



# Street Trading Policy

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# 1 Introduction

## 1.1 Purpose

- 1.1.1 Exeter City Council (the Council) street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice, and seeks to enhance the character, and ambience of local environments.
- 1.1.2 The policy recognises the importance of street trading to the city and that it can add to the vibrancy and vitality whilst not necessarily adding to environmental impact, nuisance and crime and disorder.
- 1.1.3 This policy sets out the criteria and guidance that Exeter City Council will use as the regulatory framework for street trading. This policy also clarifies the requirements around special events and occasional markets. It gives prospective traders an early indication as to whether their application is likely to be granted or not. It also provides prospective applicants with details of what is expected of them.

# 2 What is Street Trading

## 2.1 Definition

- 2.1.1 Street trading means selling, exposing or offering for sale any article in a street.
- 2.1.2 The term 'street' includes any road, footway, beach or other area to which the public have access without payment. In this regard, 'other area' will include a retail car park to which the public have access to without payment.

## 2.2 Area Covered

- 2.2.1 On 15<sup>th</sup> March 1983 the Council resolved to adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and on the 15<sup>th</sup> February 2011 resolved to designate all streets in the area as 'consent streets' for street trading purposes, with the exception of a number of streets in the City Centre, which are designated 'licence streets or prohibited streets' as set out in Section 16 below.
- 2.2.2 The effect of this designation is that street trading in any street is forbidden, subject to legal exemptions, without first obtaining a street trading consent or licence from the Council.

- 2.2.3 This includes all streets, car parks, most parks and all adjacent paved, grassed and ornamental areas to which the public have access without payment or unfettered access.

## **2.3 Prohibited streets**

- 2.3.1 If a street is designated as a prohibited street, then a criminal offence is committed by any person engaging in street trading in that street. There could be a number of reasons for wishing to designate a street as prohibited. For example, the street may not be wide enough to facilitate a trader, or the council may wish to restrict trading in a particular location.

## **2.4 Licensed streets**

- 2.4.1 A licensed street designation is considered appropriate for the more formalised market type of trading in a street where the strict control of a limited amount of space is required.

## **2.5 Consent Streets**

- 2.5.1 Designating a street a consent street enables trading to take place upon it, subject to the trader receiving a consent to trade from the Council.
- 2.5.2 All streets within Exeter are designated as consent streets with the exception of the prohibited streets and the parks and open spaces listed in Section 16.

# **3 Exemptions from the need to obtain a consent or Licence**

- 3.1 Some types of trade are legally exempt from the need to obtain a street trading consent or licence. These include:
- a person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871, and which the trading activity is one of peddling.
  - a trade carried out by roundsmen e.g. a milk delivery service for registered customers;
  - a trade carried on at a petrol filling station;
  - a market created by statute or grant;
  - trading as a news vendor (selling newspapers or periodicals);

- trading in premises used as a shop or in a street adjoining premises so used and as part of the business of the shop;
- authorised charity collections.

## 4 Street Trading Consents for which fees are not payable

4.1 The Council may remit the payment or part of the payment of fees for the following street trading activities:

- fetes, carnivals or similar community-based and run events;
- non-commercial or charitable events;
- farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people) as these are subject to Street Licence authorisation;
- sales of articles by householders on land contiguous with their homes (e.g. a garage sale).

## 5 Making an application

5.1.1 All applications must be made on the Council's prescribed application form. The application must be completed in full, with all the required information, before it will be considered.

5.1.2 The application form must be submitted along with the following:

- A non-refundable application fee (based on the cost of administering the application)
- A basic DBS certificate not more than 3 months old for the applicant and all staff involved in the operation being applied for.
- A passport style photograph of the applicant and all staff involved in the operation being applied for.
- Photographic identification (e.g. passport, photo card driving licence)
- A site plan of the proposed trading area or list of proposed streets
- Photographs of the trailer, stall, or vehicle proposed for use.
- The make and model of any generator to be used (if applicable)

- Gas certificate (if applicable)
- Copy of the business trade waste transfer note
- Public Liability Insurance certificate cover for £5,000,000
- Current MOT and V5 certificate (if using a vehicle)
- Appropriate current business use motor insurance (if using a vehicle)
- Proof that the applicant and any assistants are entitled to work in the UK.

## **6 Key considerations when assessing an application**

### **6.1 Public safety**

- 6.1.1 The proposed location of the activity should not present a risk to the public in terms of highway safety and obstruction.
- 6.1.2 All locations will require an assessment before a proceeding to a sub-committee for consideration.
- 6.1.3 Applications in respect of sites that have previously been the subject of refusal due to the unsuitability of the location are unlikely to be accepted.

