

Three Rivers District Council

Street Trading Policy

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Definitions:

'Act' means Local Government (Miscellaneous Provisions) Act 1982

'Authorised Officer' means any authorised officer of Three Rivers District Council.

'Consent Street' means a street in which street trading is prohibited without a consent from Three Rivers District Council.

'Licence Street' means a street in which street trading is prohibited without a licence from Three Rivers District Council.

'Non-established markets' are markets that have not been established in law either by charter, prescriptive rights or by statute.

'Prohibited Street' means a street in which street trading is prohibited. Under no circumstances will street trading be allowed.

'Street' includes any road, footway, lay-by, or any other open area to which the public have access without payment.

'Street Trading' means the selling, or exposing or offering for sale, of any article in a street.

'The Council' or 'District Council' means Three Rivers District Council.

'Trader' or 'Consent holder' means the person(s) to whom the consent has been granted or renewed and includes any other person employed or assisting the principal trader.

'Police Officer' means any Police Officer of Hertfordshire Constabulary.

1. Introduction

- 1.1 Under the provisions of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, a Local Authority may designate streets within its district as “consent” streets or “licence” streets to control street trading, whereby trading would not be permitted without the permission of the Authority.
- 1.2 The Council adopted this legislation in 1984 and all streets in the district currently have either been determined as ‘consent’ streets or ‘prohibited’ streets. No ‘licence’ streets are currently designated by the Authority, but the list of designated streets may be amended to include ‘licence’ streets in future. Currently, anyone who wishes to trade on a consent street must hold a street trading consent. All streets listed in Appendix II under ‘prohibited streets’ cannot be used for street trading.
- 1.3 Street trading brings vibrancy to an area and increases footfall which in turn benefits other local businesses.
- 1.4 Street trading also provides a springboard for start-up businesses as well as providing expansion opportunities for existing local business, something which has generated interest within the area.
- 1.5 Street trading will also provide more consumer choice enhancing the attractiveness of an area to visit.
- 1.6 The Council has agreed that some activities will be exempt from requiring a consent to trade. A list of such activities can be found in paragraphs 2.3.1 and 2.3.2 of this Policy. In exempting these activities, the Council recognises that occasional, community-run events and those of a similar nature, are important to the vibrancy and local economy.
- 1.7 This Policy will guide the Council when it considers applications under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

2 What is Street Trading

2.1 Definition

2.1.1 Street trading is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street.

2.1.2 For clarification Schedule 4 of the Act defines a street as any road, footway, beach or other area (for example a public or business carpark, park or green) to which the public have access without payment and a service area as defined in Section 329 of the Highways Act 1980.

2.2 Types of streets in Three Rivers

2.2.1 "Consent street" means a street in which street trading is prohibited without a consent issued by the district council.

2.2.2 "Prohibited street" means a street in which street trading is prohibited.

2.2.3 "Licenced street" means a street in which street trading is prohibited without a licence issued by the district council. There are no licensed streets within Three Rivers therefore no licences are issued.

2.3 Exemptions

2.3.1 The following activities are not classed as street trading under paragraph 2 Schedule 4 of the Act:

- a person acting under the authority of a pedlar's certificate (Pedlars Act 1871)
- anything done in a market or fair, the right to hold which having been obtained by a grant, enactment, or order (including those created under Part III of the Food Act 1984). Please see 2.3.3 for further information.
- trade carried out by a roundsmen e.g., milkmen
- trading in a trunk road picnic area (Section 112 of the Highways Act 1980)
- trading as a news vendor
- trading which;
 - i. is carried on at premises used as a petrol filling station, or
 - ii. 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 (such businesses must not obstruct the highway)
- 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.

2.3.2 The following activities have also been exempted by the Council from requiring a street trading consent:

- Activities which take place on Council (both district and parish) owned land (only with written consent from the relevant Council). This includes;
 - i. Council parks and green / open public spaces such as Commons along with their associated carparks
 - ii. Council carparks

- Activities which take place within the boundaries of school and church premises (as arranged by or part of an event arranged by the school/church)
- Activities by a resident which take place within the curtilage of their own residential property
- Buskers
- Non-commercial events organised by charity or community organisations where the proceeds from traders are wholly donated to charity or for use to benefit a community organisation. These may include community fetes/carnivals

2.3.3 Markets: The legal definition of a market is “a concourse of buyers and sellers”, with five or more trading positions. Trading positions can mean stalls, stands, vehicles, or pitches. If you wish to hold a market or an event with five or more commercial traders, then there are two options for you to consider:

- a) Each trader will be required to obtain an individual street trading consent from Three Rivers District Council Licensing Authority, or
- b) Alternatively, markets can be established by a local authority in their area under section 50(1) of the Food Act 1984 as opposed to the street trading legislation. Markets established under this section do not require street trading consent. You may contact the local Parish/Community Council for the area in which you wish to hold the market. They may be able to grant a market operator licence to you as the market authority. Three Rivers District Council would have no further dealing with the event/market in respect of traders, other than anything falling under other legislation for example the Licensing Act 2003. Please be aware that any event defined as a market that is to take place within 6 2/3 miles of Watford Charter Market, will also require consent from Watford Borough Council. If the Parish/Community Council are not able to assist, then you will need to follow option (a).

