

Oadby and Wigston Borough Council



STREET TRADING POLICY

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

STREET TRADING

Oadby and Wigston Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 enabling them to control Street Trading within the Borough.

Objectives of the policy

- To protect public health through the control of street trading within the Borough of Oadby and Wigston
- To improve standards of food safety, health and safety and environmental management and enhance the image of the district.
- Ensuring that traders operate within the law and act fairly in their dealings with the public.
- Preventing and detecting statutory nuisance, unsafe practices and anti social behaviour.

This Policy will be applied to street trading activities in the Borough of Oadby and Wigston to ensure consistency in decision making. Each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

Definitions

“Authorised Officer”: - An officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

Consent”: - A consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

“Consent Holder”:- The person or company to whom the consent to trade has been granted by the Council.

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“Consent Street”:- Means a street in which street trading is prohibited without the consent of the Council

“Council “ means Oadby and Wigston Borough Council

“Street “ means any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the public without payment within the distance of 30 metres from the centre of those streets which are part of the public highway.

Street Trading:- The selling or exposing or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this policy:-

- A pedlar with a pedlars certificate
- Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an enactment or order
- Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
- Trading as a Newsvendor selling only newspapers/magazines
- Trading which is carried on at premises used as a petrol filling station or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop
- Selling things, or offering or exposing them for sale, as a roundsman eg window cleaner. Ice cream sales normally will not have deemed be exempt from street trading controls on the grounds that they are not roundsmen
- The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway
- The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980
- The doing of anything authorised by regulations made under section 5 of the police, Factories etc (Miscellaneous Provisions) Act 1916

Fees

The fees charged by the authority for consents to trade should cover the cost of administering and enforcing the service.

The fees will be reviewed annually.

Should the consent holder wish to vary the consent at any time during the life of the consent an administration fee will be charged. This includes transfer of consent.

Where a trading consent is surrendered during the life of the consent the authority will refund the fee paid on a pro rata basis as determined appropriate.

The current scale of fees are £334 per annum.

It is possible for the Authority to charge different fees for consents that are for different durations or locations such as a pro rata rate for occasional consents or concessionary consents in certain circumstances.

Conditions

When granting or renewing a trading consent the authority may attach such conditions as considered necessary to the individual application. The Council retains the right to vary the conditions of a street trading consent at any time. The conditions may specify the exact location trading may take place from and the times of trading.

The Council will normally grant a street trading consent unless, in its opinion:-

- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for the harbourage of vermin, odour or fumes, or
- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes, or
- There is a conflict with Traffic Orders such as waiting restrictions, or
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- The trading unit obstructs the safe passage of users of the footway or carriageway, or
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- The site does not allow the Consent Holder, staff and customers to park in a safe manner, or
- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

Application Process

An application for a street trading consent must be made in writing on the Council's approved application form. Application forms and information packs are available from the authority or downloadable from the website. The appropriate fee and required supporting documentation must accompany the application form.

The following will be required to be submitted with the application

- (a) A completed and signed Street Trading Consent Application Form.
- (b) The full fee as appropriate for the periods of trading applied for.
- (c) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.
- (d) Three colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity.

(e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.

On receipt of the application form an acknowledgment will be sent to the applicant.

An officer may visit the applicant and inspect the vehicle, barrow, cart, van, portable stall or other vehicle or premises which the applicant intends to trade from.

The application will be determined within 56 days of receipt.

Until the application has been determined it is an offence to trade in the areas requiring a consent to trade.

Each consent is for a maximum 12 month period only.

The application will either be;

- 1) Granted and a trading consent will be issued with conditions attached, or
- 2) Refused and the fee will be refunded as appropriate to the applicant.

The Council may have regard to the number, nature and type of traders already trading within a consent area when determining an application.

There is no right of appeal against a variation of a condition, or refusal to grant or renew a trading consent. The reasons for the decision will be communicated to the applicant.

Additional visits may be made to holders of trading consents throughout the consent period to assess compliance with the conditions or to undertake any other duty that the authority has, such as food hygiene inspections.

Trading consents are granted to individuals. The person who is the consent holder is required to be present at the vehicle, barrow, cart, van, portable stall or other vehicle or premises which is traded from during trading hours. The consent holder may nominate an assistant to cover in their absence. Advice on this should be sought from the Licensing team.

