

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Licensing Committee

Date: **Thursday, 14th March, 2019**

Time: **10.00 am**

Venue: **Committee Room, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

Lynn Cain

l.cain@ashfield.gov.uk

01623 457317

LICENSING COMMITTEE

Membership

Chairman: Councillor Sam Wilson

Councillors:

Lee Anderson
David Griffiths
Rachel Madden
Glenys Maxwell
Mike Smith

Tony Brewer
John Knight
Cathy Mason
Mick Murphy
John Wilmott

FILMING/AUDIO RECORDING NOTICE

This meeting may be subject to filming or audio recording. If you have any queries regarding this, please contact Members' Services on 01623 457317.

SUMMONS

You are hereby requested to attend a meeting of the Licensing Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. **To receive apologies for absence, if any.**
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.**
3. **To receive and approve as a correct record the minutes of the meeting of the Committee held on 8th November, 2018.** 5 - 8
4. **Licensing Authority Activity Report: 2018 Calendar Year.** 9 - 16
5. **Draft Street Trading Policy.** 17 - 52

This page is intentionally left blank

LICENSING COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Thursday, 8th November, 2018 at 10.00 am

Present: Councillor Cathy Mason, in the Chair;

Councillors Tony Brewer, John Knight,
Rachel Madden and Mike Smith.

Apologies for Absence: Councillors David Griffiths, Mick Murphy and
Sam Wilson.

Officers Present: Julian Alison, Lynn Cain, Martin Elliott and
Lauren Gimson.

L.5 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

No declarations of interest were made.

L.6 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 6th September, 2018,
be received and approved as a correct record.

L.7 Review of the Statement of Licensing Policy

Committee were requested to consider the draft revised Statement of
Licensing Policy, as appended to the report and recommend its adoption by
Council. Members were advised that no responses were received in relation
to the draft document during the consultation period, which ran from 17th
September, 2018 until 28th October, 2018.

RESOLVED

that the draft revised Statement of Licensing Policy (effective from 31st
January, 2019), as appended to the report, be agreed and recommended to
Council for approval.

Reasons:

1. The Council is obliged to determine and publish a "Statement of Licensing
Policy" and to keep it under review and to republish it at least every five
years. The Statement of Licensing Policy sets out how the Licensing
Authority intends to exercise its functions under the 2003 Act.

2. The current Policy is nearing the end of its five-year life span and as such, requires updating and republishing.
3. At its meeting on the 6th September, 2018, the Committee agreed a revised draft Statement of Licensing Policy and requested that the Licensing Team Leader carry out a 6-week consultation seeking comments in relation to the draft revised Policy.

L.8 Review of the Statement of Gambling Policy

Committee were requested to consider the draft revised Statement of Gambling Policy, as appended to the report and recommend its adoption by Council.

Members were advised that one response had been received in relation to the draft document during the consultation period, which ran from 17th September, 2018 until 28th October, 2018. The response had requested that 'Gamblers Anonymous' be referenced within the Policy and the Licensing Team Leader advised that this amendment could be accommodated.

The Committee were also asked to approve a couple of additional minor changes to the draft Policy as indicated.

RESOLVED that

- a) the draft revised Statement of Gambling Policy (effective from 31st January, 2019), as appended to the report, be agreed and recommended to Council for approval subject to the inclusion of the following (*marked in italics*):-

Paragraphs:

2.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) which were revised and published in February 2015, formalise the need for operators to consider local risks. Local risk assessments apply to all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences. *This provision came into force on 6th April 2016.*

2.2 Licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement. *Such risk assessments should also be retained at the premises.*

5.16 Applicants are encouraged to offer their own measures to meet the licensing objectives, however, appropriate measures/licence conditions imposed by the Authority may cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entrances
- notices / signage
- specific opening hours
- self-barring schemes
- provision of information leaflets / helpline numbers / *website addresses* for organisations such as GamCare and Gamblers Anonymous.

b) the revised Statement of Gambling Policy to include and maintain the “No Casino” resolution.

Reasons:

1. The Council is obliged to determine and publish a "Statement of Gambling Policy" and to keep it under review and to republish it at least every three years. The Statement of Gambling Policy sets out how the Licensing Authority intends to exercise its functions under the 2005 Act.
2. The current Policy is nearing the end of its three-year life span, and as such, requires updating and republishing.
3. At its meeting on 6th September 2018, the Committee agreed a revised draft Statement of Gambling Policy and requested that the Licensing Team Leader carry out a 6-week consultation seeking comments in relation to the draft revised Policy.

The meeting closed at 10.10 am

Chairman.

This page is intentionally left blank

Report To:	LICENSING COMMITTEE	Date:	14TH MARCH 2019
Heading:	LICENSING AUTHORITY ACTIVITY REPORT: 2018 CALENDAR YEAR		
Portfolio Holder:	ENVIRONMENT		
Ward/s:	ALL		
Key Decision:	No		
Subject to Call-In:	No		

Purpose of Report

To inform the Licensing Committee of the progress made by the Licensing Authority in relation to the carrying out of the licensing functions during the 2018 calendar year.

Recommendation(s)

The Licensing Committee is recommended to:

- a) Note the content of the report; and**
- b) Make any comments and recommendations regarding the future work of the Licensing Authority.**

Reasons for Recommendation(s)

The report covers data on service volumes; details of licensing hearing decisions; decisions made under delegated powers; information on volumes of applications and enforcement activities.

The report also details the programmes of modernisation that have been put in to effect since the 2017 Calendar Year Committee Report, and the future workings of the Authority, in order for Members to provide feedback to the Licensing Team Leader.

Alternative Options Considered (With Reasons Why Not Adopted)

None

Detailed Information

Introduction

This report has been written in order to bring to Members' attention the work carried out by the Licensing Authority during the 2018 calendar year, in order to promote the working of the Authority to a wider audience.

The Licensing Authority has a statutory duty to facilitate applications for licences, and to ensure compliance with rules and regulations by licence holders.

The matters detailed within this report have been carried out by Licensing Sub-Committees and Officers delegated with authority to determine applications relating to the following licensing functions.

Licensing Act 2003:	Alcohol / Regulated Entertainments / Late Night Refreshment
Gambling Act 2005:	Betting / Gaming / Small Society Lotteries
Local Government (Miscellaneous Provisions) Act 1976 & Town Police Clauses Act 1847	Hackney Carriage & Private Hire (Drivers, Vehicles, Operators)
Town Police Clauses Act 1889	Omnibuses
Local Government (Miscellaneous Provisions) Act 1982	Sex Establishments / Street Trading Consents / Acupuncture / Electrolysis / Ear Piercing / Tattooing
Animal Welfare (Licensing of Activities involving Animals) (England) Regulations 2018	Breeding of Dogs / Boarding of Cats and Dogs / Selling Animals as Pets Hiring out of Horses / Exhibition of Animals
Dangerous Wild Animals Act 1976	Dangerous and rare wild animals
House to House Collections Act 1939	Charitable collections made door to door
Police, Factories (Miscellaneous Provisions) Act 1916	Charitable collections made on the street
Zoo Licensing Act 1981	Zoos
Nottinghamshire County Council Act 1985 Part IV	Massage & Special Treatments (incl. Laser Treatments)
Scrap Metal Dealers Act 2013	Scrap Metal Sites and Collectors

Applications Received by the Licensing Authority during the 2018 calendar year

The table below provides data on the new licence / registration applications received and processed during the last calendar year (not including renewals). The data also details (where applicable) the total number of licences in force at the end of the 2018 calendar year (which includes renewals).