### **6.2 Prevention of crime, disorder and nuisance**

- 6.2.1 The proposed activity should not present a risk of crime and disorder.
- 6.2.2 Activities at the pitch must not cause a nuisance, annoyance or disturbance to neighbouring properties, this includes businesses. Controls must be in place to ensure that nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and odours does not occur.
- 6.2.3 If at any time the City Council receives complaints a nuisance, annoyance or disturbance is occurring, the Council is duty bound to investigate and, if complaints are found to be justified, may decide to take enforcement action, including withdrawal of the consent or licence.

### **6.3 Suitability of the applicant**

- 6.3.1 Exeter City Council will consider any unspent convictions the applicant may have, and this information will be requested in the application form.
- 6.3.2 When determining whether an applicant is suitable, the Council will consider the reliability of the applicant in paying fees and charges based on previous history.

- 6.3.3 An applicant's history of street trading will also be taken into consideration e.g. whether previous street trading consents have been used appropriately and whether the Council's requirements have been met, including deadlines.

## **6.4 Suitability of the trading unit**

- 6.4.1 The vehicle, trailer or unit to be used including size, build, be harmonious with the character of the locality, add to the quality of the street scene and comply with the legal requirements for the activity proposed.
- 6.4.2 The unit shall be of a high-quality design, with robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.
- 6.4.3 The unit will be inspected by an officer from Exeter City Council prior to consent being issued. Goods, ancillary equipment and stock must be contained within the unit.
- 6.4.4 All trading motorised trading units will be required to have a satisfactory MOT history.
- 6.4.5 In line with Exeter City Council's commitment to Net Zero 2030, preference will be given to vehicles that meet the zero emissions criteria. Where this is not possible, the Council expects traders to meet the Euro 6 emissions standard for diesel vehicles and ULEV for petrol vehicles.

## **6.5 Power**

- 6.5.1 Exeter City Council has committed to the principles of Net Zero 2030. Therefore, preference will be given to applications that are able to demonstrate using renewable energy sources.
- 6.5.2 Street Trading Consents will not be permitted if powered by a petrol or diesel generator.

## **6.6 Advertising**

- 6.6.1 Advertising must only relate to goods offered for sale on that pitch.
- 6.6.2 Third party advertisements are prohibited.
- 6.6.3 It is not permitted to illuminate any advertisement on the outside of the unit without express consent of the Council.
- 6.6.4 The use of 'A' boards or any other display board/structures are prohibited.

## **6.7 Barriers**

- 6.7.1 Barriers for safety purposes will only be allowed on a consent pitch where they have been specifically included within the unit's consent approval.

- 6.7.2 Any barriers proposed shall not constitute a nuisance or danger under the Highways Act 1980, must not impede the free flow of pedestrians or traffic and must not restrict the pavement.

## **6.8 Hours of trading**

- 6.8.1 Trading hours will be set on the basis of promoting the following purposes:
1. Preventing crime, disorder and antisocial behaviour.
  2. Avoiding disturbance due to noise, smell or any other matter the Council considers appropriate.
  3. Protecting public safety.
  4. Preventing obstruction of the highway.
  5. Having regard to location and operating hours of business activity.

## **6.9 Cumulative Impact**

- 6.9.1 The Council will not normally grant consent for a street trading unit within 30 metres of another street trading unit. Street Trading in relation to Castle Street, football match days and other sporting events may allow trading to be more densely located than 30 metres apart.

## **6.10 Selling the right goods**

- 6.10.1 The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent. The quality of goods and innovative approach will be considered.
- 6.10.2 Quality of goods refers to traders making the proper (and legal) checks to ensure their goods are safe for use or consumption. In addition, the use of recyclable materials in the product or packaging or the reduced use of packaging to minimise plastic or other waste will be improving quality. The use of single use plastics will be prohibited under all consents and licences issued.
- 6.10.3 Innovative products refer to goods that are not readily available within the High Street marketplace.
- 6.10.4 Anyone applying for a stall must clearly state the nature of the proposed goods.
- 6.10.5 In meeting its target of Net Zero 2030, Exeter City Council will give preference to those applications that source local produce and products. With regard to applications for food traders, preference will be given to those applications that seek to offer plant-based food and cater for groups with other dietary needs.
- 6.10.6 The goods must not:

- Cause a nuisance, disturbance or annoyance to nearby properties/ people, including cooking smells, smoke, noise, litter and additional cleansing requirements for the Council.
- Cause or contribute to crime and disorder – including the selling of fake or counterfeit goods.
- Have a negative public health impact e.g. vaping products, locality of fast-food units near schools, etc.

