



SOUTH  
KESTEVEN  
DISTRICT  
COUNCIL

## LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

# Street Trading Policy

## 2022

Version	Stage	Date
V1 (draft)	Licensing Committee	21 October 2021
V2 (draft)	Environment OSC	30 November 2021
V3 approved	Cabinet	21 June 2022

## Contents

Executive Summary.....	1
1. Introduction .....	3
2. Information Sharing & Data Protection .....	7
3. Whistleblowing .....	7
4. Integrating other Guidance, Policies and Strategies .....	7
5. Who Should Apply.....	8
6.. New Street Trading Consent Application Process.....	8
7. Consultation .....	9
8. Renewal of an Application .....	10
9. Fees and Charges .....	11
10. Hours of Trading .....	11
11. Markets and Fairs .....	12
12. Stamford Pedestrian Precinct .....	12
13. Decisions.....	12
14. Standard Conditions .....	13
15. Refusal or Withdrawal of Street Trading Consent .....	13
16. Consent Surrender.....	14
17. Enforcement Policy and Practice .....	15
18. Appeal Procedure .....	15
19. Policy Review.....	15
20. Advice and Guidance .....	15
Appendix 1 - Definitions.....	16
Appendix 2 - Assessment Criteria for new or renewal applications .....	19
Appendix 3 – Standard Conditions .....	23
Appendix 4 – Stamford Pedestrian Precinct Pitch Locations.....	25

## Executive Summary

Street Trading is controlled in accordance with the provisions contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. South Kesteven District Council adopted this schedule on 1 September 2006.

This designated the whole of South Kesteven a consent area, meaning that all streets within the South Kesteven District are designated as Consent Streets. Anyone who wishes to trade on a street, highway, other trading area or private land to which the public have access without payment must hold a Street Trading Consent.

This policy will be reviewed every five years. In the interim, minor amendments to the policy, such as legislative updates, which may become necessary from time to time to ensure its continued accuracy, but do not affect its direction or intent may be made in accordance with delegated authority.

This policy is important in ensuring street trading businesses operate safely and supports a number of the priorities in the councils Corporate Plan;

- **Growth of the Economy**
- **Healthy & Strong Communities**
- **Housing that meets the needs of all residents**
- **Clean & Sustainable Environment**
- **A High Performing Council**

By promoting

- **Public safety** - to protect public health, the health and safety and welfare of members of the public and to improve food safety standards.
- **Road safety** - to prevent street trading impacting on the safety of public roads and reducing risks to pedestrians and vehicles.
- **The prevention of crime and disorder** - to prevent street trading being a source of crime or anti-social behaviour and ensure traders comply with the law and act fairly in their dealings with the public and promote a positive image of the district.
- **The prevention of public nuisance** - to prevent nuisance, inconvenience, or disturbance to members of the public.

Each application will be determined on its own merits.

This policy covers the licensable activity of Street Trading as specified in the Act as:

- The selling or exposing or offering for sale of any article (including a living thing) in any street.

Decisions will be taken in accordance with the Council's Constitution, this may include, either the Licensing Committee or Officers using delegated powers.

Where relevant, the Licensing Authority consults with the responsible authorities as described in the Act. Local people and Members of the Council who can have their say and their opinion heard through public consultation on this policy and by making representations.

Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Authority to depart substantially from its policy - clear and compelling reasons shall be given for doing so.

## 1. Introduction

- 1.1 South Kesteven District Council is one of seven districts in Lincolnshire with a population of around 142,000. Two thirds of people live in the four main towns of Grantham, Stamford, Bourne and the Deepings with the remaining third living in one of over 80 villages and hamlets. With an area of 365 square miles, it is one of the largest districts in the county.
- 1.2 South Kesteven District Council, (hereinafter referred to as the 'Licensing Authority'), is responsible for the licensing of street trading activities under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act).
- 1.3 This policy is intended to provide clarity to applicants, the public and responsible authorities on how the Licensing Authority will determine applications. Street Collections are regulated under separate legislation and subject to a separate policy issued by the Licensing Authority.
- 1.4 The purpose of street trade consenting is to prevent obstruction of the streets of the district within the terms of the Act and to ensure the safety of everyone using them.
- 1.5 Street Trading is defined in the Act as:
- **The selling or exposing or offering for sale of any article (including a living thing) in any street**

The term "street" defined under the Act has been interpreted widely by the Courts. For this policy, South Kesteven District Council consider a street to be defined as the following:

- Any road, footway or other area to which the public have access without payment; or
  - Any part of a street, road, footway or other areas open as a matter of fact to the public without payment; or
  - Any area that is 30 metres from the centre of any (or part of any) road, footway or other area to which the public have access without payment.
- 1.6 The following are not classed as street trading under the Act:
- Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted by the Police under the Pedlars Act 1871;
  - Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order;

- Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- Trading as a news vendor – where:
  1. The only articles sold or exposed or offered for sale are newspapers or periodicals; and
  2. They are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not –
    - a. Exceed one metre in length or width or two metres in height;
    - b. Occupy a ground area exceeding 0.25 square metres; or
    - c. Stand on the carriageway of a street;
- Trading which –
  1. Is carried on at premises used as a petrol filling station, or
  2. Is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
  3. Selling things, or offering or exposing them for sale, 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.

