

Hinckley and Bosworth Borough Council



Hinckley & Bosworth
Borough Council

A Borough to be proud of

Draft street trading consent policy 2016

1.0 Introduction

- 1.1 This policy covers street trading within the Borough of Hinckley and Bosworth (the council).
- 1.2 The granting of the street trading consents is made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4.
- 1.3 For the purpose of the policy, all streets within Annex 1 are consent streets as designated in the Act.
- 1.4 Subject to statutory exemptions a street trading consent is required for the sale of any goods from land to which members of the public have access to without payment.

2.0 Equal opportunities statement

In developing this policy, the council has recognised its responsibility under the Equality Act 2010 to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

The Act and the council seeks to outlaw unlawful discrimination against a person or group of people because of their:

- Age
- Disability
- Gender reassignment

- Marriage and civil partnerships (in respect of the requirement to have due regard to the need to eliminate discrimination)
- Pregnancy and maternity
- Race
- Religion
- Sex
- Sexual orientation

The council will not be affected by improper or undue influence from any source. To assist in this:

- The policy and associated documents will be available on the Internet, and in other formats upon request
- Multi-language sections may be included in all leaflets upon request.
- Support will be offered to individuals who are socially excluded to assist in their understanding of legislation and legal requirements
- Action will be taken to ensure that all enforcement action, particularly against those individuals from disadvantaged groups or who share protected characteristics, is dealt with fairly
- An Equality Impact Assessment has been completed for this policy

3.0 **Policy**

3.1 The council's street trading policy is to create a street trading environment which:

- Compliments premises-based trading
- Provides diversity and consumer choice
- Seeks to enhance the character and vibrancy of the area
- Is sensitive to the needs of residents
- Is safe
- Is welcomed by the communities it serves

3.2 Consents will be valid for a maximum period of one year.

4.0 **Process**

4.1 The Environmental Health Manager (Commercial) shall have delegated responsibility for approving Street Trading Consents, with appeals being dealt with by a panel of members from the Licensing (Regulatory) Committee on request.

4.2 It is the responsibility of each individual trader to seek advice from the council's Planning Services as to whether planning consent is required. This is likely to be more pertinent if the trade is likely to operate for more than 28 days in any one year.

5.0 **Locations**

In considering the suitability of a street trading location account will be taken of:

- Road safety
- Existing traffic restrictions
- Obstruction of free and safe passage
- Loss of public amenity.

6.0 **Type of goods for sales**

6.1 The suitability of goods to be sold will be determined on a case by case basis. The council will be mindful of and take account of all relevant matters, including local shopping needs, diversity, balance and conflict with nearby commercial shops and trading vehicles.

6.2 The following are likely to be considered not suitable:

- Age restricted products
- Second hand gas and electrical appliances
- Pets & livestock
- Explosive and inflammable products
- Motor vehicles
- Fast food including (burgers, hot dogs, fish & chips, pizza, other odorous foods)
- Alcohol
- Such other goods as may be identified by the Licensing (Regulatory) Committee

6.3 The types of goods approved as part of this policy for street trading will include; (subject to the pitch location)

- Arts/crafts
- Jewellery
- Candles
- Paintings (include portraits/face painting)
- Balloons
- Confectionary/nuts/doughnuts
- Ice cream
- Hot potato vendors
- Crepes/waffles

6.4 The Environmental Health Manager (Commercial) along with the councils` Town Centre Manager shall have authority to determine which pitches are suitable for the sale of what types of goods.

6.5 Requests to sell goods which do not fall within the description in paragraph 6.3 above shall be referred to a panel of members from the Council's Licensing (Regulatory) Committee for decision, in the absence of agreement by the Environmental Health Manager (Commercial) and Town Centre Manager.

7.0 **Trading hours**

Street trading is not permitted between the hours of 11.30pm and 6am. In all cases the trading hours will be stated in the consent and must be adhered to.

8.0 **Street trading consent fees**

- 8.1 The level of fees will be reviewed annually as part of the normal budget exercises.
- 8.2 Consent fees are payable in addition to any market rental fees. The minimum and maximum consent period is 12 months.
- 8.3 Fees are payable in advance or by Direct Debit agreement with the council's Finance Department. Any default on payment of fees will render the consent void. There will be no refunds for early surrender or removal of the consent.