2.4 Types of street trading activities that will require consent

2.4.1 For the purposes of this policy and administering street trading consents within Three Rivers;

- a) static street traders are those who trade from a single fixed location
- b) mobile street traders are those who trade from a vehicle at various locations in the district, remaining on location for a limited duration of time to carry out a transaction, before moving on to another location.

2.4.2 Street trading activities that would require consent are:

- Commercial traders selling goods e.g. food, beverages, arts and crafts, jewellery, clothing, household goods etc.
- Mobile traders such as ice-cream vans

Please note that this list is not exhaustive, therefore you must contact the Licensing Authority if you are unsure.

2.5 Types of street trading consents

2.5.1 Annual street trading consent

- This consent is issued for a period of one year.
- This consent can be issued for either static or for mobile trading
- The consent can be limited to specific days only, for example weekdays only or every third Sunday

- This consent can be renewed annually

2.5.2 Occasional/seasonal street trading consent

- This consent is issued for a period of up to 30 consecutive days
- This consent is for static trading only
- This consent cannot be renewed

2.5.3 One-off street trading consent

- The consent may be issued for up to a maximum of 4 consecutive days
- This consent is for static trading only
- This consent cannot be renewed

2.5.4 The full schedule of fees can be found on the TRDC website via the licensing webpage: <https://www.threerivers.gov.uk/services/licensing/licensing-fees>

2.5.5 The fee schedule is subject to change and based on cost recovery.

3 Key principles to be considered by The Council in the exercise of its street trading functions

3.1 Public safety

If the street trading activity is likely to represent a substantial risk to the public. Factors considered will include:

- obstruction
- fire hazard
- unhygienic conditions
- danger that may occur when a trader is accessing the site

3.2 Public order and nuisance

If the street trading activity could cause disorder, nuisance, or annoyance to the public from matters including:

- noise
- light
- odour
- the behaviour of traders, particularly in residential or quieter areas

3.3 Appearance of stall/vehicle

The stall or unit must be maintained in good condition, be of a smart and presentable appearance and meet the specified criteria laid down in the consent conditions. The general appearance of the stall or unit will also be considered to determine that it will not detract from the appearance of the surrounding area. The operation must not adversely impact on the local environment by way of impact on street surfaces, street furniture and materials (for example, grease marks left on the road). It is recommended that enquiries are made with a licensing officer prior to the purchase of any vehicle or stall.

3.4 Location of trader(s)

The Council will consider what benefit a particular street trader will bring to the local area and to persons frequenting that area. Some types of trading may better lend themselves to areas with consistent footfall throughout the year and be targeted for

the benefit of local people. Some pitches may be placed in clusters to create an attraction (or as part of event) and some pitches may be placed with a view to seeking a specific type of offering to bring more footfall with an area with existent businesses providing a greater range of consumer choice. Markets are recognised as beneficial to local people, as well as providing opportunities for local businesses to trade, and for bringing more footfall to an area.

3.5 **Site assessment**

Street trading consents will not normally be granted where:

- a) A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
- b) Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
- c) There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes; or
- d) There is already adequate provision in the immediate vicinity of the site to be used for street trading purposes; or
- e) There is a conflict with Traffic Orders such as waiting restrictions; or
- f) The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
- g) The trading unit obstructs the safe passage of users of the footway or carriageway; or
- h) The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or
- i) The site does not allow the consent holder, staff, and customers to park in a safe manner; or
- j) The street trading activity is proposed to be carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff
- k) The sale of goods will conflict with those provided by nearby shops or markets because it could provide an unfair economic advantage to the holder of the consent. The type of goods allowed to be sold will be considered on a pitch-by-pitch basis having particular regard to local needs, product diversity and specialism e.g., artisan breads, and appropriateness of the proposed location in terms of space and balance.
- l) Trading from lay-by locations is restricted to sites which provide: -
 - i. Sufficient width to allow vehicles to park and pass
 - ii. Sufficient length to allow several large vehicles to park without causing congestion; and
 - iii. A verge (minimum width 1 metre) physically separating the lay by and the highway.

3.6 **Environmental suitability**

The Council consider the following in respect of the impact of the proposed operation on the local environment (including but not limited to):

- power supply,
- carbon footprint,
- supply chain,
- low food mileage,
- packaging,
- waste minimisation,
- waste disposal,
- waste generated by customers,
- provision of adequate measures to minimise the environmental impact of the proposed operation,
- the offering of alternatives to animal products, particularly in relation to food offerings, or the use of local animal products are considered to make a more positive contribution,
- those that can demonstrate that they are contributing towards driving down carbon footprint and operating in an environmentally friendly manner will be viewed favourably.

3.7 **Contribution to local area**

The applicants offer will need to positively enhance the contribution in the local area. This may be by offering products not currently available or by providing greater choice for consumers. Preference will be given to those who are resident in the local area and those offering local products

4 Guidance for applicants

4.1 **Choosing a trading location/pitch**

4.1.1 Before applying for a street trading consent, applicants must first identify a suitable trading location(s). It is for the applicant/trader to identify a suitable location, having regard to the requirements laid out in the Policy and their business needs. The Licensing Authority does not maintain a list of suitable sites. The Licensing Authority also does not hold a list of available trading locations. It is for the applicant to determine the business viability of any location. The applicant is expected to conduct this research themselves and provide the information to the Licensing Authority when submitting a full application.