1.7 In preparing this policy statement the Licensing Authority has consulted with those listed below and taken in account the views of all the appropriate bodies and organisations who responded:

- The Chief Constable of Lincolnshire Police
- Lincolnshire Fire and Rescue Authority
- Lincolnshire Highways Department
- Town and Parish Councils
- All current consent holders
- General public
- Departments within South Kesteven District Council

1.8 In accordance with the terms of the Act, and subject to any relevant representations, conditions may be attached to a Street Trading Consent, which will focus on matters falling within the control of individual consent as well as general conditions.

1.9 Each application will be treated on its merits, and these may include, but are not limited to:

- the nature of the proposed street trading activity;

- direct competition with other local traders providing a similar service;
- the nature and locality of the street trading;
- the time of day of the proposed street trading activity; and
- the type of goods and units used to street trade from.

1.10 In undertaking its licensing function, the Licensing Authority is also bound by other legislation including, but not exclusively:

- Section 17 of the Crime and Disorder Act 1998 – which imposes a duty on every Local Authority to do all that it reasonably can to prevent crime and disorder in its decision-making process. The duty now extends to anti-social behaviour, substance misuse and behaviour adversely affecting the environment.
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998, which places a duty on public Authorities to protect the rights of individuals in a variety of circumstances.
- The Provision of Services Regulations 2009 to ensure requirements are:
  - i. Non- discriminatory.
  - ii. Justified by an overriding reason relating to the public interest.
  - iii. Proportionate to that public interest objective.
  - iv. Clear and unambiguous.
  - v. Objective.
  - vi. Made public in advance, and
  - vii. Transparent and accessible.
- Anti-social Behaviour Crime and Policing Act 2014
- Police and Justice Act 2006
- Violent Crime Reduction Act 2006
- The Police Reform and Social Responsibility Act 2011
- Clean Neighbourhoods and Environment Act 2005
- South Kesteven District Council is committed to the implementation and application of this policy in such a manner as to ensure that no applicant or other person is treated less favourably on grounds of sex, marital status, race, nationality, ethnicity, national origin, colour, disability or age; nor is disadvantaged by the application of a rule, condition or requirement which has a discriminatory effect, which cannot be justified either in street trade licence terms or as a requirement of law.

## **2. Information Sharing and Data Protection**

- 2.1 The Licensing Authority works in partnership with other enforcement agencies such as the Police, DEFRA, HM Revenue and Customs, Home Office, DVSA, Department of Work and Pensions etc. and will share information with other Council departments or regulatory bodies where appropriate.
- 2.2 The Licensing Authority is legally required to provide information if requested, pursuant to a criminal offence, or to detect fraud, or immigration offences.
- 2.3 The Licensing Authority will work with neighbouring authorities and report to them any relevant matters that relate to their licence holders.
- 2.4 Details of Street Trading Consents may be published on the Licensing Authority's website. This may include name of the business operator, location etc to enable the public to be aware of consented traders
- 2.5 The Licensing Authority complies fully with its obligations under the General Data Protection Regulation (GDPR), Data Protection Act 2018 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of information and has a written policy on these matters, which is available to those who wish to see it on request.
- 2.6 The Licensing Authority complies in full with the Data Barring Service (DBS) Code of Practice for Disclosure and Barring Service Registered Persons.
- 2.7 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for the Authority to make a "barring" referral to the DBS. A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, may be referred to the DBS. The power for the Licensing Authority to make a referral in this context arises from the undertaking of a safeguarding role.

## **3. Whistleblowing**

- 3.1 The Licensing Authority takes wrongdoing very seriously. Hotlines have been established to allow staff, councillors and the public to raise concerns. Though reports can be raised anonymously, individuals are encouraged to leave as much information as possible to assist with the investigation. The Licensing Authority's Whistleblowing policy is available at [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk).

## **4. Integrating other Guidance, Policies and Strategies**

- 4.1 The Licensing Authority may implement other policies, strategies and initiatives that may impact on street trading activity within the remit of this policy statement. Subject to the general principles of this policy statement, the Licensing Committee may have to have regard to them when making licensing decisions.



- 4.2 By consulting widely prior to this policy being published and working with our partners at all levels, it is hoped this will generate an alignment between this policy and any that may be developed by partner agencies.
- 4.3 In reaching a decision, of whether to grant street trading consent, the Licensing Authority will take account of any non-compliance with other statutory requirements brought to its attention. Non-compliance with statutory requirements may demonstrate that the street trading activity proposed, or that the management of such is not appropriate to protect the public from harm or nuisance.

