



HAVANT BOROUGH COUNCIL

STREET TRADING POLICY

Date of Adoption: 22 November 2023

1 Introduction

- 1.1 Havant Borough Council (hereafter referred to as ‘the Council’) recognises that street trading is an established commercial activity that contributes to the vibrancy and local economy of the Borough.
- 1.2 The purpose of this Policy is to set out how the Council intends to administrate street trading within the Borough. The Policy allows the Council to regulate the location and number of traders, ensuring that they meet the requirements set out and do not adversely impact the street they occupy.
- 1.3 The Council adopted the provisions of Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its administrative area on 22nd November 2023.
- 1.4 The Policy provides guidance to any person with an interest in street trading. In particular, but not exclusively:
 - Applicants for street trading consent;
 - Existing holders of street trading consent;
 - Licensing Officers;
 - Members of the Licensing Committee; and
 - Members of the public.
- 1.5 The Policy has effect from 1 January 2024 and will be applied to existing consents and new applications received after this date.
- 1.6 The Council reserves the right to depart from this Policy where there are exceptional or compelling reasons to do so.

2 Definitions

- 2.1 Street trading in the Havant Borough Council area is regulated under Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 2.2 ‘Street trading’ is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. It does not include:
 - Trading by a person acting as a pedlar, under the authority of a pedlar’s certificate;
 - Anything done in a market or fair, the right to hold which was acquired by virtue of a grant or acquired or established by virtue of an enactment order;
 - Trading in a trunk road picnic area, provided by the Secretary of State under section 112 Highways Act 1980;

- Trading as a news vendor;
- Trading which is carried on at premises used as a petrol filling station;
- Trading which is carried on at premises used as a shop or in a street adjoining premises used as a petrol filling station and as part of the business of the shop;
- Selling things, or offering or exposing them for sale, as a roundsman (i.e. a milkman);
- Trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- The doing of anything authorised by regulations made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916.

2.3 A 'street' includes any road, footway, beach or other area to which the public have access without payment, and any service area as defined in section 329 of the Highways Act 1980.

2.4 A 'consent street' is a street in which street trading is prohibited without the consent of the Council. The Council has designated all streets in the Borough, with the exception of those on privately-owned land.

2.5 A 'prohibited street' is a street in which street trading is prohibited. The Council currently has no prohibited streets in the Borough.

3 Consultation

3.1 In determining this Policy, the Council has undertaken public consultation and has consulted the following stakeholders and organisations:

- Hampshire Constabulary
- Hampshire and IOW Fire and Rescue Service
- Hampshire County Council Highways
- Property Services
- Environmental Health
- All current consent holders

The Council has considered and taken into account the views of all consultees.

4 Review

4.1 This Policy will be reviewed at least every five years or sooner if there are relevant legislative changes or significant issues arise in the area.

5 Information sharing

- 5.1 The Council may use the information submitted on any application form for any consent(s) for the purpose of its statutory function(s). Information will be processed in accordance with the Data Protection Act (DPA) and General Data Protection Regulation (GDPR).
- 5.2 The Council is under a duty to protect the public funds it administers, and to this end may use the information provided for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.
- 5.3 The Council may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or for the National Anti-Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 5.4 If you wish to raise any issue related to the data protection legislation, including by relying on any of the rights afforded to data subjects under the GDPR, you can do so to the authority's Data Protection Officer via dp@havant.gov.uk. Further information is also available at www.havant.gov.uk/data-protection.
- 5.5 You always have the right to make a complaint to the Information Commissioner's Office (ICO). Advice on how to raise a concern about handling of data can be found on the ICO's website: <https://ico.org.uk/make-a-complaint/>

6 Delegation of Functions

- 6.1 This section of the Policy sets out how the Council deals with applications for street trading consent in the Borough. The Council aims to provide a transparent and consistent licensing service for all customers, protect the safety of highway users, and prevent nuisance or annoyance.
- 6.2 Delegation is laid out in the Council's Constitution as follows:
- a) Full Council
 - Designating streets for street trading under the Local Government (Miscellaneous Provisions) Act 1982;
 - Adopting the Council's policy for administering and determining applications for street trading consent.