## **6.11 Site assessment**

6.11.1 In determining whether street trading in a particular area is appropriate the council will have regard to:

- Any potential obstruction of pedestrian, vehicular or disabled access.
- Any obstruction to the safe passage of pedestrians and wheelchair users.
- Any nuisance/interruption to pedestrian flow or maintenance of appropriate social distancing.
- The safe access and egress of customers and staff from the pitch and immediate vicinity.
- Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises.
- In terms of any land that is not Highway Maintained at Public Expense (HMPE) permission needs to be obtained from the landowner and submitted with the application e.g. private land or Exeter City Council Park or open spaces (that are not part of the excluded parks and open spaces).

## **6.12 Other criteria**

- The consent holder will at no time have the exclusive right to trade from the street or any part of it.
- Street trading can only take place in the area outlined in the consent and on days and hours detailed in the consent.
- The consent holder may only trade in goods that are outlined on the consent.
- A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the Police.
- Auction sales shall not be permitted as part of the consent.

6.12.1 All street trading units will be equipped with safe and adequate lighting for operation during the hours of darkness.

- 6.12.2 Evidence of a commercial waste contract must be provided before the consent is issued and on request by a Council officer. Failure to comply with any of these requirements may result in refusal to issue or renew consents or revocation of an existing consent.

## **6.13 Determination**

- 6.13.1 In determining whether to permit street trading at a selected site, the Council will have regard to:

- Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving.
- any loss of amenity caused by noise, traffic, smell or other nuisance.
- existing Traffic Orders e.g. waiting restrictions, parking, etc.
- any potential obstruction of pedestrian or vehicular access.
- any obstruction to the safe passage of pedestrians.
- the safe access and egress of customers and staff from the pitch and immediate vicinity; and
- the impact on the character of the area.
- The environmental impact of the business including power source, use of single use plastics and use of plant-based products.

## **6.14 Itinerant Street Trading**

- 6.14.1 With regard to itinerant street trading (e.g. an ice-cream van or fish & chip van), where due to the nature of the business there is a genuine need to ply trade in many locations, a general consent will be issued.
- 6.14.2 For all itinerant street traders, trading will not be permitted within 250 metres of any school or educational institution that has under 18's from Monday to Friday 08:00 until 16:00 hrs during term times.

# **7 Consultation for Consents**

- 7.1.1 Before a new pitch is authorised by the Council for the purposes of street trading (non-market) we will, where reasonably practicable, seek representations from:
- the relevant ward councillors
  - Police
  - Highways (Devon County Council)

- Estates Department of Exeter City Council
- Business Improvement District (InExeter) for applications in the BID area.
- Existing holders of street trading consents in the immediate vicinity

- 7.1.2 Where practicable, fourteen days will be given for representations to be received. If no representations are received, the application will be referred to the next available Licensing Sub-Committee of the Council and may be granted in the terms applied for, and standard conditions will be considered and may be attached to the consent.
- 7.1.3 All relevant representations relating to the grant of a consent will be referred to the Licensing Sub-Committee for consideration as part of the determination.
- 7.1.4 Subsequent renewal of consents to street trade submitted on the same terms as previously granted and for the same site, where there have been no relevant objections to the trading, will be dealt with by the Service Lead – Environmental Health and Community Safety.
- 7.1.5 There is no right of appeal to the Magistrates' Court against refusal to issue a consent, or against any condition applied.
- 7.1.6 Any payments made in relation to the application fee are non-refundable.

## **8 Issue of Street Trading Consents / Licences**

### **8.1 Consideration of an application**

- 8.1.1 Once the application is complete and has been accepted, the council will either:
- Refer the matter to a Licensing Sub-Committee for determination (applies for new applications) or where there are concerns from officers (in the case of renewal applications).
  - In the case of renewal applications where there are no concerns, determine to grant the consent as applied for and attach conditions.
  - Refer the matter to the Service Lead - Environmental Health and Community Safety in consultation with the Chair of Licensing Committee.

An example of the procedure to be followed by the sub-committee to determine applications is set out in Section 19 Licensing Sub-Committee Procedure. Changes to this procedure will be notified in advance to the applicant.

### **8.2 Length of Consent / Licence**

8.2.1 Street trading consents will normally be issued for a period of one year, but new consents may be issued for a three-month trial period to determine if necessary, the viability and impact of trading. Consents for shorter periods may be issued on request but subject to the payment of the appropriate fee determined by the Council.

8.2.2 Consents will be issued for seven days per week unless there are limiting factors on the use of a pitch on particular days. The permissions granted will identify the permitted days and times of trade.

### **8.3 Fees**

8.3.1 Fees for consents must be paid in full in advance. In the case of renewals, payments must be at the time of renewal.

8.3.2 Failure to provide payments as above will result in the permission not being renewed or being revoked. This does not apply when a direct debit arrangement has been agreed between the Council and the consent holder.

### **8.4 Reallocation of Pitches**

8.4.1 Where a consent has expired or has been revoked the pitch will be awarded to the first applicant that applies to trade on that pitch, no waiting lists will be maintained.