4.1.2 Any pitch/location in use before the approval of this Policy may remain under grandfather rights (an old rule which may continue to apply to some existing street traders, while a new rule will apply to all new applicants) until the consent is renewed. However, any new pitches/locations must meet all of the following criteria:

- a) Safe for public access by foot or by vehicle.
- b) Has suitable parking spaces for customers and trading vehicle, if required by location.
- c) Suitably lit (if trading after dark) to promote safe access and egress for customers and for visibility by other road users.
- d) Does not breach highway regulations or make hazardous the passage of the public, including people with disabilities, over the highway or otherwise cause a traffic hazard.

- e) Does not impede the passage of emergency vehicle access.
 - f) Where adjacent to a highway, there must be a safety barrier of a verge or footpath between the proposed trading location and the carriageway.
 - g) Does not cause the loss of parking spaces to residents or businesses. No consents will be granted in an areas of permit parking.
 - h) Will not cause a disturbance, damage, interference, annoyance, inconvenience (e.g. noise nuisance, litter, odour etc.) to local residents or businesses.
- 4.1.3 For the Licensing Authority to assess the potential trading pitch, as part of the application the applicant will be required to submit a map of the location with the potential pitch clearly marked out. This relates to static trading only.
- 4.1.4 If the proposed pitch is on privately owned land, to which the public have access without paying, written evidence of the landowner's permission to use that site will also be required as part of the application.
- 4.1.5 The applicant must determine if there is appropriate or necessary planning permission to sell goods from the proposed location. Applicants are required to contact the Planning Department prior to making an application for a consent, to ascertain whether planning permission is required.
- 4.1.6 If a pitch of interest is already occupied, or is of interest to two street traders, then a pitch can be shared by splitting either the times or the days on which the traders wish to operate. The street traders must have a written mutual agreement between them, approved by the Licensing Authority, detailing when the pitch is going to be occupied by both traders. The location can be shared even if the exact pitch, where the trading vehicle is located, is not. The individual traders will need their own consents for the location.
- 4.1.7 The Licensing Authority can inform applicants if a pitch is unlikely to meet the criteria. However, advice from the Licensing Authority does not guarantee that a proposed pitch applied for will not be subject to relevant objections during the consultation process following an official application and therefore be deemed unsuitable.

4.2 **Trading from a vehicle/trailer**

- 4.2.1 The trading vehicle/trailer used must be compliant with the Driver and Vehicle Standards Agency (DVSA) MOT standards.

<https://www.gov.uk/government/organisations/driver-and-vehicle-standards-agency>

- 4.2.2 The trading vehicle/trailer must be maintained in a roadworthy condition, taxed, insured, and hold a valid MOT at all times. The type, colour, and dimensions of any trading vehicles to be used will be submitted to the Licensing Authority along with colour photos for approval.
- 4.2.3 Details of where the trading vehicle is to be kept overnight must also be submitted.
- 4.2.4 The trading vehicle/trailer must not be set up as a permanent structure and must be removed from the trading pitch within 30 minutes of the end of the consented hours, unless agreed in writing by the Licensing Authority; and upon any

reasonable request made by the emergency services, Highway Authority (Hertfordshire County Council) or similar authority.

- 4.2.5 Maintenance logs must be kept for the trading vehicle/trailer and made available for inspection when requested by an authorised officer from the Police, Licensing Authority or DVSA.
- 4.2.6 If a trailer is going to be used as the trading vehicle, it must comply with the relevant laws around maximum weight that can be towed and height restrictions. The driver of the vehicle towing the trailer to and from the location must have the appropriate B3 driving category included on their DVLA driving licence.
- 4.2.7 All vehicles to be used for mobile trading must comply with Euro 6 standards for emissions and be no more than 7 years old at the time of application (including renewals).
- 4.2.8 All renewing vehicles must pass an annual MOT and pass the required emissions test. Should we receive complaints about vehicle emissions, consent holders will be required to provide the Licensing Authority an emissions report from a garage.

4.3 **Employees of traders working in vehicle/stall**

- 4.3.1 Under the Immigration Act, introduced in 2016, <https://www.legislation.gov.uk/ukpga/2016/19/contents/enacted>, the Home Office granted new duties for local authorities to deal with illegal workers and those who employ them. Anyone employing illegal workers, (those without the right to be working in the UK) can be fined up to £20,000 per illegal worker. The wages of the illegal workers can also be seized as proceeds of crime. You are required to check the residency status and right to work of anyone who you employ to trade under your street trading consent.

If applying for an annual trading consent you must include their names on an application form. Evidence of their right to work must also be submitted.

- 4.3.2 For more information on the Immigration Act, and the duties of employers to check the rights of their employees to work, please review the Home Office guidance. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked. <https://www.gov.uk/topic/immigration-operational-guidance>

4.4 **Goods for Sale**

- 4.4.1 Consents will not be granted to traders who propose to sell offensive weapons including imitation firearms, firearms, airguns, swords, and crossbows.
- 4.4.2 Traders wishing to sell food items must be registered as a food business with the Environmental Health department in whose area the trading vehicle is stored and where any off-site food preparation takes place.
- 4.4.3 See also paragraph 6.2 of this Policy.

