



# Street Trading Policy

**November 2023**

**Review:**

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# 1. Introduction

Rugby Borough Council is the Licensing Authority responsible for considering applications for a range of activities that require a street trading consent under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Street trading is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street. 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 will also fall within the scope of this policy. The definition does not include buildings themselves or commercial premises. Streets located on private land are included within the scope of this policy.

The Licensing Authority aims to avoid duplication with other statutory provisions and works in partnership with other enforcement agencies. Our policy seeks to defend and where possible improve the character, ambience and safety of the Borough's trading environments. It highlights the requirement and standards expected of street traders working and operating within the Borough.

This Policy will guide the Council when it considers applications under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Policy operates in line with the Street Trading Order which sets out consent streets, license streets and prohibited streets within the Borough of Rugby.

# 2. Definitions

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

'Authorised Officer' means any authorised officer of Rugby Borough Council.

'Consent Street' means a street in which street trading is prohibited without a consent from Rugby Borough Council.

'Licence Street' means a street in which street trading is prohibited without a licence from Rugby Borough 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 'Borough Council' means Rugby Borough Council.

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

'Roundsman' A roundsman is a person who followed the round of his/her customers to take orders and deliver the pre-ordered goods of these customers.

'News vendor' is a reference to trading where:

- The only articles sold or exposed or offered for sale are newspapers or periodicals;
- And they are sold or exposed or offered for sale without a stall or receptacle for them or with a stall or receptacle for them which does not:
  - exceed one metre in length or width or two metres in height;
  - occupy a ground area exceeding 0.25 square metres; or
  - stand on the carriageway of a street.

### **3. Objectives of this Policy**

The objectives of this policy are:

- a) Recognise the important service that is provided by street traders and the contribution they make to the local economy.
- b) Ensure the safety of customers and other persons using the locations where street traders are located.
- c) Balance the needs of the wider community, local community and street traders against the needs of those who may be adversely affected by street trading activities.
- d) Provide consistency and transparency in the way in which the Council deals with street trading.
- e) Ensures fair trading between mobile traders in the Borough.

### **4. Street Trading within the Rugby Borough**

The powers to control street trading within the Council's area are contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, 'the Act', which has been adopted by the Council. Under Schedule 4 of the Act the Council can manage street trading by designating streets as 'consent streets', or 'prohibited streets'. The Council has adopted powers in the Local Government (Miscellaneous Provisions) Act 1982 to regulate street trading through a Street Trading Consent scheme. This policy supersedes, and

takes precedence over, any aforementioned policies.

Attached to this policy is a map of Rugby Town Centre highlighting Licence Streets. Any location of vendors within the Town Centre will be agreed after consulting the Licensing Team and all other responsible authorities.

If the pitch is on private 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.

This policy does not apply to:

- Small scale trading from residential properties (for example, garage sales, garden produce, eggs from own private livestock).
- Sale of articles by a charity. Charity sales and collections in the street are regulated under Police, Factories, & c. (Miscellaneous Provisions) Act 1916 by the Council. Charities should contact the Council Licensing Team to apply for a permit.

Street trading consents are issued by Rugby Borough Council. The consents come under the following classifications:

### **Annual Street Trading**

This is a consent that lasts 12 months and enables the trader to trade up to 7 days a week at a particular pitch within the Borough. Temporary trading is preferred within the Town Centre locations. Annual consents are limited to certain locations in the town.

### **Temporary Street Trading**

This type of consent is for short periods of time for a designated pitch in the Borough. No more than 30 consents will be issued per pitch, per year. A temporary consent/licence may be granted for up to 7 days for activities such as street buskers selling merchandise, pop-up stalls etc.

### **Special Event Street Trading**

An organiser of an event will apply to the Council requesting their event to be considered a 'special event' where street trading is taking part at the event and there are more 10 or more consents that require issuing.

The Act in paragraph 1(2) of schedule 4 states that the following types of trade are not street trading:

- A pedlar trading under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;
- Anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order, unless on a public highway;
- Trading in a trunk road picnic area provided by the secretary of state under section 112 of the Highways Act 1980.
- Trading as a news vendor.

- Trading carried on at a premises used as a petrol station.
- Trading carried on at premises used as a shop or in a street adjoining a shop where the trading carried on is part of the business of the shop.
- Selling things, or offering or exposing them for sale as a roundsman.

### **Static Trading**

A static street trading consent/licence is issued for a trader who remains in one place during trading and who is not positioned on a Prohibited Street in the Borough. This would include food vans and stalls.

### **Mobile Trading**

Mobile consents/licences are issued to those who want to trade from numerous locations for a short period of time around the Borough. In order to meet the criteria for a mobile consent/licence, a trader generally must not remain in one place for more than 30 minutes at a time and not return to the same street within 2 hours. A 'particular length of street/site' should normally be interpreted as being a length of street up to 500 metres long.