### **8.5 Age**

8.5.1 A consent cannot be issued to a person under the age of 18 years. An application may be refused if the applicant is unsuitable to hold the consent/licence by reason of having been convicted of an offence or for any other reason.

### **8.6 Castle Street**

8.6.1 Castle Street has a limited number of pitches for street trading and if more than one application is received by the Council for one pitch the procedure set out in Section 19 relating to multiple applications shall apply.

### **8.7 Variations**

8.7.1 Where a Consent holder wishes to vary an existing Consent a new application for consent will be required. Minor variations to street trading consents may be considered and approved by the Principal Licensing Officer in consultation with the Chair of Licensing Committee. *An example of a minor variation would be for example a change to the menu of a food trader.*

## **9 Planning Permission**

- 9.1 If a consent is applied for, the onus is on the applicant to obtain both planning permission and permission to trade from the landowner, when necessary, prior to making an application for street trading consent. It is not the responsibility of the Council to investigate and obtain this information.

## **10 Licensing Act 2003**

- 10.1 In addition to the requirement of having a street trading permission, applicants who sell hot food or hot drinks between 23.00 pm and 05.00 will need a premises licence under the Licensing Act 2003. The Licensing Section is able to provide advice as to the application process.
- 10.2 For premises that seek to trade only between the hours of 23.00 and 05.00 consent will still be required in addition to the Licensing Act licence.

## **11 Fee Structure**

- 11.1 The Service Lead – Environmental Health and Community Safety will arrange for the setting of street trading fees through the Council and will annually review the fee structure.

## **12 Applicants and Assistants**

- 12.1 The Council will issue an identity badge to the person applying for the consent and will require the applicant to identify any person that is to work under their permission.
- 12.2 The applicant will provide passport size and quality photographs of themselves following the grant of the consent.
- 12.3 All applicants will ensure that the full names addresses and dates of birth plus photographs of any and every person that will or may be used under the authority of the consent is submitted following the grant of the consent.
- 12.4 No person will be permitted to work under the permission of the consent without holding an identity badge issued by this Council at all times they are working.

When submitting an application, the applicant will need to pay the appropriate sum in full. These are set out in the list of fees and charges and can be found

on the Council website. The fees will be reviewed annually and updated accordingly as of the first week in April each year.

## 13 Conditions and Enforcement

- 13.1 Standard conditions may be attached to each street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.
- 13.2 The Service Lead – Environmental Health and Community Safety may review the conditions set out in Section 15 and may add to, delete or amend the conditions as necessary.
- 13.3 The Service Lead – Environmental Health and Community Safety may in consultation with the Chair of Licensing revoke a street trading consent at any time.
- 13.4 Specific conditions may also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.
- 13.5 Failure to comply with conditions, non-payment of fees or non-attendance at the site without good reason may lead to revocation or non-renewal of a consent.
- 13.6 Persons trading without a street trading permission and who are not exempt (see 3.1 above for examples) will be the subject of enforcement action. This will include any person who holds a certificate granted under the Pedlar's Act 1871, but who fails to operate in accordance with the Act.
- 13.7 The issue of absent traders will be addressed by conditions upon the licence or the consent, for example conditions which:
- require personal attendance of the holder without the option for someone else to run the business on their behalf;
  - require the holder to provide notification of their nominated assistant;
  - require the holder to provide notice of non-attendance to the Service Lead – Environmental Health and Community Safety (not required for periods of less than 20 working days for Annual leave);
  - allow the Service Lead – Environmental Health and Community Safety to revoke the consent after 20 working days non-attendance where no notification of absence has been submitted.

## 14 General

- 14.1 This policy will be the subject of periodic monitoring and review and will be applied in a manner which is consistent with the Council's equalities and diversity policies.

## **15 Pool of conditions that may be imposed upon a consent to street trade**

### **15.1 Definitions**

- 15.1.1 "The Council" means Exeter City Council.
- 15.1.2 "You" means the holder of the consent to trade.
- 15.1.3 "Your Assistant" means any person or persons who assist the holder of a consent to trade whilst trading under that consent and who has been notified to and has been issued with an identity badge by the Council.
- 15.1.4 "New Psychoactive Substances" means Psychoactive drugs which are not prohibited by the United Nations Drug Conventions but which may pose a public health threat comparable to that posed by substances listed in these conventions.

### **15.2 Legal Note attached to all Consents**

- 15.2.1 PLEASE NOTE: Failure to comply with these conditions may result in enforcement action, leading to this street trading consent being revoked or an application to renew being refused.
- 15.2.2 The council reserve the right to amend these standard conditions at any time.
- 15.2.3 The Council may attach any further reasonable conditions to this consent which it appears appropriate to meet particular circumstances.
- 15.2.4 This consent and any associated documents must be surrendered to the Council if the consent holder wishes to cease trading. Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent.
- 15.2.5 In addition to these conditions, the Council may also impose conditions which are specific to individual consents to trade.