- b) Licensing Sub-Committee
 - Determining whether an application for street trading consent should be granted, including attaching necessary conditions, where referred by an Authorised Officer for determination.
 - Determining whether conditions attached to any street trading consent should be varied, where referred by an Authorised Officer for determination.
 - Determining whether street trading consent should be revoked, where referred by the Environmental Health Manager for determination.
- c) Environmental Health Manager
 - Determining whether street trading consent should be revoked.
 - Suspend a consent for a period of up to 28 days pending referral to the Licensing Committee / Licensing Sub-Committee, when serious food safety issues are found or for any other reasonable cause.
- d) Authorised Officers
 - Granting street trading consent where no representations are received, including attaching necessary conditions.
 - Granting street trading consent, where representations have been received that can be sufficiently mitigated by the attachment of conditions.
 - Refusing street trading consent, where the application is considered unsuitable under this Policy or where there are objections from key consultees (referred to at section 7.3 of this Policy) on the grounds of public or highway safety.
 - Refer applications and consent holders to the Licensing Committee / Licensing Sub-Committee for determination, when considered in the public interest.

7 Applications for Street Trading Consent

7.1 An application for street trading consent must be made to the Council's Licensing Department in writing, using the form prescribed by the Council. The following is required for an application to be considered:

- a) Completed application form.
- b) Payment of the full application fee, as per the Council's approved fees and charges.
- c) Where the proposed trading is from a fixed position, a scale map of at least 1:1250 scale, clearly identifying the proposed site location with the site boundary marked with a red line.

- d) Colour photographs or brochure images of the stall or vehicle that will be used for the street trading activity.
- e) Proof of the applicant's right to work in the UK.
- f) Basic Disclosure and Barring Service (DBS) certificate, no more than one month from the date of issue.
- g) A certificate of public liability insurance that cover the street trading activity for third party and public liability risk. The minimum insurance cover shall be £5,000,000.
- h) Evidence of registration with the relevant local authority as a food business, if applicable.
- i) Evidence of a suitable commercial waste removal contract, including oil, if applicable.
- j) If a peripatetic street trader (see section 10), a map or list of all streets included on the trader's route(s).

7.2 Street trading consent may be granted for a period of 6 or 12 months. Temporary street trading consent may be granted for a maximum of 7 days.

7.3 Before the outcome of an application for street trading consent is determined, the Council will carry out a consultation process with various stakeholders, including:

- Hampshire County Council Highways & Parking
- Hampshire Constabulary
- Property Services
- Environmental Health
- Trading Standards
- Communities Team
- Regeneration and Economy
- Ward Councillors

7.4 The consultation period will last for 28 days, after which time representations will not be considered.

7.5 The Council may consult with additional stakeholders when considered necessary in the circumstances of the specific application. Written observations from stakeholders consulted will be taken into consideration when determining the application.

7.6 Street trading consent will not normally be granted where:

- a) 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.
- b) Where there is a conflict with Traffic Orders, such as waiting restrictions.
- c) The site or pitch obstructs pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes.
- d) The trading unit obstructs the safe passage of users of the footway or carriageway.
- e) The site or pitch interferes with sight lines for any road users, such as at roundabouts, road junctions or pedestrian crossings.
- f) The trading activity proposed would be in direct competition with the established shop traders in the same location; provided that the Council is satisfied that there is adequate provision of the trading activity proposed.
- g) The site or pitch is not sufficiently flexible to ensure no adverse impact on special events.

7.7 The Council will not grant street trading consent to any individual aged less than 17 years old.

7.8 The Council will not normally allow the sale of:

- Tobacco or vapes
- Items made of animal fur
- Items that cause or contribute to crime and disorder
- Alcohol or energy drinks
- Pharmaceuticals or medical supplies

7.9 In the absence of any representations received, the application will be determined by an Authorised Officer, who will use the criteria in this Policy to make their determination.

7.10 Where representations are received, an Authorised Officer may grant street trading consent where representations can be sufficiently mitigated by applying conditions to the consent. The Environmental Health Manager may refuse the application using their delegated powers, or the application may be

referred to the Licensing Sub-Committee for determination when considered in the public interest.

7.11 In considering applications for the grant or renewal of street trading consent, the following criteria will be considered:

- a) **Public safety.**
Whether the street trading activity represents, or is likely to represent, a substantial risk to the public. Factors to be considered will include obstruction, fire hazard, unsatisfactory hygiene processes or dangers associated with site access.
- b) **Public order.**
Where the street trading activity represents, or is likely to represent, a substantial risk to public order.
- c) **Public nuisance.**
Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to nearby residents and/or businesses, particularly in residential areas.
- d) **Appearance.**
The stall, vehicle or other form of trading must be maintained in good condition, be of smart appearance and appropriate to the area in which the street trading activity is taking place.
- e) **Needs of the area.**
The demand for the proposed articles for sale in the geographical location of the proposed site.
- f) **Environmental sustainability.**
Measures to minimise the impact of the street trading activity on the local environment are recommended. For example, measures that consider power supply, carbon footprint, packaging, waste minimisation, recycling and waste disposal.
- g) **Food safety.**
Individuals proposing to trade food or drink, whether hot or cold, must be able to demonstrate that they are registered as a food business with the relevant local authority.
- h) **Highway safety.**
The proposed site and operating times will be such that the highway can be maintained in accordance with Hampshire 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.

