

STREET TRADING CONSENT POLICY

September 2014

MAIDSTONE BOROUGH COUNCIL STREET TRADING CONSENT POLICY

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MAIDSTONE BOROUGH COUNCIL STREET TRADING CONSENT POLICY

MARCH 2010

1. Introduction

- 1.1 Maidstone Borough Council 'the Council' has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Since 1, September 1986, a Consent has been required before trading on any street in the Borough area.
- 1.2 Street trading is the selling, exposing or offering for sale any article in a street subject to some exemptions. The term 'street' includes any road, footway or other area to which the public have access without payment (this can include private land).
- 1.3 This does not include activities such as tables for street café operations from a fixed premises or the siting of 'A' boards on the street as this is not within the remit of this legislation.

2. Aim of Maidstone Borough Council's Street Trading Consent Policy

- 2.1 The aim of this statement of Street Trading Consent Policy is to provide a consistent and transparent approach for the method of determining street trading Consent applications and their ongoing position.
- 2.2 To achieve this aim the Council is committed to partnership working with Kent Police, Kent Highways Services, the trade and local fixed premises businesses.
- 2.3 This policy sets out how we intend to manage the Street Trading Consent function and how we will ensure the process is fair.
- 2.4 The Council has an aim to improve the quality of life in Maidstone.

3. **Scope of the Policy**

3.1 The Council's policy is concerned with the administration of the street trading Consent functions within the Local Government (Miscellaneous Provisions) Act 1982,

- determining first applications
- renewals
- revocation

4. Interpretation

- 4.1 Any words or expressions in this policy have the meanings assigned to them under the 1982 Act. Nothing in the policy should be regarded or interpreted so as to prejudice the 1982 Act.

5. The Maidstone Act 2006

- 5.1 This came into force on 7 September 2006. This removed the exemption for pedlars to act with the authority of a Pedlars Certificate to trade within the Borough. Pedlars must now have a Street Trading Consent to trade on the streets within the Borough of Maidstone.
- 5.2 There is power to seize articles, receptacles and equipment by an officer of the Council or Constable if there is reason to suspect an offence has been committed under this Act.

6. Application Process

- 6.1 Applications must be made in writing on the application form provided by the Council as detailed in Appendix A and be accompanied by a Consent fee. An applicant must be aged 17 or over.
- 6.2 Proposed food business should be registered under the Food Regulations with the Local Authority where their vehicle is based and provide documents as evidence that they are so registered.
- 6.3 Applicants are advised to contact the Development Control section of the Council to check whether planning permission is required.
- 6.4 Determining First Applications – The process on receipt of any application will include a consultation period of 14 days with:-
Ward Members
Parish Council if relevant
Town Centre Management if relevant
Adjacent shops
KCC Highways
MBC Planning and Development Control
MBC Environmental Health Section
MBC Environmental Enforcement
Police

If no objections to a Street Trading application are received the Head of Housing and Community Services be given delegated powers to grant consent, subject to consultation with the Chairman and Vice Chairman of the Licensing Committee who might ask for the application to be referred to a Sub-Committee consisting of three Members of the Licensing Committee for decision.

If objections are received the application will be determined by a Sub-Committee consisting of three Members of the Licensing Committee for decision. A hearing will be held following the procedure at page 18.

6.5 Determining Additional Applications For An Agreed Site

Once the application for a site has been agreed in accordance with 6.4 above, the Licensing Manager will be authorised to issue further Street Trading consents for the same site in the exact terms of the first application subject to a satisfactory Police check being received

which would determine good character and their right to work in the United Kingdom.

6.6 Renewals – the process on receipt of a renewal application will be for the Licensing Manager to renew if no complaints have been received following the consultation process the process for first applications will be followed and the matter will be reported to the Licensing Sub Committee (procedure in appendix B).

6.7 Revocation – Any consideration for review of a consent including a decision for revocation will be taken by the Sub-Committee consisting of three Members of the Licensing Committee for decision.

6.8 Applications for Street Trading Consent in Fremlin Walk - Applications must be made in writing on the application form provided by the Council as detailed in Appendix A and be accompanied by a Consent fee. An applicant must be aged 17 or over.

6.9 Proposed food business should be registered under the Food Regulations with the Local Authority where their vehicle is based and provide documents as evidence that they are so registered.

6.10 Applicants are advised to contact the Development Control section of the Council to check whether planning permission is required.

6.11 Applications for Street Trading Consent will be undertaken in 2 stages comprising an application for the site (which could include more than 1 pitch) and then an application from the Street Trader.

6.12 Determining Site Application – An application for a site will be made to the Council and will require a consultation period of 14 days with:-

- Ward Members
- Parish Council if relevant
- Town Centre Management if relevant
- Adjacent shops
- KCC Highways
- MBC Planning and Development Control
- MBC Environmental Health Section
- MBC Environmental Enforcement
- Police

If no objections are received the Licensing Manager has delegated power to grant all applications within the Town Centre area subject to consultation with the Chairman and Vice Chairman of the Licensing Committee who can ask that the Application is referred to a Sub-Committee consisting of three Members of the Licensing Committee for decision.

If objections are received the application will be determined by a Sub-Committee consisting of three Members of the Licensing Committee for decision. A hearing will be held following the procedure at page 18. Each agreed site applicant will allocate the pitches in those sites to Traders agreed by the Council.