### **15.3 General Conditions**

- 15.3.1 The consent relates to the trader named and is not transferable.
- 15.3.2 A copy of the consent must be displayed prominently on the unit at the street trading site and the trader or their employees shall produce it whenever required by any Police Officer, Licensing Officer or other person authorised by the Council.

- 15.3.3 Where a consent holder is operating under both consent and provisions of the Licensing Act 2003, they will ensure both Authorisations are displayed.
- 15.3.4 The consent holder shall not trade outside the time and days permitted by the consent and trading shall only take place from the agreed specified trading unit.
- 15.3.5 Unless a “city wide” consent is applied for and granted, the consent holder may only site the permitted structure at the approved location.
- 15.3.6 The consent holder shall trade in compliance with the consent and must not digress e.g. affixing barriers or advertising etc. that has not been specified in the consent.
- 15.3.7 The goods, articles or things, the sale of which is authorised by this consent, are strictly limited to those specified, unless written approval to amend has been given by Exeter City Council.
- 15.3.8 The trading unit must be of the size and design approved by the Council and/or specified in the consent.
- 15.3.9 Written approval to change the specified sales unit must be obtained from Exeter City Council.
- 15.3.10 The consent holder shall not at any time lend, or purport to transfer or assign this licence to, or permit it to be used, by any other person except that he/she may employ any other approved person to assist him/her in trading without a further consent being required.
- 15.3.11 Exeter City Council must be notified of all employees/persons authorised to assist prior to them working.
- 15.3.12 All consent holders and their employees shall register their names and current addresses with Exeter City Council’s Licensing Team in accordance with the requirements outlined in this policy and give written notice to the Council immediately of any changes in such details.
- 15.3.13 All consent holders shall ensure that all their employees comply fully with the Conditions.
- 15.3.14 Consent holders are under a duty to bring the Conditions to the attention of their employees.
- 15.3.15 The consent holder may employ another person to ‘assist’ with trading but shall be expected to be in attendance at the site regularly in order to remain in control of trading for the majority of trading hours.
- 15.3.16 The consent may be revoked by the council at any time for non-compliance with conditions or any other reasonable cause or surrendered by the consent holder at any time.
- 15.3.17 Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.

- 15.3.18 The consent holder shall always maintain a valid third-party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.
- 15.3.19 The consent holder and any employees must notify the Council in writing within five working days of any change of address, any changes, police investigations and/or convictions or cautions which arise during the terms of the consent.
- 15.3.20 The Council reserves the right to suspend a consent with immediate effect pending a review of the consent by the Service Lead – Environmental Health and Community Safety or another senior authorised officer should any criminal matter serious enough that there are concerns for public safety.
- 15.3.21 The fees for the consent must be paid on or before the due date for payment as specified by the Council and by one of the methods stipulated by the Council on the invoice.
- 15.3.22 Should the trader wish to surrender their consent, they must do so formally in writing, returning their consent. Failure to do so will result in consent fees remaining payable.

#### **15.4 General Conduct**

- 15.4.1 The consent holder must not sell or leave any articles/goods outside of the agreed trading dimensions of the trading unit. No goods shall be hung from canopies or be placed on the ground.
- 15.4.2 The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any highway or public place.
- 15.4.3 The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.
- 15.4.4 The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.
- 15.4.5 The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity.
- 15.4.6 The consent holder shall be clean in their appearance and shall not exhibit insobriety, incivility, improper language or other misconduct.
- 15.4.7 Serious misconduct will result in an immediate suspension of the consent to enable a review to take place by the Service Lead – Environmental Health and Community Safety or other senior authorised officer potentially leading to revocation.
- 15.4.8 The consent holder shall comply with the reasonable requests of a duly authorised officer of the Council or a police officer to take such action as is considered necessary to abate any nuisance or obstruction.
- 15.4.9 Where more than one mobile ice cream trader has been granted a mobile street trading consent to trade in the same street, then any such ice cream trader on

entering a street where an ice cream trader is already trading shall immediately leave that street without trading in it.

15.4.10 No animal shall be present on any stall or vehicle.

## **15.5 Protection of Young People**

15.5.1 Trading will not be permitted within 250 metres of any school or educational institution that has under 18's from Monday to Friday 08:00 until 16:00 hrs during term times. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).

15.5.2 No person under the age of 13 years shall be employed in street trading. Those that are under the age of 18 years shall be supervised at all times by an adult over the age of 18 years.