	2018	TOTAL IN FORCE
LICENSING ACT 2003		
New Personal Licences	59	1336
New Licences (Premises / Clubs)	13	417
Minor Variations (Premises / Clubs)	10	N/A
Full Variations (Premises / Clubs)	4	N/A
Reviews (Premises / Clubs)	0	N/A
Administrative Changes (Premises / Clubs)	90	N/A
Temporary Event Notices	115	N/A
Notification of Interest (Premises / Clubs)	3	N/A
GAMBLING ACT 2005		
Gaming Notifications	1	59
Gaming Machine Permits	3	16
Club Machine Permits	0	18
Temporary Use Notices	0	N/A
Occasional Use Notices	0	N/A
New Premises Licence	0	20
HACKNEY CARRIAGE & PRIVATE HIRE		
New Drivers (3 Year Licence)	245	607
New Vehicles (1 Year Licence)	91	380
New Operator (5 Year Licence)	2	18
STREET TRADING CONSENTS (Annual Consent)		
New Consents issued (Maximum of 15 trading sites)	3	11
SEX ESTABLISHMENTS (Annual Licence)		
New Licences issued	0	0
ANIMAL WELFARE (Annual Licence)		
New Dog Breeding Establishments	1	6
New Home Boarding Establishments	2	13
New Kennels & Catteries	1	9
New Pet Shops	0	4
New Riding Establishments	0	1
New Zoos	0	0
BEAUTY TREATMENTS (Annual Licence)		
New Massage & Special Treatments Premises	1	39
BODY MODIFICATIONS (One-off Registration)		
New Tattooing Registrations	7	62
New Acupuncture Registrations	2	18
New Electrolysis Registrations	1	31
New Ear Piercing Registrations	4	73
SCRAP METAL (3 Year Licence)		
New Collectors	2	13
New Sites	1	3
TOTAL APPLICATIONS GRANTED IN 2018	661	3154

The 2018 calendar year has seen a further significant increase in applications being received by the Licensing Authority, and despite a number of licences lapsing and not being renewed, we have seen a net increase of 415 licensees.

The most notable increases are to be found in the Hackney Carriage & Private Hire licensing function, where the Council continues to be seen as an attractive proposition for those seeking to become licensed drivers, and for our local companies seeking to recruit more and more drivers.

The introduction in 2017 of instalment payment options has resulted in growth within the Street Trading function with more of our adopted pitches being taken up by traders. However, we only have 15 adopted pitches, which limits the opportunity to prospective new traders.

A report detailing a new draft Street Trading Policy designed to promote commercialism, but being sympathetic in relation to locations that may negatively impact on education, healthcare, communities, other local businesses, and cultural matters, will be heard at this Committee meeting.

The other areas of the entire licensing service appear to remain reasonably consistent in terms of those renewing their licences. Where licences have lapsed or been surrendered, new applicants have taken over such businesses, however in the Licensing Act 2003 function it has been pleasing to see some new premises open during the year, which provide the public with something, a little more diverse and aspirational.

Our expected financial position at the end of the 2018/19 Council year anticipates realising a small surplus, enabling the Licensing Team Leader to now complete the restructure of the Licensing Team, with the recruitment of 2 full time Licensing Officers to replace 1 ½ existing posts that have been / are being vacated.

The expected financial position also means that for the second year running we have not had to increase our fees and charges, enabling our customers a further period of stability and reassurance as they seek to invest in their businesses.

An audit was carried out on the Team's procedures towards the end of 2018, and it was pleasing to note that no significant risks were found, and the few minor matters that were identified were able to be promptly resolved.

Compliance and Enforcement

The table below provides data on the number of enforcement actions taken during the 2018 calendar year across all of our licensing functions.

LICENSING ACT 2003	55
GAMBLING ACT 2005	0
HACKNEY CARRIAGE & PRIVATE HIRE	395
STREET TRADING CONSENTS	6
SEX ESTABLISHMENTS	0
ANIMAL WELFARE	2
BEAUTY TREATMENTS / BODY MODIFICATIONS	9
SCRAP METAL	4
TOTAL ENFORCEMENT ACTIONS DURING 2018	471

The majority of enforcement actions related to minor breaches of licence requirements relevant to each of the licensing functions (i.e. failures to display licence, failures to prevent noise nuisances, vehicles with minor bodywork imperfections, illegal parking, etc.).

More serious matters of concern that resulted in enforcement action during the year occurred within the Hackney Carriage & Private Hire licensing function, and included:

- **33 new applicants / existing licensed drivers referred to the Service Director for suspension / revocation of licence following receipt of information / failure to provide information that brought in to question their suitability to continue to hold a licence.**
- **6 driver licences revoked with immediate effect owing to information provided / failure by licence holders to provide information that called into question their suitability to continue to hold a licence owing to medical concerns.**
- **1 driver licence revoked with immediate effect following information from DVLA that his DVLA Licence had been revoked.**
- **57 vehicle licences suspended following the licence holders failing to have their vehicles undertake the mandatory six-monthly interim Certificate of Compliance Test.**
- **4 vehicle licences suspended following Officers witnessing vehicles with significant bodywork damage still being used to carry fare-paying passengers.**
- **1 driver licence revoked following information provided by Nottinghamshire County Council Safeguarding Board.**
- **2 Private Hire Operators required significant assistance to understand and implement software changes to their systems to ensure accuracy and accountability when sub-contracting bookings between them.**

Owing to the loss of a full-time member of staff for the entire 2018 calendar year, the Licensing Team Leader and Licensing Enforcement Officer were unable to carry out many day-time inspections or night-time / weekend operations (in order to facilitate applications across the functions), hence a reduction of actions when compared to the 2017 year.

It is hoped that upon the completion of the Team restructure and recruitment of new staff members, that the enforcement programmes will recommence.

Licensing Sub-Committee Cases

During the 2018 calendar year, 3 Hearings were held to determine Licensing Act 2003 applications, as detailed below:

- **Selston Sports Pavilion (New Premises Licence):** 1 x Interested Party. Application granted as applied for (including pre-agreed conditions with Nottinghamshire Police).
- **The Dog House, Hucknall: (New Premises Licence):** 2 x Interested Parties. Application granted as applied for (including conditions and operational policies pre-agreed with the Licensing Authority).
- **Palms Bistro, Kirkby in Ashfield: (New Premises Licence):** 6 x Interested Parties. Application granted as applied (including conditions agreed with the Licensing Authority and Nottinghamshire Police).

Officer Decision Record (ODR) Cases

During the course of the 2018 calendar year the Service Director held 12 hearings in relation to the suitability of applicants and existing licence holders of a Hackney Carriage & Private Hire (Dual) Driver Licence:

	Granted	Warning	Refused	Suspended	Revoked
New Driver	7	0	0	N/A	N/A
Existing Driver	0	5	0	0	0

Matters that led to the ODR hearings included relevant information contained on Enhanced Disclosure & Barring Services Reports and on DVLA Disclosure Reports, concerns in relation to the health of drivers, and complaints alleging improper conduct by drivers towards female passengers.

Appeals made during the 2018 calendar year

Decisions taken by the Licensing Authority were not the subject of any appeals during the 2018 calendar year.

Prosecutions carried out during the 2018 calendar year

The Licensing Authority did not initiate any prosecutions during the reporting period.

Notable Achievements

In early 2017, the Licensing Authority devised a “pool” of conditions and operational policies for licensed premises that are predominantly sale of alcohol led and provide late night regulated entertainment. These conditions complement the “pool” already devised by Nottinghamshire Police.

A significant number of applications made during the 2018 calendar year adopted these conditions and operational policies, enabling confidence in the Responsible Authorities when assessing such applications, resulting in fewer representations being made against them.

The programme of modernisation implemented by the Licensing Team Leader continued during 2018. The auditor who carried out the review of the working practices of the Licensing Team was very complimentary of the methods that had been put in place to promote high quality customer service, and to ensure time and resource efficiencies and cost-effectiveness.

Both the Statement of Licensing Policy and the Statement of Gambling Policy were renewed during the 2018 calendar year.

Future Work

The Licensing Authority continues to enjoy a productive working relationship with the Environmental Health Service, Environmental Protection Service, Planning Service and Nottinghamshire Police, and it is envisaged that the enforcement programme that has been on hold will recommence shortly, once the restructure of the Licensing Team has been completed.

Member Training will take place later this year, and it is intended that various Sub-Committee scenarios be acted out, to assist Members with their decision-making duties at such hearings.

Implications

Corporate Plan:

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Legal:

Information Only

There are no legal implications contained within this report.

Finance:

Information Only

This report is effective from 14th March 2019 and has the following financial implications.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carrying out its licensing functions and decision making processes.

Human Resources:

Information Only

There are no direct HR implications contained within this report.

Equalities *(to be completed by the author):*

Information Only

There are no diversity or equality implications contained within this report.