- 7.12 There is no statutory right of appeal against refusal to issue street trading consent.
- 7.13 The type of goods allowed to be sold will be considered on a case-by-case basis and will be specified in the consent. Consent holders must seek prior approval from the Council prior to making any significant changes to the type of goods offered for sale under the consent.

8 Suitability of Applicant

- 8.1 When determining an application for the grant or renewal of street trading consent, the Council will consider relevant information relating to the suitability of the applicant including:
- Whether they have been cautioned or convicted of any offences of violence, dishonesty, drug-related offences, sexual offences, public order, food safety or health and safety, or any offence resulting in a sentence of imprisonment.
 - Applicants will be required to make a declaration on their application form, to confirm their status relating to any unspent cautions or convictions under the Rehabilitation of Offenders Act 1974.
 - Applicants are required to obtain a basic Disclosure and Barring Service (DBS) certificate and provide this with their application.
 - Failure to pay the Council's street trading consent fees (including dishonoured cheques).
 - An applicant's history of street trading, including whether previous consents have been used appropriately.

9 Advertisements

- 9.1 The use of A-boards is prohibited on the highway unless express permission from Hampshire County Council's Highways Team has been given.
- 9.2 Advertisements must relate only to the goods offered for sale at the site to which the consent relates. Third party advertisements are not permitted.

10 Peripatetic Street Trading

- 10.1 Traders that meet the following criteria will be considered peripatetic:
- Move from location to location.
 - Move at least 50 metres from the last trading location, and do not return to that location within one hour.
 - Do not wait in one location for more than 20 minutes.
 - Does not trade within 100 metres of any entrance to any school or college (without formal invitation from the establishment).

10.2 For example, an ice cream van that travels from street to street would be deemed a peripatetic street trader. Street trading consent is required where the trader's route(s) include consent streets.

11 Renewal Applications

11.1 Street trading consent may only be renewed where they were initially granted for either 6 or 12 months. Temporary street trading consent cannot be renewed; a new application will be required for each trading period.

11.2 It is recommended that renewal applications are submitted at least 30 days prior to the expiry of any current consent, to prevent there being a gap in the street trading consents.

11.3 If a renewal application is not received prior to the expiry of the current consent, a new application must be made. In this situation, trading will not be permitted until new consent is issued.

11.4 The following is required for a renewal application to be considered:

- a) Completed application form.
- b) Payment of the full renewal fee, as per the Council's approved fees and charges.
- c) Proof of the applicant's right to work in the UK (where leave for remain is for a finite period).
- d) A certificate of public liability insurance that covers the street trading activity for third party and public liability risk. The minimum insurance cover shall be £5,000,000.
- e) Evidence of registration with the relevant local authority as a food business, if applicable.
- f) Evidence of a suitable commercial waste removal contract, including oil, if applicable.

11.5 Applications for the renewal of street trading consent, where no substantial changes have been made to the proposed activity or trading hours, will be subject to a 14-day consultation period. An Authorised Officer may use their discretion to determine what constitutes 'substantial changes' on a case-by-case basis.

- 11.6 Where a renewal application has been made and there have been complaints, enforcement issues or unpaid fees during the period of the current consent, an Authorised Officer shall consider all relevant information prior to determining the application or referring to Licensing Committee / Licensing Sub-Committee for determination.

12 Transfers

- 12.1 Street trading consent cannot be transferred or sold to another person. The sub-letting of a pitch or site is prohibited.

13 Markets

- 13.1 Traders that operate as part of a market do not require street trading consent, where the right to hold that market was acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order.
- 13.2 Should a potential applicant be unsure whether street trading consent is required to trade as part of a market, they should contact the Licensing Department for advice.