## **15.6 Noise Nuisance**

15.6.1 The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract vendors to the stall/vehicle/trailer by sound.

15.6.2 Horns, chimes or instruments of a similar description shall not be sounded:-

- For longer than 12 seconds at a time
- More 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 withing 250 metre of schools, hospitals and places of worship
- More than once every 2 hours in the same length of street
- Before 09:00 hrs and after 19:00 hrs

15.6.3 Any vehicle/unit/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of the Council and as stipulated by the consent and design brief. A high standard of presentation and appearance will be expected to be maintained.

15.6.4 Any replacement or new units must be approved by the Council prior to being purchased or its building being commissioned.

15.6.5 The unit will comply in all respects with any legal requirements relating to the activity proposed.

- 15.6.6 The unit shall be of a high-quality design, with robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.
- 15.6.7 The quality and appearance of the unit must be maintained at the standard approved in the original consent.
- 15.6.8 The unit will be of a mobile type and must be removed daily after trading has ceased unless authorised by the Division. It must not cause damage to the street or endanger persons using the street.

## **15.7 Health & Safety**

- 15.7.1 The consent holder and their employees shall comply with all statutory requirements and statutory instruments including without limitation the Control of Substances Hazardous to Health Regulations 2002 and the Health and Safety at Work Act 1974 in relation to the sale of goods or provision of services from their unit.
- 15.7.2 The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.
- 15.7.3 Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.
- 15.7.4 Electrical safety and gas safety checks should be in date at all times and certification provided to an authorised officer upon request.
- 15.7.5 The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.
- 15.7.6 The consent holder shall be responsible for any damage to the highway resulting from the trading activity.
- 15.7.7 The consent holder shall not keep or store explosive materials and inflammable liquids on their trading units, other than gas cylinders in compliance with current legislation.
- 15.7.8 The consent holder shall comply with all Traffic Regulation Orders and ensure that vehicles used in respect of their stalls are moved from the trading site immediately they are unloaded or at the request of any authorised Officer.

## **15.8 Advertisements / Signage**

- 15.8.1 Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards. 46. Advertising should only relate to goods offered for sale on that pitch.
- 15.8.2 Illumination of advertisements on the outside of the unit not permitted.
- 15.8.3 The use of 'A' boards and any other display board/structures are prohibited.

## **15.9 Waste Management**

- 15.9.1 Public highways shall be maintained in a clean condition during each day's trading and all rubbish and waste paper accumulated throughout the daily operation of this consent shall be removed at the end of each day's trading.
- 15.9.2 Suitable refuse facilities shall be provided to encourage customers to dispose of rubbish and waste paper so as to avoid causing a nuisance by the littering of the highway and private land bordering the approved location. All litter generated by the trading and discarded by customers up to 100 metres of the stall, shall be cleared by the consent holder at regular intervals throughout the day.
- 15.9.3 All street traders will be required to have arrangements in place for recycling and dealing with refuse. This will be required to be evidenced through their trade waste transfer note.
- 15.9.4 The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.
- 15.9.5 The consent holder shall have in place a trade waste contract and valid trade waste transfer note, which should be available for inspection by an authorised Council or Police Office upon request.

## **15.10 Additional Requirements for Food Operations**

- 15.10.1 The consent holder shall ensure full compliance with relevant food safety and health and safety legislation. Compliance with food safety legislation will be indicated by a food hygiene rating of 3, 4 or 5 as issued by Environmental Health.
- 15.10.2 The hygiene rating must be displayed prominently on the stall, trailer, or vehicle.
- 15.10.3 The consent holder must ensure that staff who prepare open high-risk foods, or handle food and have a supervisory role, have training to the level equivalent to the Chartered Institute of Environmental Health (CIEH) Level 2 Award in Food Safety in Catering within three months of the consent being issued.

# 16 Prohibited and Licensed Streets

## 16.1 Prohibited Streets

16.1.1 Trading is not allowed on prohibited streets at any time.

- Alphington Road
- Bailey Street
- Bampfylde Lane
- Bampfylde Street
- Barnfield Road (from junction with Southernhay East to junction with Western Way)
- Bartholomew Street
- Bedford Street
- Belgrave Road
- Blue Boy Lane
- Blue Boy Square
- Broadgate
- Bude Street
- Castle Street (northern part between Bailey Street and the castle)
- Cathedral Yard and Cathedral Close
- Catherine Square
- Catherine Street
- Chapel Street
- Cheeke Street
- Commercial Road
- Cricklepit Street
- Dix's Field
- Eastgate
- Egypt Lane
- Ewings Lane
- Fore Street (part only)
- Fore Street Arcade
- Gandy Street