### **Exemption for Individual Charity Stalls with a Street Collection Permit**

Individual charity stalls in a street can apply for a street collection permit which allows collecting money for a charitable cause (including through the sale of items). If a street collection permit is granted there is no requirement for a street trading consent.

### **Indoor Market Areas**

Indoor market areas do not constitute street trading as they can be classed as shops which are exempt from street trading legislation.

### **Buskers**

Buskers do not normally require a street trading consent/licence and accordingly are not within the scope of this Policy. However, a street trading consent/licence may be required for those who wish to sell items associated with their performance, for example, CD's or merchandise.

### **Selling a vehicle on the street**

A street trading consent/licence is required where vehicles which are advertised for sale are placed on the highway/street. This includes any vehicle displaying signs that name an individual or business; or displays notices/signs intended to sell the vehicle.

## **5. Why do we have Street Trading?**

Street trading supports the Borough Council's priority to encourage a vibrant and prosperous economy. It provides valuable employment opportunities for local people as well as a seedbed of entrepreneurship, allowing new entrants to test their business skills and ideas in an environment which has a low start-up costs, minimal overheads and existing customer footfall.

Goods on sale in the street provide convenient access to hot and cold drinks, fresh fruit

and vegetables, household goods and other services for local communities, those travelling to work, and the visitors to Rugby Borough. The designation of all streets within Rugby Borough <sup>1</sup> as consent streets has taken place to ensure:

- Public safety
- Prevention of crime and disorder
- Prevention of public nuisance

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

The following criteria apply to all types of street trading:

### **Public safety**

- The proposed location of the activity should not present a significant risk to the public in terms of highway safety and obstruction.
- Some locations may be considered unsuitable or may require an officer visit before a consent can be issued.
- 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.

### **Prevention of crime and disorder**

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

### **Prevention of nuisance**

- Activities at the pitch must not cause a nuisance or annoyance to neighbouring properties, this includes businesses. Controls must be in place to ensure that nuisance from noise, light, refuse, vermin, fumes, obstruction, littering, and smells does not occur.
- If at any time we receive complaints the nuisance is occurring, we are duty bound to investigate and, if complaints are found to be justified, we may decide to withdraw the consent.

### **Suitability of the applicant**

- Rugby Borough Council will consider any unspent convictions the applicant may have.
- The Council will reserve the right to request a basic disclosure check where the Council deems there is a risk to children and/ or vulnerable people. Examples of circumstances where basic disclosure may be required are ice cream sellers.
- When determining whether an applicant is suitable, we will look at the reliability of the applicant in paying fees and charges based on previous history.

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

### **Suitability of the trading stall**

- The vehicle, trailer or stall (now referred to as a 'stall' within this policy) to be used should be of a high-quality design, build, add to the quality of the street scene and be adequate for the purpose intended.
- The stall must meet with all the consent conditions.
- The stall may be inspected by an officer from Rugby Borough Council prior to consent being issued.
- Only stalls approved by an authorised officer of Rugby Borough Council can be used.
- The stall will comply in all respects with any legal requirements relating to the activity proposed.
- The stall must be removed each evening, unless it is permitted by the consent.
- Colours should be chosen which are suitable for the surroundings.
- The stall shall be of such a design that it facilitates timely and efficient removal.
- The stall shall be of robust construction and materials that the daily removal will not result in the rapid deterioration in appearance of the unit.
- Stalls and ancillary equipment and stock must be contained within the pitch.
- Prior to any consent being issued or in cases where a consented trader wished to change the stall, prior approval must always be sought from the Council. Proposals must include all display equipment and any attached, projecting or free-standing elements.
- The design and appearance of the stall must be agreed by an officer from the Council before consent will be granted.

### **Generators**

- Generators shall be positioned so as to reduce the length of cabling required to an absolute minimum and to minimise nuisance to local residents or businesses from noise or fumes. Where required, silenced generators or acoustically insulated generators should be sourced.

### **Advertising**

- Advertising should only relate to goods offered for sale on that pitch.
- Third party advertisements are prohibited.
- It is not permitted to illuminate any advertisement on the outside of the stall kiosk without express consent of the Council.
- The use of 'A' boards is prohibited for certain sites (for example, Rugby town centre).

### **Barriers**

- Barriers will only be allowed on a consent pitch where they have been specifically included within the stall's approval.

### **Hours of trading**

Trading hours will be set on the basis of promoting the following purposes:

- 1) Preventing crime, disorder and antisocial behaviour.
- 2) Avoiding nuisance.



- 3) Protecting public safety.
- 4) Preventing obstruction of the highway.
- 5) Having regard to location and operating hours of business activity.

### **Selling the right goods**

The Council will not normally grant a consent for the sale of goods which conflict with those provided by nearby shops. If a street trader has used a location regularly and a shop selling similar goods begins trading in the area, the Council may choose to continue to grant consents to that street trader. The types of goods allowed to be sold will be considered on a pitch-by-pitch basis and specified on the consent.