Other Implications:

None

Reason(s) for Urgency (if applicable):

Not applicable

Background Papers

None

Report Author and Contact Officer

**Julian Alison
Licensing Team Leader**

Email: j.alison@ashfield.gov.uk

Tel: 01623 457364

Report To:	LICENSING COMMITTEE	Date:	14TH MARCH 2019
Heading:	DRAFT STREET TRADING POLICY		
Portfolio Holder:	DEPUTY LEADER – OUTWARD FOCUS		
Ward/s:	ALL		
Key Decision:	No		
Subject to Call-In:	No		

Purpose of Report

To agree a Draft Street Trading Policy for public consultation.

Recommendation(s)

The Licensing Committee is recommended to:

- a) Consider the Draft Street Trading Policy as detailed within this report;**
- b) Recommend any changes or additions to the Draft Policy;**
- c) Authorise the Licensing Team Leader to carry out the consultation programme as laid out within the report.**

Reasons for Recommendation(s)

The powers to control Street Trading within the Council's area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.

Currently no Policy has been adopted in relation to Street Trading, rather a Resolution was made in 2002 that adopted 15 specific locations as Consent Streets where such trading is permitted, with trading prohibited from taking place anywhere else within the Council's area.

The present state of play limits the opportunities to Street Traders, and as such hinders the transformation of the local area in relation to creating a more vibrant local economy.

Alternative Options Considered (With Reasons Why Not Adopted)

Do nothing: not recommended for a number of reasons.

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime, disorder and nuisance within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Detailed Information

Introduction

Street Trading is defined as “the selling or exposing or offering for sale any article (including a living thing) in a street – subject to a number of exceptions”.

The Council currently issues Street Trading Consents in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act).

The Act states that a "street" is defined as: any road, footway, beach or other area to which the general public have access without payment.

The Council recognises the valuable contribution that Street Trading can make to the local culture and economy, and the services that Street Traders provide to residents and visitors. Street Trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.

Ashfield District Council is committed to improving the support provided to small businesses, ensuring that there are no unnecessary burdens placed on them, and that they are provided with sufficient guidance and advice to enable them to operate safely and successfully (and this draft Policy provides this guidance and advice).

This Draft Policy sets out the criteria the Council will use when considering applications for Street Trading Consents. It sets out the grounds upon which decisions are made about Street Trading applications, and any enforcement actions if required.

This Draft Policy also supports the Council's commitment to work in partnership with other agencies and avoiding duplication with other statutory controls.

This Draft Policy intends to promote a flexible approach in relation to applicants seeking to operate new Street Trading businesses, whilst also endeavouring to promote a well-regulated Street Trading function by ensuring that such Trading does not become a source of nuisance or annoyance to those who live in, work in and visit the District.

What does not fall within the scope of Street Trading?

The following activities do not fall within the scope of the Street Trading licensing regime:

- **Trading as a Pedlar under the authority of a Pedlar's Certificate granted under the Pedlars Act 1871.**
- **Any trade in a Market or Fair, the right to hold which having been obtained by a grant, enactment or order (this is covered in the Council's Market Policy).**
- **Trading in a trunk picnic road area provided by the Secretary of State under Section 112 of the Highways Act 1980.**
- **Trading as a News Vendor (subject to S.3. of the Act).**

- **Trading at premises used as a petrol filling station or from a street adjoining a shop premises as part of the business of the shop.**
- **Offering or selling things as a Roundsman (i.e. a milkman).**
- **The use for 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 for charitable purposes.**

How will the Council ensure that Street Trading does not take place in locations that may be deemed inappropriate?

The Draft Policy states that applications for a Street Trading Consent will be refused for locations deemed to be:

- **In close proximity to a place of worship;**
- **In close proximity to a place of education;**
- **In close proximity to a place of healthcare;**
- **In close proximity to a place of cultural or historical local / national significance;**
- **In close proximity to primarily residential properties;**
- **In close proximity to a business offering the same goods / services;**
- **Likely to undermine the safety and / or convenience of the general public and / or road users.**

What type of Street Trading Consents are proposed within the Draft Policy?

For the purposes of this Policy and to assist applicants, Ashfield District Council issues 4 types of Street Trading Consents, each specific in its nature:

- **Street Trading Consent:** Trading from a stall / unit / vehicle from a single designated location on a regular basis.
- **Mobile Trading Consent:** Trading from a vehicle at various locations across the Ashfield District, but for no more than 20 minutes at a time, and no location to be revisited within a 4 hour period.
- **Community & Charity Trading Consent:** Trading at non-profit making events (within the Ashfield District) held by a registered charity or community association, whether for a single day or for the duration of the entire event subject to there being no more than 4 traders (more than 4 traders will fall within the Markets Policy of the Council).

- **Special Events Trading Consent:** Trading at events (within the Ashfield District) where the organiser intends to make commercial gain, whether for a single day or for the duration of the entire event subject to there being no more than 4 traders (more than 4 traders will fall within the Markets Policy of the Council).

How will local residents, businesses and stakeholders be made aware of Street Trading applications that may affect them?

All Street Trading Consent applications (except from Mobile Traders, Community & Charity Traders, and Special Events Traders) for locations not already adopted by the Council will be subject to a 28 day consultation period.

The consultation will seek the views of local residents and businesses (by way of a yellow A4 notice placed at the proposed trading site) that may be directly affected, and statutory agencies whose responsibilities may be impacted by the proposed business (by way of a consultation email).

Consideration will be given to all valid written representations that are not deemed to be irrelevant, frivolous, vexatious, or repetitive. Representations will be vetted by Officers of the Licensing Team for validity.

Applications subject to valid representations will be determined at a Hearing chaired by the Service Director: Place & Wellbeing, who is delegated authority by the Licensing Committee to determine such applications.

How will Street Trading be regulated?

Sections 4.18, 6, 7.5, 8.6 and Appendix One and Appendix Two provide clear details as to what will constitute a valid application, and the conditions that will be attached to all Street Trading and Mobile Trading Consents.

These conditions will allow the Council to promote the highest of standards in relation to food hygiene, the maintenance of vehicles / units / stalls, cooking equipment, and the overall appearance of the vehicles / unit / stalls so as to complement the transformation of the area.

Consultation on the Draft Street Trading Policy

The draft Policy requires approval from the Committee prior to commencing formal consultation.

The proposed consultation timetable is as follows:

- 14th March 2019: Licensing Committee to agree that the draft Street Trading Policy be put out to consultation.
- Consultation between 1st April 2019 and 12th May 2019 to “Stakeholders” (Police, Fire Service, Highways, Trading Standards, Planning, Environmental Protection, Children’s Safeguarding Board, Health & Safety, etc), representatives of current Street Trading Consent holders, and the local Primary Health Care. The general public will have access to the consultation via the Council’s website, reception area and local libraries.
- **July 2019:** the results of the consultation will be put to the Licensing Committee for consideration, and to make any relevant changes to the Policy to finalise accordingly, and to make a recommendation to Council to adopt the final Policy.
- **July 2019:** Council to adopt the Policy

Implications

Corporate Plan:

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Legal:

The relevant legislation is set out in the body of the report. The purpose of the proposed Street Trading Policy is to regularise the way in which the Council deals with the Street Trading.

Finance:

Information Only

There are no financial implications contained within this report.

This report is effective from 14th March 2019 and has the following financial implications.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carry out its licensing functions and decision making processes.

Human Resources:

There are no direct HR implications contained within this report

Equalities *(to be completed by the author):*

Information Only.

There no diversity or equality implications contained within this report.

