

<b>Agenda Item No:</b>	<b>12</b>	
<b>Committee:</b>	<b>Council</b>	
<b>Date:</b>	<b>21 July 2025</b>	
<b>Report Title:</b>	<b>Constitutional Amendment – Street Trading Licenses and updated Street Trading Policy 2025</b>	

Cover sheet:

**1 Purpose / Summary**

- 1.1** For Members to review the **decision-making** process in relation to street trading licenses as set out in the Council's Street Trading Policy.

**2 Key Issues**

- Street trading is defined as the selling, exposing, or offering for sale of any article in the street. This includes food such as burgers, kebabs, doughnuts or other things such as household items and is covered by the **Local Government (Miscellaneous Provisions) Act 1982**.
- This means that any person who wishes to sell items from a trailer or stall in a specific street/location may require a street trading consent or licence from the Council. A 'street' includes any road, footpath or other area to which the public have access without payment.
- There are several exemptions in the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4 such as markets or fairs established by charter.
- The Council's current Street Trading Policy can be found here: Street Trading Policy 2015
- Currently, an Officer determines applications for street trading consents as set out in the Council's Street Trading Policy 2015 having taken in to account any objections received.
- It is proposed that these applications are considered by a Sub-Committee of the Licensing Committee on all future street trading consent applications.
- The Council receives approximately 3 street trading applications per year.

**3 Recommendations**

- 3.1** To agree the amendments to the Constitution and Street Trading Policy as set out at Appendices 1 and 2.
- 3.2** To delegate to the Monitoring Officer to update the Council's Constitution.

Wards Affected	All
Forward Plan Reference	
Portfolio Holder(s)	Councillor David Oliver, Chairman of Licensing Committee Councillor Peter Murphy, Vice Chairman of Licensing Committee Councillor Samantha Hoy, Portfolio Holder for Housing and Licensing Councillor Chris Boden, Leader of the Council and Portfolio Holder for Governance
Report Originator(s)	Carol Pilson, Corporate Director and Monitoring Officer Amy Brown, Assistant Director and Deputy Monitoring Officer
Contact Officer(s)	Carol Pilson, Corporate Director and Monitoring Officer Amy Brown, Assistant Director and Deputy Monitoring Officer
Background Papers	Constitution <a href="http://www.fenland.gov.uk/constitution">www.fenland.gov.uk/constitution</a>  <a href="#">Street Trading Policy 2015</a>

## **Report:**

### **1 BACKGROUND AND INTENDED OUTCOMES**

- 1.1 Decision making around the Council's Street Trading Policy was last reviewed in 2015.
- 1.2 Non-Executive functions can only be exercised by an Officer, a Sub-Committee or a Committee. These functions cannot be exercised by any Member alone.
- 1.3 Determination of consent applications in relation to this function are currently delegated to Officers. Members have expressed the view that the determination of these applications would benefit from Member insight therefore it is proposed the decision-making process will be updated to be a decision of a Licensing Sub-Committee.

### **2 REASONS FOR RECOMMENDATIONS**

- 2.1 To review the decision-making process for street trading consent applications.

### **3 CONSULTATION**

- 3.1 N/A.

## **4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Non-Executive functions can only be exercised by an Officer, a Sub-Committee or a Committee. These functions cannot be exercised by any Member alone. Members have the following options:
- leave the current process unchanged and retain decision making with Officers with an appeal to the Licensing Committee;
  - leave the decision with officers but include a consultation process with one or more Members of the Licensing Committee with an appeal to the Licensing Committee comprised of members not involved in that consultation;
  - convene a Licensing Sub Committee to determine an application with an appeal to the Licensing Committee comprised of members not involved in the sub-committee decision; or
  - convene the whole Licensing Committee to take the decision and remove the right of appeal completely with any subsequent challenge then being by way of judicial review of complaint to the Local Government Ombudsman.
- 4.2 On average, the Council only receives 3 applications per year.

## **5 IMPLICATIONS**

### **5.1 Legal Implications**

- 5.2 Non-Executive Functions are the responsibility of Full Council, unless the functions are delegated to an Officer, Sub-Committee or Committee.
- 5.3 In this instance, Council is, if agreed, delegating the function to a Sub Committee of the Licensing Committee. The sub-committee will be comprised of 3 members of the Licensing Committee to include either the Chair or Vice Chair. Legislation for Street Trading Licenses flows from the [Local Government \(Miscellaneous Provisions\) Act 1982](#)
- 5.4 The legislation does not provide a right of appeal in relation to refused street trading consents however, since 2015 it has been an agreed practice at Fenland District Council for the relevant officer's decision to be appealed to the Licensing Committee and this is a provision which is commonly adopted by other Councils. It has therefore been proposed that the right of appeal is retained with the sub-committee's decision being appealable to the full Licensing Committee.

