

Street Trading Guidance

Section 1 - Submission of the Application

An application for a Street Trading Consent must be made to Corby Borough Council in writing on the approved application form.

Applicants will need to submit the following documents and fees with the application:

1. A completed and signed Street Trading Consent application form.
2. The full administration fee which must be paid prior to the commencement of trading. In exceptional circumstances fees may be invoiced every three months with the Head of Planning and Environmental Services' agreement (if any of these invoices are not paid promptly the Council reserves the right to revoke the licence).
4. Two colour photographs of the stall, van, barrow cart etc that will be used for the street trading activity.
5. An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5 million.
6. Written permission from a landowner if the street trading activity is to be carried out on any land not in the ownership of Corby Borough Council.
7. In cases where a previously undesignated pitch or completely new type of venture is being put forward the application may be published in the local newspaper. Applicants need to arrange this advertisement directly with the newspaper and the cost must be met by them. Any consent granted in these circumstances will only be granted for a three month period initially.

An applicant for the grant of a first time Street Trading consent **should give a minimum of 60 days notice of the application to:**

Health Protection Manager
Planning and Environmental Services
Corby Borough Council
Deene House
New Post Office Square
Corby
NN17 1GD

Section 2 – 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 may be consulted:

- The Highways Authority for Northamptonshire
- Northamptonshire Police
- Northamptonshire Fire and Rescue
- The land owner of the proposed street trading site if it is on private land.

Written observations from the above bodies, organisations and occupiers of properties will be sought and taken into consideration when determining an application that has been made to the Council.

The criteria for making representations either in support of or objecting to a new application is defined to include only the following:

- i) a person living in the vicinity of a pitch applied for;
- ii) a body representing persons who live in the vicinity of the pitch applied for;
- iii) a person involved in a business in the vicinity of the pitch applied for;
- iv) a body representing persons involved in a business in the vicinity of the pitch applied for.

Section 3 – Site Assessment

Street Trading Consents from static locations will not normally be granted where:

1. A significant effect on road safety would arise either from the positioning of the trading pitch/activity itself, or from customers visiting or leaving the site; **or**
2. There would be a significant loss of amenity caused by, noise, traffic or smell; **or**
3. There is an already adequate like provision in the immediate vicinity of the site to be used for street trading purposes; **or**
4. There is a conflict with Traffic Orders e.g. waiting restrictions; **or**
5. The site or pitch obstructs either pedestrian or vehicular access, access to shops, traffic flows, or places pedestrians in danger when in use for street trading purposes; **or**

6. The trading unit obstructs the safe passage of users of the footway or carriageway; **or**
7. The pitch interferes with sight lines for any road users such as at road junctions or pedestrian crossing facilities; **or**
8. The site does not allow the Consent Holder, staff and customers to park in a safe manner; **or**
9. 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.

Section 4 – Inspection of the Street Trading unit

The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading Consents, where this is reasonably practicable. The unit to be used for the street trading activity shall comply in all respects with the legal requirements relating to the type of street trading activity proposed. In particular the unit to be used shall comply with the following legislation:

- Food Premises (Registration) Regulations 1991
- Food Safety Act 1990 (as amended)
- Food Safety (general Food Hygiene) Regulations 1995
- Health and Safety at Work etc Act 1974 and any regulations made under this Act
- Environmental Protection Act 1990

Further advice on any of the above requirements can be obtained by telephoning the Health Protection team on 01536 464175.

Section 5 – Determination of the application

The Licensing Panel and Officers on a delegated basis will use the criteria listed below in the determination of Street Trading Consents. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case though will be assessed on its own merits and individual circumstances, where appropriate, may be taken into consideration.

5.1 Public Safety

The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the street. In

particular reference will be made to the guidelines set out in Section 3 above on site assessment criteria.

5.2 Public Order

The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from Northamptonshire Police will be taken into consideration under this heading.

5.3 Avoidance of nuisance

The street trading activity should not present a substantial risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council Officers shall be taken into consideration under this heading.

5.4 Needs of the area

The sufficiency of other trading outlets will be taken into consideration in relation to:

- a) The presence of like outlets already existing in the immediate locality of the proposed street trading site.
- b) The general needs of a locality should no comparable outlets be in existence.