Anyone wanting to have a stall must clearly state the nature of the proposed goods. The goods must not:

- cause a nuisance or annoyance to nearby properties/ people, including cooking smells, smoke, noise, litter and additional cleansing requirements for the Council; or
- cause or contribute to crime and disorder – including the selling of fake or counterfeit goods.

### **Site assessment**

In determining whether street trading in a particular area is appropriate 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 etc;
- existing traffic orders e.g. waiting restrictions;
- any potential obstruction of pedestrian, vehicular or disabled access;
- any obstruction to the safe passage of pedestrians and wheelchair users; and
- the safe access and egress of customers and staff from the pitch and immediate vicinity.

### **Other criteria**

- 1) The consent holder will at no time have the exclusive right to trade from the street or any part of it.
- 2) Street trading can take place in the area outlined in the consent and on days and hours detailed in the consent.
- 3) The consent holder may only trade in goods that are outlined on the consent.
- 4) A copy of the consent shall be made immediately available upon request to an authorised officer of the Council or the police.
- 5) Auction sales shall not be permitted as part of the consent.
- 6) All street trading units will be equipped with safe and adequate lighting for the operation during the hours of darkness.

Failure to comply with any of these requirements may result in refusal to issue consents or withdrawal of consent.

## 7. Annual Street Trading

An annual consent can last up to 12 months. This consent enables the consent holder to trade up to 7 days a week at a particular pitch within the Borough. Annual street trading consents run from the 1<sup>st</sup> April until 31<sup>st</sup> March the following year. Consents can be applied for part way through the year, but they will only run until 31<sup>st</sup> March.

### Filling vacancies and allocation of pitches

The Council will keep a waiting list for annual pitches that are currently occupied. Traders can express an interest in a pitch. The details will be held on a list. The list will be kept in chronological order. Traders will be contacted in chronological order and the first suitable trader will be invited to make an application once a pitch becomes available.

If a trader makes an application, but is unable to trade when a pitch becomes available, the pitch will be offered to the next appropriate trader on the list.

Where there is no one on the on the waiting list for a pitch the Council will from time to time advertise the vacancy for the annual street trading pitch on the Council's website and select the most suitable applicant from those applications.

### Surrendering an annual consent

Where the trader at an annual pitch wishes to surrender their consent they must give the Council 21 days written notice. Notice must be sent to [Licensing@rugby.gov.uk](mailto:Licensing@rugby.gov.uk)

### Payment of fees for annual pitches

Annual fees are published on Rugby Borough Council's website. The consent will run from the 1<sup>st</sup> April until 31<sup>st</sup> March the following year. If an applicant makes an application during this period the consent for an annual pitch will cease on 31<sup>st</sup> March in the year that it was applied.

### Annual consent renewal

Consent holders will be reminded that their consent is due to expire at least 28 days before the expiry date. This is done to assist the trader; the Council accepts no liability if you do not receive the reminder. It is the trader's responsibility to ensure that they have the correct consent and to ensure that they submit their application prior to the expiry of their consent.

Consent holders may submit their application to renew up to one month in advance of their current annual consent running out. Applications for renewal must be received 14 days before the consent is due for renewal. **Failure to do so may result in a renewal not being granted or a delay in you being able to trade.**

## 8. Temporary Street Trading

Temporary street trading pitches can be in any appropriate location on a consent street. Each application will be assessed on its own merits.

### **Deadline for applications**

New application for a pitch that has not been used before by this trader or a new type of stall is proposed	- 10 working days
Application where the trader has traded at the pitch before with the same stall or is part of a special event	- 5 working days

### **Payment of fees for temporary pitches**

Current fees are set out on Rugby Borough Council's website. For temporary pitches the applicant will need to pay when booking.

## **9. Roaming/Mobile Street Trading inc. Ice Cream Vans**

Consents for roaming street trading will be granted on condition that they allow no more than 30 minutes trading in any 500m part of any one street on any one day and don't return within 2 hours. This reflects the peripatetic nature of their operation. Trading in one place for longer than this will require a temporary or annual street trading consent/licence. The trader must clearly identify the times and dates they wish to trade and in which locations. It is up to the consent holder to ensure that they comply with laws relating to the highway. The Council will generally restrict or amend your consent where the type of goods conflict with other goods for sale in the vicinity. Consents can run for up to 12 months.

Applications must be made at least 10 working days before the consent is due to start.

### **Payment of fees for roaming pitches**

Please see Rugby Borough Council's website for the current fee. Full payment must be made in advance of a consent being granted and in one transaction.

## **10. Special Event Street Trading**

### **Overview**

This Policy recognises that street trading may take place at various events throughout the Borough and aims to promote and support the organisers of events and encourage traders to attend. The Policy recognises that events take place for different reasons, from small scale events for charitable or community purposes to larger scale commercial ventures.