9.0 **General**

- 9.1 Street trading consents do not apply on market days within the boundary of the market, however traders are required to pay the appropriate trading fees to the council and where appropriate hold a Market Traders License.
- 9.2 The granting or renewal of a street trading consent is controlled by the consent document which attaches conditions relating to such issues as:
- Obstructions
 - Nuisance or annoyance
 - Location of trading
 - Operation times
 - Litter control
 - Any other conditions reasonable necessary
- 9.3 The council's Licensing (Regulatory) Committee shall be the instigator of new conditions. A panel of members from the Licensing (Regulatory) Committee will be the arbiter in any appeals about conditions.
- 9.4 Street trading consents will be issued for a maximum of 12 months only.
- 9.5 In relation to the Christmas Market or other organised events, some of the designated pitches may be affected. Such pitches will be incorporated into the event or an alternative location offered for the duration of the event. The vendor shall have the option of being involved in the event subject to any additional rental costs being met by the vendor.
- 9.6 Registered charities and market traders (on market days only) who hold licences from the council are exempt from the requirements to hold a street trading consent. Additionally small scale community type events and traders associated with the Tin Hat Fair where street trading takes place will not incur a consent fee. Any other commercial operation vendor attending such events will be required to hold a consent and a consent fee will be payable.
- 9.7 The Environmental Health Manager (Commercial) shall have the discretion to decide on the commercial status of the vendor with the right of appeal to a panel of members from the council's Licensing (Regulatory) Committee.
- 9.8 Enforcement of street trading will be undertaken by officers authorised under delegated powers by the appropriate Deputy Chief Executive.
- 9.9 The Environmental Health Manager (Commercial) or other appropriate officers will have the discretion to refer any matters to Licensing (Regulatory)

Committee or a panel of members of that committee for consideration, where considered appropriate.

10.0 Definitions

10.1 **'Street trading'** is selling, offering or exposing for sale any article in a road, street, footway or other area to which the public have access without payment except for the following which are not **'street trading'**;

- Trading under the authority of a pedlar's certificate
- Market trading on market days on payment of market rent
- Trading as a roundsman e.g. milkman
- Trading as a newspaper vendor from a small kiosk
- Trading from the forecourt of a petrol filling station

(the above activities are specifically excluded from the definition of "street trading" - Schedule 4, Local Government (Miscellaneous Provisions) Act, 1982).

10.2 **'Street'** means any area where the public has free access without payment and includes part of a street.

10.3 **'Consent street'** means a street in which street trading is prohibited without the council's consent.

10.4 **'Operator'** means the consent holder and any person employed by the consent holder to assist at the consent location

10.5 **'Vehicle'** includes any stall, barrow, cart etc. used in connection with trading.

10.6 **'Trading'** means the offering of any goods or items including food.

10.7 Any other term shall have the same meaning as in the Local Government (Miscellaneous Provisions) Act, 1982.

11.0 Conditions

11.1 The grant of a street trading consent must not be regarded as signifying any other consent or permission nor be regarded as signifying compliance with any other legal requirement whatsoever.

11.2 The applicant must comply with the local highway authority (Leicestershire County Council) in accordance with responsibilities vested under the Highways Act 1980.

11.3 Consents will be subject to the general conditions stated below and any particular conditions as may be specified in the consent document:

- Breach of any condition may render the consent liable to be forfeit
- Consent is personal to the consent holder and cannot be assigned or transferred to any other person
- Consents must be surrendered to the council if the consent holder ceases trading

- The trading area to which the consent applies is to be used solely by the consent holder and is not to be let, hired or loaned or in any other way used by any other person
- The consent holder is required to be in regular attendance at the site;
- The consent shall be available at all times for production at the request of an authorised officer of the council or a police officer
- The consent licence provided by the council shall be displayed in a conspicuous place on the vehicle at all times the consent is in operation
- Consent holders must notify the council in writing of any permanent change of address or other details for themselves or any assistant they employ as soon as is practicable and in any event within 28 days
- Consent holders must notify the council in writing of any convictions for offences committed by themselves or any assistant they employ. Notification must be as soon as practicable and in any event within 28 days of the conviction
- Consent holders must maintain public liability insurance cover in the sum of not less than £5,000,000 and produce documentary evidence of such cover at the request of an authorised officer of the council
- Consent holders must maintain appropriate road traffic insurance and produce documentary evidence of such cover at the request of an authorised officer of the council
- Vehicles must not be parked or sited in a prohibited area at any time;
- Except from locations as are designated sites, operators must not:
 - Obstruct the free passage of pedestrians
 - Park or site a vehicle where it might interfere with the safe use of a school entrance
 - park or site a vehicle within 20 metres of a road junction
- Traders' pets or other animals, except registered assistance dogs, are not allowed at a street trading location
- A consent holder must not trade in a manner that is likely to cause a nuisance or annoyance
- A consent holder shall only sell the type of item specified in the consent
- A consent holder shall not trade outside the hours permitted in the consent
- A consent holder shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the vicinity of the site. Also the surrounding area shall be kept clean and tidy
- Operators shall prevent refuse from being deposited in the street and shall not discharge water, effluent or other waste into the street or any drains
- Vehicles used for the purpose of street trading shall be constructed and maintained to the satisfaction of the council
- Any other equipment used for the purpose of street trading shall be of a design approved by, and maintained to the satisfaction of, the council
- Units must be free standing and on wheels so that they can be readily moved in an emergency
- The use and storage of inflammable materials shall comply with the requirements of the Fire Service
- Generators may not be employed unless expressly permitted in the consent
- Only lighting that is expressly approved in the consent may be provided by the consent holder at the site
- Devices for the reproduction of sound shall not be employed