4.5 **Advertising**

- 4.5.1 There must be no available means of attracting attention for the purposes of trading or any stands or signs away from the consented pitch. Any trader wishing to display advertising, such as A-boards, will require the approval of the Planning Department, as well as the Highways Authority if to be placed on a pavement/highway. Any unauthorised advertising will be removed.

4.5.2 Advertising on any trading vehicle must be approved by the Licensing Authority.

4.6 **Waste**

4.6.1 Where goods are sold that are for immediate use or consumption, the trader must provide at least one suitably sized waste container with signage requesting the customers to use it. The consent holder is responsible for disposal of their refuse and must not use Council, highway, or other waste bins. The consent holder has a duty of care to dispose of their commercial waste lawfully.

4.6.2 Advice can be sought from the Environment Agency at Environment Agency Website. Further information can also be found on the council's website – [Three Rivers District Council Commercial Waste and Recycling](#)

4.6.3 There must be no disposal of liquid waste down the drains or onto the pavement, road, or grassland. This includes waste cooking oil as it leads to blockages, odour, vermin problems and can pollute watercourses. Such action could result in prosecution. Waste oils should also not be disposed of with the rest of the catering or kitchen waste. Section 111 of the Water Industry Act 1991 makes it illegal to permit any substance, which may interfere with the free flow of the sewerage system, to pass down any sewer or drain connecting to a public sewer. This is enforced by Thames Water. Further information about disposal of waste oils from catering premises can be found on the Food Standards Agency website <https://www.food.gov.uk/>.

4.6.4 All wastewater from the trading vans' sinks must be collected and disposed of correctly. Officers of the responsible authorities will take the steps that they consider appropriate if traders are found to be disposing of oils, wastewater etc. in an unlawful or unacceptable manner. Consent holders must also organise adequate sanitation provision for themselves and their employees.

4.7 **Opening/trading hours**

4.7.1 Street trading is limited to the days of the week and between the hours stated on the consent.

4.7.2 Traders will be allowed 30-minute preparation time prior to the start of their trading hours to set up their trading stall and there will be a 30-minute closing time to allow the trader to tidy and pack up. Consent holders are not permitted to trade during the preparation or closing times. If a pitch is shared between two consent holders who will be operating on the same day, there will be an hour between the end time of the first consent and the start time of the other consent to allow for the respective closing and preparation time. If the location is shared (for example a lay-by), and not the exact pitch, then the preparation and closing times may overlap, requiring a 30-minute gap between trading times.

4.7.3 Ice cream vans will not be permitted to trade before 09:00hrs and after 20:00hrs.

4.8 **Street trading and the Licensing Act 2003**

4.8.1 Traders that will serve hot food or hot drinks at any time between 23:00hrs and 05:00hrs the following day or that will sell alcohol will also require a licence issued under the Licensing Act 2003.

4.8.2 Details of the various licences issued under the Licensing Act 2003 can be found on the Licensing page of the Council's website;

4.9 **Trading near to a school**

4.9.1 The Council recognises that a healthy start in life is vital for all children and young people to realise their full potential. In terms of child obesity there are benefits of not having certain traders such as ice cream vans and burger vans outside a school. This Policy seeks to support the Council's commitment to reducing obesity and improving dental health.

4.9.2 Accordingly, the Council has attached a condition to all street trading consents that states that there is a 50-metre exclusion zone around the outside curtilage of any school, as measured from the school boundary or entrances onto a highway, in which street traders are not allowed to trade.

4.9.3 The restriction will only be in place during term time, and on school days.

4.9.4 The restriction applies to all street trading consents, regardless of whom the consent holders are targeting and whether the application is new or for a renewal of an existing consent.

4.10 **Ice cream van chimes guidance**

4.10.1 Ice cream van traders are required to adhere to the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/245699/pb14030-ice-cream-vans.pdf

4.10.2 It is an offence under S62 of the Control of Pollution Act 1974 to sound chimes before 12:00hrs (noon) or after 19:00hrs.

4.10.3 Traders must not sound chimes as loudly in areas of low background noise or narrow streets as elsewhere and:

- for longer than 12 seconds at a time
- more often than once every 2 minutes
- more than once when the vehicle is stationary at a selling point
- except on approach to or at a selling point
- when in sight of another vehicle which is trading
- when within 50 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised day of worship);
- more often than once every 2 hours in the same length of street
- louder than LAmax 80dB at 7.5 metres

5 **Application process**

5.1 **New consent application**

5.1.1 A new application for a street trading consent must be submitted to the Council at least 30 days before the proposed trading start date. This is to allow the Council time to validate and process the application and to allow for the mandatory 28-day consultation period.

5.2 **Consent renewal application**

5.2.1 Applications for renewal will only be considered for standard consents issued for 12 months. Whilst the application form and required supporting documents may

remain the same, the consultation process may be waived. Applications for renewal of a consent will normally be granted, provided that there have been no relevant changes to the Policy and no substantiated complaints have been received regarding;

- the way the consent holder has conducted their business, or
- the consent holder's conduct, and
- where no relevant objections have previously been received

5.2.2 All renewal applications must be submitted a minimum of 4 weeks (28 days) prior to the expiry of the current consent to allow for the processing of the application. Generally, no further consultation will be necessary when dealing with a renewal application, however, the Council reserves the right to consult where they consider it is required.