Renewal of Trading Consents

An application to renew a trading consent must be received by the authority at least 56 days before the expiry of an existing consent and must be accompanied by the appropriate fee and relevant documentation.

Revocation of a Trading Consent

If an authorised officer of the authority is of the opinion that the holder of the trading consent has contravened the conditions attached to the consent a revocation of the consent may be sought.

The authorised officer will present a report to the Head of Legal and Licensing who will consider this in consultation with the Head of Environmental Health for consideration.

Comments from the consent holder would be sought to accompany the report.

Consultations on Applications Made

Before a Street Trading Consent is granted or renewed the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons are consulted.

- Leicestershire County Council Highways – area office
- Client Services
- Leicestershire Constabulary
- Leicestershire Fire & Rescue Service
- Ward Councillors

For new applications, in addition to the above, further consultations could be carried out with property owners within 100 metres of the proposed site. This consultation will be by the Council sending copies of the Application Form to the relevant property owners.

Written observations from the above organisations and occupiers of properties will be sought and taken into consideration when determining an application

Determination of the Application

The Head of Legal and Licensing acting on delegated powers will use the criteria listed above in determining any Street Trading Consents. Similarly any objections received will be considered against these criteria. All should normally be satisfied, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

Amendments or Variations to Trading Consents

In certain circumstances, the Council may wish to add, alter or amend the conditions on a trading consent. If this is the case then the authorised officer will notify the consent holder of their intention and the consent holder will be given the chance to make representations against this variation of the trading consent.

The authorised officer will present a report to the Head of Legal and Licensing for consideration together with the Head of Environmental Health which will also take into consideration the representations made if any.

Any amendments or variations to consents or conditions that are requested by consent holders must be made in writing. An administration fee will be charged to the consent holder for any amendments or variations made.

There is no right of appeal against the Council's decision to refuse to amend or vary a consent.

Offences

Under the Local Government (Miscellaneous Provisions) Act 1982, a person who;

- Engages in street trading in a consent street without being authorised to do so;
- Being authorised by a street trading consent to trade in a consent street, trades in that street –
 - (i) from a stationary van, cart, barrow or other vehicle; or
 - (ii) from a portable stall,without first having been granted permission to do so;

- Contravenes a condition imposed in agreeing to permit street trading shall be guilty of an offence

The only conditions that we can impose in relation to trading from a vehicle or stall that would lead to the commission of an offence relate to the location of the trader and hours of trading.

It shall be a defence for a person charged with an offence above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Any person who, in connection with an application for a street trading licence or for a street trading consent, makes a false statement which he knows to be false, in any material respect, or which he does not believe to be true, shall be guilty of an offence.

Any action taken by the authority with regard to the above offences will have regard to the appropriate enforcement policy.

A person found guilty of an offence shall be liable on summary conviction to a fine not exceeding level 3 on standard scale.

Further Information

For further information in relation to street trading please contact:

The Licensing Department or Environmental Health Department
Oadby and Wigston Borough Council
Council Offices
Station Road
Leicestershire
LE18 2DR

Tel: 0116 2572708

Email: licensing@oadby-wigston.gov.uk

Street Trading Policy

Schedule Listings those Roads where Street Trading is Prohibited

Those roads within the Borough of Oadby and Wigston listed below:-

The following "A" and "B" class roads:-

A6 Leicester Road, Harborough Road and Glen Road, Oadby

A5199 Leicester Road, Bull Head Street and Welford Road, Wigston
(excluding the layby at grid reference 6103 9775)

B582 St Thomas Road, Blaby Road (between its junction with Canal Street
and its junction with Station Road), Station Road, Bushloe End and Moat
Street, Oadby Road, Wigston and Wigston Road and London Road, Oadby

A563 Palmerston Way, Oadby

B667 New Street, Stoughton Road and Gartree Road, Oadby

B5418 Aylestone Lane and Paddock Street and Wakes Road, Wigston

B5366 Saffron Road, Wigston

All those roads where a speed restriction of 40 mph and above applies.

All those roads contained within the Oadby Hill Top and Meadowcourt
Conservation Area