### **5.5 Financial Implications**

- 5.6 Should the recommendations set out in this report be approved, there will now be an approximate cost of £1,000 - £2,000 + VAT per application rising by an

approximate £1,000 to £1,500 in the event of an appeal. There will also be additional resource implications associated with preparing for, arranging and attending a meeting of the Licensing Sub-Committee for both members and officers. Currently, additional costs are only incurred in the event of an appeal to the Licensing Committee (with those arrangements continuing).

## **5.7 Equality Implications**

N/A

## **6 SCHEDULES**

Appendix 1 – Constitutional Amendments

Appendix 2 – Street Trading Policy 2025

**Appendix 1 – Constitutional Amendment – Street Trading Licenses**  
**PART 3 RESPONSIBILITY FOR FUNCTIONS – DEFINITIONS OF MEMBERSHIP**

Decision Making Body	Membership
Licensing Committee	<p data-bbox="683 369 1166 405">Up to 13 members of the Council.</p> <p data-bbox="683 479 1358 622">Power is given to the committee to appoint panels of 3 to determine individual cases (such committees not to be comprised of ward or neighbouring ward councillors).</p> <p data-bbox="683 696 1299 801">Power is given to the committee to appoint panels of 3 to determine all applications for street trading consents.</p> <p data-bbox="683 819 1246 891">Six additional substitute members to be appointed.</p> <p data-bbox="683 965 1385 1182">A new member appointed to the Licensing Committee must not take part in or vote on any decision made by Licensing Committee until they have attended at least one internal and one external training session on Licensing related topics.</p> <p data-bbox="683 1256 1385 1870">Existing members of Licensing Committee who take part in or vote on any decision made by Licensing Committee (or a panel) should attend at least one internal and one external training session on Licensing related topics during each municipal year. Failure to complete the training will be brought to the attention of the group leader prior to reappointment at annual council. Any new member undertaking initial training will meet their annual requirement. For the avoidance of doubt any member who fails to comply with the annual training provision will not by itself render a decision unlawful. Further, Executive Members appointed to a Licensing Committee or panel will act in their capacity as an ordinary elected member, not as a member of the Executive.</p>

## **PART 3 RESPONSIBILITY FOR FUNCTIONS - TABLE 2 – RESPONSIBILITY FOR COUNCIL FUNCTIONS**

<b>Decision Making Body</b>	<b>Functions</b>	<b>Delegations of Functions</b>
<b>Licensing Committee</b>	<p>Licensing Act 2003 To discharge the functions of the Council as Licensing Authority under the Licensing Act 2003 with the exception of the Statement of Licensing Policy which is reserved to Council.</p> <p>Taxi, gaming, entertainment, food and miscellaneous licensing to include hearing appeals against the refused applications for street trading consents.</p> <p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations</p>	As defined in Tables 4 and 5 of this Part of the Constitution

## **PART 3 FUNCTIONS AND RESPONSIBILITIES – TABLE 4**

So far as the delegations to the Monitoring Officer are concerned and in relation to paragraph 50:

“To authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme (save in respect of the issue of street trading consents under the Local Government (Miscellaneous Provisions) Act 1982)”.

### PART 3 FUNCTIONS AND RESPONSIBILITIES – TABLE 4

So far as the delegations to the Licensing Sub-Committee are concerned and in relation to paragraph 104:

To administer and decide on Licensing and Street Trading Consent applications including those under the Licensing Act 2003 and Local Government (Miscellaneous Provisions) Act 1982 (respectively) in accordance with the following;

Matters to be dealt with	Sub Committee	Officers
<b>NEW: Application for a Street Trading Consent</b>	<b>All cases</b>	
Application for a Personal Licence	If Police objection	If no objection made
Application for Personal licence with unspent convictions	All Cases	
Application for premises licence/club premise certificate	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn
Application for provisional statement	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary premises licence/club premises certificate.	If a relevant representation made	If no relevant representation made or all persons required by the Act agree that a hearing is unnecessary or the representations have been withdrawn.
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	

Matters to be dealt with	Sub Committee	Officers
Off-sales review following the automatic modification of a relevant premises licence under the Business and Planning Act 2020.[1]	All cases	
Interim steps pending off-sales review. [2]		All cases
Determination of representations against interim steps pending off-sales review. [3]	All cases	
*Decision on whether a complaint is frivolous or vexatious		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on a minor variation		All cases
Determination of minor variation application		All cases
Making a representation on behalf of the Licensing Authority		Corporate Director/Assistant Director[4]
Initiating a Review on behalf of the Licensing Authority		Corporate Director/Assistant Director[5]



## Appendix 2



# STREET TRADING CONSENT POLICY 20215

Approved 12.05.2015

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## **1 Introduction**

Street Trading Consents are governed under the Local Government (Miscellaneous Provisions) Act 1982 ("the Act").