5.2.3 The responsibility for ensuring timely renewal of consent rests solely with the consent holder, the Council is not required to send out reminders but may do so.

5.2.4 If a renewal application including fee are not submitted before the expiry date of the current consent, then the consent will lapse. A renewal application will not be accepted after the expiry of any existing consent. The effect of this will be that a trader will not be permitted to trade until a new application and fee has been submitted and a new consent is granted.

5.3 **Application process**

5.3.1 All consent applications must consist of:

- a) A fully completed application form. This can be found on our website <https://www.threerivers.gov.uk/services/licensing/pavement-street-trading-licensing>
- b) The payment of the full fee as appropriate for the type of consent applied for
- c) A clear map/plan showing the precise trading position and its proximity to other similar retail outlets within a 100-metre radius. The proposed position and orientation of the stall, vehicle/trailer etc. is to be shown on the plan. The plan shall also include any additional vehicles that will be parked on the site. *NOTE: maps/plans are not required for mobile traders*
- d) Colour photographs showing the front, side and rear aspects of the vehicle/trailer that will be used for the street trading activity. Digital image(s) to be emailed to licensing.team@threerivers.gov.uk. *NOTE: this is only required for vehicles/trailers and not required for stalls*
- e) One recent passport size photograph of applicant
- f) Signed self-declaration for applicant, relating to criminal convictions
- g) Evidence of right to reside/work in the UK for the applicant
- h) Full name and colour photo of any employees that will be working in the stall/vehicle, including evidence of right to work (*annual consent - mobile traders and individual static traders only*)

- i) A copy of a current Public Liability certificate of insurance that covers the street trading activity for third party and public liability risks, to a minimum value of £2 million.
- j) Valid food safety/food hygiene training certificate(s) *(food related trading only)*
- k) Evidence of registration of the food business with the appropriate local authority and current food hygiene rating *(food related trading only)*
- l) V5 logbook, MOT certificate and vehicle insurance certificate *(this is only required if trading from vehicle)*
- m) Copy of driving licence of applicant *(this is only required if trading from vehicle)*
- n) Evidence of having a suitable contract/method for waste disposal where applicable
- o) Consent to use the proposed trading location from the land/property owner (if privately owned land)
- p) Any further consents/permissions required i.e., planning permission, authorisation under Licensing Act 2003, if applicable

5.3.2 Incomplete applications will not be validated or processed. The Licensing Authority will reject any incomplete or invalid applications if a period of 1 month has passed without the application being validated, and where the applicant has failed to correspond with the Licensing Team.

5.4 **Consultations**

5.4.1 Before a street trading consent is granted the Council will carry out a consultation process with various persons and groups on all applications. The following organisations or persons will be consulted where appropriate:

- a) Three Rivers District Council Environmental Health departments (including Environmental Control, food business registration, and Health and Safety teams)
- b) Three Rivers District Council Property and Estates department
- c) Three Rivers District Council Planning department
- d) Three Rivers District Council Transport and Parking team
- e) Hertfordshire County Council Highways
- f) Hertfordshire Fire and Rescue Service
- g) Hertfordshire Police
- h) Trading Standards
- i) The appropriate local Ward Councillor(s) and members of the Regulatory Services Committee
- j) The appropriate Parish or Town Council

- k) Any other person or body the Licensing Authority may consider appropriate depending on the type of application.
- 5.4.2 In addition to the above, further consultations may be carried out with property owners and occupiers in the vicinity of the proposed site who may be affected by the application. This consultation may require the Licensing Authority to notify the relevant property owner/occupiers in writing, or by requiring the applicant to erect a notice at the proposed site for the consultation period. If the applicant is asked to carry out this further consultation and does not carry this out to the Council's satisfaction, the application may be refused.
- 5.4.3 Only written representations will be taken into consideration when determining an application. The Council will consider any representations made by a person, business or body that is likely to be directly affected by the application. In addition, the representation must not be vexatious or frivolous and should concern itself only with matters likely to be affected by a successful application.
- 5.4.4 The consultation period for new applications (and if required, renewal applications) will run for 28 days. This allows time for the responsible authorities to consider the application and respond to the consultation. Responses received after this period will only be considered at the discretion of the Licensing Authority.
- 5.4.5 Licensing officers will advise consultees of any relevant history and information in relation to the applicant, including any relevant information that may be received during the consultation period.

6 Criteria used to determine the application

The Council will use the criteria listed in this Policy below in determining any applications for street trading consents. Any representations received will be considered against the criteria. All criteria should normally be satisfied, with equal weight applied to each of the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

6.1 Suitability of applicant

When determining an application for the grant or renewal of a consent, the Council will consider all relevant information relating to the suitability of the applicant and any employees including;

6.1.1 Whether they have been cautioned or convicted of any offences of:

- a) Violence
- b) Dishonesty
- c) Drug related offences
- d) Sexual offences
- e) Public Order offences
- f) Food safety or health and safety offences
- g) Any offence resulting in a sentence of imprisonment.

This will involve the applicant making a declaration to confirm their status relating to any 'unspent' cautions or convictions under the Rehabilitation of Offenders Act 1974.

6.1.2 An applicant's history of street trading including whether previous consents have been used appropriately. An applicant who has previously been found to have been trading in the district without a valid consent at any time will be prohibited from

applying for a consent for a period of 12 months from the date that they were found to be trading without a consent.