- George Street
- Goldsmith Street
- Guinea Street
- Heavitree Road
- High Street
- Kestrel Way
- Little Queen Street
- Longbrook Street
- Lower Combe Street
- Magdalen Street
- Martins Lane
- Mary Archers Street
- Matford Park Road
- Moor Lane
- Musgrave Row
- New Bridge Street
- New North Road
- North Street
- Northernhay Place (between Bailey Street and High Street)
- Okehampton Street
- Okehampton Place
- Palace Gate
- Paris Street
- Paul Street
- Pinhoe Road
- Princesshay Arcade
- Princesshay Lane
- Princesshay Square
- Red Lion Lane
- Roman Walk
- Quay Hill
- Quay Lane
- Queen Street
- Sidwell Street (part only)

- South Street (part only)
- Southernhay East
- Southernhay West
- Stephens Bow
- Swan Yard
- Tabernacle Court
- Topsham Road
- Verney Street
- Waterbeer Street
- West Street
- Western Way

## 16.2 Licensed Streets

16.2.1 You will not be allowed to trade on a Licence Street without a licence granted by Exeter City Council Markets and Halls Department. Please call 01392 665480 or email [markets@exeter.gov.uk](mailto:markets@exeter.gov.uk) for further information.

- Fore Street (part only on southern side between South Street and Market Street)
- South Street (part only)
- Sidwell Street (part only on southern side between Paris Street and Cheeke Street)

## 17 List of Licensed Parks and Open Spaces

17.1.1 You will not be allowed to trade on a licensed park without a licence granted by Exeter City Council Public and Greens Spaces Team. This team deal with all applications in the following parks.

- Northernhay Gardens
- Rougement Gardens
- Belmont Park
- Bull Meadow Park
- Bury Meadow Park

- Heavitree Pleasure Ground
- Cowick Barton Playing Fields
- St Thomas Pleasure Ground
- Topsham Recreation Ground
- Flowerpot Fields
- Bromhams Playing Field
- Riverside Valley Park
- Ludwell Valley Park
- Barley Valley Park
- Mincinglake Valley Park

All enquiries for trading in parks should be sent to [commercialestates@exeter.gov.uk](mailto:commercialestates@exeter.gov.uk)

## 18      **Appendix – Assessment Framework**

- 18.1.1      The assessment criteria within this assessment framework are described more fully in the Policy and the Policy will be used in conjunction with the information below to guide the consideration of specific criteria.
- 18.1.2      This assessment framework will be used for both applications and renewals except for a renewal occurring within 12 months of the grant of the original application. In this case renewal will normally occur for one further 12-month period if the original terms of the consent have been adhered to and there are no other circumstances that make the original application no longer appropriate e.g. changes in road layout. This will occur without the need for a renewal form to be completed.
- 18.1.3      A scale of 0 to 5 will be used with 0 being poor evidence and 5 being excellent evidence of meeting the assessment criteria. The final score will be made by the Licensing Team after analysing the information put forward by the consultees.

#### 18.1.4 Assessment Framework Matrix

| Assessment criteria                 | Specific factors linked to criteria                                                                  | Score | Comments (Additional guidance in italics)                                                                                                                                                                                                     |
|-------------------------------------|------------------------------------------------------------------------------------------------------|-------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Public Safety                    | Adverse comment made by Highway Authority or any other relevant consultee in terms of location       |       | <i>Any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving.</i><br><br><i>Any loss of amenity caused by noise, traffic, smell etc. Existing traffic orders e.g. waiting restrictions</i> |
| 2. Prevention of crime and disorder | Adverse comment made by Police or any other relevant consultee in terms of increased risk            |       |                                                                                                                                                                                                                                               |
| 3. Prevention of nuisance           | Consideration of proposed activity and how that may impact on neighbouring residences and businesses |       |                                                                                                                                                                                                                                               |

|                                |                                                                                                                                                                                                                                                                                                                                                |  |                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4. Suitability of applicant    | <p>Any adverse unspent convictions</p> <p>Previous history of reliable payment of fees</p> <p>Previous history of compliance with any street trading consent</p>                                                                                                                                                                               |  | <p><i>A poor payment history or a history of noncompliance for any consent previously held with Exeter City Council is likely result in a low score.</i></p> <p><i>If the applicant is in debt in relation to a street trading consent with Exeter City Council at the time of renewal/new application, then it is likely that the renewal/application will not be granted.</i></p>     |
| 5. Suitability of trading unit | <p>Compliance with design brief (applicable for consent over 12 weeks in any financial year)</p> <p>Appropriate size for proposed location</p> <p>High quality design</p> <p>Agreed removal of unit after trading</p> <p>All goods, ancillary equipment and stock kept within unit</p> <p>Emissions criteria of vehicle</p> <p>MOT history</p> |  | <p><i>Where the unit does not comply with the design brief the application is likely to be refused unless the application is for a food unit where some modifications may be considered for technical operation.</i></p> <p><i>The design brief does not apply to occasional consents or annual consent for a duration less than 12 weeks but should still be used as guidance.</i></p> |