Applicants will need to demonstrate to the Council the need for the proposed street trading activity in relation to either points 1 or 2 above, whichever applies.

5.5 Compliance with legal requirements

The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Observations from Council Officers on the compliance with the requirements of Food Safety and Hygiene, Health and Safety and Environmental Protection legislation shall be taken into consideration.

5.6 Consultees' observations

In relation to points 5.1 – 5.4 above consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevance and appropriateness to the application that has been made.

Section 6 – Approval of applications

The Council's Licensing Panel or Officers on a delegated basis may approve applications meeting the criteria contained within these guidelines.

On approving the application the Council will issue a Street Trading Consent to which conditions will be attached. The Consent will also contain specific terms such as days and hours when street trading is permitted, and goods that may be sold. Additional conditions may be attached to the standard conditions if special circumstances apply to the Consent being granted by the Council.

The conditions attached to the Consent form part of the approval to carry out street trading in the area of Corby. They MUST be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed.

Consent Holders are therefore requested to familiarise themselves with the terms and conditions attached to the Street Trading Consent and comply with the requirements.

Section 7 – Issue of Street Trading Consents

An annual re-issuing process is in place and applications to street trade are invited in January each year with a view to consents being issued by 1st April 2010. The fee scale is reviewed annually.

Street Trading Consents will be issued for a maximum period of 12 months. Consents for shorter periods may be issued for block or individual bookings for the purpose of organised street markets, events and for mobile street artists. These particular Consents will expire, unless renewed, on the date specified in the Consent.

In all cases where a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the application will be required to go through the full application and consideration process outlined in these guidelines.

Fees for annual Consents must be paid in full in advance prior to the commencement of trading. In exceptional circumstances fees may be invoiced every 3 months with the Head of Planning and Environmental Services agreement (if any of these invoices are not paid promptly the Head of Planning and Environmental Services reserves the right to revoke the licence). Cheques should be made payable to “Corby Borough Council”.

Please note, if a cheque is dishonoured by a bank this will result in the revocation of the Street Trading Consent issued by the Council unless payment of the outstanding fees is made in cash within 5 working days. In such cases an administration charge will also be imposed on the Consent Holder.

Street Trading Consents Certificates will be issued only at the Council Offices. The applicant must attend in person to collect any documentation. This also applies for replacement documentation.

Section 8 – Consideration of applications by the Head of Planning and Environmental Services

Any Consents which cannot be approved by Officers on a delegated basis (by use of these guidelines) will, in the first instance, be discussed with the Head of Planning and Environmental Services and/or other appropriate Council Officers with a view to mediation/determination. If mediation is not successful the steps outlined in Section 9 will be taken.

Section 9 – Consideration of applications by the Licensing Panel

The Council's Licensing Panel has been established to consider applications, hear objections and appeals in relation to licensing matters. The Panel consists of 3 elected members of Corby Borough Council who have received specific training in licensing issues. The Panel is supported by the Health Protection Manager, a committee administrator and a legal advisor. Licensing Panel meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

The role of the Licensing Panel is to:

- a) determine applications to which objections have been made; or
- b) determine unopposed referred applications that do not meet the criteria contained within these guidelines; or
- c) hear appeals from applicants against the imposition of a condition on a Consent by an Officer on a delegated basis.

An applicant wishing to make an appeal against conditions attached to a Street Trading Consent must do so in writing within 21 days of being issued with the Consent. The appeal should set out:

- a) details of the condition or conditions being appealed against; and
- b) the reasons for making the appeal.

All appeals should be sent to:

Health Protection Manager
Planning and Environmental Services
Corby Borough Council
Deene House
New Post Office Square
Corby
NN17 1GD

On receipt of a written objection, or an unresolved application that does not meet the criteria in these guidelines, or an appeal against an Officer decision on conditions attached to a Consent, arrangements will be made to have the appeal or application heard at a Licensing Panel.

Once arrangements have been made for the application to be heard by the Licensing Panel persons making the objection, appeal or reference to the Panel will be advised in writing of the date, time and place where the application will be heard. Such persons will be expected to attend the hearing.

The applicant can be represented by a Solicitor, or supported by a friend or colleague. The Licensing Panel will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.