Fenland District Council has adopted provisions in the Act so that it can effectively control street trading. This means that it is an offence to trade without a consent granted by the Council.

Please take particular note of the following:

The council reserves the right to add conditions, vary, or revoke a consent at any time where considered appropriate.

If you wish to trade outside of the Fenland District you should contact the appropriate licensing authority for that area.

## **2 Purpose**

Fenland District Council's Street trading policy aims to:

- Create a street trading environment that complements premises-based trading
- Promote fairness and consistency across the district
- Improve the local environment
- Be sensitive to the needs and concerns of residents
- Involve local communities in street trading decisions
- Control street trading through a fair and proportionate enforcement procedure

## **3 What is street trading?**

Street trading is selling, exposing or offering articles for sale in a street. This includes:

- Trading from mobile and static structures, including kiosks
- The sale of cars from the side of the road
- The sale of food and drink
- Ice-cream vans
- Mobile artists and musicians who sell their recorded work on the street
- The sale of Christmas trees and other festive items This does not include:
- The contractual sign up of gas, electricity or other domestic services
- Subscriptions to motor breakdown organisations
- Handing out promotion literature for goods, services or venues.

## **4 Cars being sold by the side of the road**

It is an offence under the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4

– Street Trading, to offer for sale or expose for sale a vehicle on public or private land to which the public have access to without payment. If you intend to sell your car this way you will be required to obtain a Street Trading Consent, failure to do so may lead to Enforcement Action being taken.

It is also an offence under the Clean Neighbourhood Act 2005 to offer or expose for sale two or more motor vehicles parked within 500m of each other on a road or roads. A person guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 4 (currently £2,500) on the standard Scale.

## **5 Exempted street trading activities**

Some types of street trading are legally exempt from the need to obtain a Street Trading Consent. A Street Trading Consent is not required if you are:

- A pedlar with a valid pedlar's certificate issued by a chief constable of police
- Trading in a charter market or a statutory market
- Trading in a trunk road picnic area under the Highways Act 1980
- Trading as a news vendor within a maximum area of 0.25 square metres and only sell newspapers and periodicals
- Trading as a roundsman
- Undertaking a permitted street collection
- Trading on premises used as a petrol station or on the street adjoining premises used as a petrol station and you own the shop or petrol station.
- Trading in a kiosk placed on a highway under the Highways Act 1980.
- Operating refreshment facilities under the Highways Act 1980.

As a matter of Council policy, a Fenland District Council Street Trading Consent will not be required for the following activities:

- Trading on private land (including land owned, leased or maintained by a town/parish council) where this is not a road, road lay-by, car-park or industrial estate with public vehicular/foot access or within 10 metres of any road, road lay-by, car-park or industrial estate with public access.
- Trading in a market run by Fenland District Council. A list of current markets run by the council may be obtained from the council's web site or our markets team.
- Trading in a market run by a town/parish council
- Trading from a motorised ice-cream van that keeps moving from street to street not stopping in one place for longer than fifteen minutes.
- Fetes, carnivals or similar community based and run events, for example

Christmas lights switch-on events.

- Non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity or political/educational organisation.
- Sales of articles by householders on land within the curtilage of their property, for example garage sales.
- Goods from working farms or smallholdings sold at the premises where they were produced.
- Trading in privately run shopping centres or covered mall walkways, for example the Horsefair Shopping Centre in Wisbech.
- Trading as part of a travelling fair where permission for the event has already been granted by Fenland District Council.
- Farmers markets organised by Fenland District Council.

## **6 What is a street?**

A Street is any area which the public can access without payment, including private land. This does not include privately run shopping centres.

This street trading policy covers all streets (see appended list) as designated as consent streets. (i.e. streets where consents are needed to trade).

- A Street Trading Consent is required to trade in the following locations:
- Roads and walkways
- Lay-bys and verges
- Footpaths
- Car-parks
- Residential streets
- Industrial estates
- Any other publicly controlled highway or land owned, leased or maintained by Fenland District Council.
- Unenclosed land within 10 metres of any of the above.

## **7 What is a Street Trading Consent?**

A Street Trading Consent is permission to trade. It is granted by Fenland District Council subject to conditions and usually involves the payment of a fee.

It can be withdrawn at any time or not renewed if conditions are not complied with or the required fee is not paid.

A Street Trading Consent is specific to the person it is issued to and is non-transferable.

## 8 Who can apply for Street Trading Consent?

To apply for a Street Trading Consent you must be:

- Over the age of 17
- A named individual (two people can apply jointly on the same consent). A company or body corporate can apply for a Street Trading Consent, but it must be issued to a named individual.
- Legally entitled to live and work in the UK.