14 Forecourt Displays and Trading

- 14.1 Trading on the highway as part of a business or premises adjoining the highway is excluded from the definition of street trading, and therefore consent cannot be given by the Council.
- 14.2 It is for Hampshire County Council to determine whether displaying goods for sale outside a business or premises adjoining the highway constitutes an unlawful obstruction. For example, if a business takes up the majority of the width of the footway by displaying their goods, this may restrict lawful access by pedestrians to that footway.
- 14.3 The Council have no enforcement powers to deal with unlawful obstructions in these circumstances but may refer cases to Hampshire County Council's Highways Team for consideration where there is a risk to public safety.
- 14.4 The Council may require forecourt displays, where items are only displayed and no trading takes place on the street, to be authorised by means of a permit under the Highways Act 1980.

15 Street Trading at Events

- 15.1 The Council recognises the value that events bring to the Borough. These events may involve street trading on consent streets and will therefore require street trading consent from the Council.
- 15.2 In order to minimise the administrative burden on the organisers of these events, the Council will accept one application for street trading consent for multiple traders. The following will be required for an application to be considered:
- a) Completed application form, detailing the number of stalls applying for.
 - b) Payment of the application fee, as per the Council's approved fees and charges. The Council's fees for temporary street trading apply, with one fee due for the whole event and not per individual trader.
 - c) A register of all stallholders who will be present at the event, including the name of the individual or business and the nature of items being sold.
 - d) A scale map of at least 1:1250 scale, clearly identifying the proposed event location, the location of each stall for street trading, and the site boundary marked with a red line.
 - e) A certificate of public liability insurance that covers the event, including the street trading activities. The minimum insurance cover shall be £10,000,000.
 - f) Evidence of each stallholder's registration with the relevant local authority as a food business, if applicable.
 - g) Evidence of a commercial waste removal contract for each vehicle or stall, including cooking oil, if applicable. A commercial waste removal contract applying to the whole site may also be accepted.
- 15.3 An application will not be considered valid until the above evidence has been supplied with the application form and fee.
- 15.4 Trading at charity or community events, where the entirety of the profits from individual stalls are donated to charity, is exempt from the Council's street trading licensing requirements. Any traders donating their profits to charity will require a street collection permit from the Council. Any traders attending for commercial gain will still require street trading consent.

16 Fees

- 16.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the duration of the consent and administration involved. Details of the current fees can be found on the Council's website.
- 16.2 Fees must be paid in advance of consent being granted. Payment by instalments is not permitted.
- 16.3 A consent holder may terminate street trading consent by written notice to the Licensing Team. No refund, or pro-rata refund, will be issued where a consent holder terminates their consent during the period of the consent.

17 Conditions

- 17.1 The Council applies standard conditions to street trading consents, as per Appendix 1.
- 17.2 Additional conditions may be applied to individual consents when deemed appropriate, for example to mitigate concerns raised by representations.

18 Enforcement

- 18.1 Any enforcement action undertaken relating to street trading will be done so in line with the Environmental Health Enforcement Policy.
- 18.2 The Council will investigate any complaints relating to street trading activities, e.g., trading without consent or breach of conditions. The Council will aim to resolve complaints informally by liaising with the consent holder but may take further action where this does not resolve the issue(s) raised.
- 18.3 Failure to comply with one or more of the conditions attached to street trading consent may result in the revocation or non-renewal of that consent.
- 18.4 The Council may revoke street trading consent at any time, on any reasonable grounds. This may be for a variety of reasons, including breach of conditions, non-payment of fees, or when a site or location is no longer suitable for the street trading activity.
- 18.5 The Council will liaise with partner agencies, such as Parking Enforcement and the Police, to assist in gathering evidence for enforcement proceedings.

19 **Contacts**

The street trading function is part of the Licensing Team, within the Environmental Health Service.

Licensing Team
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
PO9 2AX

Tel: 02392 446660

Email: licensing@havant.gov.uk

For details of how to apply for street trading consent, please visit
<https://www.havant.gov.uk/>