## **5 Who should apply?**

- 5.1 To apply for consent a person must be:
- An individual or business (but will granted to an individual).
  - 17 years of age or over.
  - Legally entitled to live and work in the UK.
- 5.2 Applicants wishing to trade from a specified location and mobile traders (excluding Roundsman) require a street trading consent. A definition of both Mobile Traders and Roundsman is in **Appendix 1**

## **6. Street Trading Consent Application Process**

- 6.1 The functions of the Licensing Authority under the Act may be carried out by the Licensing Committee or by one or more officers acting under delegated authority.
- 6.2 An application for a street trading consent should be made using the Council's online application process at [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk). Alternatively, an application form can be downloaded from the website and submitted by post.
- 6.3 The relevant fee must accompany the application.
- 6.4 Street trading consents are granted to an individual applicant. The consent document may include a business name, but the applicant is the consent holder and is required to be present at the trading site with the vehicle, barrow, cart, van, portable stall or other means from which the consent holder trades at all times during trading hours.
- 6.5 The consent holder may however, within the application form, nominate an assistant to be present in his or her absence. This assistant will be named on the street trading consent document and can only be altered at a later date by an application to amend the consent (a variation charge will be payable).
- 6.6 In addition to a completed application form, the applicant must also submit:
- Proof of right to work in the UK.
  - If applicable, proof of any prospective employee's right to work in the UK.
  - One Passport photograph.

- At least one photograph showing your unit/stall (vehicle, barrow, cart, van, portable stall or other vehicle) from which you intend to trade.
- A plan or map of the area from which the applicant intends to trade or the route to be taken. This should clearly identify the position of the proposed trading site.
- If the proposed trading site is located on private land you will need to gain written permission from the landowner/occupier. This must accompany your application.
- Evidence of insurance that covers the street trading activity and the consent holder for public liability risks that provides insurance of at least £5,000,000 (five million) and to indemnify the Council against all claims, liabilities, actions, demands and expenses arising from the grant or renewal of the street trading consent.
- If a vehicle is to be used, a valid MOT certificate for that vehicle or supply the vehicle registration number to enable the licensing authority to check the MOT status of the vehicle with the DVLA online service.
- If the business involves the preparation and sale of food, the vehicle must have been inspected and received a food hygiene rating. Evidence of this must be provided.
- A current valid gas safety certificate for the vehicle or stall if applicable
- A basic Disclosure and Barring Service Certificate (DBS) for yourself and each employee or person/s standing in for you. This can be obtained from <https://www.gov.uk/request-copy-criminal-record>. This must be received by the Licensing Authority no later than 28 days from the date of issue.

6.7 Applicants may be liable to pay business rates and should seek advice from the council's Business Rates team They can be contacted via the council's website [southkesteven.gov.uk](http://southkesteven.gov.uk) or telephone 01476 406080.

6.8 Newly established food traders are advised to contact the Environmental Health team at the earliest opportunity and **before** submitting an application for a Street Trading Consent.

6.9 If the area the applicant wishes to trade in is already occupied, they may be included on the waiting list, a request for this must be made in writing by emailing [Licensing@southkesteven.gov.uk](mailto:Licensing@southkesteven.gov.uk). Applicants will remain on the waiting list for 6 months. Should they wish to remain on the waiting list after this time they must notify the Licensing Authority in writing.

6.10 Consent can be issued for any period up to a maximum of 12 months. After this period the consent will expire. If a consent is not renewed, the designated site will become available for other applicants.

## 7. Consultation

7.1 When an application is received the Council may consult with:

- Lincolnshire County Council Highways or Highways England (depending on the area of trading).
- Lincolnshire Police.
- Lincolnshire Fire & Rescue Service.

- Relevant businesses in the location.
- Town & Parish Councils.

Departments within South Kesteven District Council

- Environmental Health Department.
- Planning Department.

The consultation period is 10 working days (starting the day after receipt of the application).

- 7.2 Following receipt of an application, an officer of the Council may visit the applicant to inspect the vehicle, barrow, cart, van, portable stall or other vehicle or other means from which the applicant intends to trade or the proposed site.
- 7.3 Previous grant of a consent at a location does not imply that permission will be granted. The consultees may wish to carry out their own risk assessments and impose conditions or object to the use of a particular site, irrespective of whether a Street Trading Consent has previously been given.
- 7.4 Consultation(s) on renewal or mobile trading applications may be carried out with a selection of the above consultees depending on the merits of the individual circumstances. Where issues or concerns have been raised about an existing Street Trading Consent, a full consultation may be undertaken at renewal.

## **8. Renewal of an application**

- 8.1 Street Trading Consents can be issued for a maximum period of 12 months. There is no automatic right to renewal.
- 8.2 An application to renew a trading consent must be received by the Licensing Authority at least 6 weeks before the expiry of the existing consent and be accompanied by the appropriate fee and relevant documentation.
- 8.3 Consultation will be undertaken as outlined in **Section 7 - Consultation**.
- 8.4 If a renewal application, payment and all required documentation are not provided at least 6 weeks before expiry, leading to a delay in the consent being renewed, the consent holder must cease trading once the consent expires and not begin again until such a time as the consent is renewed.
- 8.5 If a renewal application is not submitted before expiry of the existing consent, it will be treated as a new application and could result in the location being allocated to another trader.
- 8.6 **It is the responsibility of the consent holder to submit their application in good time to enable the necessary consideration and consultation to be undertaken.**
- 8.7 Consents will not normally be granted or renewed where:

- Enforcement action is pending or has previously been undertaken and proved against the applicant.
- The holder is currently in arrears with any charges.
- The location or proposed unit is unsuitable.
- There is a potential risk to public safety.
- The applicant is unsuitable.
- An applicant has failed to appropriately use previous consents.
- The activities are likely to cause a nuisance, disturbance or annoyance to neighbouring properties.
- It may contribute to crime and disorder.