## 9 A Street Trading Consent cannot be issued:

- To trade on a highway controlled by the Highways Agency without the permission of the Highways Agency.
- For any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply. (This provision prevents trading on a Highway where such trading represents a danger to road users or it impedes the flow of traffic).

## 10 Prohibited goods

A Street Trading Consent will not normally be granted for the sale of the following items:

- Alcohol except:
  - Sales of mulled wine and similar at street fairs or community events. No sale will be permitted to anyone under the age of 18
  - For consumption with a sit down meal at the premises
- **Please Note** that any sale of alcohol will require a separate permission under the Licensing Act 2003.
- Firearms and replica firearms
- Knives
- Offensive weapons and replica weapons
- Tobacco products
- Fireworks
- Articles that would typically be sold in sex shops
- Animals

## 11 Types of Street Trading Consents

Fenland District Council will accept applications for the following types of Street Trading Consents:

- Annual Street Trading Consent. Consent to trade on all days of the year.
- Daily Street Trading Consent. Consent to trade for a maximum of 14 single days.

28 consecutive days (for seasonal events selling seasonal goods such as Christmas stock), or a specific day for the year, including bank holidays where these fall on the days included in the consent.

The size of the trading area will be decided on an individual basis at the discretion of the council officers. The size of the trading area will be specified on the Street Trading Consent.

## **12 Procedure for determining applications for Street Trading Consents.**

An application for Street Trading Consent must be made to Fenland District Council in writing. To apply for a Street Trading Consent you need to submit the following:

- A fully completed and signed Street Trading Application Form
- A non-refundable deposit of £50
- A plan of the location, this should clearly identify the proposed site position by marking the site boundary with a red line
- Written permission from the landowner (if not owned by Highways)
- If you intend to sell food, you must demonstrate that you are registered with the Fenland District Council Food Safety Team, or another local authority. If you are already registered with another local authority then you will not need to register with Fenland District Council, but you will need to provide proof of this registration. If you are not currently registered, you should complete a separate Application to Register a Food Business Establishment Form **at least 28 days before you apply for a street trading consent.**

First time applications for Annual and Daily Street Trading Consents will take a **maximum of 60 days** to be determined.

## **13 Licensing Officer Visit**

A visit will be scheduled by a Licensing Officer in order to assess the proposed trading location that is to be used in conjunction with the application.

## **14 Consultation on applications**

The application is subject to a 28-day consultation period starting the day after the application was made to the council and will involve a consultation process with relevant interested persons and groups before a street trading application is considered.

This may include:

- Fenland District Council environmental protection, food and health and safety



team, planning department, neighbourhood services

- Cambridgeshire County Council Highways
- Cambridgeshire County Council Trading Standards
- The appropriate town or parish council
- Cambridgeshire Police
- Cambridgeshire Fire and Rescue Service
- Ward Councillors
- The land owner if you are applying to trade on private land
- The Local Chamber of Commerce
- Local businesses

Written observations and recommendations will be taken into consideration when the application is determined.

## 15 Criteria for determining applications

The Licensing Officer will [prepare a report for the Licensing Sub-Committee to](#) assess applications for Street Trading Consents against the following criteria:

- **Site safety.** The location should not present a substantial risk to the public in terms of road safety, obstruction or fire hazard. Observations from council officers will be taken into consideration.
- **Public order.** The street trading activity should not present a risk to public order in the locality in which it is situated. Observations from Cambridgeshire Police and council officers will be taken into consideration.
- **Avoidance of nuisance.** The street trading activity should not present a substantial risk of nuisance from noise, smells, fumes, litter or the discharge of fluids to households or businesses in the vicinity of the proposed street trading site. Observations from council officers, residents and businesses will be taken into consideration.
- **Consultees' observations.** Consideration will be given to written objections from consultees. Objections and recommendations will be assessed by the Authorised officer for reasonableness and appropriateness before they are taken into consideration.
- **Permitted trading hours.** In town centres street trading hours will normally mirror those of shops in the immediate vicinity. However, the council will consider each application on its merits before agreeing permitted trading times. The council retains the right to specify permitted trading hours that are less than those applied for. Any trading involving hot food between 11pm and 5am will also require a separate application under the Licensing Act 2003.
- **Planning permission.** A Street Trading Consent will only be issued if planning permission for change of use has been granted or the council is satisfied that planning permission is not required. Observations from Fenland District Council planning officers will be taken into consideration.