Community and charity events are important in terms of promoting local causes and participation in local matters. The Council should assist organisers of these types of events in order to encourage community engagement. It should also be recognised that commercial events have an importance to the Borough in terms of promoting tourism and

economic growth and that the Council should also assist organisers of commercial events.

It should be recognised that the Council does also have a regulatory role to protect the public and existing businesses at any event.

The decision as to whether an event falls within the non-commercial event or commercial event category rests with the Licensing Authority, with The Chief Officer of Regulation & Safety's decision being final. Event organisers are recommended to contact the Licensing Authority at the earliest opportunity in order to discuss what licences may be required for their event.

### **Definition**

A 'special event' is where there are 10 or more street trading consents to be issued, to the traders at that event, and where the event is organised by a single person/organisation. The organiser must meet certain criteria before an event will be considered a special event. The criteria are outlined in this policy.

Special events can make a significant contribution to the local economy and can attract many visitors and tourists into the Borough.

Once an event has been approved as a special event the organisers will invite applications to be made by street traders wanting to trade at the event. Consents will be issued by the Council to individual traders on successful application to the Council.

Where an application for a special event is made after street trading consents have already been issued for the same location, the street trading consents will be honoured and the special event organiser will be required to allow for the traders in the location and trading hours as set out in their consent.

### **Non-commercial markets, charity and community events**

Whilst the activity may be legally regarded as street trading, trading at charity or non-commercial community events (where the profits from individual stalls/units are donated to either a community-based organisation, an educational organisation or to a charity) will be exempt from the Council's Street Trading requirements, subject to the following conditions;

- a) All traders must be invited to trade at the event by the organisers, and;
- b) The profits from individual stalls/units are donated to a registered charity, community-based or educational organisation. This must be evidenced on request by the licensing team.

Such community and charitable events will normally be organised by a Town or Parish Council, Rugby Borough Council or by a recognised group or charity with aims of engaging with and providing support to the local community.

Any traders (such as traders selling food or refreshments) attending such events for solely

commercial gain may still be subject to the Street Trading policy.

### Commercial events, special events and non-established markets

Special/commercial events such as Christmas markets or continental street markets, and all other non-established markets (as defined on page 3 of this policy) require a street trading consent/licence. By written agreement from the organiser, the Council may issue one blanket street trading consent/licence to the person organising the event. This aims to promote events and encourage traders to attend. However in the absence of such an agreement, each individual trader will be required to apply.

If the organiser is to apply, the application must be accompanied by a list giving full details of each trader attending the event. This list must include;

- the name of the trader and trading business
- type of goods for sale
- confirmation that the organiser has ascertained that each trader has the appropriate food business registration if selling food or licence if selling alcohol/providing late night refreshment.

Once issued, a copy of the consent/licence must be provided to each trader by the event organiser and must be displayed by each individual stall holder during the event.

### Applying to be considered a special event Commercial events,

Applicants should complete the online special event organiser's application. All questions must be answered in full. Only fully completed applications can be considered.

Applicants wishing to serve and/or sell alcohol will need to apply for a Temporary Event Notice (TEN). A TEN must be sent to the licensing team (and the police) at least 10 working days in advance of a planned event.

### Deadline for applications

All events if there is an increased risk	A list of proposed traders and their proposed locations must be provided no later than <b>6 weeks</b> before the date of the event.	Any applications received within 10 working days of the event cannot guarantee to be processed.  Any changes received within 10 working days of the event cannot guarantee to be processed.
Events involving less than 20 traders	A list of proposed traders and their proposed locations must be provided no later than <b>10 working days</b> before the date of the event.  Applications must be received within 8 days of an event.	Any applications received after 8 working days before the event cannot guarantee to be processed.  Any changes received within 10 working days before the event cannot guarantee to be processed.

Applications should be made via the Council's on-line form and the required documentation uploaded as required.

We strongly recommend that all street trading organisers contact the licensing team whilst they are in the planning stages of their event. Applications may have restrictions put on them by the Council such as the number of certain type of trader e.g. food, or the number of total stalls that can be accommodated at the event.

### **Criteria to be met by event organisers**

- The event organiser and the event:  
When determining whether the special event application is authorised the Council will take into consideration the past experience the Council has of the event organiser, this will include compliance with conditions and policy, complaints and any other relevant matter. We will also consider how successful previous events have been in supporting to Council objective of having a vibrant and prosperous economy.
- Minimum of 10 street trading consents to be issued:  
To be considered a special event a minimum of 10 street trading consents must be issued to traders at this event. Having 9 or less traders can still be applied for, but will be considered temporary street trading.
- What makes an event 'special':  
The Council expects a 'Special Event' to benefit the Borough and support the Council's objective of having a vibrant and prosperous economy. In order to encourage more visitors and promote a greater visitor spend in our Borough the Council expects these special events to be more than a market. As well as street trading stalls we would expect the event to normally include some sort of entertainment, attraction or promotion to encourage visitors to the event and surrounding area. The amount expected will be proportionate to the size of the event and determined on a case by case basis. If the Council believes that this has not been done adequately the application may be refused.