In determining an application the Licensing Panel will consider representations from the person making the objection or appeal, and the Health Protection Manager. Either side may use witnesses and supporting documentation may be submitted to the Licensing Panel for consideration.

The Licensing Panel will consider all the evidence presented to it during the hearing and members may ask questions of officers and persons making an objection or appeal. After hearing the evidence presented to it, the Licensing Panel will retire and come to a decision on the application. When a decision has been reached the Panel will inform the applicant of their decision, and the reasons for coming to that particular decision. The decision of the Licensing Panel will be confirmed in writing to the applicant within 5 working days of the meeting at which the application was considered.

Where objections have been raised to the granting of a Street Trading Consent the Licensing Panel will consider the objections made. Persons who have raised objections to the application will be allowed the opportunity to address the Licensing Panel and ask questions relating to the application. Letters of objection that have been received by the Council will be circulated to members of the Licensing Panel in advance of a meeting where a contested application is being considered. The letters of objection will also be sent to the applicant.

The Licensing Panel will always strive to ensure that when it is considering an application all persons get a proper and fair hearing through:

- a) Considering each case on its own merits;
- b) Using these guidelines to assess applications where it is felt appropriate;
- c) Dealing with the appeal in a balanced and impartial way;
- d) Ensuring that the rules of natural justice are applied in any hearings held; and
- e) Giving a person making an appeal, a reference or an objection sufficient opportunity to present their case, ask questions of officers and members of the Panel and present information for consideration in support of their appeal or objection.

Section 10 – Refusal of applications

Where the Council refuses an application the applicant will be informed in writing of the reasons for not granting the application. The decision of the Licensing Panel is final.

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to the issue of Street Trading Consents. A person aggrieved against a decision of the Licensing Committee may though seek a Judicial Review of the decision of the Licensing Committee should it be felt necessary.

Section 11 – General information on Street Trading Consents

11.1 Trading unit Consent Certificates

All vehicles, stalls, carts or other devices used for street trading will be required whilst trading to display a Consent Certificate. This is issued by the Council and remains their property throughout the duration of the Consent. The Consent Certificate should be displayed in a prominent position on the trading unit so that it is clearly visible to members of the public using the trading unit.

The trading unit Consent Certificate should be returned to the Council if the Consent Holder ceases to trade and surrenders his/her Consent.

11.2 Reimbursement of Fees

Pitch fees will be reimbursed to Consent Holders where they cease to trade and surrender their Consent to the Council. Any fee reimbursement will be strictly on the following basis:

- a) 6 weeks notice is required for surrender of a 3 month consent;
- b) 6 months notice is required for a 12 month consent;
- c) Any consent issued for a period other than 1 and 2 above will be subject to a pro-rata period of notice.

The administration fee is non-refundable.

11.3 Persons under the age of 18 years

The Council will not grant a Street Trading Consent to persons under the age of 18 years.

11.4 Access by Council and Police Officers

Consent Holders should allow access to their pitch, stall, etc to Authorised Officers of the Council and Police Officers at all reasonable times. Council Officers will carry with them and produce on request official identity cards issued by Corby Borough Council. Consent holders having any doubts about

a person claiming to be from Corby Borough Council should ask to see their official identification card.

11.5 Street Trading Consents

The conditions attached to all Street Trading Consents stipulate that a Consent Holder cannot and shall not assign, underlet or part with his/her interest or possession of a Street Trading Consent. The Consent granted is specific to the person it is issued to and is **non-transferable**.

Section 12 – Enforcement of Street Trading

Corby Borough Council will actively enforce the provisions of the Street Trading Scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Council's Enforcement Policy.

The following principles will be adhered to when carrying out street trading enforcement activities:

Openness: The Council will be open about how it enforces the legislation in relation to street trading. It will consult with interested parties and ensure that Officers discuss compliance failures or problems with persons experiencing difficulties.

Helpfulness: The Council will work with people to advise on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers.

Proportionality: The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk or wider public benefit. Officers will have regard to the human rights of all parties involved in its enforcement activities.

Consistency: The Council will carry out its duties in a fair, equitable and consistent manner. Officers will have regard to national Codes of Practice and guidelines and the contents of this document.