Other Implications:

None

Reason(s) for Urgency (if applicable):

Not applicable

Background Papers

Appendix One: Draft Street Trading Policy

Report Author and Contact Officer

**Julian Alison
Licensing Team Leader**

Email: j.alison@ashfield.gov.uk

Tel: 01623 457364



LICENSING AUTHORITY

STREET TRADING POLICY

Effective from: **INSERT**

Adopted: **T.B.C.**

SECTION	CONTENT	PAGE NO.
1.	Purpose of the Policy	1
2.	Policy Consultation	2
3.	Duration of Policy	3
4.	Legislation & Current Provisions	4
	• Types of Consents issued by the Council	5
	• Consultation Period for Street Trading Consent Applications	5
	• Relevant Considerations relating to Applications	6
5.	Delegation of Functions	8
6.	Conditions attached to Street Trading & Mobile Trading Consents	9
7.	Street Trading Consents	10
	• Procedure: Making a Street Trading Consent Application	10
	• Determination of Street Trading Consent Applications	11
	• Grant of Street Trading Consent Applications	11
	• Duration of Street Trading Consents	11
	• Refusal of Street Trading Consent Applications	11
	• Transfer of a Street Trading Consent	12
8.	Mobile Trading Consents	13
	• Procedure: Making a Mobile Trading Consent Application	13
	• Determination of Street Trading Consent Applications	14
	• Grant of Street Trading Consent Applications	14
	• Duration of Street Trading Consents	14
	• Refusal of Street Trading Consent Applications	14
	• Transfer of a Street Trading Consent	15
9.	Community & Charity Trading Consents	16
	• Procedure: Making a Community & Charity Trading Application	16
10.	Special Events Trading Consents	17
	• Procedure: Making a Special Events Trading Consent Application	17
11.	Markets	18
12.	Enforcement	19
13.	Fees & Charges	20
14.	Equality & Diversity	21
15.	Licensing Authority Contact Details	22
 APPENDICES		
A.	Standard Conditions - Street Trading Consents	23
B.	Standard Conditions - Mobile Trading Consents	25

GLOSSARY

The Act:	Schedule 4: Local Government (Miscellaneous Provisions) Act 1982
The Council:	Ashfield District Council.
The Applicant:	The trader who has submitted an application for a Street Trading Consent.
Consent Holder:	An individual who holds a Street Trading Consent.
A Street:	Includes any road, footway, beach or other area to which the general public have access without payment.
A Trading Consent:	A permission, given by the Council to trade, subject to conditions and payment of a fee.
A Roundsman:	An individual who visits a “round” of customers and delivers the orders of those customers, i.e. a milkman. A person operating an ice-cream van is not classed as a roundsman.
A Pedlar:	<p>A Pedlar is a trader who must:</p> <ul style="list-style-type: none"> • Hold a valid Pedlar’s Certificate issued by a Chief Constable of Police. • Keep moving, stopping only to service customers at their request. • Move from place to place, and not circulate within the same area. • Carry all goods for sale and not set up a “stall”.
Mobile Trader:	<p>A Mobile Trader is one that visits more than one location within the District, and who:</p> <ul style="list-style-type: none"> • Continually moves from location to location. • Does not wait in one location for more than 20 minutes. • Moves at least 50 metres from the last trading location; and • Does not return to the same trading location within 4 hours. • Does not trade within 100 metres of any entrance to any educational establishment (without formal invitation from the educational establishment).
Licensing Officer:	An Authorised Officer employed by the Council and authorised by the Council to act in pursuance of the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (the legislation regulating Street Trading).
Activities that do not require a Street Trading or Mobile Trading Consent:	<p>Trading:</p> <ul style="list-style-type: none"> • As a Pedlar under a Pedlar’s Certificate. • As a News Vendor • At a Market or fair, the right to hold which having been obtained by a grant, enactment or order. • At or adjoining a shop premises as part of the business of the shop. • As a Roundsman (i.e. delivering pre-ordered goods to customers). • From a licensed highway area • Under a Street Collection Permit for charitable purposes.

DRAFT

1. PURPOSE OF THE POLICY

- 1.1 This Policy sets out the framework for the management of Street Trading in the area for which Ashfield District Council has responsibility.
- 1.2 The powers to control Street Trading within the Council's area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.
- 1.3 The Council recognises the valuable contribution that Street Trading can make to the local culture and economy, and the services that Street Traders provide to residents and visitors. Street Trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.
- 1.4 Ashfield District Council is committed to improving the support provided to small businesses, ensuring that there are no unnecessary burdens placed on them, and that they are provided with sufficient guidance and advice to enable them to operate safely and successfully.
- 1.5 Issues can arise where Street Traders do not pay due regard to their location and operation, or make it dangerous for the public and road users to move around them. Street Trading can also result in littering and other nuisances to persons in the vicinity.
- 1.6 This Policy sets out the criteria the Council will use when considering applications for Street Trading Consents. It sets out the grounds upon which decisions are made about Street Trading applications, and any enforcement actions if required.
- 1.7 This Policy also supports the Council's commitment to work in partnership with other agencies and avoiding duplication with other statutory controls.
- 1.8 This Policy intends to promote a flexible approach in relation to applicants seeking to operate new Street Trading businesses, whilst also endeavoring to promote a well regulated Street Trading function by ensuring that such Trading does not become a source of nuisance or annoyance to those who live in, work in and visit the District.

2. POLICY CONSULTATION

2.1 In determining this Policy, the Council has consulted with the following:

- Nottinghamshire Police
- Nottinghamshire Fire & Rescue
- Nottinghamshire County Council Highways
- Nottinghamshire County Council Trading Standards
- Parish and Town Councils
- Current Street Traders
- Local businesses
- Residents

2.2 In addition the Council's regulatory and enforcement have been consulted. These include:

- Planning
- Environmental Health
- Environmental Protection
- Economic Development
- Place & Wellbeing
- Car Parks

DRAFT

3. DURATION OF POLICY

- 3.1 This Policy will be reviewed every 5 years. If required, periodic updates to the Policy may be carried out.
- 3.2 When reviewing this Policy, a consultation with the public, business, and holders of Consents will be carried out.

DRAFT

4. LEGISLATION & CURRENT PROVISIONS

4.1 The Act sets out a number of definitions and provisions:

Street Trading is defined as “the selling or exposing or offering for sale any article (include a living thing) in a street – subject to a number of exceptions,” such as:

- **Trading as a Pedlar under the authority of a Pedlar’s Certificate granted under the Pedlars Act 1871.**
- **Any trade in a Market or Fair, the right to hold which having been obtained by a grant, enactment or order.**
- **Trading in a trunk picnic road area provided by the Secretary of State under Section 112 of the Highways Act 1980.**
- **Trading as a News Vendor (subject to S.3. of the Act).**
- **Trading at premises used as a petrol filling station or from a street adjoining a shop premises as part of the business of the shop.**
- **Offering or selling things as a Roundsman.**
- **The use for 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 for charitable purposes.**

4.2 Schedule 4 of the Act defines a street as any road, footway, beach or other area to which the public have access without payment, and a service area as defined in Section 329 of the Highways Act 1980.

4.3 A Consent Street is a street in which Street Trading can only take place if the consent of the Local Authority has first been obtained.

4.4 All streets within the Council’s area are designated as Consent Streets, as such no trading may take place without the Council having issued a Street Trading Consent to the trader. A list of locations already designated as approved Street Trading locations can be found on the Council website.

4.5 The Council has determined that applications for a Street Trading Consent will be refused for locations that are deemed to be:

- **In close proximity to a place of worship;**
- **In close proximity to a place of education;**
- **In close proximity to a place of healthcare;**
- **In close proximity to a place of cultural or historical local / national significance;**
- **In close proximity to primarily residential properties;**
- **In close proximity to a business offering the same goods / services;**
- **Likely to undermine the safety and / or convenience of the general public and / or road users.**

- 4.5 Prohibited Streets are streets that have been designated as ones where no Street Trading may take place.
- 4.6 There are no Prohibited Streets within the Ashfield District Council area. The M1 is designated as a motorway and Street Trading is forbidden on motorways.
- 4.7 A Licence Street is a street that requires a formal Licence to have been granted before any Street Trading can take place.
- 4.8 There are no Licence Streets within the Council's area.
- 4.9 Street Traders who serve hot food or hot beverages at any time between 23:00 hours and 05:00 hours will also require a Premises Licence granted by the Licensing Authority in accordance with the Licensing Act 2003.