- **Suitability of the applicant.** The council may take relevant unspent convictions, complaints received about the applicant's previous street trading activity and any previous revocation or surrender of a Street Trading Consent into account. Each applicant will be required to make a statutory declaration in relation to any unspent criminal convictions. You will also  
Need to declare any cautions or any pending matters. If any unspent convictions or cautions are declared then the Council will hold a hearing to determine whether the applicant is a suitable person to hold a street trading consent. The application will not proceed until the suitability of the applicant has been determined.
- **Proximity to schools and colleges.** No Street Trading Consents will be granted for trading at locations within a 200 metre walk using the public highway of a school or sixth form college, unless otherwise agreed in writing by Fenland District Council.
- **Proximity to existing consent holders.** Consideration will be given to the number of existing consent holders in the area.

## 16 Objections

The consultees listed will be asked to respond in writing within 28 days.

Officers will assess the reasonableness and appropriateness of all objections before they are documented in a report for taken into consideration by a Licensing Sub Committee.

## 17 How applications will be determined

At the end of the consultation period (the day after the 28<sup>th</sup> day) the application, all supporting documents and representations (if any) will be assessed by a Licensing Officer who will then make their recommendations to the Licensing Sub-Committee ~~Manager~~ who will decide, based on the application, representations (if any) and any officer recommendations to either grant or refuse the application via the Council's Hearing Procedure.

The Licensing ~~Manager~~ Sub-Committee will approve the application if it meets the criteria and there are no reasonable and appropriate objections.

In advance of a Licensing Sub Committee. If the application does not meet the criteria, or there are reasonable and appropriate objections:

- The Licensing Manager may contact the applicant and objectors to attempt to resolve the potential reasons for refusal.
- The Licensing Manager, applicant and objectors may discuss changes that could be made to the proposed location, goods or trading hours and additional

conditions that could be introduced.

This information will be added, if appropriate, to the Licensing Sub Committee report for consideration.

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If the applicant refuses the offer of a meeting the Licensing Manager will add this information to the Licensing Sub Committee report for consideration. ~~either introduce additional conditions or refuse the application.~~

If the objections and failure to meet scheme criteria can be resolved by changing the application and/or introducing additional conditions the officer will add this information to the Licensing Sub Committee report for consideration. ~~approve the application.~~

If the objections and failure to meet scheme criteria cannot be resolved by making changes to the application or introducing additional conditions the Licensing Manager will add this information to the Licensing Sub Committee report for consideration. ~~refuse the application.~~

## 18 Approval of applications

~~The applicant will be advised by email that their application has been~~ The Licensing Sub-Committee consists of elected Fenland Councillors who have received special training in licensing issues. The Committee is supported by a clerk and a solicitor. Sub-Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

Once arrangements have been made for the application to be heard by the Licensing Sub-Committee, the applicant will be informed by email of the time, date and place where the application will be heard.

The council will endeavor to hear all applications as quickly as possible.

The applicant will be expected to attend the hearing and can be represented by a solicitor or supported by a friend or colleague.

The **Licensing** Sub-Committee will follow a set procedure.

The applicant will be notified of this procedure before the hearing, along with any officer reports that will be presented at the hearing.

The **Licensing** Sub-Committee will consider representations from the applicant and any objectors. Both the applicant and the objectors may call witnesses. Supporting documentation may be submitted to the **Licensing** Sub-Committee in advance of the hearing for consideration.

The **Licensing** Sub-Committee will consider all the evidence presented during the hearing and may ask questions of the applicant and objectors.

After hearing the evidence presented to it the **Licensing** Sub-Committee will retire and come to a decision. When a decision has been reached the **Licensing** Sub-Committee

will inform the applicant of their decision and the reasons for reaching that decision. The [Licensing](#) Sub-Committee's decision will be confirmed to the applicant in writing within 5 working days of the hearing.

The Licensing Sub-Committee will always strive to ensure that all persons receive a proper and fair hearing by:

- Considering each application on its merits
- Being impartial and balanced throughout the appeal
- Ensuring that rules of natural justice are applied at all times
- Giving the applicant and objectors sufficient opportunity to present their case, ask questions of officers and members of the Sub-Committee and present information for consideration in support of their case.

If the Licensing Sub Committee approves the application, the applicant will ~~successful~~ and they need to accept the offer of a Street Trading Consent and make a full payment of the outstanding fee required within 21 days.

After 21 days an email will be sent to the applicant reminding them of the need to make a full payment of fees required.

If the fee is still not received within five working days, the offer will lapse and the applicant will need to make a new application to the council and pay another £50 deposit.

A Street Trading Consent will not be issued until the street trading fee has been paid in full.

Applications may be approved by the Licensing Sub Committee subject to additional conditions. These additional conditions form part of the Street Trading Consent and must be complied with at all times.

## **19 Refusal of applications**

Where the Licensing Sub Committee ~~council~~ refuses an application the applicant will be informed in writing of the reasons for not granting the application.

The £50 deposit is non-refundable and will not be refunded to the applicant if their application is refused.