This list is not exhaustive.

8.7 When assessing a new application or renewal of a street trading consent the assessment criteria outlined **in Appendix 2** will be used.

## **9. Fees and Charges**

9.1 The relevant fees are contained in the approved South Kesteven District Council Fees and Charges which are reviewed annually.

9.2 An application fee (see 9.3 below) must be submitted with all applications.

9.3 The fee is based upon the number of trading days per month, specified by the applicant. The fee equivalent to the first three months must be paid prior to the consent being issued. The following payment options are available:

- Three months payment on application, followed by quarterly payment in advance.

or

- The full annual fee for the required days.

9.4 Mobile traders are required to pay an annual fee prior to the permit being issued, regardless of how many months are traded. There is no entitlement to a refund if a consent is surrendered as the fee set recognises the potentially seasonal nature of this type of trading.

## **10. Hours of Trading**

10.1 Hours of trading will be determined as appropriate on a case-by-case basis dependent upon the location and other relevant factors.

10.2 The trading hours will seek to promote the following:

- I. Preventing crime, disorder and antisocial behaviour.
- II. Avoiding disturbance due to noise, smell or any other matter the council considers appropriate.
- III. Protecting public safety.
- IV. Preventing obstruction of the highway.
- V. Having regard to location and operating hours of business activity in the locality.

## **11. Markets and Fairs**

- 11.1 Where a market or fair is held it must be lawfully created by statute, grant or presumed grant and is exempt from the Street Trading provisions. If such statute, grant or presumed grant does not exist any gathering of buyers and sellers amounts to an informal market regardless of whether the activity is described as a “market”. A definition of Informal or Unofficial Markets is in **Appendix 1**.
- 11.2 The markets and fairs within the district that are granted by Charter, are exempt from requiring a Street Trading Consent.
- 11.3 Street Trading will not be permitted at locations which conflict with market days or during fairs in the district. Full details of the markets and fairs within the district are outlined in **Appendix 1**.

## **12. Stamford Pedestrian Precinct**

- 12.1 The High Street in Stamford is a pedestrianised area, known as Stamford Pedestrian Precinct and is maintained by Lincolnshire County Council. This area is not included in a Charter and a Street Trading Consent is required for this area between Sunday and Thursdays.
- 12.2 Five pitches have been designated for Street Trading between Ironmonger Street and Maiden Lane. Another pitch is available outside the library. Please see **Appendix 4** for the positions of the pitches.
- 12.3 Pitch Four is designated for Charity Collections only. Please see the separate Street Collection Policy for details.
- 12.4 On Fridays a market (as defined by 11.1 above) is in operation.
- 12.5 On Saturdays Pitches 1, 3 and 5 are currently operated under street trading consent rules. The rest of the allocated pitches are allocated to a market (as defined by 11.1 above). This allocation may change over time.

## **13. Decisions**

- 13.1 Decisions will be made in accordance with the delegations as detailed in authority’s constitution. Each case will be determined on its own merits. This document provides the general principles relating to the determination of applications which shall generally be followed.
- 13.2 The application will either be:
- a. Granted and a Street Trading Consent issued subject to conditions that will be attached;
  - b. Refused.

13.3 When a licence is granted it will state:

- The street in which (and place in the street as appropriate), days on which and times between which the licence holder is permitted to trade, and
- The description of articles in which they are permitted to trade.

13.4 In instances where the Licensing Authority considers that it can grant a substantially modified version of the application (i.e. for less hours than those applied for), it will notify the applicant of its decision and give the applicant 5 working days from the day after the decision is dated to accept the grant of the consent on those modified terms. If the applicant does not respond the application will be determined as originally submitted.

13.5 Applicants selling hot food or drink between 23:00 hrs and 05:00 hrs will also require a Premises License under the Licensing Act 2003.

#### **14. Standard conditions**

14.1 The Licensing Authority applies Standard Conditions to all Street Trading Consents as detailed in **Appendix 3**.

14.2 Additional Conditions not listed in Appendix 3 may be specifically tailored by the Licensing Authority and attached to licences as appropriate.

#### **15. Refusal or withdrawal of street trading consent**

15.1 Where the imposition of conditions is not adequate to control potential issues or concerns, applications will be refused.