4.10 TYPES OF CONSENTS ISSUED BY THE COUNCIL

4.11 For the purposes of this Policy and to assist applicants, Ashfield District Council issues 4 types of Street Trading Consents, each specific in its nature:

- **Street Trading Consent:** Trading from a stall / unit / vehicle from a single designated location on a regular basis.
- **Mobile Trading Consent:** Trading from a vehicle at various locations across the Ashfield District, but for no more than 20 minutes at a time, and no location to be revisited within a 4 hour period.
- **Community & Charity Trading Consent:** Trading at non-profit making events (within the Ashfield District) held by a registered charity or community association, whether for a single day or for the duration of the entire event.
- **Special Events Trading Consent:** Trading at events (within the Ashfield District) where the organiser intends to make commercial gain, whether for a single day or for the duration of the entire event.

4.12 CONSULTATION PERIOD FOR STREET TRADING CONSENT APPLICATIONS

- 4.13 All Street Trading Consent applications (except from Mobile Traders, Community & Charity Traders, and Special Events Traders) for locations not already adopted by the Council will be subject to a 28 day consultation period.
- 4.14 The consultation will seek the views of local residents and businesses that may be directly affected, and statutory agencies whose responsibilities may be impacted by the proposed business.
- 4.15 Consideration will be given to all written representations that are not deemed to be irrelevant, frivolous, vexatious, or repetitive. Representations will be vetted by Officers of the Licensing Team for validity.
- 4.16 Applications subject to valid representations will be determined at a Hearing chaired by the Service Director: Place & Wellbeing, who is delegated authority by the Licensing Committee to determine such applications.

4.17 RELEVANT CONSIDERATIONS APPLICABLE TO ALL APPLICATIONS

4.18 The following criteria will be considered in deciding whether or not a Consent will be granted, and on what conditions:

a) Public Safety

Whether any Street Trading activity represents, or is likely to represent, a 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. Nottinghamshire County Council Highways Department will be consulted on all applications to ensure high standards of road safety for applicants, the public and other road users.

b) Public Order

Whether the Street Trading activity represents, or is likely to represent, a risk to public order. Nottinghamshire Police will be consulted on all applications regarding public order.

c) Preventing Nuisance or Annoyance

Whether the Street Trading activity represents, or is likely to represent, a risk of nuisance or annoyance to the public from noise, odour, fumes, litter, or the discharge of fluids, particularly in areas of residential properties. The Council's Environmental Protection Team will be consulted on all applications with regard to the prevention of nuisance.

d) Written Representations from Local Residents

Residents will be alerted to Street Trading (fixed single sites only) applications via a yellow A4 notice erected at the proposed Street Trading location. The relevant District Ward Councillor will be consulted on applications for Street Trading Consents in their area.

e) Planning Permission

A Street Trading Consent will only be issued where planning permission has been granted or where there is written evidence that planning permission is not required.

f) Suitability of Proposed Trading Location

Applications for a Street Trading Consent will be refused for locations that are:

- **In close proximity to a place of worship;**
- **In close proximity to a place of education;**
- **In close proximity to a place of healthcare;**
- **In close proximity to a place of cultural or historical local / national significance;**
- **In close proximity to primarily residential properties;**
- **In close proximity to a business offering the same goods / services;**
- **Likely to undermine the safety and / or convenience of the general public and / or road users.**

g) Appearance of the Stall / Vehicle / Unit

Any stall or vehicle from which trading is permitted must be maintained and presented to the same standard as originally manufactured. Internal and external finishes must be free from defects or damage. Any stall or vehicle must meet with the criteria, including size, laid down in the standard conditions attached to the grant of any Street Trading or Mobile Trading Consent.

h) Food Traders

Applicants for stalls or vehicles selling food, must hold a current Level 2 Food Hygiene Certificate accredited by The Chartered Institute of Environmental Health, or The Royal Society of Health, or The Royal Institute of Public Health & Hygiene.

All businesses must be registered with the Food Safety Team (Environmental Health) in the district within which the stall or vehicle is kept overnight., and if such a district is not Ashfield District Council, the business is still required to notify the Ashfield District Council Food Safety Team that it is trading at a location within our area.

Should the business change its registered address, then a notification must be sent to both the Licensing Team and Food Safety Team at Ashfield District Council, in order that our records may be updated.

5. DELEGATION OF FUNCTIONS

- 5.1 The Licensing Committee has a duty to recommend and review the Street Trading Policy, and to recommend and review the fees and charges applicable to Consents issued by the Council.
- 5.2 The Licensing Committee agrees and recommends the standard conditions that are attached to the grant of any Street Trading and / or Mobile Trading Consent issued by the Council.
- 5.3 The Service Director: Place & Wellbeing is delegated authority by the Licensing Committee to determine applications for Street Trading and Mobile Trading Consents, and to review existing Consents should relevant information come to light that would bring into question the suitability of an existing Consent holder or the Consent held.
- 5.4 The Service Director: Place & Wellbeing is authorised to:
- a) Issue Street Trading Consents and attach such conditions as are considered reasonably necessary under the Local Government (Miscellaneous Provisions) Act 1982.
 - b) Refuse any application for a Street Trading Consent that:
 - (i) In the opinion of the Service Director does not comply with the Council's Street Trading Policy or conditions applicable to Street Trading or Mobile Trading Consents; or
 - (ii) Has been subject to valid objections from Nottinghamshire Police, Nottinghamshire Fire & Rescue, or Nottinghamshire County Council Highways on the grounds of public or highway safety.
 - c) Review and (if necessary) vary the conditions attached to an existing Street Trading or Mobile Trading Consent when necessary to promote public safety and / or prevent nuisance or annoyance to any affected parties, or the Trader has failed to comply with the conditions of the Consent, or information has come to light as to the suitability of the Trader.
 - d) Review and (if necessary) suspend or revoke a Street Trading or Mobile Trading Consent issued to an existing Trader when necessary to promote public safety and / or prevent nuisance or annoyance to any affected parties, or the Trader has failed to comply with the conditions of the Consent, or information has come to light as to the suitability of the Trader.

6. CONDITIONS ATTACHED TO STREET TRADING CONSENTS

- 6.1 The Council will apply standard conditions to all Street Trading and Mobile Trading Consents.
- 6.2 The standard conditions applied to Street Trading Consents are attached to this Policy at **Appendix One**.
- 6.3 The standard conditions applied to Mobile Trading Consents are attached to this Policy at **Appendix Two**.
- 6.4 These standard conditions are not exhaustive and other conditions may be added to individual consents as required to meet with the criteria of this Policy.
- 6.5 Street Trading may only be carried out from the stall / vehicle / unit authorised under the conditions of the Street Trading Consent.
- 6.6 Mobile Trading may only be carried out from the vehicle authorised under the conditions of the Mobile Trading Consent.
- 6.6 Any changes to or replacement of the approved stall / vehicle / unit must first be approved by the Licensing Authority before such a vessel may be used for the purposes of Street Trading or Mobile Trading.

7. STREET TRADING CONSENTS

7.1 PROCEDURE: MAKING A STREET TRADING CONSENT APPLICATION

7.2 A list of currently adopted Street Trading locations (including those currently vacant) can be found on the Council website.

7.3 Applications for a Street Trading Consent to be issued for locations not currently adopted will be welcomed, however applicants are strongly advised to refer to the section within this Policy that details where such locations would be deemed not suitable for trading.

7.4 Applicants who submit an application for a location not already adopted shall place a Yellow A4 Notice at the proposed trading site detailing the application and consultation period. A template is available from the Council website.

7.5 All applications for the grant of a new Street Trading Consent, or to renew an existing Street Trading Consent must be submitted to the Licensing Team, and shall include the following:

- **The completed Street Trading Consent Application Form.**
- **The completed Direct Debit Mandate (if paying by monthly instalments).**
- **Food Hygiene Certificate (if a food business).**
- **Current Electrical and Gas Safety Certificates (if applicable).**
- **Current Public Liability Insurance (to a minimum value of £5,000,000).**
- **Evidence that the applicant and any person(s) operating the stall / vehicle / unit holds a valid right to work in the U.K.**
- **Evidence of consent given by the landowner for the business to trade from the location (private land only).**
- **Evidence that Planning Permission has been granted, or is not required (private land only).**
- **A map showing the proposed trading site, and showing all streets and other public areas covering a 200 metre radius surrounding the proposed Street Trading location.**
- **Photographs of the stall / vehicle / unit from which trading is to take place (the photographs must clearly show the internal and external visual condition of the unit and all signage affixed to it).**
- **Copy of the A4 Yellow Notice placed at the proposed trading site (only applicable to new sites not already adopted by the Council).**

7.6 On the first working day following receipt of your completed application form and all other necessary documents, and payment of the application fee (or part-fee if payment is to be made by way of monthly direct debit instalments), a 28 day consultation will commence with relevant stakeholders.