Rugby Borough Council would like to attract a variety of events to the Borough and to ensure that the events are varied. Restrictions may be put in place to reflect this limiting the number and certain types of stalls e.g. the number of food and drink stalls at a garden festival.

- Event management plan:  
An Event Management Plan for the event must be provided to the Council well in advance of the event but no less than 6 months before the event.

It will be necessary for some event organisers to attend the Safety Advisory Group (SAG) to discuss the plans with the appropriate authorities.

The deadline for the submission of the Event Management Plan will be set by an Officer of the Council based on when the SAG is and other appropriate factors. Where the event organiser is attending the SAG a deadline for the final version of the EMP to be provided will be set by the SAG. The Event Management Plan must include:

- 1) Health and safety risk assessments for the event.
- 2) Traffic management details, including evidence that a road closure has

- been obtained (if appropriate).
- 3) Organiser insurance details compliant with this Policy.
  - 4) Fire safety provision.
  - 5) Details of medical, ambulance and first-aid management.
  - 6) Major incident planning (emergency planning).
  - 7) Structures, barriers, electrical installation and lighting (where appropriate).
  - 8) Details of sanitary facilities.
  - 9) Details of waste management, e.g. whether additional street cleansing is required.
  - 10) Consideration of the impact of noise and vibration.
  - 11) Protection of children and vulnerable adults at the event
  - 12) A plan and stall layout.
  - 13) Any other factor as prescribed by the SAG.

Failure to provide a satisfactory Event Management Plan within the deadline set may result in refusal or withdrawal of the special event status.

- Attendance at the Safety Advisory Group:  
If it is deemed appropriate for the details of the event and the EMP to be taken to a SAG the organiser must attend a SAG meeting. Where actions are agreed the organiser must put these in place and the EMP be amended accordingly. A copy of the amended EMP must be provided to the Council by the deadline set by the officer or the SAG. Failure to comply with the recommendations set out by the SAG may result in a special event status being withdrawn or refusal of the event

- Public liability insurance:  
The event organiser must have in place Public Liability Insurance cover to a value no less than £5 million. The Council reserves the right to require a higher cover if it is deemed necessary. You are required to produce evidence of such insurance.

Failure to provide proof of insurance for the duration of the event will lead to a special event not being authorised or authorisation being revoked

- Marketing:  
Appropriate marketing for the size of the event must be undertaken by the event organiser.

- Financial viability:  
The applicant must show the financial viability of the event through a business plan which identified the costs of the event, any income through sponsorship and how costs are to be received. Any income and expenditure from previous events will also evidence financial viability.

- Map:  
A map showing the location of the stalls must be provided at least 6 weeks before the event for events involved more than 2,000 people and for events involving less than 2,000.

The quality of the map required will be agreed with the licensing authority depending on the event and location. For smaller events with 20 stalls or less a map is required at least 10 working days before the event.

- Making the event a special event:  
Organisers need to make sure that it is a special event and not just a market. Details of how you are going to make the event a special event must be included in your special event application. The exception to this is when an existing market is moved to accommodate another event.
- Notification to local residents and business:  
The event organiser must notify all local (within the immediate vicinity of the event) businesses and residents of the event at least one month before the event is planned to go ahead. This notification must give details of the event, details of any road closures, any impacts that the event may have on the residents/ businesses, and how they can get involved in the event should they wish. Event organisers must notify the Council which businesses and areas they have notified for an event and provide a copy of the notification to the Council. The Council may extend the businesses and area if it is deemed necessary.
- Environmental Impact:  
The event organiser application form will include a request to provide information about the impact of the proposed street trading activity on the local environment and the plans being put in place to minimise the environmental impact of the event.

### **Bidding for special events**

To ensure a fair and transparent method of event organisers booking events, organisers should apply to the licensing team using a special event application form for events by 1 April before the calendar year the event is to be held in. The application process will ensure that the best events for the Borough with the best organisers will be chosen to trade in the Borough. Applicants that wish to be considered during the bidding process must submit a complete online Special Event Organiser application form including all the relevant documents. The applicant must provide all the information they wish to be considered as part of the bidding process, information will not be accepted after the closing date of bids.

Applications will be accepted after the bidding deadline, however, if the dates are already in use, the Borough is saturated with special events, a similar event has already been booked in or other relevant factor the special event application will be rejected. Incomplete applications will not be considered as part of the bidding process. The appropriate application fee must also be included with the application, this is non-refundable on cancellation of the event. The application must be submitted as stated in this policy. Bids received after the bidding process will be judged on a first come first served basis. No bookings for the following year will be taken until the bidding process has been completed.