15.2 The grounds for refusal of a Street Trading consent falls into distinct categories;

- I. **Mandatory Grounds:** Where South Kesteven District Council has no power or discretion to grant a licence. The application must be refused.
- II. **Control Orders:** Where a Control Order is in place under Section 7 of the Local Government Act (Miscellaneous Provisions) Act 1976 is in force.
- III. **General Grounds:** Where South Kesteven District Council is satisfied that the application "ought to be refused"

#### **15.3 Mandatory Grounds**

- a) Where there is not enough space in the street for the applicant to engage in the trading in which is proposed without causing undue interference or inconvenience to people using the street;
- b) There are already enough traders (including shops) in the street trading in the sale of goods or services the applicant proposes to trade;
- c) The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.

- d) The applicant has persistently refused or neglected to pay fees due to the Licensing Authority for a previous street trading licence or consent (or other charges due to the Local Authority in connection with it)
- e) The applicant has without reasonable excuse failed to utilise a previous street trading licence to a reasonable extent.

15.4 The Licensing Authority may revoke a street trading licence if it considers;

- a) Circumstances have arisen since the grant or renewal of the licence and there is not enough space in the street for the licence holder to engage in the trading permitted by the licence without causing undue interference or inconvenience to persons using the street.
- b) The licence-holder is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
- c) Since the grant or renewal of the licence, the licence-holder has persistently refused or neglected to pay fees due to the Licensing Authority for the consent or services associated with the consent
- d) Since the grant or renewal of the licence, the licence-holder has, without reasonable excuse, failed to avail themselves of the licence to a reasonable extent.

15.5 If the Licensing Authority considers that it has grounds for revoking a licence, it may, instead of revoking it, vary its conditions:

- a) By reducing the number of days or the period in any one day during which the licence-holder is permitted to trade, and/or
- b) By restricting the descriptions of goods in which they are permitted to trade.

15.6 If the consent is revoked licensees will not be entitled to a refund for any unused days remaining in the month that the revocation takes effect.

15.7 If a mobile trading licence is revoked licensees will not be entitled to a refund for any unused remaining days within the existing licence.

## **16. Consent surrender**

16.1 A consent holder may at any time surrender their Street Trading Consent. The surrender will not be effective until the Street Trading Consent has been returned to the Licensing Authority. It shall then cease to be valid.

16.2 If a consent is surrendered (or it is revoked) there will be no entitlement to a refund for the month that the surrender (or revocation) takes place. No refund is

applicable for mobile traders, as the fee charged recognises the often seasonal nature of this trading.

## **17 Enforcement Policy and Practice**

- 17.1 It is the statutory duty of the Licensing Authority to ensure that Street Traders are licensed correctly and carry out their trade in accordance with both the relevant law, byelaws, statutory notices, policies and conditions attached to licences.
- 17.2 Enforcement action will be determined on its own merits.
- 17.3 Enforcement decisions will be made in accordance with this policy and the Licensing Authority's Constitution. Officers have delegated powers to make decisions and may also refer certain matters to the Licensing Committee if appropriate.
- 17.4 Members, when determining enforcement actions will have regard to Local Government (Miscellaneous Provisions) Act 1982 legislation, this Policy and any other relevant legislation, case law, guidance and other relevant South Kesteven District Council policies.
- 17.5 All enforcement will be undertaken in accordance with the Licensing Authority's current enforcement policy.

## **18. Appeal Procedure**

- 18.1 If the application or a renewal is refused an appeal may be lodged at any time before expiration of the 21 days starting from the day when the applicant is advised in writing of the reason for the refusal.
- 18.2 An appeal right only relates to the General Grounds outlined in 15.3 (d) – (e).
- 18.3 There are no appeal rights relating to the General Grounds outlined in 15.3 (a) – (c). The only means to challenge a decision on this basis is by Judicial Review.
- 18.4 An appeal is submitted to the Magistrates Court in which the street for which the licence was sought is situated.

## **19. Policy Review**

- 19.1 This policy will be reviewed every five years. In the interim, minor amendments to the policy, such as legislative updates, which may become necessary from time to time to ensure its continued accuracy, but do not affect its direction or intent may be made in accordance with delegated authority. If no significant amendments are required during this period, this policy may remain in force until a review is deemed necessary.



## **20. Advice and Guidance**

20.1 Further information and advice on the Street Trading Consent process can be obtained by contacting South Kesteven District Council Licensing team by telephoning (01476) 406080, by e-mail at [licensing@southkesteven.gov.uk](mailto:licensing@southkesteven.gov.uk) or by visiting the Business and Licensing area of the Council's website [www.southkesteven.gov.uk](http://www.southkesteven.gov.uk)

## Appendix 1 - Definitions

**Informal or Unofficial Markets:** Any gathering of buyers and sellers amounts to an informal market regardless of whether the activity is described as a “market” if not created by statute, grant or informal grant. This can include certain types of auction, car boot sale or if organisers purport to organise a “club” whereby members are able to buy. Trading at such a market is still ‘street trading’ and a licence must be sought. An unofficial market held on private property and not on the highway will require the trader to seek licenses because “street” is defined to include any place to which the public have access without payment.

