

**BRACKNELL FOREST COUNCIL
POLICY FOR DETERMINATION OF STREET TRADING CONSENTS**

1. Guiding Principle

- 1.1 Street Trading Consents are a means of enabling street trading to take place on or near a highway where it is appropriate to do so.
- 1.2 In determining appropriateness, officers are to have due regard to, in particular (but not at the exclusion of others), the following either individually or collectively:
- (i) the likely impact on the existing highway users either as a result of the use of the road by the trader or by the trader's customers
 - (ii) the location relative to any residents or businesses likely to be affected by the use of the site
 - (iii) the nature of the trade
 - (iv) the trading times
 - (v) appearance
 - (vi) impact upon street scene
- 1.3 Clearly there can be a location "suitable" for use at night but not during the day for example. Some traders are by their nature more likely to give rise to odours than others. Sites close to residential or office blocks are more likely to be sensitive sites because of the visual and potential nuisance impact.
- 1.4 In order to avoid any one trader developing a monopoly, the maximum number of Consents that a trader or business shall be able to use at any one time in the Borough of Bracknell Forest shall be three.

2. Officer Role

- 2.1 When considering new or variation applications, the role of the licensing officer is to make an initial assessment of the potential suitability of the site, hours of operation, and nature of the trade proposed.
- 2.2 Only if officers are of the opinion as regards the potential suitability of the application, they should consult as follows (**NB see also the requirements for the Town Centre in section 4**).

(i) Highways Network Management	The likely impact upon the highway both in respect of the use and the customers.
(ii) Development Control	The considered view as regards the visual impact upon the street scene.
(iii) Environmental Health (Commercial and Environmental Quality)	The suitability of the vehicle/stall/trader and any likely environmental impacts on other nearby land users
(iv) Ward and applicable Town/Parish Council Members	An informal view as regards the likely impact of the proposed use upon the local community
(v) Thames Valley Police	The likely impact upon the road network, and the local community.

- 2.3 For all new applications a neighbour notification will be carried out, whereby those persons within the borough who live immediately next to, opposite or behind a site are notified when there is a licence application made relating to that site. A neighbour notification will also be carried out for variation applications where there is a material change to the nature of the trade taking place that may cause an impact on those living nearby. Where in the view of officers, the proposed variations will have no material impact upon nearby residents, the application may be processed without a neighbour notification. Neighbour notification will allow immediate neighbours an opportunity to consider the application and respond if appropriate.

Properties to be notified are as follows:

- Properties sharing a common boundary with the premises, including outside areas
- Properties immediately in front of premises (opposite side of road)

The Licensing Officer will use judgement in circumstances where:

- Other parties, not identified as above, may reasonably be considered to be affected.
- Distances between buildings, or other circumstances, are such that notification in precise accordance with the above guidance is considered unnecessary.

- 2.4 The applicant must ensure a public notice is displayed at the proposed or existing trading site throughout the consultation period, to advise members of the public that an application has been submitted. A template showing the required wording shall be provided to the applicant upon receipt of a valid application. This requirement is mandatory for new applications but may be waived for variation applications at the discretion of officers if it is felt that the variation proposed will not cause an adverse impact. Failure to display the public notice will result in the consultation period being re-started.
- 2.5 Upon receipt of any representations/expiry of the deadline for responses, officers must make a reasoned decision as to the way forward.
- 2.6 In the event that following consultation the application is withdrawn by the applicant, a sum of 50% of the application fee is payable as a refund.

3. Trial Period and Hearings

- 3.1 The maximum period for a new site is one month. This enables the opportunity for review. Should the need arise during the trial, the Consent should be revoked and a pro-rata refund made to the Consent holder.
- 3.2 Where representations have been received during the consultation period, where no mutually agreeable outcome can be reached between the interested parties, and where the application is not otherwise withdrawn, the usual procedure is for the matter to be determined by a Licensing Panel unless all parties agree a hearing is not required,
- 3.3 If the application is refused by a Panel, no refund of the application fee is payable.
- 3.4 Where the need arises then the Council will consider seeking injunctions to stop unlawful trading.

4. Town Centre

- 4.1 Should an application be made for trading in the Lexicon or any other part of the town centre as show on the attached plan, it will need to be considered as above but in addition, the Town Centre Management Group must be consulted, regardless of land ownership.
- 4.2 The expectation in dealing with enquiries for street trading in the town centre is that the stall and the nature of trade gives added value to the total trading environment.
- 4.3 A street trading consent covering a large amount of the public areas within the Lexicon is held by the Lexicon management. Anyone wishing to trade under this consent should contact the Lexicon directly.

5. Reviewing Existing Consents

- 5.1 Where incidents arise or the complaint history in relation to a Street Trading Consent leads officers to question the suitability of a particular pitch or Consent holder, a Licensing Panel may be called to determine whether the Consent should be modified (e.g. reduced hours) or revoked.
- 5.2 Prior to the hearing, the groups included at section 2.2 shall be consulted for their views as to the continued suitability of the pitch or Consent holder.
- 5.3 The consent holder has a right to continue to trade until the Licensing Panel have made their decision as long as the appropriate fee has been paid for the trading period.
- 5.4 If a Consent is revoked or amended by the Panel, no refund of the application fee is payable.

As revised and agreed by the Bracknell Forest Borough Council Licensing and Safety Committee
– Thursday 18th October 2018