A waiting list will be kept in cases where an application has been refused where another trader is already trading in the location applied for.

Applicants who feel aggrieved by the Licensing ~~Manager's~~ Sub-Committee's decision to refuse an application or to introduce additional conditions may appeal to the Licensing Committee ~~Magistrates Court~~ within 21 days starting from the day they are advised of the refusal or the additional conditions applied.

**Please Note** that trading will not be permitted during the appeal period when an

application has been refused and can only take place within the conditions of any street trading consent that has already been granted where the appeal relates to conditions that have been imposed.

## 20 Issue of Street Trading Consents

Where approved, before the Street Trading Consent is issued the applicant will need to ensure they have provide:

- An original copy of a certificate of insurance covering the street trading activity for third party and public liability risks up to £5 million.
- A passport photographs – for their Street Trader Identity Badge
- The applicant will need to read and confirm via email the Street Trading Consent, including the Standard Conditions and any additional conditions.
- The Street Trading Consent will specify the location, times and days for which it is valid and the type of goods to be sold. Consent holders must follow the terms of their Street Trading Consent. Failure to do so may result in the Street Trading Consent being revoked or not renewed, or in a prosecution.
- All Street Trading Consents are issued subject to a set of Standard Conditions. The council may attach additional conditions to the Standard Conditions. Any appeal against the additional conditions will be dealt with by the Licensing Committee.
- All conditions attached to the Street Trading Consent must be complied with at all times. Failure to comply with either Standard Conditions or additional conditions may lead to the consent being revoked or not renewed. Consent Holders are requested to familiarise themselves and their employees with the conditions attached to their Street Trading Consent.
- The granting of a Street Trading Consent does not in any circumstances exempt the Consent Holder from the need to obtain any other licence or permission that may be required or from obligation to comply with all other general or local legislation. There may be additional costs involved in obtaining these additional licences or complying with other legal requirements.
- It is the obligation of the Consent Holder to familiarise themselves and their employees with this legislation. The council may revoke a Street Trading Consent for any failure to comply with any other general or local legislation.
- A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent but it may be surrendered to the council at any time.
- The council reserves the right to revoke a Street Trading Consent at any time without compensation, although some fees will be reimbursed.
- If the Consent Holder wishes to alter any of the terms of the Street Trading Consent, an application to alter Terms and Conditions must be submitted to the council in writing. Any changes to the terms and conditions of a Street Trading Consent will be subject to the payment of an administration fee.

## 21 Reimbursement of fees

Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Street Trading Consent to the council or have their Street Trading Consent revoked by the council.

Any refunds will be made from the date that:

- The Street Trading Consent is surrendered to Fenland District Council
- The Street Trading Consent is revoked by Fenland District Council

Refunds will be based on the number of complete months remaining minus the administration fee of £50.00

## 22 Appeal to the Licensing Committee

The Licensing Committee will be comprised of members who were not involved in the original consideration of the application by the Licensing Sub-Committee.

The role of the Licensing Committee is to consider any appeals against decisions by the Licensing Manager/Officer/Licensing Sub-Committee. The applicant can appeal to the Licensing Committee where the Officer/Licensing Sub-Committee has decided to:

- Refuse the application
- Introduce additional conditions or
- Revoke a Street Trading Consent.

The right to appeal to the Licensing Committee does not apply if the Street Trading Consent has been revoked because the Consent Holder has not paid street trading fees.

The Licensing Committee consists of elected Fenland councillors who have received special training in licensing issues. The Licensing Committee is supported by a clerk and a solicitor and meets on a regular basis. Licensing Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

Once arrangements have been made for the appeal to be heard by the Licensing Committee, the applicant will be informed in writing of the time, date and place where the appeal will be heard.

The council will endeavor to hear all appeals as quickly as possible.

The applicant will be expected to attend the hearing and can be represented by a solicitor or supported by a friend or colleague.

The Licensing Committee will follow a set procedure.

The applicant will be notified of this procedure before the hearing, along with any

officer reports that will be presented at the hearing.

In assessing the Licensing ~~Sub-Committee's Manager's~~ decision, the [Licensing Committee](#) will consider representations from the applicant and the [Licensing Manager](#)~~Chairman of the Licensing Sub-Committee~~. Both the applicant and the [Licensing Manager](#)~~Chairman of the Licensing Sub-Committee~~ may call witnesses. Supporting documentation may be submitted to the Committee in advance of the hearing for consideration.



The [Licensing](#) Committee will consider all the evidence presented during the hearing and may ask questions of the applicant and manager.

After hearing the evidence presented to it the [Licensing](#) Committee will retire and come to a decision on the appeal. When a decision has been reached the [Licensing](#) Committee will inform the applicant of their decision and the reasons for reaching that decision.

The [Licensing](#) Committee's decision will be confirmed to the applicant in writing within 5 working days of the hearing.