7.7 If there are no valid objections received during the consultation period, or any concerns that may arise in relation to the application are resolved, then a Street Trading Consent will be issued for a maximum period of 12 months or a minimum period of 6 months (upon request by the applicant).

7.8 DETERMINATION OF APPLICATIONS

- 7.9 Officers of the Licensing Team will evaluate all applications in order to assess the suitability of the applicant and the suitability of the specified trading location.
- 7.10 A Street Trading Consent will be automatically granted if the application meets with the criteria of the Street Trading Policy, and that there are no valid objections outstanding at the end of the 28 day consultation period applicable to all applications for a new trading site.
- 7.11 Where an application is the subject of valid objections that remain unresolved by the end of the 28 day consultation period, the application will be referred to the Service Director: Place & Wellbeing and a Hearing convened to determine the application.
- 7.12 The Service Director will determine each application on its own merits, taking into consideration all information attached to the application, the comments of the objectors, and any information provided by the Licensing Team in relation to the applicant, the nature of the business, and the proposed location.
- 7.13 Following the determination of an application, the Licensing Authority will notify the applicant (and any objectors) of the decision (and the reasons for the decision), within 10 working days of the Hearing.
- 7.14 There is no statutory right of appeal against a refusal to issue a Street Trading Consent, or against the conditions that may be attached to the grant of a Street Trading Consent.

7.15 GRANT OF APPLICATIONS

- 7.16 The applicant will be advised by letter that the Street Trading Consent has been granted. The Street Trading Consent will be enclosed with the letter, and attached to the Street Trading Consent will be the standard conditions (and any additional conditions if the application was determined at a Hearing) imposed by the Council, which must be adhered to at all times.

7.17 DURATION OF STREET TRADING CONSENTS

- 7.18 Any Street Trading Consent granted, will be issued for a maximum period of 12 months, or a minimum period of 6 months (if requested by the applicant).
- 7.19 An application to renew an existing Street Trading Consent must be submitted to the Licensing Authority prior to the current Consent expiring (ideally no later than 28 days prior to the expiry date), and all necessary documents to satisfy the Councils criteria must be submitted every time a renewal application is made.

7.20 REFUSAL OF APPLICATIONS

- 7.21 Where an application is refused, the applicant will be informed in writing as to the reasons for the refusal.
- 7.22 There is no right of appeal to the Magistrates Court following the refusal of an application.

7.23 A person aggrieved by a decision of the Council may make an application to the High Court for the judicial review of the decision. For further information on potential grounds for judicial review, applicants should seek independent legal advice.

7.24 TRANSFER OF STREET TRADING CONSENTS

7.25 Under no circumstances may a Street Trading Consent be transferred or sold to another person, save for such a person being a documented business partner or a member of the Street Traders immediate family in the event of the Traders death or incapacity.

7.26 The sub-letting of a Street Trading Consent to another party is not permitted.

DRAFT

8. MOBILE TRADING CONSENTS

8.1 Traders that meet with the criteria detailed below will be classified as Mobile Traders. Ice cream vans and mobile sandwich sellers (i.e they do not have specific customers to whom they visit on a “round”) would typically be deemed to be Mobile Traders.

8.2. A Mobile Trader is one who:

- **Moves from location to location;**
- **Moves at least 50 metres from his / her last trading location and does not return to that location within four hours;**
- **Does not wait in one location for more than 20 minutes; and**
- **Does not trade within 100 metres of any entrance to any educational establishment (without having first received a formal invitation from the educational establishment).**

8.3 Due to the nature of their trade over a wide geographical area and their limited impact upon a single location, Mobile Traders will automatically be granted a Mobile Trading Consent, subject to the applicant and application meeting all of the above criteria.

8.4 Mobile Trading Consents are granted for periods of 12 months (or 6 months if requested by the applicant), and require renewal before the expiry of any current Mobile Trading Consent that has been granted.

8.5 PROCEDURE: MAKING A MOBILE TRADING CONSENT APPLICATION

8.6 All applications for the grant or renewal of a new Mobile Trading Consent shall include the following:

- **The completed Mobile Trading Consent Application Form;**
- **The completed Direct Debit Mandate (if paying by monthly instalments).**
- **Food Hygiene Certificate (if a food business).**
- **Current Electrical and Gas Safety Certificates (if applicable).**
- **Current Public Liability Insurance (to a minimum value of £5,000,000).**
- **Evidence that the applicant and any person(s) operating the vehicle holds a valid right to work in the U.K.**
- **A map / maps showing the proposed trading sites, and showing all streets and other public areas covering a 200 metre radius surrounding the proposed Mobile Trading locations.**
- **Photographs of the vehicle from which trading is to take place (the photographs must clearly show the internal and external visual condition of the vehicle and all signage affixed to it).**
- **Evidence that the vehicle may legally be driven on the highway by way of a valid M.O.T., valid Motor Insurance and valid Vehicle Excise Duty.**

8.7 DETERMINATION OF APPLICATIONS

- 8.8 Officers of the Licensing Team will evaluate all applications in order to assess the suitability of the applicant and the suitability of the specified trading locations.
- 8.9 A Mobile Trading Consent will be automatically granted if the application meets with the criteria of the Street Trading Policy.
- 8.10 Where an application is deemed by the Officers of the Licensing Team to not meet with the criteria of this Street Trading Policy, the application will be referred to the Service Director: Place & Wellbeing and a Hearing convened to determine the application.
- 8.11 The Service Director will determine each application on its own merits, taking into consideration all information attached to the application, and any information provided by the Licensing Team in relation to the applicant, the nature of the business, and the proposed locations.
- 8.12 Following the determination of an application, the Licensing Authority will notify the applicant (and any objectors) of the decision (and the reasons for the decision), within 10 working days of the Hearing.
- 8.13 There is no statutory right of appeal against a refusal to issue a Mobile Trading Consent, or against the conditions that may be attached to the grant of a Consent.

8.14 GRANT OF APPLICATIONS

- 8.15 The applicant will be advised by letter that the Mobile Trading Consent has been granted. The Mobile Trading Consent will be enclosed with the letter, and attached to the Mobile Trading Consent will be the standard conditions (and any additional conditions if the application was determined at a Hearing) imposed by the Council, which must be adhered to at all times.

8.16 DURATION OF MOBILE TRADING CONSENTS

- 8.17 Any Mobile Trading Consent granted, will be issued for a maximum period of 12 months, or a minimum period of 6 months (if requested by the applicant).
- 8.18 An application to renew an existing Mobile Trading Consent must be submitted to the Licensing Authority prior to the current Consent expiring, and all necessary documents to satisfy the Councils criteria must be submitted every time a renewal application is made.

8.19 REFUSAL OF APPLICATIONS

- 8.20 Where an application is refused, the applicant will be informed in writing as to the reasons for the refusal, specifying the grounds for the decision.
- 8.21 There is no right of appeal to the Magistrates Court following the refusal of an application. A person aggrieved by a decision of the Council may make an application to the High Court for the judicial review of the decision. For further information on potential grounds for judicial review, applicants should seek independent legal advice.

8.22 TRANSFER OF MOBILE TRADING CONSENTS

8.23 Under no circumstances may a Mobile Trading Consent be transferred or sold to another person, save for such a person being a documented business partner or a member of the Mobile Traders immediate family in the event of the Traders death or incapacity.