During the bidding process a number of factors will be considered including:

- Organiser's past performance in organising previous events
- Previous compliance
- Economic benefit
- Complaints and compliments



- Financial viability
- Ability to meet deadlines

This list is not exhaustive and other relevant factors will be considered.

### **Consent fees for special events**

The fees are set out on the Council's website.

### **Special event applications**

Applications must be made online. Where applicants want to submit extra documents as part of the bidding process they must send the information to [Licensing@rugby.gov.uk](mailto:Licensing@rugby.gov.uk)

All information must be correct and complete. Where misleading, incorrect or incomplete information is provided the application may be rejected.

## **11. Letting of pitches**

### **Sub-letting pitches**

Consent holders are not permitted to sub-let the pitch they are allocated under any circumstances.

### **Re-letting pitches**

Street traders must make full use of their consent. The local authority will assess whether a consent holder has made a full use of their consent. Street traders shall notify the Licensing Team in circumstances where, and for whatever reason, they do not intend to make use of their consent, and notification should be made in advance. Consent holders must inform the Licensing Team of the date upon which they intend to resume trading. In circumstances where the date is not known, consent holders must give appropriate notice of their intention to resume trading. Where no prior notification has been received and in circumstances where the Council is satisfied that the consent holder is not making full use of their consent it may re-let the street trading pitch to another trader. Multiple street trading consents may be granted to different applicants for the same site provided specific trading days/ periods are applied for.

## **12. Temporary relocation**

When a pitch becomes unsuitable, the Council will relocate consent holders where suitable alternative street trading pitches exist. The Council may consult with the highway authority to identify suitable alternative pitches for the purpose of relocating the displaced street trader.

## **13. Fees and charges**

Rugby Borough Council set fees and charges for street trading. All fees will include all of

the allowable charges to cover the cost of administering and any inspection or compliance check costs. These fees are split into Application Fee and Licence Fee. Additional fees may also be charged in relation to Street Cleaning and Electricity.

The consent/licence holder 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/licence.

Please visit [www.rugby.gov.uk/streettrading](http://www.rugby.gov.uk/streettrading) to find out what the current fees and charges are for street trading.

## 14. Applications

All applications will be considered on their individual merits taking into account all relevant matters. Consents will not normally be granted where:

- Enforcement action is pending or has previously been undertaken against the applicant
- The holder is currently in arrears with any charges
- The location is unsuitable
- The stall will be in proximity of a shop selling similar goods
- The activities are likely to cause a nuisance or annoyance to neighbouring properties
- The applicant is unsuitable
- An applicant has failed to appropriately use previous consents
- The stall is unsuitable
- It causes or contributes to crime and disorder

This list is not exhaustive.

### Who can apply?

To apply for consent a person must be:-

1. An individual or business.
2. 17 years of age or over.
3. Legally entitled to live and work in the UK.

### Making an application

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. Applicants can apply online by visiting [www.rugby.gov.uk/streettrading](http://www.rugby.gov.uk/streettrading).

The application must be accompanied by the following documents:

- a) Public Liability Insurance certificate for at least £5,000,000 public liability (and if required, employers liability) cover.
- b) A description of the stall or a photograph if available.
- c) Where the proposed trading is from a specified location, a location plan showing the proposed location of the street trading site. This map should clearly identify the proposed location by marking the site boundary with a red

line.

- d) Basic Disclosure and Barring Service (DBS) check or access to the DBS update service for you or any assistants if requested by the licensing team.
- e) Where the application is to trade on private land (which is not licensed as a Consented Premises) written confirmation of authority to trade on the land.
- f) Proof that the applicant, and any assistants are entitled to work in the UK. Under the immigration Act, introduced in 2016, 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 applicant is required to check the residency status and right to work of anyone who is employed to trade under the street trading consent. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent revoked.

Once the application is complete and has been accepted, the Council will either:

1. Grant the consent as applied for.
2. Grant the consent with conditions or a variation to the application.
3. Refuse the consent.

Where a consent is refused the Council will notify the trader in writing detailing the reason for refusal.

### **Receipt of application and fees**

An application will be treated as being received only when the relevant application and all the necessary supporting evidence has been received and the relevant fee has been paid. The application must be completed in full. Incomplete applications will be rejected. Failure to follow the application process may result in the consent being refused or delayed. Applicants are encouraged to submit their applications in plenty of time of the trading date to ensure that if there are any problems they can be rectified or discussed before they intend to trade.

### **Consultation**

Before a street trading consent is granted the Council may decide it is appropriate to consult with various people or groups. The Council will consider relevant representations.

The licensing team may consult the following people before issuing a consent:

- Warwickshire Constabulary
- Highways Authority
- Relevant services at Rugby Borough Council e.g. food team.
- Fire and Rescue Service.
- Trading Standards
- Any other person or body deemed necessary.

Information obtained from these people/bodies will be considered during the application process and will help determine whether a consent should be granted.

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.