The Licensing Committee will always strive to ensure that all persons receive a proper and fair hearing by:

- Considering each appeal on its merits
- Using these guidelines to assess the ~~Licensing Managers~~[Licensing Sub-Committee's](#) decisions to refuse the application or introduce additional conditions
- Being impartial and balanced throughout the appeal
- Ensuring that rules of natural justice are applied at all times
- Giving the applicant and ~~Licensing Manager~~[Licensing Sub-Committee Chair](#) sufficient opportunity to present their case, ask questions ~~of officers and members of the Committee~~ and present information for consideration in support of their case.

## **23 Renewals**

All Street Trading Consents will be renewed automatically unless:

- There have been any complaints from members of the public, or
- Concerns raised by consultees or council officers or
- Consent conditions have been breached.

In these circumstances a full or revised application process may be used at the discretion of the Licensing Manager.

If a renewal offer is not accepted or payment has not been made within 21 days this offer will be withdrawn and the trader will need to make a new application. Priority will be given to the next relevant person on the waiting list.

## **24 Enforcement**

The council may revoke a Street Trading Consent at any time and shall not be liable to pay compensation to the Consent Holder, although some fees will be reimbursed. Please see 'Issue of Street Trading Consents' for more details on the reimbursement of fees.

The following principles will be applied to all enforcement action:

- **Openness and transparency.** Licensing officers will discuss all problems, including failure to comply with conditions, clearly and in plain language. The council will be open about how it enforces street trading legislation and will inform interested parties of what they can expect from the enforcement procedure.
- **Consistency.** Licensing officers will seek to take a similar approach in similar circumstances and will carry out their duties in a fair and equitable manner.
- **Proportionality.** The council will ensure that the action taken is proportionate to the risks involved or the seriousness of the breach of conditions.
- **Helpfulness.** The council will provide advice on the relevant legislation and assist with compliance. Council officers will provide a courteous and efficient service.

The Local Government (Miscellaneous Provisions) Act 1982 offences are as follows:

- 'A person who engages in street trading in a consent street without being authorised to do so, or being authorised by a consent, trades in that street
- From a van, cart, barrow or other vehicle, or
- From a portable stall,
- Without first having been granted permission to do so contravenes a condition imposed shall be guilty of an offence.
- It shall be a defence for a person charged with such an offence to prove that he took all reasonable precautions and exercised due diligence to avoid commission of the offence.
- Any person who in connection with an application for a consent makes a false statement which he knows to be false in any material respect, or which he does not have reason to believe to be true, shall be guilty of an offence.
- A person guilty of an offence shall be liable on summary conviction to a fine. The maximum fine is level 3 on the standard scale, currently £1,000

## 25 Independent Body

Applicants may wish to know that there is a body which offers advice on all aspects of outside catering. This body is called NCA (Nationwide Caterers Association Ltd) and is available at:

~~Nationwide Caterers Association Ltd 89 Mappleborough Road~~  
~~Shirley Solihull~~  
~~West Midlands B90 1AG~~  
Website: [www.ncass.org.uk](http://www.ncass.org.uk)

## 26 APPENDIX ONE - STANDARD CONDITIONS FOR ALL CONSENT HOLDERS

1. A Street Trader trading with the consent of Fenland District Council shall prominently display on his/her stall/receptacle/mobile his/her name, a copy of the consent including a plan showing the permitted trading site and a complete price list of the goods being sold.
2. The Consent Holder shall wear the Street Trader Identity Badge during all trading hours.
3. The Consent Holder must inform Fenland District Council if trading is to stop for a period of 3 weeks or more (should Fenland District Council not be informed this may result in the consent being revoked and the pitch being recorded as vacant)
4. The Consent Holder must return the consent issued, to Fenland District Council immediately if they are to cease (stop) trading. Fenland District Council must be notified in writing if trading is to cease. In the event of the death of a consent holder, the Street Trading Consent is deemed null and void.
5. The Consent Holder must be on site during trading hours for the majority of the time on each trading day.
6. Trading may only take place on the days and during the times specified on the Street Trading Consent, unless special authorisation has been given by Fenland District Council in writing. Any unit/stall must be removed from the highway or trading area out of permitted trading hours.
7. Any Unit/stall/mobile must:
  - be purpose built and should any alteration be needed they must be approved by Fenland District Council.
  - Be kept in good and clean repair both inside (interior) and out (exterior)
  - Contain suitable firefighting equipment pertaining to the nature of the business to reduce the risk of an outbreak of fire.
  - Comply with the Control of Pollution Act 1974, Code of Practice on noise from ice cream van chimes etc. 1982