**Market or fair by virtue of a grant or enactment or order:** Within the district of South Kesteven these are:

### 1. Chartered Markets

Stamford - Weekly Friday (Broad Street and High Street)

Grantham - Weekly Saturday (Wide and Narrow Westgate, Market Place, Conduit Lane, Butchers Row).

Bourne - Weekly Thursday & Saturday (Corn Exchange Car Park).

### 2. Chartered Fairs

Starting on Mothering Sunday (in Stamford) and Grantham from the following Saturday, as follows for each town:

Stamford – Red Lion Square, Crown Street, Broad Street, Bath Row, Castle Dyke, Sheep Market, Star Lane, Castle Street.

(Road closures normally from the Saturday before mothering Sunday until the following Sunday morning – 9 days road closure duration).

Grantham – Wide and Narrow Westgate, Market Place, Conduit Lane, Welby Street, Union Street and part of Guildhall Street.

(This fair runs from Saturday to Thursday AM – 6 days road closure duration).

**Markets held in Stamford Pedestrian Precinct:** on Fridays (Farmer’s market) and Saturdays

**Mobile Trader:** is defined by the Licensing Authority as someone who moves from location to location to ply their trade. They must:

- Not return to the area within 2 hours.
- Not wait in one location for more than 30 minutes (if they stay for longer in one location, they will not be deemed to be mobile traders and will require a Street Trading Consent for each location they visit).
- Not trade within 100 metres of the entrance to a place of education without being invited by them to do so.

- Ice cream vans, mobile sandwich and hot food sellers (that do not have specific customers to whom they visit on a “round”) are types of mobile trader.

Mobile traders that have a contract in place with customers do not need a mobile trading consent. This may include hot food and sandwich vans. This type of trader is called roundsmen.

**Pedlars:** Section 3 of the Pedlar’s Act 1871 defines a pedlar as “any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs or other persons who without any horse or beast travels and trades on foot and goes from town to town or others men’s houses, carrying or selling or exposing for sale any goods, wares, merchandise immediately to be delivered, or selling or offering his skill in handicraft” and must be certified as a pedlar per Section 4 of the Act.

**Removal of obstruction:** If the highway is maintained by South Kesteven District Council it and the Highways Authority has a common law power to remove obstructions from the highway. There is no duty to issue or to take proceedings prior to removing the obstruction. If the highway is not maintained by the South Kesteven District Council, the competent authority to undertake removal is the Highways Authority (Lincolnshire County Council).

**Roundsman:** Milk delivery round, coal delivery rounds and other people who offer or expose goods for sale may lawfully trade without a street trading consent. Evidence of pre-ordering would be expected to differentiate from casual or speculative sales. Ice-cream vans, mobile fish and chip vans/Pizza Ovens (hot food sales) are not considered roundsman.

**Street:** defined under the Act has been interpreted widely by the Courts. For this policy, South Kesteven District Council consider a street to be defined as the following:

- Any road, footway or other area to which the public have access without payment; or
- Any part of a street, road, footway or other areas open as a matter of fact to the public without payment; or
- Any area that is 30 metres from the centre of any (or part of any) road, footway or other area to which the public have access without payment

**Street Collections:** Collection of money or selling articles for the benefit of charitable or others purposes in any street or public place as regulated by Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916, as amended by Section 251 and Schedule 29 to the Local Government Act 1972.

**Street Trading:** The selling or exposing or offering for sale of any article (including a living thing) in any street.

The following are not classed as street trading under the Act:

- Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order;
- Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
  - Trading as a news vendor – where:
    3. The only articles sold or exposed or offered for sale are newspapers or periodicals; and
    4. They are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not –
      - a. Exceed one metre in length or width or two metres in height;
      - b. Occupy a ground area exceeding 0.25 square metres; or
      - c. Stand on the carriageway of a street;
- Trading which –
  1. Is carried on at premises used as a petrol filling station, or
  2. Is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
  3. Selling things, or offering or exposing them for sale, 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.

## **Appendix 2 - Assessment Criteria for new or renewal applications**

When assessing a new application or renewal of a street trading consent the following considerations and the terms of this policy will be used:

### **1. Public safety**

- The proposed location of the activity should not present a risk to the public in terms of highway safety and obstruction.
- Applications in respect of sites that have previously been the subject of refusal due to the unsuitability of the location are unlikely to be accepted.

### **2. Prevention of crime and disorder**

- The proposed activity should not present a risk of crime and disorder.

### **3. Prevention of nuisance**

- Activities at the pitch must not cause a nuisance, annoyance or disturbance to neighbouring properties, this includes businesses.
- Controls must be in place to ensure that nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and smells does not occur.
- If complaints that nuisance, annoyance or disturbance is occurring, the Licensing Authority is duty bound to investigate and, if complaints are found to be justified, may decide to take enforcement action, including revocation of the consent.

### **4. Suitability of the applicant**

- Unspent convictions the applicant may have, this information will be requested in the online application.
- When determining whether an applicant is suitable, the Licensing Authority will consider the reliability of the applicant in paying fees and charges based on previous history.
- An applicant's history of street trading will also be taken into consideration e.g. whether previous street trading consents have been used appropriately and whether the Licensing Authorities requirements have been met, including deadlines.
- Enforcement action is pending or has previously been undertaken and proved against the applicant.