|                        |                                                                                                                                                                                                                                                                                             |  |                                                                                                                                                                                                                                             |
|------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6. Power / Fuel source | <p>All units to be compatible with being powered by electricity</p> <p>If generator is proposed for use outside city centre evidence must be provided that no alternative power supply is available and cannot be made available</p> <p>Electrical and gas safety certification in date</p> |  |                                                                                                                                                                                                                                             |
| 7. Advertising         | <p>Advertising only relates to goods on sale</p> <p>Advertising is not illuminated and is contained in unit</p> <p>No "A" Boards etc.</p>                                                                                                                                                   |  | <p><i>Any barriers proposed should not constitute a nuisance or danger under the Highways Act 1980, would not impede the free flow of pedestrians or traffic and would not restrict the pavement so as to inhibit social distancing</i></p> |
| 8. Barriers            | <p>These are necessary and appropriate</p>                                                                                                                                                                                                                                                  |  |                                                                                                                                                                                                                                             |

|                       |                                                                                                                                                                                                                                                                                                                                                                                   |  |  |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| 9. Hours of Trading   | <p>Trading hours promote:</p> <ul style="list-style-type: none"> <li>• Preventing crime, disorder and antisocial behaviour.</li> <li>• Avoiding disturbance due to noise, smell or other matter.</li> <li>• Protecting public safety.</li> <li>• Preventing obstruction of the highway.</li> <li>• Having regard to location and operating hours of business activity.</li> </ul> |  |  |
| 10. Cumulative Impact | <p>Except for Castle Street the trading unit is situated 30m distant from any other trading unit</p>                                                                                                                                                                                                                                                                              |  |  |

|                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |  |  |
|---------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| 11. Goods for sale  | <ul style="list-style-type: none"> <li>• Quality of goods</li> <li>• Innovative products</li> <li>• No single use plastics</li> <li>• Plant based and other dietary options</li> <li>• Goods do not cause nuisance</li> <li>• Goods do not contribute to crime and disorder</li> <li>• Goods do not have a negative health impact</li> </ul>                                                                                                                                                                                                                                                  |  |  |
| 12. Site Assessment | <ul style="list-style-type: none"> <li>• Any potential obstruction of pedestrian, vehicular or disabled access.</li> <li>• Any obstruction to the safe passage of pedestrians and wheelchair users.</li> <li>• Any nuisance/interruption to pedestrian flow or social distancing</li> <li>• The safe access and egress of customers and staff from the pitch and immediate vicinity.</li> <li>• Obstruction of entry to or sight lines to the entrance of retail premises or obstruction of display windows of retail premises.</li> <li>• Is permission of landowner is required.</li> </ul> |  |  |

|                            |  |
|----------------------------|--|
| 13. Additional Information |  |
|----------------------------|--|

## 19 Licensing Sub-Committee Procedure

- 19.1 The Licensing Sub-Committee is made up of 2 to 3 elected City Councillors that sit on the Licensing Committee. A Licensing Officer, Legal Advisor and Democratic Services Officer shall also attend the hearing.
- 19.2 An example of procedure followed by the Licensing Sub-Committee is set out below;

### Single Application Procedure

1. Introduction - all the parties attending the meeting are introduced giving their name a reason for attending.
2. The procedure for the sub-committee is explained together with any relevant law and policy considerations.
3. The Licensing Officer reads out the report.
4. Questions of clarification in respect of the report may be asked of the Licensing Officer.
5. The Applicant makes submissions in support of the application.
6. Questions of the applicant from Cllrs and Officers.
7. The Applicant and Licensing Officers leave the room to enable the sub-committee to determine the application. The Applicant may be called back into the room in during the deliberation process to answer additional questions if they arise.
8. A decision is given verbally to the Applicant.

### Multiple Applications Procedure

Where more than one application is made for a street trading consent at the same site the following procedure is followed.

With all applicants in the room.

1. Introduction - all the parties attending the meeting are introduced giving their name a reason for attending.
2. The procedure for the sub-committee is explained together with any relevant law and policy consideration.
3. Each application is then considered individually in turn by the sub-committee in private.
  - a. The licensing officer reads out the report to the licensing sub-committee.
  - b. Questions of clarification in respect of the report may be asked of the Licensing Officer.
  - c. The Applicant makes submissions in support of the application.
  - d. Questions of the applicant from Cllrs and Officers.
  - e. The Applicant shall leave the room and the next application shall be considered.

4. Once all the applications have been considered, the licensing sub-committee will determine which application if any will be granted consent. Applicant(s) may be called in during the deliberation process to answer additional questions if they arise.
5. Applicants will then be called in individually for the decision to be given verbally by the Licensing Sub-Committee.