Only written representations will be taken into consideration when determining an application. The Council will take into account 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.

The consultation period for new and renewal applications may 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.

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.

## **15.Determining an application**

### **How the Council makes its decision**

The Chief Officer of Regulation & Safety may determine all applications for street trading consents under delegated powers. Where the intention is to refuse an application or put an application before Committee it will be at the discretion of The Chief Officer of Regulation & Safety in consultation with the Chair of the Licensing Committee.

Where the application is referred to a Sub-Committee the applicant will be offered the opportunity to make representations. Such representations would be made within the representation period of the date given to the applicant as the date by which s/he could notify their wish to make representations. Where no representations are forthcoming within the notified timescales The Chief Officer of Regulation & Safety may proceed to make a decision under full delegated powers.

Where the application is to go before the Sub-Committee, the applicant, who will be expected to attend, will be advised in writing of the date time and place when the application will be heard. The applicant can be represented by a solicitor or supported by a colleague and translation provision will be provided if requested.

A report will be prepared to be presented to the Licensing Sub-Committee regarding the application. The report will be made available to the applicant at least 5 days before the date of the meeting. When considering the application the Sub-Committee will ensure that all persons receive a fair hearing.

Local Members shall be offered up to 14 days to request that an application be brought before the Sub-Committee for determination when the Licensing Service Manager is minded to approve but the Members consider that there are local concerns about the application.

## **16. Insurance**

The Council will accept no liability for the street trading activities undertaken by the consent holder(s). Evidence of suitable public liability insurance (minimum value of £5 million) will be required from the applicant covering the period they wish to trade.

The insurance must be maintained throughout the period of the consent and the consent will be revoked should the insurance be cancelled or breached or its sum altered as to provide less than the minimum value.

If the insurance is due for renewal during the period covered by the consent, it is the responsibility of the consent holder to provide the Council evidence that public liability insurance is continuous for the period of the consent.

## **17. Food stalls**

All food businesses must be appropriately registered with their local authority. Certain low risk businesses are exempt from the hygiene rating scheme, so will not require a hygiene rating, however the Licensing & Parking Team may contact other internal council departments to ensure adequate compliance with food law. Other low risk food businesses (the decision of what is classed as a low risk business will be determined by the Commercial Regulation Team), may be considered safe to trade whilst awaiting inspection by their local authority or in other circumstances. All other traders that sell or provide food must have a national food hygiene rating of a 4 or 5. Where a rating drops below a 4 whilst a consent is in place, consent may be withdrawn. Applicants and consent holders should notify Rugby Borough Council of any changes to their national food hygiene rating. If food safety is found to be below the specified standard, consent will be withdrawn until the issues are resolved.

## **18. Disclosure and barring service check (DBS)**

The Council may ask you to apply for a basic disclosure to ensure that you are a suitable applicant. For information on how to apply for a basic DBS check please visit <https://www.gov.uk/government/publications/basic-checks>. If you are asked to provide a disclosure and barring service check as part of your application any assistants working during the duration of the consent will also need to provide a check.

We will not accept DBS checks that are more than 3 months old at the time of the application. Applicants that regularly apply may want to consider the DBS update service

## **19. Removal of waste**

The trader must provide at least one suitably sized waste container. The Consent holder is responsible for disposal of refuse and must not use Council, highway or other waste bins. The Consent holder has a duty of care to dispose of the commercial waste lawfully. Commercial waste must not be disposed of in the domestic waste stream, it is not permitted for traders to take waste home and dispose of it in domestic bins.

There must be no disposal of liquid waste down 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 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. All wastewater from trading vans sinks must be collected and disposed of correctly.

## **20. Refusing consents**

The Council may refuse to grant a consent. Decisions of the Licensing and Safety Committee and rights of appeal in relation to Street Trading Consents & Licences will be in accordance with the provisions set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Where an application is to be referred to a Committee, an applicant (and if relevant any persons making written objections) will be informed of the decision to refer an application to the Licensing and Safety Committee and notified of the date of the hearing of the application.

The applicant can be represented by a solicitor, or supported by a friend or colleague. The Licensing and Safety Committee will call a Sub-committee comprising 3 members, none of whom may be ward councillors to the area under the application, and will follow a set procedure that will be notified to the applicant in advance of the meeting, along with an officer report that will be presented at the meeting.

In determining the application, the Licensing and Safety Sub-Committee will consider presentations from the applicant, any person or organisation making an objection and the Council's Licensing Officer. Applicants and persons making objections to an application should notify the Council's Democratic Services Section at least five working days in advance of the meeting of any witnesses they intend to call and details of any

evidence (written, photographic or other material or media) they intend to present at the hearing.

Where objections have been raised to the granting of a Street Trading Consent or Licence the Licensing and Safety Sub-Committee will consider the objections or representations made. Only persons who have raised relevant objections to the application will be allowed the opportunity to address the Licensing and Safety Sub-Committee and ask questions relating to the application.