### **5. Suitability of the trading unit**

- The vehicle, trailer or unit to be used should be of a high-quality design and comply with the legal requirements for the activity proposed.
- The appearance of the unit must be maintained at the standard approved in the original consent.
- Location of trading may determine the trading unit or type of goods sold, e.g.in conservation areas the use of traditional style barrows/vehicles and traditional wares, crafts, foods etc.
- Diesel generators will be permissible outside when no other power source is available. They shall be positioned to reduce the length of cabling required

to an absolute minimum and to minimise disturbance to local residents or businesses from noise or fumes.

## **6. Advertising**

- Advertising must only relate to goods offered for sale on that pitch.
- Third party advertisements are prohibited.
- It is not permitted to illuminate any advertisement on the outside of the stall kiosk without express consent of the Licensing Authority.
- The use of 'A' boards or any other display board/structures are prohibited unless included within the street trading consent approval.

## **7. Barriers**

- Barriers for safety purposes will only be allowed on a consent pitch where they have been specifically included within the street trading consent approval.
- Any barriers proposed shall not constitute a nuisance or danger under the Highways Act 1980, must not impede the free flow of pedestrians or traffic and must not restrict the pavement so as to inhibit social distancing (if it is required).

## **8. Selling the right goods**

- The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent. The quality of goods and innovative approach will be considered.
- Anyone applying for a stall must clearly state the nature of the proposed goods. The goods must not:
  - Cause a nuisance, disturbance or annoyance to nearby properties/people, including cooking smells, smoke, noise, litter and additional cleansing requirements for the Council.
  - Cause or contribute to crime and disorder – including the selling of fake or counterfeit goods.
  - Have a negative public health impact e.g. vaping products, locality of fast food units near schools, gyms etc.

## **9. Site assessment**

- In determining whether street trading in a particular area is appropriate the Licensing Authority will have regard to:
  - Any effect on road safety either arising from the siting of the pitch or from customers visiting or leaving.
  - Any loss of amenity caused by noise, traffic, smell etc.
  - Existing traffic orders e.g. waiting restrictions.
  - Any potential obstruction of pedestrian, vehicular or disabled access.
  - Any nuisance/interruption to pedestrian flow or maintenance of appropriate social distancing.
  - Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises.

### **Appendix 3 – Standard Conditions**

The following conditions are attached to all street trading consents:

1. This street trading consent does not convey any other approvals that may be necessary under the Food Hygiene regulations, Planning legislation or other appropriate legislation.
2. Trading is permitted only from the stall or vehicle, details of which has been previously supplied to the Licensing Authority and shall be confined thereto.
3. Trading is permitted only from the position, or the area specified in the consent.
4. Trading is only permitted in the type of goods specified in the consent.
5. The holder shall comply with all appropriate statutory provisions e.g. food hygiene, advertisement control and health and safety regulations.
6. No signs or advertisements shall be displayed other than on the stall or vehicle, and in such cases signs that relate to goods specified in the consent (Condition 4). Signs must not be placed on the roadside to avoid distracting drivers.
7. The holder of a street trading consent shall take all reasonable precautions to prevent obstruction of the street or danger to persons using the street and to prevent nuisance or annoyance, to persons using the street, immediate neighbours or otherwise.
8. Street Trading Consent shall be limited to times and days for trading purposes and all vehicles, trailers and equipment, etc. shall be removed at the end of each trading day, unless otherwise agreed.
9. The Street Trading consent holder shall always maintain a valid third-party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.
10. Covered waste bins, to the satisfaction of the Licensing Authority, shall be provided for staff and/or customers. Emptying of the said bins shall be emptied at regular intervals and at the end of each trading day.
11. Wastewater and food is to be collected and removed from the point of trade daily.
12. The holder of a street trading consent shall be required to seek the approval of the Licensing Authority to any proposed change to the mode of trading permitted under the consent.
13. The street trading consent shall be displayed on the vehicle used in connection with the trading.
14. The consent holder shall not at any time cause or permit any goods or produce to be stored or displayed at the side of the unit, or place any table, chair, trestle,

box or other structure in the consent street without permission from Lincolnshire County Council, as a pavement café licence may be required.

15. Any major damage caused to the site that can be directly attributed to the presence of a street trader may be taken into account during the consideration of renewal consent.
16. In exceptional circumstances the unit may have to be moved by the operator without prior warning for emergency reasons.
17. This Street Trading Consent does not convey any right to trade on privately owned property unless express written agreement has been provided to the Licensing Authority.
18. Consents are personal to the applicant and are not transferable. Once the consent has been issued to an individual it will only be renewed to that individual. This is to prevent the pitch being sold on for a monetary gain.
19. Consent holders are not permitted to sub-let the pitch they are allocated under any circumstances.
20. Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.