8.24 The sub-letting of a Mobile Trading Consent to another party is not permitted.

DRAFT

9. COMMUNITY & CHARITY EVENT TRADING CONSENT

9.1 Traders at an event organised and run by a registered charity or recognised community association (or other non-profit making organisation) for public benefit will be exempt from the requirement to obtain a Special Events Trading Consent for the location of the event, subject to the following restrictions:

- **Traders cannot remain at the location more than 72 hours or return to the location more frequently than once in any calendar month.**
- **Traders must be invited to trade at the event by the event organisers**
- **Traders of hot foods and / or hot non-alcoholic beverages operating after 23:00 hours must submit a Temporary Event Notice in order to provide the licensable activity of “Late Night Refreshment” in accordance with the requirements of the Licensing Act 2003.**
- **That the organisers of the event make no “commercial gain” from the event (i.e. that all profits made are put back into the purpose of the registered charity / community association).**
- **That the Traders make a financial contribution from any profits made to the community and / or charity for which the event is held.**
- **That no more than 4 Traders are permitted to attend the event.**

9.2 Should the event be one where the event organiser intends to make “commercial gain”, then a Special Events Trading Consent must be applied for.

9.3 PROCEDURE: MAKING A COMMUNITY & CHARITY EVENT TRADING APPLICATION

9.4 The event organiser will notify the Events Team at Ashfield District Council of the intended event.

9.5 Within the Event Application submitted by the event organiser to the Council, details of each trader and the goods being sold from each stall / vehicle / unit will be provided.

9.6 The Events Team at the Council will forward a copy of the Event Application to the Licensing Team.

9.7 The Events Team at the Council will consult with the Licensing Team at the Council to determine whether the event is “not for profit”, and to establish that the Traders are making a financial contribution from any profits they make to the community and / or charity for which the event is held.

9.8 If the Licensing Team deem the event to be “not for profit” and that the Traders are making a financial contribution from any profits they make to the community and or charity for which the event is held, the Events Team will be notified, and the Events Team will confirm this status to event organiser, and forward a Community & Charity Trading Consent to the event organiser to provide to each Trader attending the event.

9.8 If the Licensing Team deem the event to be for “commercial gain”, the Licensing Team will notify the Events Team, and the Events Team will confirm this status to the event organiser, and forward a Special Events Trading Application to the event organiser for completion, submission and payment of the appropriate fee.

10. SPECIAL EVENTS TRADING CONSENTS

10.1 Traders attending an event organised for “commercial gain”, require a Special Events Trading Consent to be granted to the event organiser, subject to the following restrictions:

- **Traders cannot remain at the location beyond the duration of the event.**
- **Traders must be invited to trade at the event by the event organiser.**
- **Traders of hot foods and / or hot non-alcoholic beverages operating after 23:00 hours, or Traders selling alcohol, must submit a Temporary Event Notice in order to provide the licensable activity of “Late Night Refreshment” in accordance with the requirements of the Licensing Act 2003.**
- **Traders must provide evidence of a valid Food Hygiene Certificate (if a food business).**
- **Traders must provide evidence of current Electrical and Gas Safety Certificates for their stalls / vehicles / units (if applicable).**
- **Traders must provide evidence of holding current Public Liability Insurance (to a minimum value of £5,000,000).**
- **Traders must provide evidence that they and any person(s) operating the stall / vehicle / unit holds a valid right to work in the U.K.**
- **That no more than 4 Traders are permitted to attend the event.**

10.2 PROCEDURE: MAKING A SPECIAL EVENT TRADING APPLICATION

10.3 The event organiser will notify the Events Team at Ashfield District Council of the intended event.

10.4 Within the Event Application submitted by the event organiser to the Council, details of each trader and the goods being sold from each stall / vehicle / unit will have been provided. The Events Team at the Council will forward a copy of the Event Application to the Licensing Team.

10.5 The Licensing Team will contact the event organiser to discuss the proposed trading at the event, and forward a Special Events Trading Application to the event organiser for completion, submission and payment of the appropriate fee.

10.6 The fee payable by the event organiser will depend on the number of trading stalls attending the event. Details as to the fees applicable to Special Events Trading Consents can be found on the Councils website or on enquiry to the Licensing Authority.

10.7 If any stall / vehicle / unit at the event sells alcohol, or provides hot food and / or hot beverages after 11.00 p.m. the Licensing Team will advise the event organiser that a Temporary Event Notice granted in accordance with the Licensing Act 2003 will be required to cover these licensable activities.

10.8 A copy of the Special Events Trading Consent (listing each Trader) must be displayed at all stalls / vehicles / units trading at the event.

11. MARKETS

- 11.1 Markets (including Temporary Markets) held in the market towns of the District fall outside of the scope of the Street Trading Policy.
- 11.2 A market is comprised of not less than five stalls, stands, vehicles or pitches from which articles are sold and may sometimes be held as part of a wider event. The Council's Market Policy can be found at **www.ashfield.gov.uk/markets**, or alternatively you can contact Ashfield Markets on 01623 551385, or by email at: **markets@ashfield.gov.uk**
- 11.2 The Council has adopted two locations for Street Trading where local markets take place, but Street Trading is not permitted at these locations during the hours that the Markets are in operation.

DRAFT

12. ENFORCEMENT

- 12.1 The Council is committed to enforcing the provisions contained within the relevant legislation, and to work in partnership with all enforcement agencies, in order to promote a consistent, transparent and proportionate approach to the enforcement of licensing matters.
- 12.2 Where licensable activities are conducted without the relevant permissions having been granted by the Licensing Authority, or where conditions / permitted trading hours are breached, the Council will gather evidence and take the necessary enforcement actions as required.

DRAFT

13. FEES & CHARGES

- 13.1 Fees are set and reviewed annually on a full cost recovery basis.
- 13.2 The level of fees applicable to the Street Trading function takes into account the administrative costs associated with the consideration of applications, the issue and administration of the Consent, and the costs associated with compliance checks carried out by the Licensing Authority to ensure that Traders operate in accordance with the conditions of their Consent.
- 13.3 Details as to the fees applicable to the Street Trading function can be found on the Councils website or on enquiry to the Licensing Authority.
- 13.4 Details as to acceptable payment options can be found on the Council website or on enquiry to the Licensing Authority.
- 13.5 No application will be deemed valid until payment of the appropriate fee (or payment of the initial fee if opting to pay by monthly instalments), and all agreed instalment plans must be maintained in accordance with the terms of the payment agreement.
- 13.6 Where trading ceases during the term of a Street Trading Consent or Mobile Trading Consent, refunds will not be issued for any outstanding period of less than three months.
- 13.7 Where a Special Event Trading Consent has been granted, no refund will be issued should a Trader not attend the event, or the event is cancelled.

14. EQUALITY AND DIVERSITY

- 14.1 Ashfield District Council is committed to promoting equal opportunities, valuing diversity and tackling social exclusion.

The Council will aim to provide opportunities that meet the diverse needs of different people and groups of people by ensuring that services and employment opportunities are accessible to all.

Everyone will be treated fairly and with respect. Diverse needs will be understood and valued. The Council will aim to eradicate all forms of discrimination.'

Further information on the Council's policy can be viewed on the website at: www.ashfield.gov.uk

- 14.2 Advice and guidance will be made available in English which is the most common language of customers and stakeholders.

On request the Council will signpost customers to providers of guidance and information relating to translation services.

DRAFT

15. LICENSING AUTHORITY CONTACT DETAILS

Licensing Team
Ashfield District Council
Council Offices
Urban Road
Kirkby in Ashfield
Nottinghamshire
NG17 8DA

Tel: 01623 457589

Email: licensing@ashfield.gov.uk

Web: www.ashfield.gov.uk/streettrading

DRAFT

APPENDIX A: STANDARD CONDITIONS - STREET TRADING CONSENTS

1. No trading to which this Street Trading Consent attached consent relates shall take place other than in accordance with the times and days stated on the Street Trading Consent.
2. The holder of the Street Trading Consent shall ensure that the stall / vehicle / unit is positioned only in the designated space of the location for which the Street Trading Consent is granted.
3. Trading shall only be carried out from the stall / vehicle / unit detailed within the application for which this Street Trading Consent is granted.
4. The holder of the Street Trading Consent shall ensure that the stall / vehicle / unit is kept in a clean, safe and well maintained condition, and be of an appearance acceptable to the Council.
5. The Street Trading Consent holder shall conduct the business in such a manner to ensure that:
 - no nuisance is caused to the occupiers of premises / properties in the immediate vicinity;
 - no obstruction is caused to other vehicles or pedestrians by the siting of the stall / vehicle / unit;
 - no danger is caused to occupiers of premises / properties in the immediate vicinity, or to other users of the location of the stall / vehicle / unit.
6. The holder of the Street Trading Consent shall provide customers with a means of disposal for any litter associated with the sales of goods from the stall / vehicle / unit.
7. The holder of the Street Trading Consent shall ensure that the trading location is left clear of refuse at the completion of trading each day; and that the area in the immediate vicinity of the stall/ vehicle / unit is kept clear of all refuse originating from their trade at all times.
8. The holder of the Street Trading Consent shall ensure that all waste originating from their trade is disposed of responsibly and in an environmentally-friendly manner.
9. The holder of the Street Trading Consent shall not provide any facilities such as tables or seating (either internally or externally) without having first sought the permission of the Council. Should the provision of tables and seating be likely to result in a nuisance or annoyance to those occupiers of premises and properties in the immediate vicinity or present a danger to the users of the street, such permission will not be granted, or any previous permission will be rescinded.
10. The holder of the Street Trading Consent shall seek the approval of the Council prior to affixing any signage, livery or and advertisements to the stall / vehicle / unit.
11. The holder of the Street Trading Consent shall notify the Council of any proposed changes to be made to the stall / vehicle / unit to which the Street Trading Consent is granted, and shall not undertake such changes until the Council has first approved the proposals.