- 6.1.3 The Council will reserve the right to request a basic disclosure check from any applicant/employee at any time where it considers there is a risk to children and/or vulnerable people.

6.2 **Nature of goods:**

The type of goods proposed to be sold will be taken into consideration. The below is not limited to but includes a number of items which would not be granted a street trading consent:

- a) Firearms and replica firearms
- b) Weapons and replica weapons
- c) Tobacco, tobacco related products and e-cigarettes/vapes
- d) Fireworks and sky lanterns
- e) Helium balloons
- f) Animals
- g) Articles that would typically be sold in sex shops

6.3 **Public safety:**

The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction, and fire hazard. The term “public” refers to both the applicant’s customers and other members of the public using the street. Reference will be made to the guidelines set out in section 11 on site assessment criteria.

6.4 **Public order:**

The street trading activity should not present a risk to good public order in the locality in which it is situated.

6.5 **Avoidance of nuisance:**

The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site.

6.6 **Character of the area:**

In determining the area for the proposed activity, the following will be taken into consideration:

- a) The presence of similar outlets already existing in the immediate locality of the proposed street trading site.
- b) The general needs of a locality should no comparable outlets exist. Applicants may be asked to demonstrate to the Council the need for the proposed street trading activity.
- c) The quality of the goods sold by the applicant.
- d) The appearance of the applicant’s stall, van, barrow, cart etc.

6.7 **Compliance with legal requirements:**

The proposed street trading activity should be carried out in compliance with all relevant legislation, for example legislation relating to food hygiene, health and safety, sale of alcohol etc.

6.8 **Consultees' observations:**

In relation to the points above, consideration will be given to written observations from any consultees. Any representations made to the proposed street trading activity will be considered in terms of relevance to the application that has been made.

7 **Decision**

7.1 **Grant of consent**

7.1.1 If there are no objections to the application, the consent will be granted under delegated authority by the Licensing officers and will be active from the date issued. No trading may take place until a consent has been issued.

7.1.2 The consent granted is specific to the person to whom it is issued. Consents are non-transferable and there can be no sub-letting.

7.2 **Refusal of consent**

7.2.1 The Local Government (Miscellaneous Provisions) Act 1982 does not make provision for any legal appeals against the decision of a Council in relation to the refusal or revocation of street trading consents. A person aggrieved by a decision of a council may seek a Judicial Review of the decision, should it be felt necessary.

7.2.2 Should the Council decide to refuse or revoke a street trading consent, the applicant will be notified within 10 working days of that decision and the reasons for it.

8 **Display of consent and badges**

8.1 Static traders shall always, whilst trading, prominently display the consent issued by the Council.

8.2 Mobile traders will be issued with a photo ID badge which must be worn by the consent holder whilst trading. A consent summary will also be issued for the authorised vehicle, which must be displayed in a prominent location inside the vehicle, visible to customers all times whilst trading.

8.3 If the consent or badge is lost or damaged the consent holder must contact the licensing department within 48 hours to obtain a replacement. A charge will be made for a replacement consent/badge.

9 **Changes to consent**

9.1 Should the consent holder wish to make minor changes to the consent at any time during the life of the consent, a notification of change of details form must be completed and submitted along with supporting evidence. An administration fee will be charged*. Changes that can be made to consents are:

- Changing the existing consent holders own name/address/contact details
- Changing the vehicle on a mobile trading consent

9.2 For all other proposed changes please contact the licensing department as you may need to make a new application if the proposed change is significant and impacts on the objectives of this policy.

*The fees are publicly available via the following link:
<https://www.threerivers.gov.uk/egcl-page/licensing>

10 Transfer of consents

- 10.1 Street trading consents are non-transferable. If there is an agreement between a current consent holder and a proposed new consent holder to take over an existing unit and/or location, the original consent holder must surrender their consent and the proposed new consent holder must submit a new application.

11 Return of consent

- 11.1 If the consent holder wishes to surrender their consent, they will be required to return all street trading documentation with a written explanation as to why they have ceased trading. No refund will be paid for a surrendered consent.
- 11.2 On expiry, surrender, suspension, or revocation the consent/badge **MUST** be returned to the Licensing Authority within 7 days.

12 Conditions

- 12.1 Consents will be subject to standard conditions to promote public safety and avoid obstructions, nuisance, and annoyance. Other additional conditions may be attached to a consent and will be relevant to the category of consent issued and the nature of the local environment. The Council's standard consent conditions can be seen in **Appendix I**.
- 12.2 The Council may at any time vary the conditions of a street trading consent.
- 12.3 The conditions must be always complied with and failure to do so could lead to the consent being revoked, or not renewed.