- Advertisements or other notices must not be placed outside the perimeter of the site without express approval in the consent
- The operator shall comply with all reasonable requirements or requests from an authorised officer of the council, a fire officer or a police officer
- A consent holder must not trade in food unless registered with the council under food safety legislation
- Food businesses must maintain a rating equivalent to three or higher in the Food Standards Agency national Food Hygiene Rating Scheme and at all times whilst trading display their award
- Operators shall comply with consumer protection and fair trading requirements
- Consents do not authorise trading on occasions of special events which are notified as such to consent holders in advance
- Conditions may be added or amended at any time by giving 28 days notice in writing to consent holders

12.0 Applications

- 12.1 A trader may trade at any location in a consent street subject to an application process, consultation and the imposition of any conditions that may be imposed and any regulations that may be drawn up regarding the general suitability of locations, vehicles/units and trade lines.
- 12.2 In considering applications for street trading consent relevant enforcement agencies may be consulted.
- 12.3 Applications will not be accepted from persons under the age of seventeen – Schedule 4 paragraph 7(1)(a) Local Government (Miscellaneous Provisions) Act, 1982.
- 12.4 Consents are personal in nature and applications will only be accepted from 'natural persons' not legal entities.
- 12.5 Each application will be determined on its own merits taking into account, amongst other matters, issues of:
- Public safety
 - Public order
 - Public nuisance
 - The needs of the area
- 12.6 Application forms must:
- Be properly made out with all relevant sections completed
 - Be accompanied by the correct fee
 - Be accompanied by two passport type colour photographs of the applicant and of any assistant the applicant seeks to employ
 - Applicants for street trading consents have a public inter face, often with children, and the council also has a duty to ensure that applicants are suitable and have for instance no unspent convictions for theft or fraud. Therefore, when determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant including whether the applicant has any unspent convictions. We **may** therefore ask for a Basic Disclosure

Certificate from the Criminal Records Bureau in Scotland (or equivalent successor) from an applicant and for each assistant the applicant seeks to employ. Any goods or services which entice children **will** be subject to the requirement for a Basic Disclosure Certificate. Such certificates shall be issued no earlier than one calendar month before submitting the application to the council

- Be accompanied by evidence of current third party liability insurance in the sum of £5,000,000
- Be accompanied by evidence of appropriate motor insurance
- Be accompanied by full details with pictorial representation in colour of the vehicle to be used
- Be accompanied by a map of the proposed trading location. Maps shall be of a minimum scale of 1:2500
- Be accompanied by evidence of registration under food safety legislation and food hygiene rating (if relevant)
- Be accompanied by evidence of waste removal arrangements from the site (if relevant)

12.7 In processing an application the council may seek comment from the following consultees:

- Police
- Fire Service
- Ambulance Service
- Trading Standards
- Town Centre Manager
- Environmental Health
- Licensing Enforcement
- Traffic Management
- Disability Forums
- Any other person or body whom the council feels it appropriate to consult

13.0 **Licensing (Regulatory) Sub-Committee Hearings**

13.1 A panel of members from the Licensing (Regulatory) Sub-Committee will be set up to hear any appeal of a decision of the Environmental Health Manager (Commercial) in relation to the refusal of a consent, goods deemed not suitable for sale or against a condition imposed on a consent. The panel of members will be made up of not less than three elected members.

13.2 In all cases where an adverse Criminal Records Bureau disclosure is received the application will be determined by a panel of members from the Licensing (Regulatory) Sub-Committee in accordance with the Guidelines on the relevance of convictions (detailed below).