12. The holder of the Street Trading Consent shall notify the Council of any proposed replacement stall / vehicle / unit to which the Street Trading Consent is granted, and shall not replace the existing stall / vehicle / unit until the Council has first approved the proposed replacement stall / vehicle / unit.
13. The holder of the Street Trading Consent shall comply with all statutes, statutory instruments and byelaws currently in force; in particular the requirements of the Health & Safety at Work Act 1974, the Food Safety Act 1990 and associated regulations, The Food Hygiene (England) Regulations 2006 and the Environmental Protection Act 1990.
14. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal Institute of Public Health and Hygiene.
15. The holder of the Street Trading Consent shall take adequate precautions to prevent the risk of fire at the stall / vehicle / unit. A serviceable fire blanket and suitable fire extinguisher/s shall be provided at all times.
16. The holder of the Street Trading Consent shall ensure that where the stall / vehicle / unit has a 240 volt electrical system that an up to date annual electrical safety certificate is in force.
17. The holder of the Street Trading Consent shall ensure that where gas cylinders are used that an up to date annual gas safety certificate is in force.
18. The holder of the Street Trading Consent shall ensure that a first aid kit is maintained on the stall / vehicle / unit and made available to any customers injured by the activities of the business operation.
19. The holder of the Street Trading Consent shall notify the Council as to the identity of any person employed to operate his / her stall / vehicle / unit.
20. The holder of the Street Trading Consent shall not sub-let his / her stall / vehicle / unit to another person.
21. The holder of the Street Trading Consent shall ensure that the Street Trading Consent issued by the Council is clearly displayed within the stall / vehicle / unit when trading, and is to be produced on demand to any Authorised Officer.
22. The holder of the Street Trading Consent shall have and maintain a proper insurance policy against public liability and third-party risks. The minimum insurance cover shall be £5,000,000 and shall cover the holders' stall / vehicle / unit and any additional equipment under their control.
23. The holder of the Street Trading Consent shall maintain any instalment plan for the payment of the Street Trading Consent issued by the Council in accordance with the terms of the instalment arrangement. Failure to adhere to the terms of the instalment arrangement shall likely result in the forfeiture of the Street Trading Consent.
24. The holder of the Street Trading Consent shall understand that any failure to comply with the conditions and permitted trading hours attached to the Street Trading Consent may result in the Street Trading Consent being revoked.

APPENDIX B: STANDARD CONDITIONS: MOBILE TRADING CONSENTS

1. No trading to which this Mobile Trading Consent relates shall take place other than in accordance with the times and days stated on the Mobile Trading Consent.
2. No trading to which this Mobile Trading Consent relates shall take place other than in accordance with the locations stated on the Mobile Trading Consent.
3. No trading to which this Mobile Trading Consent relates shall take place other than from the permitted vehicle stated on the Mobile Trading Consent.
4. The holder of the Mobile Trading Consent shall ensure that when carrying out the trading activities permitted on the Mobile Trading Consent that:
 - The vehicle shall not wait in one location for more than twenty minutes.
 - The vehicle shall move at least 50 metres from the last trading location and shall not return to that location within four hours.
 - The vehicle shall move from location to location within the permitted area.
 - The vehicle shall not trade or park within 100 metres of any entrance to any educational establishment, unless a prior formal invitation has been issued by the educational establishment.
5. The holder of the Mobile Trading Consent shall ensure that the vehicle is kept in a clean, safe and well-maintained condition, and be of an appearance acceptable to the Council.
6. The holder of the Mobile Trading Consent shall conduct the business in such a manner to ensure that:
 - no nuisance is caused to the occupiers of premises / properties in the immediate vicinity;
 - no obstruction is caused to other vehicles or pedestrians by the siting of the vehicle;
 - no danger is caused to occupiers of premises / properties in the immediate vicinity, or to other users of the location of the vehicle.
7. The holder of the Mobile Trading Consent shall provide customers with a means of disposal for any litter associated with the sales of goods from the vehicle.
8. The holder of the Mobile Trading Consent shall ensure that all waste originating from their trade is disposed of responsibly and in an environmentally-friendly manner.
9. The holder of the Mobile Trading Consent shall seek the approval of the Council prior to affixing any signage, livery or and advertisements to the vehicle.
10. The holder of the Mobile Trading Consent shall notify the Council of any proposed changes to be made to the vehicle to which the Mobile Trading Consent is granted, and shall not undertake such changes until the Council has first approved the proposals.
11. The holder of the Mobile Trading Consent shall notify the Council of any proposed replacement vehicle to which the Mobile Trading Consent is granted, and shall not replace the existing vehicle until the Council has first approved the proposed replacement vehicle.

- 12.** The holder of the Mobile Trading Consent shall comply with all statutes, statutory instruments and byelaws currently in force; in particular the requirements of the Health & Safety at Work Act 1974, the Food Safety Act 1990 and associated regulations, The Food Hygiene (England) Regulations 2006 and the Environmental Protection Act 1990.
- 13.** All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, or the Royal Institute of Public Health and Hygiene.
- 14.** The holder of the Mobile Trading Consent shall take adequate precautions to prevent the risk of fire in the vehicle. A serviceable fire blanket and suitable fire extinguisher/s shall be provided at all times.
- 15.** The holder of the Mobile Trading Consent shall ensure that where the vehicle has a 240 volt electrical system that an up to date annual electrical safety certificate is in force.
- 16.** The holder of the Mobile Trading Consent shall ensure that where gas cylinders are used that an up to date annual gas safety certificate is in force.
- 17.** The holder of the Mobile Trading Consent shall ensure that a first aid kit is maintained in the vehicle to treat any customers injured by the activities of the business operation.
- 18.** The holder of the Mobile Trading Consent shall notify the Council as to the identity of any person employed to operate his / her vehicle.
- 19.** The holder of the Mobile Trading Consent shall not sub-let his / her vehicle to another person.
- 20.** The holder of the Mobile Trading Consent shall ensure that the Mobile Trading Consent issued by the Council is clearly displayed within the vehicle when trading, and is to be produced on demand to any Authorised Officer.
- 21.** The holder of the Mobile Trading Consent shall have and maintain a proper insurance policy against public liability and third-party risks. The minimum insurance cover shall be £5,000,000 and shall cover the holders' vehicle and any additional equipment under their control. Proof of such cover must be produced to an Authorised Officer on demand.
- 22.** The holder of the Mobile Trading Consent shall maintain any instalment plan for the payment of the Mobile Trading Consent issued by the Council in accordance with the terms of the instalment arrangement. Failure to adhere to the terms of the instalment arrangement shall likely result in the forfeiture of the Mobile Trading Consent.
- 23.** The holder of the Mobile Trading Consent shall understand that any failure to comply with the conditions attached to the Mobile Trading Consent may result in the Mobile Trading Consent being revoked.
- 24.** The holder of the Mobile Trading Consent shall understand that should evidence be obtained that trading has occurred outside of the times and days permitted, or at locations within the Ashfield District not listed on the Mobile Trading Consent that he / she may be prosecuted for committing an offence.