is in the best interests of the Council. Any person aggrieved by a decision of the Council may seek a Judicial Review of the decision.

#### **12. Decision Not to Renew or to Revoke a Street Trading Consent.**

If the Head of Environmental Health determines not to renew or to revoke an existing Street Trading Consent, the applicant/consent holder will be notified in writing of the decision within 7 working days giving reasons for not renewing or revoking the Consent.

The Local Government (Miscellaneous Provisions) Act 1982 does not facilitate any legal appeal against the Council in relation to a decision not to renew or to revoke a Street Trading Consent. However, any person aggrieved by a decision of the Council may seek a Judicial Review of the decision, should it be felt necessary.

## 13 **General Information on Street Trading Consents**

**Reimbursement of Fee:** Fees will not normally be reimbursed to Consent Holders where they are unable to trade on a given day (for whatever reason).

Fees may be reimbursed where traders cease to trade and surrender their Consent to the Council. Any reimbursement will be strictly from the date the Consent is surrendered to the Council. A small administration fee will be deducted from the final settlement.

Refund of any fee paid to the Council in connection with the granting of a Street Trading Consent will be based on the number of complete days remaining, divided by the daily fee paid, **less** the current administration/consultation fee.

**Alcohol:** The sale of alcohol will not normally be permitted by Street Trading Consent. However, the district's town centres are licensed by the Council under the Licensing Act 2003 and permission may be sought in respect of the sale or supply of alcohol or the provision of late night refreshment as part of larger community events. An application form is available from the Licensing Unit.

**Persons under the age of 17 years:** In accordance with the Local Government (Miscellaneous Provisions) Act 1982, the Council is unable to grant a Street Trading Consent to any person under the age of 17 years.

**Access/inspection by Council and Police Officers:** Consent Holders must allow access to Authorised Officers of the Council and Police Officers at all reasonable times for the purposes of assessing and ensuring compliance with the Street Trading Consent.

**Street Trading Consents:** The conditions attached to all Street Trading Consents stipulate that a Consent Holder shall not transfer, assign, sub-let or part with his interest or possession of a Street Trading Consent. The Consent Holder will normally be expected to be in attendance at his/her vehicle, van, trailer, stall, unit or other device used for street trading at all times when the Consent is valid. Consents are non-transferable and no sub-letting is permitted.

**Variation of conditions:** The Council may at any time vary the conditions of a Street Trading Consent if it is considered necessary.

**Complaints:** Consent Holders are expected to conduct themselves in a clean, honest and business like manner. Any complaint made by any person to the Consent Holder about their business must be referred to the Council's Licensing Unit as soon as possible after it is made.

**Display of Permits:** The Street Trading Consent which details the permit holders name **MUST** be clearly displayed on the vehicle, van, trailer, stall or other device used for street trading. Failure to comply may result in Consents being revoked or not renewed. The address of the Consent holder, along with a photograph of themselves will be printed on the rear of the Consent issued and must be made available for inspection by the Police or other Authorised Officers upon requested.

**Litter and Waste Disposal:** Provision must be made for the proper disposal of waste. There shall be no discharge to drains and no unauthorised depositing of either solid or liquid matter. Street traders should actively prevent windblown or other litter occurring and must not use public litter bins to dispose of their waste.

**Vehicles:** are only permitted to stay within the town centre if they form part of the Street Trading Consent. Traders should be aware that some town centres are pedestrianised and that vehicle movement must therefore be kept to an absolute minimum. Every effort should be made to enter and leave the town centres before and after the area becomes busy and generally, vehicle movements for the unloading and loading of goods should not take place between the hours of 10.00hrs and 16.00hrs.

It must be noted that the Street Trading Consent does not override existing Traffic Regulation Orders and all vehicles must be parked safely and not upon double yellow lines etc. If the vehicle does not form part of the Street Trading Consent then it must be legally parked elsewhere.

It should be noted that if the vehicle itself is licensed, for example as an Ice Cream Van, then the Council may wish to ensure that the vehicle is taxed and has an appropriate MOT.

**Highways:** It is not permitted under any circumstances to damage the highway, for example, by hammering to provide securing points. Further, it is not permitted to secure notices or advertising boards to street furniture or highway infrastructure by means of chains etc.

**Planning:** All applicants are encouraged to seek advice from the Planning Department at the Council on the proposed location of their Pitch. Planning permission may be required and it should be noted that Street Trading Consent does not override the need for planning permission to be obtained.

#### 14. **Enforcement of Street Trading**

The Council will actively enforce the provisions of the street trading legislation within its area in a fair and consistent manner. All enforcement activities will comply with the Service Enforcement Policy.

#### 15. **Complaints against the Service**

The Council has a Corporate Complaints Procedure copies of which are available from the Council Offices or on the Council's website [www.cannockchasedc.gov.uk](http://www.cannockchasedc.gov.uk).