The Licensing and Safety Sub-Committee will consider all the evidence presented to it during the hearing and members may ask questions of the applicant, officers and persons making an objection (if any). After hearing the evidence presented to it, the Licensing and Safety Sub-Committee will retire and come to a decision on the application. When a decision has been reached the Sub-Committee will inform the applicant of their decision. The decision of the Licensing and Safety Sub-Committee will be confirmed in writing to the applicant within 5 working days of the meeting at which the application was considered.

The Regulatory Services Sub-Committee will endeavour to ensure that, when considering an application that all persons get a fair hearing through:

- a) Considering each case on its merits.
- b) The use of this Policy to consider applications as appropriate.
- c) Dealing with the application in an impartial manner.
- d) Ensuring that the rules of natural justice are applied at the hearing.
- e) Give equal time to those to make their representations and ask questions at the hearing.

### **Further Rights of Appeal**

There is no right of appeal to the Magistrates' Court against decisions of the Council in relation to street trading consents under the Act. A person aggrieved by a decision of the Licensing Authority or the Licensing and Safety Sub-Committee may make an application to the High Court for Judicial Review of the decision. There are strict time limits for making such applications. For further information about the potential grounds for Judicial Review and the procedure for making an application, applicants should seek legal advice from a solicitor as soon as they receive notice of the decision of the Licensing and Safety Committee.

If an application is refused either at grant or renewal of a Street trading Licence, any person aggrieved may appeal to the Magistrates' Court against the decision so long as the reason for the decision falls within one of the categories designated under paragraph 3(6)(d)–(g) of the Act. There is no right of appeal where refusal is based on grounds in 3(6)(a)–(c) of the Act. A right of appeal must be exercised within 21 days of the date when the decision to refuse a licence was notified to the applicant or licence holder.

## **21.Revoking Consents**

Where, during the course of the consent/licence, there are any charges, police investigations, and/or convictions against the consent/licence holder or nominated assistant, the consent/licence may be revoked with immediate effect. A consent or licence may also be revoked for any other reasonable cause. A consent/licence may also be revoked for any of the grounds listed at paragraph 5(1) of Schedule 4 of the Act. The Council shall not be liable in any circumstances whatsoever to pay any compensation to a consent/licence holder in respect of any revocation.

In the event that a further application for a street trading consent/licence is made following revocation of a previous consent/licence the matter will be passed to the Licensing and Safety Sub-Committee for a determination.

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 licence may result in refusal to grant any future applications.

Where two consent/licence holders are investigated due to complaints of breaches of conditions or arguments over trading times and areas, both consent/licence 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 Licensing and Safety Sub-Committee for a consideration of the matter and a decision on whether to apply additional conditions, revoke or renew consents/licences for either or both parties.

The Council holds the right to ask traders causing a nuisance to cease the activity that they are conducting and leave the area.

If a street trading Licence is revoked, any person aggrieved may appeal to the Magistrates' Court against the decision so long as the reason for the decision falls within one of the categories designated under paragraph 3(6)(d) – (g) of the Act. There is no right of appeal where refusal is based on grounds in 3 (6)(a) – (c) of the Act. A right of appeal must be exercised within 21 days of the date when the decision to refuse a licence was notified to the applicant or licence holder.

## **22. Conditions, complaints and enforcement**

General conditions will be attached to every consent. Additional conditions may also be attached relating to the type of the consent given. Failure to comply with conditions may result in enforcement action, revocation of your consent, and refusal to grant further consents on application.

Complaints will be fully investigated in accordance with the Council's Complaints Policy and consent holders will be expected to liaise with the Council to resolve them. Substantiated complaints may result in a consent being revoked and refusal to grant



further consents on application.

The Council may at any time vary the conditions of a street trading consent/licence. Should conditions change during the consent/licence time the amended conditions would come into force once the consent/licence is renewed.

### **Offences**

Decisions regarding enforcement action will be made in accordance with the Council's enforcement policy.

A person commits an offence if they:

- a) Engage in street trading in a prohibited street.
- b) Engage in street trading in a consent street without first obtaining authorisation from the Council.
- c) Contravene a condition imposed on a consent.

Any person guilty of such an offence will be liable, on conviction at a magistrates' court to a fine of up to £1,000.

### **Relevant Case Law**

#### *Kempin (T/A British Bulldog Ice Cream) v Brighton & Hove Council [2001]*

This case determined that a roundsman was someone who delivered pre-ordered goods within a locality; and on this basis an ice cream salesman driving around an area was not a roundsman because he/she would not be delivering pre-ordered goods.

#### *West Berkshire DC v Paine [2009]*

This case determined that if the trading took place in an area where the public had access without payment (even if the public did not go there) it was a "street" and would require a licence to trade there.

An Equality Impact Assessment on this policy was undertaken on **24 May 2023** and will be reviewed on when necessary.