13 Enforcement and revocation

- 13.1 The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. Obtaining consent does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Planning controls, and applicants must ensure all such permissions, etc. are in place prior to trading.
- 13.2 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the offences for non-compliance with the provisions as set out in this Policy. Offences for which a person may be convicted and fined include for example:
- engaging in street trading in a consent street without being authorised to do so; or
 - contravening any condition of their consent; or
 - making a false statement which they know to be false, in connection with an application for a consent.
- 13.3 Without prejudice to the Council's powers to prosecute for any offences under the Act, the Council may take the following enforcement steps where appropriate dependant on the severity of the breach or offence:
- Verbal / written warning to trader
 - Issue of Fixed Penalty Notice
 - Refuse to renew a consent
 - Revocation of consent
 - Prosecution

- 13.4 In determining what course of action is necessary the following matters will be considered:
- Seriousness of the breach or offence;
 - Previous trading history
 - Level of past compliance
 - Traders' response to previous warnings
- 13.5 An authorised Officer may visit the consent holder and inspect the vehicle/stall or other vehicle or premises that the applicant trades from to ensure compliance with the conditions and criteria set down within this Policy. Periodic inspections may occur during the consent period to ensure full compliance.
- 13.6 During the consent period, if there are any charges, police investigations, and/or convictions against the consent holder, the consent may be revoked with immediate effect.
- 13.7 A consent may be revoked for any breaches of the consent conditions, offences under the Act, as well as for any other reasonable cause. The Council shall not be liable in any circumstances whatsoever to pay any compensation to a consent holder in respect of any revocation.
- 13.8 If a further application for a street trading consent is made following revocation of a previous consent the matter will be passed to the Regulatory Services Sub-Committee for a determination.
- 13.9 Failure of the trader to advise the Council within 7 days in writing of any charges, police investigations and/or convictions or cautions which arise during the term of the consent may result in the revocation of a consent or refusal to grant any future applications.
- 13.10 Where a complaint is received from either the public or another authority, such as the police or local authority, the complaint will be investigated, and the Council may revoke the consent.
- 13.11 Where two consent holders are investigated due to complaints of breaches of conditions or arguments over trading times and areas, both consent holders will be expected to fully participate in mediation. Where issues persist or mediation is refused the Council may consider enforcement action or referral to the Regulatory Services Sub-Committee for a consideration of the matter and a decision on whether to apply additional conditions, revoke or renew Consents for either or both parties.
- 13.12 The Council holds the right to ask traders causing a nuisance to cease the activity that they are conducting and leave the area.
- 13.13 Consent holders must allow access to authorised officers and police officers at all reasonable times.

14 Fees

- 14.1 Fees will be set and reviewed annually on a full cost recovery basis, as part of the Council's fees and charges setting process.
- 14.2 Should an application be refused, there will be no refund of the application fee.
- 14.3 Should an applicant wish to withdraw their application a partial refund will be issued minus an administration fee.

14.4 Details of the current fees can be found on our website:

<https://www.threerivers.gov.uk/services/licensing/licensing-fees>

15 Review of policy

15.1 This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of street trading generally or because of local considerations within the Three Rivers District. In any case, this Policy will be reviewed within five years of adoption or because of any major legislative changes.

15.2 Any minor changes that do not impact on the aims and objectives of the policy or reflect changes in legislation will be made with the approval of the Head of Regulatory Services.

15.3 Any significant changes can be approved by the Regulatory Services Committee.

Version Control:

Date	Action	Version	Adopted
8 March 2022	Policy agreed at Regulatory Services Committee	1	15 March 2022
6 December 2023	Adoption of Policy (including resolution to amend Designation of Streets)	2	12 February 2024
9 July 2024	Amendments to Policy removing ability to apply for blanket consents – delegated authority	3	9 July 2024

APPENDIX I - Standard conditions of street trading consents

1. Trading may only take place on the days and during the times as specified on the consent.
2. Trading is prohibited from within a 50-metre exclusion zone around the outside curtilage of any school, as measured from the school boundary or entrances onto a highway. This restriction will only be in place during term time, and on school days.
3. The consent holder shall not sell any type of food, goods or merchandise other than as specified on the consent.
4. Static traders are only permitted to trade from the stationary vehicle/trailer or stall, as detailed on the consent, and in the position indicated by the deposited location plan. In the event of this position being unavailable, for any reason beyond the control of the Council, the position may be temporarily relocated at any authorised officer's discretion to another nearby area.
5. Mobile traders are only permitted to trade in locations that are agreed by the Licensing Authority.
6. The trader shall always, whilst trading, provide a suitable receptacle for rubbish and litter and remove the rubbish and litter from the site at the end of the day's trading. The trader shall collect any litter or food waste originating from the business, or which has been deposited on the highway by the customers.
7. The trader shall not deposit fat or other liquid or solid waste onto land or into highway drains.
8. The trader shall not operate in a manner which causes nuisance to the public or other persons in the vicinity. The trader will not be permitted to use loudspeakers, radios, or any amplified sound.
9. No animals shall be present on any stall or vehicle where food and drink are sold.
10. The trader shall comply with all relevant statutes, regulations and bylaws for the time being in force and with the conditions of the consent.
11. The trader shall comply with all requirements of the Food Hygiene (England) Regulations 2013, Regulation (EC) No. 852/2004 on the hygiene of foodstuffs and any associated legislation.
12. The trader shall maintain a minimum food hygiene rating score of 3. The hygiene rating must be displayed prominently on the stall or vehicle. Where a rating below 3 is obtained, the operator has 3 months to obtain a re-rating of 3 or above. If after 3 months an improvement to 3 or above rating has not occurred, then the business should immediately cease trading until satisfactory remedies have been put in place to the satisfaction of the Council. The consent may be revoked.
13. The trader shall always allow access by any authorised officer or their representatives to ensure that the terms of the consent are being carried out to their satisfaction.