13.3 Applications will normally be determined within 60 days and applications for renewals must be submitted no less than 60 days prior to the lapse of the consent to be renewed.

14.0 **Guidelines relating to the relevance of convictions**

14.1 These guidelines are applicable to:

- Applicants for the grant or renewal of a street trading consent,

- Persons who wish to be registered to assist a holder of a street trading consent
- Holders of a street trading consent and persons registered to assist a consent holder

14.2 General policy

- Each case will be decided on its own merits.
- A person with a current conviction for serious crime need not be permanently barred from obtaining a street trading consent but should be expected to remain free of conviction for three to five years according to the circumstances before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However the overriding consideration should be the protection of the public.
- In considering previous convictions the following matters will be taken into account:
 - (a) Whether the conviction is relevant
 - (b) The seriousness of the offence
 - (c) The length of time since the offence occurred
 - (d) Whether there is a pattern of offending behaviour
 - (e) Whether that person's circumstances have changed since the offence occurred
 - (f) The circumstances surrounding the offence and the explanation offered by that person.

14.3 Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public. Members of the public using a street trading outlet expect the holder and any assistant to be honest and trustworthy. For these reasons a serious view will be taken of any conviction involving dishonesty. In general, an applicant for the grant or renewal of a street trading consent is unlikely to be granted a street trading consent where the application is made within three to five years from the date of conviction. Similarly a person wishing to be registered as an assistant to a street trading consent holder is unlikely to be registered where registration is sought within three to five years from the date of conviction.

14.4 Violence

As street traders and their assistants have close contact with the public, a firm line will be taken with applicants who have convictions for violence. Generally, a period of three to five years free of conviction will be required before an application is likely to be considered favourably.

14.5 Drugs

An applicant with a conviction for a drug related offence should be required to show a period of at least three years free of convictions before an application is entertained.

14.6 Indecency offences

As the holders of street trading consents and their assistants, and in particular those who sell ice cream, have access to children, applicants who have convictions for indecent exposure, indecent assault, importuning, or any of the more serious sexual offences are likely to have their application refused until they can show a substantial period of at least three to five years free of such offences. More than one conviction of this kind is likely to preclude consideration for at least five years.

14.7 Motoring convictions

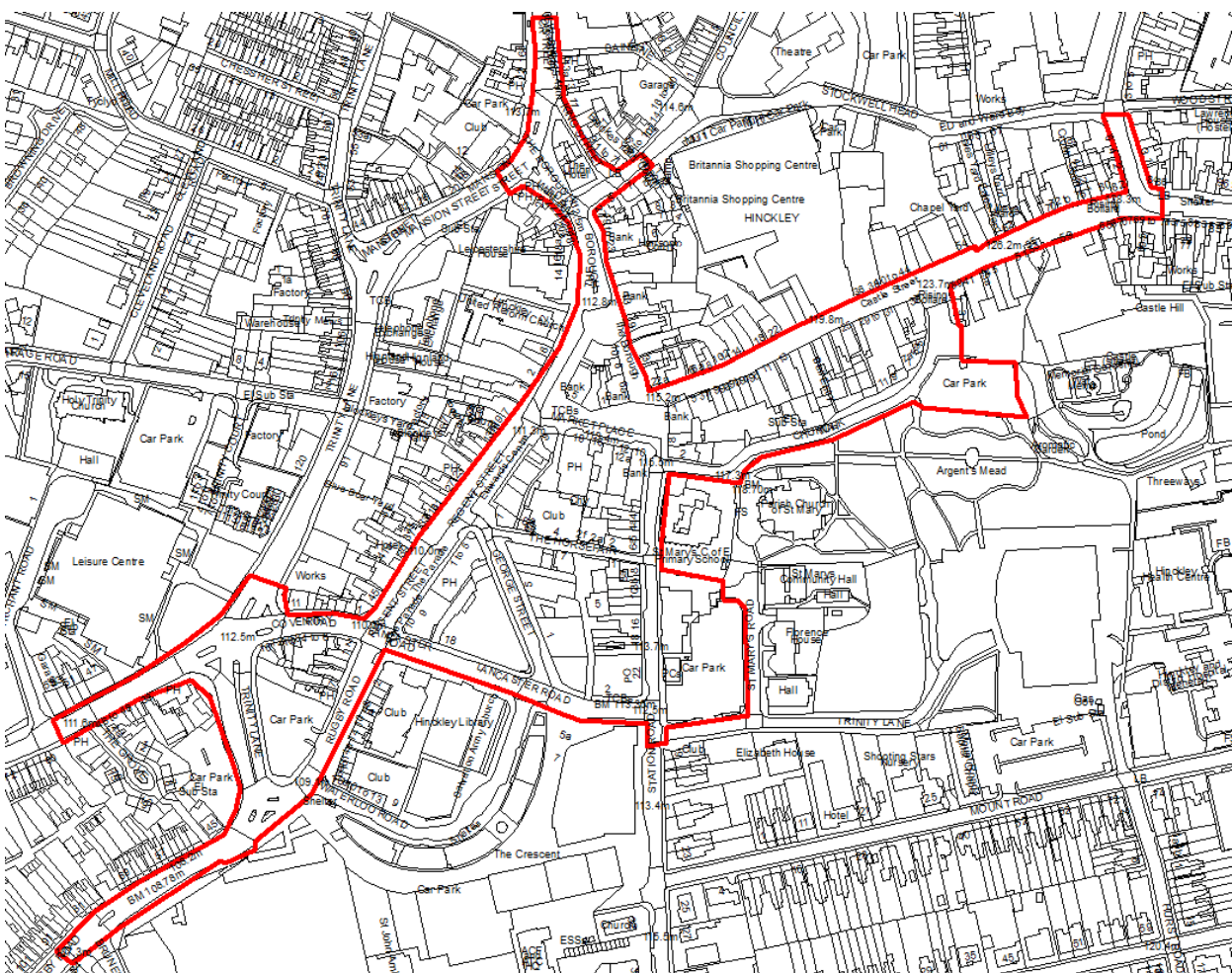
Motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent or to be registered as an assistant to the holder of a street trading consent is a suitable person. However, there may be instances where the offences are not isolated and are of a very serious nature. In such circumstances the applicant should be required to show a period of one to three years free of conviction.