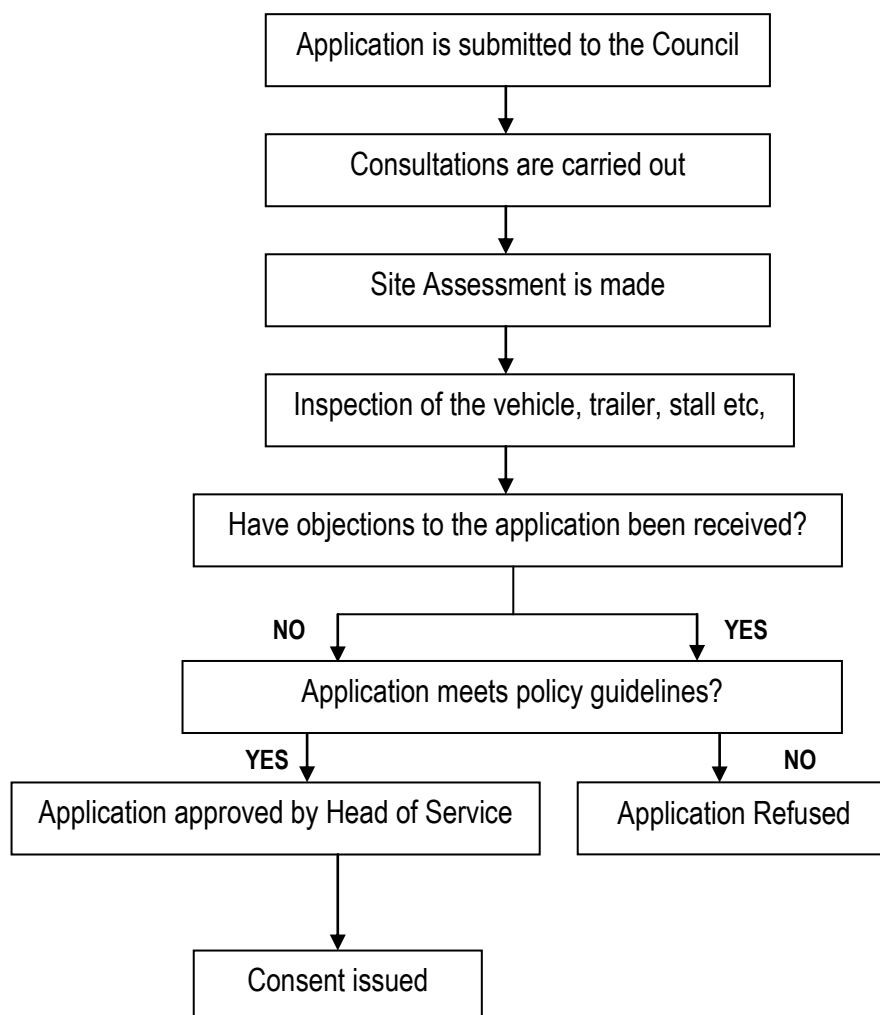
#### **Contact Details:**

Licensing Unit,  
Cannock Chase District Council,  
Civic Centre,  
PO Box 28, Beecroft Road,  
Cannock, Staffs., WS11 1BG  
Phone: 01543 462621. Fax: 01543 464489  
Email: [licensingunit@cannockchasedc.gov.uk](mailto:licensingunit@cannockchasedc.gov.uk)

## APPENDIX 1

### PROCEDURE FOR DETERMINING STREET TRADING CONSENT APPLICATIONS

The application and approval procedure comprises of the following stages:



#### **NOTES FOR APPLICANTS**

The Council will normally attach Standard Conditions to a street trading consent.

#### **Fees and Charging Structure**

The 3 tier fee structure is outlined within paragraph 4 of the policy. The fees are reviewed in April each year. Applications must be accompanied by the full fee. Consent will not be issued for longer than 12 calendar months. The current administration/consultation fee is £5.00. Please note that cash payments cannot be accepted.

## **Exemptions from consent street charging fees**

Street trading consents issued to registered charities and non profit making organisations may be exempt from the consent street trading charges (see 4 relating to Fee Structure).

## **Safe Use of Liquefied Petroleum Gas (LPG) in mobile catering units**

Guidance notes are available on the safe use of LPG and applicants will be expected to comply with the advice contained therein.

Applicants must have a recent Certificate of Inspection for LPG and gas appliances.

## **Electricity**

Mains electricity is not readily available within the Cannock Town Centre. Requests for use of this facility at a daily rate must be made to the Council at the time of application. Where a generator is used to provide power then it must be of a small low noise generating type.

## **Noise**

The operators of ice cream vans must comply with the Code of Practice on Noise from Ice Cream van Chimes etc. 1982

Sound amplification will not be permitted unless in relation to matters specified in the Control of Pollution Act 1974 and in compliance with Codes of Practice. Further advice may be sought via the Council's Licensing Unit.

## **Enforcement Policy – Refusal or Revocation**

The following grounds will be considered for refusing an application or revoking a Consent:-

1. It is in the best interest of the Council to do so.
2. That the applicant/consent holder has, without reasonable excuse, failed to avail themselves of a previous or current street trading consent.
3. That there is not enough space in the street for the applicant/consent holder to engage in the trading in which he desires to trade without causing undue interference or inconvenience to persons using the street. This is a relevant consideration even if the circumstances have arisen since the granting of a consent.
4. That the applicant/consent holder has failed to comply with the conditions of the consent or any statutory requirement relevant to street trading (e.g. hygiene or safety requirements).
5. That the applicant/consent holder is unsuitable to hold a Consent by reason of having been convicted of a relevant offence.
6. That the consent holder's vehicle, van, trailer, stall or other device has been the focus for incidents involving public disorder or nuisance.