14. The trader shall display the street trading consent whilst trading, which shall be plainly visible to the public and available for inspection by officers of the Council or Police. In addition, all mobile traders must wear the ID badge issued along with the consent.
15. The trader shall provide insurance to the minimum sum of £2,000,000 to ensure against third party liability claims and to indemnify the Council against all claims, liabilities, actions, demands and expense arising in respect of the grant or renewal of this consent. The trader shall provide insurance certificate upon application and on demand for inspection by the Licensing Authority.
16. The trader is not permitted to hold any auction sale.
17. If the consent allows the trader to trade from a specific vehicle, or stall, the trader shall only use the approved vehicle or stall and may not trade from any other vehicle or stall. No table, chairs or similar articles shall be placed outside the vehicle/stall without the prior approval of the Licensing Authority.
18. The trader shall comply with all reasonable requirements of any authorised officer or Police officer, including temporarily ceasing trading where necessary for public order or safety reasons.
19. No child under the age of 17 shall be engaged in the trading.
20. The consent is personal to the applicant and is not transferable to any other person.
21. No sub-letting of consents is permitted.
22. The trader may not sell, display or wear any article which is offensive either in writing or pictures - this includes assistants working on static vehicle/stall. The authorised officer's decision as to what is offensive is final.
23. The trader shall reimburse all costs incurred by the Council because of any damage caused by the trader's occupation of the approved site.
24. The Licensing authority may revoke the consent at any time and will normally give four weeks' notice of revocation unless earlier revocation is appropriate due to a breach of the conditions or public safety reasons.
25. The trader shall maintain the vehicle/stall in good condition, to the satisfaction of the Council. Any vehicle/trailer must be kept in a roadworthy condition, taxed, always insured and MOT'd where relevant.
26. The trader shall remove the vehicle/stall at the end of each day's trading unless otherwise agreed as part of the application process by the Licensing Authority (static trading).
27. Traders who have a consent to trade in any town centre will not be authorised to do so on any designated market days, or at a time where there is an event of cultural, community or historical significance taking place in the town centre. The Council will notify the trader of the dates when trading is not permitted.

28. The trader shall not place or display any sign or structures on or adjacent to the highway; this includes street furniture such as tables, chairs, gazebo's etc.
29. The trader shall always ensure that the prices of the goods on sale are clearly and visibly displayed.
30. The Council may at any time vary, substitute, or modify the conditions as shown above, provided a copy is then provided to the consent holder in advance of any change or on renewal of their consent.
31. The consent holder will advise the Licensing Authority in writing of ANY dealings with the Police within 7 days of any reportable incident.
32. Consent holders shall notify the Licensing Authority in writing of any changes to their contact details, such as home address, telephone, or email, within 7 days. A fee is applicable for the amendment to the consent record(s).
33. The consent holder must notify the Licensing Authority in writing within 7 days of any charges, convictions or cautions issued during the consent. Failure to do so may result in revocation and/or the refusal to grant any future applications.
34. If a consent holder fails to comply with any of the conditions attached to a street trading consent, the consent may either be suspended for an indefinite period or revoked. The consent holder may also be prosecuted if offences have taken place.

Additional conditions for mobile street traders

1. Mobile traders must move from position to position, remaining stationary for no more than 15 minutes on any residential street to initially attract customers, and thereafter only long enough to serve customers present. The vehicle must move on as soon as the last customer has been served and if no other customer is clearly awaiting service.
2. Mobile traders must ensure that any stopping position does not infringe any parking or traffic requirements or cause obstruction of the highway and does not present any dangers to highway users.
3. Ice cream vans must not sound chimes before 12:00hrs (noon) or after 19:00hrs.
4. Ice cream vans should not sound their chimes when in sight of any other ice cream van (whether moving or stationary) which might reasonably be taken to be in the street for trading purposes.
5. Mobile traders must not trade within 50m radius from any other street trader.
6. Mobile traders must not stop in any 500 metres section of any street more than once in every two hours.

APPENDIX II – List of current prohibited/consent streets

Prohibited streets

These are streets where street trading is prohibited and an application for street trading consent will be refused.

- **Trunk Roads:**

- A41
- A405 between A41 and Watford Borough boundary.
- A405 - that part which lies between the roundabout at Long Lane and the A412 Denham Way.
- A405 - that part of the road which lies within the Three Rivers District at Garston.

- **Principal Roads:**

All of the following roads which lie within the Three Rivers District:-

- A412
- A404
- A4145
- A4008
- A4125

- **South Oxhey:**

- Prestwick Road (only between the junction of Hayling Road and junction with Oxhey Drive)
- Fairfield Avenue
- St Andrews Way
- Tom Lake Way
- Bridlington Road
- Station Approach

All other roads apart from those listed above are considered as Consent Streets whereby a street trading consent will be required to trade within the District.

In the avoidance of doubt 'a highway is **any public or private road or other public way on land**. It is used for major roads, but also includes other public roads and public tracks'.

For clarification - a street includes a street, highway or other area (e.g. carpark, park, green, pavement) to which the public have access without payment and as such any land adjacent to the street including adjacent verges.

Trading is prohibited within 50m of any school boundary unless written permission is ascertained from the Head Teacher and made available to the Licensing department.