### **General Conduct**

21. Should the trader wish to surrender their consent, they must do so formally in writing by emailing [licensing@southkesteven.gov.uk](mailto:licensing@southkesteven.gov.uk) and returning their consent. Failure to do so will result in consent fees remaining payable.
22. The consent holder and any employees must notify the Licensing Authority in writing within five working days of any change of address, any changes, police investigations and/or convictions or cautions which arise during the terms of the consent. The Licensing Authority reserves the right to suspend a consent with immediate effect pending a review of the consent by the Assistant Director, Environment or another senior authorised officer should any criminal matter serious enough that there are concerns for public safety.
23. The consent holder shall be clean in his person and shall not exhibit insobriety, incivility, improper language or other misconduct.
24. Serious misconduct will result in an immediate suspension of the consent to enable a review to take place by the Head of Public Protection or other senior authorised officer potentially leading to revocation.
25. Where mobile trading is taking place and upon entering a street another mobile trader of the same type ie ice cream traders is already trading then the mobile trader entering the street must leave without trading in it.



### **Protection of Young People**

26. Street trading will not normally be authorised within 50 metres of any entrance or exit to a school or nursery. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).
27. No child aged 16 or below shall be engaged in or employed to undertake any street trading under a consent issued by the Licensing Authority

### **Noise Nuisance**

28. The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract vendors to the stall/vehicle/trailer by sound.
29. Ice cream vans may use a chime only in accordance with the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982.

### **Health & Safety**

30. The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.
31. Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.
32. The consent holder shall not keep or store explosive materials and flammable liquids on their trading units, other than gas cylinders in compliance with current legislation.

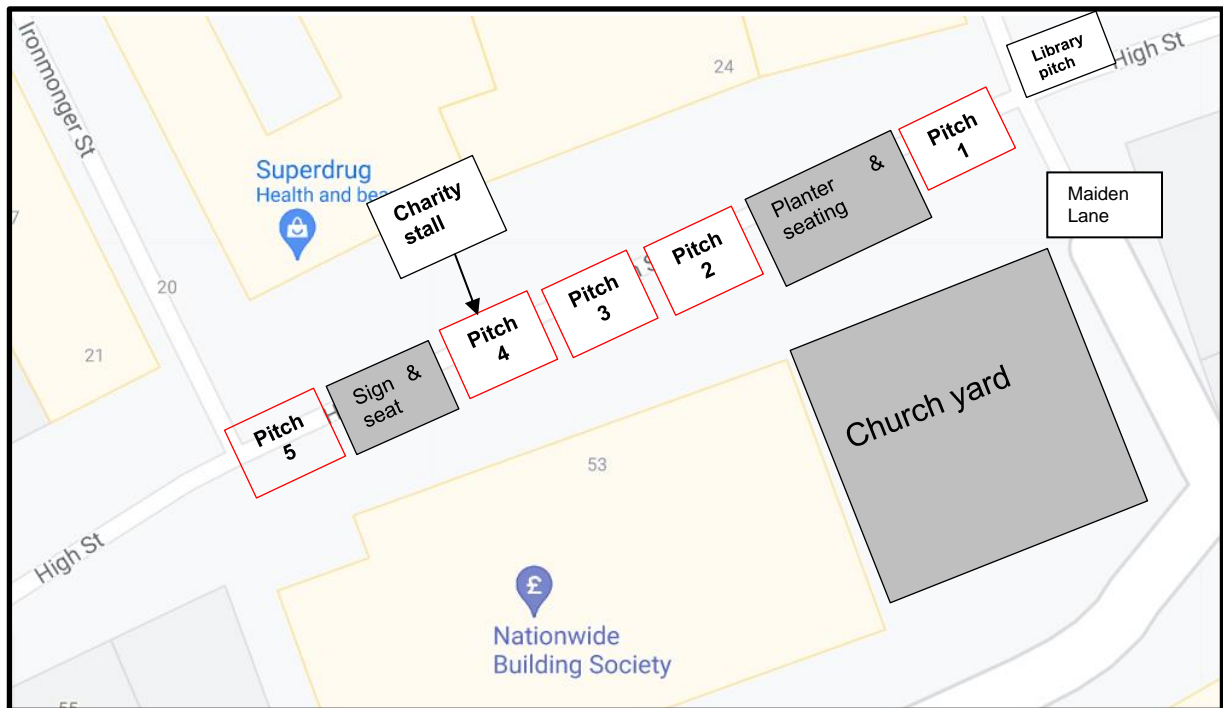
### **PLEASE NOTE:**

Failure to comply with conditions may result in enforcement action, revocation of the consent, and refusal to grant further consents on application.

The Licensing Authority reserve the right to amend these standard conditions at any time and may attach any further reasonable conditions to a consent which appears appropriate to meet particular circumstances.

**Do not assume that these rules apply to other districts – some local authorities do not allow any street trading, and in any event, local conditions may vary.**

## Appendix 4 – Stamford Precinct Street Trading Pitches



Document enhancement for the visually impaired available on request – tel. (01476) 406080 or e-mail [customerservices@southkeseteven.gov.uk](mailto:customerservices@southkeseteven.gov.uk)