- 6.13 Determining Site Application from Traders – Traders will apply to the Council to trade in the approved sites and consent will be given subject to the assessment of the site holder and a satisfactory Police check being received which would determine good character and their right to work in the United Kingdom.
- 6.14 Renewals – the process on receipt of a renewal application will be for the Licensing Manager to renew if no complaints have been received following the consultation process the process for first applications will be followed and the matter will be reported to the Licensing Sub Committee (procedure in appendix B).
- 6.15 Revocation – Any consideration for review of a consent including a decision for revocation will be taken by the Licensing Sub Committee.
- 6.16 Any provisions relating to the River Festival will not apply to any agreed sites in Fremlin Walk.

7. Consideration of Applications

7.1 The Council will consider each application on its individual merits and normally grant a Street Trading Consent **unless**, in its opinion, there is:-

- a) not enough space for each applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street,
- b) there are already enough traders in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade,
- c) there is undue concentration of traders trading in the street in which the applicant desires to trade,
- d) the Consent, if granted, will result in nuisance to members of the public, residents or local businesses, due to the likely noise, smell, litter, obstruction, disturbance, or other problems which will be caused by granting the Consent,
- e) the size, nature or appearance of the proposed stall and any associated equipment is inappropriate for the proposed location in terms of amenity or public or highway safety,
- f) the proposed trading hours are outside the usual business hours of shops in the vicinity, except in relation to a trader wishing to sell hot food, which will be considered on a site by site basis,
- g) any additional issues arising from consultation or the particular circumstances of the application.
- h) previous conviction of the applicant (or an assistant) for relevant offences (dishonesty, food safety, health & safety, licensing or other related issues) or unsuitable for other reasonable cause,
- i) failure on a previous occasion to pay Street Trading Consent fees within agreed timescales,
- j) applications for Street Trading Consent on a site where there is already a Consent granted,
- k) there is an earlier application or an application for renewal has been received which will be determined first by the Licensing Sub Committee.

8. Administration, Exercise and Delegation of Function

- 8.1 The powers and duties of the Council with regard to Street Trading Consent may be carried out by the Licensing Sub Committee or Officers acting under delegated authority. Since many of the functions are administrative or compliance monitoring based in nature, in the interest of speed, efficiency and cost effectiveness, the Council supports the principle of delegating routine matters to Officers.
- 8.2 Applications will normally be dealt with by Officers but can be forwarded to the Licensing Sub Committee for determination (see section 6).

9. Conditions applicable to Street Trading Consents

9.1 Conditions will normally be imposed in all cases specifying:-

- a) the place in which the Consent holder is permitted to trade,
- b) the days and times at which the Consent holder is permitted to trade,
- c) description of the types of articles in which the holder is permitted to trade,
- d) the nature, size and type of stall stand etc. which is to be used,
- e) the Street Trading Consent issued by the Council must be conspicuously displayed on the stall/person,
- f) if food is to be sold, the business shall be Food Safety registered,
- g) restrictions on the means the trader may use to attract custom to his stall,
- h) that the suitable receptacle for litter must be provided,
- i) that the location must be left in a clean and tidy condition at the end of the trading hours each day,
- j) that the stall must be removed each day at the end of trading hours unless agreement in writing is obtained from the Council or the owner of the land,
- k) the trader must comply with any reasonable request of a Police Officer or authorised Officer of the Council,
- l) that the trader must produce, to a Police Officer or authorised Officer of the Council, a copy of the Consent on demand,
- m) operators must cease trading immediately upon expiry of Consent.

9.2 The Council considers that each of the above conditions will be reasonably necessary in relation to the majority of Consents granted for the purposes of protecting public safety and the prevention of nuisance and annoyance to local residents, businesses in the locality and members of the public using the street concerned. The Council may also impose such other conditions as it considers reasonably necessary in each particular case and conditions may be varied at any time.

10. Enforcement

- 10.1 Any enforcement action taken by the Council will be in accordance with any adopted enforcement policy, and failure to comply with the conditions may lead to revocation or non-renewal of a Consent. Any person found trading without Consent in the Borough will be subject to enforcement action by the Council.

11. Promotion of Racial Equality

- 11.1 The Council recognises that the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 places an obligation on all Public Authorities to have regard to the need to eliminate unlawful discrimination, and to promote equality of opportunities and good relations between persons and different racial groups.

12. Human Rights Act 1998

12.1 The Council implements the 1982 Act in a manner consistent with the Human Rights Act 1998.

For enquiries regarding this policy in the Council's area, please contact:-

**Licensing Office
Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ**

01622 602028
licensing@maidstone.gov.uk

LICENSING SUB COMMITTEE

ORDER OF PROCEEDINGS

- a) The Chairman will introduce those present and ensure that everyone understands the procedure to be followed.
- b) The Head of Housing and Community Services will briefly describe the application.
- c) The Applicant will then present his case.
- d) The Objector(s) may then ask the Applicant questions.
- e) Members will then ask the Applicant any questions.
- f) The Objector(s) will then be given the opportunity to present his/her case.
- g) The Applicant may then ask the Objector(s) any questions.
- h) Members will then ask the Objector(s) any questions.
- i) Members may then ask any further questions of clarification from any party.
- j) Both parties will then be asked to sum up, the Objector(s) first followed by the Applicant.
- k) Members will then ask the Head of Housing and Community Services if there are any further matters to be raised before the matter is considered.
- l) The Sub Committee will then decide the appeal and may ask the Applicant, the Objector(s), the Head of Housing and Community Services and any other parties to leave, the Committee Clerk will be the only person apart from Members to be allowed to remain. Any representative of Legal Services (if present) may be requested to remain by the Chairman.
- m) After consideration all parties will be invited to return and the Chairman will announce the decision.