14.8 Formal Cautions and fixed penalty notices

For the purposes of these guidelines, the council may treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as convictions.

Annex 1

Designated consent streets in Hinckley Town Centre made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4



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Hinckley & Bosworth Borough Council, at the council meeting of the ??? 2016, minute ???, resolved that the following streets in Hinckley Town Centre and any associated pedestrianised areas as Consent Streets for the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:

Parts of :	Castle Street	New Buildings
	Rugby Road	Station Road
	Trinity Lane	Council Road

Lower Bond Street
Coventry Road

Mansion Street

The whole of : Church Walk
Lancaster Road
Regent Street
The Horsefair

George Street
Market Place
The Borough
King Street

Further copies, versions in alternative languages and larger print or audio versions are available from the following address:

Hinckley and Bosworth Borough Council Hinckley Hub, Rugby Road, Hinckley, Leicestershire LE10 0FR

Telephone: 01455 238141 Email: customer.services@hinckley-bosworth.gov.uk

অন্যান্য ভাষায় অনুবাদ এবং বড় ছাপা অক্ষর বা অডিও'তে আরো কপি নিম্নের ঠিকানায় পাওয়া যায় :
Hinckley and Bosworth Borough Council
Hinckley Hub, Rugby Road, Hinckley, Leics LE10 0FR টেলিফোন : 01455 238141 ই-মেইল :
customer.services@hinckley-bosworth.gov.uk

બીજી ભાષાઓના ભાષાંતરમાં અને મોટા અક્ષરોમાં અથવા ઓડિઓના રૂપમાં વધારાની નકલો
નીચેના સરનામા ઉપર ઉપલબ્ધ છે:
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ਦੂਸਰੀਆਂ ਭਾਸ਼ਾਵਾਂ ਵਿੱਚ ਅਨੁਵਾਦ ਅਤੇ ਵੱਡੇ ਅੱਖਰਾਂ ਵਿੱਚ ਛਾਪੇ ਜਾਂ ਆਡਿਓ ਦੇ ਰੂਪ ਵਿੱਚ ਅਤੇ ਹੋਰ ਕਾਪੀਆਂ
ਅੱਗੇ ਲਿਖੇ ਸਰਨਾਵੇਂ ਤੇ ਉਪਲੱਬਧ ਹਨ:
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متبادل زبانوں میں ترجمہ اور بڑے حروف یا آڈیو میں ترجمہ کی مزید کاپیاں درج ذیل پتے سے حاصل کی جاسکتی ہیں:

Hinckley and Bosworth Borough Council
Hinckley Hub, Rugby Road, Hinckley, Leics LE10 0FR

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