Appendix 1

Standard Street Trading Conditions

1. The consent holder shall ensure that street trading takes place only between the dates specified on the consent, and only during the operational hours specified on the consent.
2. The consent holder shall be the principal operator and have day-to-day control of the trading site and any vehicle or stall connected with the street trading activity. The consent holder may employ any other person to assist in the street trading activity.
3. The consent holder shall not change the vehicle or stall, or significantly alter the appearance of the vehicle or stall, authorised for street trading under the consent without prior written consent from the Council.
4. The consent holder shall, during any trading period, display a copy of the street trading consent issued by the Council within the trading area in such a way that it can be seen clearly by members of the public.
5. The consent holder shall ensure that any vehicle used in connection with the street trading activity is maintained in a safe and roadworthy condition, taxed, insured and with a current MOT certificate.
6. The consent holder shall ensure that any vehicle movements connected with the trading activity are carried out legally and do not present a risk to other users of the highway. The consent holder shall ensure that any vehicle used in connection with the trading activity is parked lawfully.
7. The consent holder shall keep the trading area clean, tidy, and free from any litter or debris attributable to the street trading activity. This shall include the removal of any litter or debris attributable to the street trading activity at the end of each trading period.
8. The consent holder shall ensure that they dispose of any waste produced from the street trading activity in a lawful and appropriate manner, i.e., by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property. Commercial waste may not be disposed of in domestic waste receptacles.
9. During the permitted times of trading, the consent holder shall ensure that adequate receptacles for litter in the vicinity of the trading area are provided.
10. The consent holder shall comply with any relevant legislation relating to single-use plastic, namely regarding food containers and cutlery.

11. The consent holder shall remove any objects from the highway immediately when required to do so by the Havant Borough Council, Hampshire County Council, the Police, Fire and Ambulance Services, any statutory undertaker or telecommunications operator, for the purposes of permitting works on the highway or use of the highway by any of the aforementioned authorities.
12. The consent holder shall, when requested to do so by an Authorised Officer of the Council, relocate to such alternative trading location as may be specified by such Authorised Officer.
13. The consent holder shall ensure that no A-boards or similar free-standing advertising is placed on the highway without the express consent of Hampshire County Council's Highways Team.
14. The consent holder shall ensure that any advertising within the trading area relates only to the goods offered for sale at the site to which the consent relates. Third party advertisements are not permitted.
15. The consent holder shall ensure that the highway is not unlawfully obstructed by the trading activity, and shall ensure that the visibility of highway users is not obstructed by any object used in connection with the trading activity.
16. The consent holder shall ensure that where seating is provided for customers on the highway, these are appropriately licensed by means of a Pavement Licence or other authorisation from the Council.
17. Should the consent holder require the supply of any service (electricity, gas or water) or any form of drainage to undertake the authorised trading, the consent holder shall ensure that such supply or drainage is properly obtained, authorised and installed, in all respects and at all times, by agreement with and to the full satisfaction of the relevant service supplier or drainage provider (including the highway authority).
18. The consent holder shall ensure that any structures, vehicles or other equipment used for the trading activity are sited so that they do not obstruct drainage outlets, access to utility apparatus or emergency exit routes.
19. The consent holder shall ensure that any structures, vehicles or other equipment used for the trading activity are removed from the highway at the end of each trading period.
20. The consent holder shall maintain public liability insurance (to the minimum sum specified by the Council in its Street Trading Policy) in respect of the trading activity and shall produce evidence of such insurance cover to the Council on request.

21. The consent holder shall ensure that they comply with any relevant statutory or lawful requirements applicable to the type of trading activity in question.
22. The consent holders shall pay particular attention to the requirements of the Health & Safety at Work etc. Act, 1974 and the Food Safety and Hygiene (England) Regulations 2013 (where relevant). Advice on these requirements is available from Environmental Health.
23. The consent holder shall take all reasonable precautions to prevent the risk of fire in the trading area, and follow any recommendations made by Hampshire and IOW Fire and Rescue Service.
24. The consent holder shall take reasonable steps to ensure gas safety where gas appliances are used in connection with the street trading activity. Gas appliances must be maintained and serviced in accordance with manufacturer's instructions and must be checked at regular intervals by a competent gas safety engineer. The consent holder shall ensure that any faults or concerns relating to gas safety are reported and appropriately investigated by a competent gas safety engineer.
25. The consent holder shall not cause any nuisance or annoyance to neighbouring residential properties, business premises or any other user of the highway by undertaking the street trading activity.
26. The consent holder shall not play music, or allow music to be played, within the trading area at any time. This includes the use of portable radios.
27. The consent holder shall not transfer or sell the street trading consent to another person. Sub-letting of a street trading site or pitch is prohibited.
28. The consent holder shall comply with any additional conditions imposed on their street trading consent by the Council.

Conditions Specific to Peripatetic Traders

1. The consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013, or any modification or re-enactment thereof.
2. The consent holder shall ensure that no trading takes place within 100 metres of the boundary of any school or college between the hours of 07:30 and 18:00 (except with formal invitation from the establishment).
3. The consent holder shall not trade or wait in one location for more than 20 minutes.

4. The consent holder shall move at least 50 metres from the last trading location, and shall not return to that location within four hours.