### **Chimes must not sound**

- before 12 noon or after 7.00pm
- for no longer than 4 seconds at a time

- no more often than once every 3 minutes
  - no more often than once in every 2 hours in the same length of street
  - when the mobile unit is stationary
  - When in sight of another unit which is trading
  - within 50 metres of schools (during school hours), hospitals and places of worship (on Sundays and other recognised days of worship)
  - As loudly in quiet areas or narrow streets as elsewhere
8. The siting of the street trading stall/receptacle/mobile shall not impede the access of emergency vehicles. The street trading activity shall not obstruct any street furniture, signs or lighting.
9. The Consent Holder shall pay all Street Trading Consent fees in advance.
10. The Consent Holder shall at all times maintain a valid insurance policy covering the street trading activity for third party and public liability risks up to £5 million. The Consent Holder must produce a valid certificate for this insurance at any time on the request of an authorised officer.
11. Trading may only take place when the Consent Holder is at the trading area for the majority of the time on each trading day.
12. The Consent Holder must have written permission from the owner of the land to trade on private land which is not part of the public highway.
13. Consent Holders shall not trade outside of the designated trading area.
14. The trading area must be located:
- In the general area specified in the street trading consent
  - At least 3 metres away from any ground floor window, door or other opening of any premises, except where those premises are occupied by the person holding the street trading consent unless agreed in writing by Fenland District Council
  - At a place which does not obstruct access to any other premises by vehicles or pedestrians.
  - At any exact location specified by a Licensing Officer.
15. All activities of storage and display and any temporary structure such as a stall or tables and chairs, must be contained within the trading area specified on the Street Trading Consent.

16. The Consent Holder must not cause or allow anyone to cause damage to the street surface, street furniture, lighting and landscaping within the trading area and will be responsible for making good any such damage.
17. The Consent Holder will vacate the pitch upon request, and for as long as necessary, to enable highway inspections, repairs, street works and highway improvements to be undertaken, or if the pitch is required to facilitate temporary traffic and/or pedestrian management arrangements. No compensation will be paid to the Consent Holder for lost trading days as a result of the above or for any lost trading days as a result of the above or for any loss of business as a result of unforeseen occurrences on the highway network.
18. A clear pedestrian route of at least 2 metres shall be maintained along the highway, adjacent to the building line. A minimum distance of 2 metres width should be kept between the edge of the trafficked route and the street trading unit boundary. The street trading activity shall not impede any existing driver or pedestrian sight lines.
19. The Consent Holder shall not do anything that is likely to cause danger, nuisance, annoyance, obstruction, damage or inconvenience to the council, adjacent/ neighbouring premises, road users or members of the public. This includes noise, smoke fume or odour.
20. A rubbish bin must be provided in the Trading Area where goods are sold that are for immediate use or consumption. Waste must not be placed in litter bins provided for public use. Any waste arising from the trading activity within 100 metres of the stall in any direction must be removed and properly disposed of at the end of each trading day.
21. Consent Holders and their employees should have access to suitable and sufficient sanitary accommodation at all trading times.
22. The Consent Holder shall pay to the District Council any charges payable for the removal of refuse or other services rendered, and any expenses incurred by the District Council in the administration of Part III of the 1982 Act.
23. No live or recorded music shall be played at any time.
24. Advertisements or other notices must not be placed outside of the trading area.
25. The use of generators is not permitted, unless permission has been specifically granted by the Senior Licensing Officer/Licensing Manager. If permitted, the generator will be reasonably silent running, will not leak fuel (any spillage would

- be the consent holders responsibility) and will create a tripping hazard.
26. Consent Holders and their employees shall not trade under the influence of any illegal or intoxicating substance.
27. The Consent Holder must not employ any person under the age of 14 years (Section 20, Children and Young Persons Act 1993).
28. A Street Trading Consent does not relieve the Consent Holder, or any person employed to work on the stall, of any obligation to comply with all other general or local legislation, such as the Road Traffic Act, Highways Act 1980, the Food Safety Act 1990, the Town and County Planning Acts, the Licensing Act 2003, Street Collection legislation and the Gambling Act 2005.
29. It is the obligation of the Consent Holder to familiarise themselves and their employees with this legislation. The council may revoke a Street Trading Consent for any failure to comply with general or local legislation.  
A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent.
30. On receipt of the Consent letter and before trading with the Consent of Fenland District Council the Consent Holder shall inform the Gas Board and Eastern Energy in writing that he/she intends to trade on the street he/she has the Consent of Fenland District Council to trade on.
31. The fee payable for the Street Trading Consent may be reviewed from time to time by Fenland District Council.

## 27 APPENDIX TWO – STREET TRADING FEES

The application does include a £50 non refundable deposit upon application, for the latest daily/annual fees please refer to the webpage for the latest fees - [Licensing - Fenland District Council](#)

Fees can be made at the time of the application.