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Purpose of the Policy

- 1.1 This policy sets out Denbighshire County Council's (hereafter referred to as the Council) framework for the management of street trading in Denbighshire. Through the street trading scheme the Council aims to regulate the location and number of street traders. The scheme also aims to prevent the obstruction of the streets of Denbighshire by street trading activities. In doing so, it recognises the importance of licensed businesses to the local economy and the character of the area whilst trying to ensure that the activities do not cause nuisance or annoyance to the people in the area.
- 1.2 This document will guide the Licensing Authority when it considers applications for Street Trading Consents. It will inform applicants of the parameters in which the authority will make decisions and how their needs will be addressed.
- 1.3 It also highlights the Council's undertaking to avoid duplication with other statutory provisions and our commitment to work in partnership with other enforcement agencies.

2 **Consultation**

- 2.1 In determining this policy, the Council has consulted the following people and bodies:
- North Wales Police
 - North Wales Fire and Rescue Service
 - Denbighshire County Council Highways
 - Denbighshire County Council Ward Members
 - Town and Community Councils
 - All current Consent Holders
 - The general public
- 2.2 We have also consulted with relevant departments within Denbighshire County Council and have taken into account the views of all appropriate bodies and organisations.

3 **Review of the Policy**

- 3.1 This policy will be reviewed every three years. At the time of the review, we will again consult all interested parties. As well as the three-yearly reviews, we will continue to evaluate the policy and may update it at any time. Any minor changes will be considered by the Licensing Committee.

4 **Legislation and current provision**

- 4.1 In June, 2005 the Licensing Committee resolved to readopt Part 3, Schedule 4
4 Of the Local Government (Miscellaneous Provisions) Act 1982 relating to Street Trading in the whole of the County.

‘Street Trading’ is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions such as:

- (a) Trading as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871.
- (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order.
- (c) Trading as a news vendor.
- (d) Trading at or adjoining a shop premises as part of the business of the shop.
- (e) Offering or selling things as a roundsman.

Schedule 4 defines a street as any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.

A consent street is a street in which street trading can only take place if the consent of the local authority has first been obtained.

Prohibited streets are streets where no street trading may take place at all.

A licence street is a street that requires a formal licence before any form of street trading can take place.

All streets in Denbighshire County Council are designated as consent streets with the exception of a number of Prohibited Streets in the Rhyl and Prestatyn Area. There are currently no licence streets within Denbighshire (*a list of designated streets will be attached to the final policy when confirmed*)

Street Traders that serve hot food or drink at any time between the hours of 23.00 and 05.00 will also require a Premises Licence for Late Night Refreshment under the Licensing Act 2003.

5 The Licensing Process and Delegation of Functions

5.1 This part of the document sets out how we will deal with applications for Street Trading Consent within Denbighshire. The Council aims to provide a clear, consistent licensing service for service users whilst aiming to protect the safety of highway users and residents and prevent nuisance or annoyance.

5.2 Delegation is laid out in the Council’s Constitution as follows:

Full Council sets policies on licensing.

The Licensing Committee:

- recommends and reviews policies on licensing
- sets and reviews licence fees
- agrees and varies a street trading scheme.
- decide applications to renew street trading permission when there has been a complaint about the trader or the trader has broken the conditions of their street trading permission in the past year.

The Head of Planning and Public Protection is authorised to:

- (a) Issue Street Trading Consents and attach such conditions as are necessary under the Local Government (Miscellaneous Provisions) Act 1982;
- (b) Refuse any application for a Consent that:
 - (i) in the opinion of the Head of Planning and Public Protection does not comply with the Council's conditions and policies;
 - (ii) where there are objections from any of the following consultees; (Police, Fire or Highways on the grounds of Public or Highway safety);
- (c) Refer applications to the Licensing Committee:
 - (i) when there has been a complaint about the trader or the trader has broken the conditions of their Street Trading Consent in the past year;
 - (ii) where there is competition for a vacant approved site.
- (d) Suspend a Consent for a period of up to 28 days pending referral to the Licensing Committee or Food Health & Safety Team where serious food safety issues are found.

New Applications for a Street Trading Consent

5.3 An application for Street Trading Consent must be made to the Council in writing. The following will be required to be submitted with the application:

- (a) A completed and signed Street Trading Consent Application Form.
- (b) The full application fee as appropriate.
- (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) Colour photographs of the stall, van, barrow, cart etc. that will be used for the street trading activity.
- (e) A certificate of Public Liability Insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.
- (f) A current Level 2 Award in Food Safety in Catering certificate for all food handlers.
- (g) A valid Waste Transfer Note.

(h) Proof of the applicant's and any prospective employee's right to work in the UK.

(i) Gas safety certificate for the vehicle or stall if applicable.

5.4 Street Trading Consents are issued for a period of up to one year and renewed annually, unless granted for a reduced period.

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

- Denbighshire County Council Highways
- North Wales Police
- Ward Councillors
- Planning
- Food and Environmental Health

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

5.6 Street Trading Consents will not normally be granted where:

- 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.
- There is a conflict with Traffic Orders such as waiting restrictions.
- 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.
- The trading unit obstructs the safe passage of users of the footway or carriageway.
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities.
- The supply of hot or cold food and drinks or confectionery between 07:30 and 18:00 within 100 metres of the boundary of a school or college.

5.7 In considering applications for the grant or renewal of a Street Trading Consent the following factors will be considered:

(a) Public Safety

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public. Factors taken into account will include: obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.

(b) Public Order

Whether the street trading activity represents, or is likely to represent, a substantial risk to public order. Traders will conduct themselves in a professional manner.

(c) The Avoidance of Public Nuisance

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public from noise and/or odour particularly in residential areas.

(d) Appearance of the stall or vehicle

The stall or vehicle must be maintained in good condition smart appearance and meet criteria, including size, laid down in the standard Consent conditions. Photographs or sketches, including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area.

(e) Needs of the Area

The demand for the articles for sale, and the geographical location of the proposed site.

(f) Environmental Credentials

The impact of the proposed operation on the local environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste generated by customers. Provision of adequate measures to minimise the environmental impact of the proposed operation.

(g) Food Traders

Applicants to trade in hot or cold food must be able to demonstrate a good understanding of food safety and be registered as a food business with the relevant local authority. As a minimum, food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health.

(h) Highway

The location and operating times will be such that the highway can be maintained in accordance with Denbighshire County Council's requirements and that there are no dangers to those who have a right to use the highway and no obstruction for emergency access.

- 5.9 There is no statutory right of appeal against refusal to issue a Consent.

Mobile Street Trading

- 5.10 Street traders that meet the conditions below will be classed as mobile. Ice cream vans and mobile sandwich sellers would typically be deemed to be street traders.
- 5.11 Traders must meet all of the below conditions to be classed as mobile:

- move from location to location
- move at least 50 metres from the last trading location and do not return to that location within four hours
- do not wait in one location for more than twenty minutes
- do not trade within 100 metres of the boundary of any school or college between the hours of 07:30 and 18:00 (without formal invitation from the establishment).

5.12 Due to the nature of their trade over a wide geographical area and their limited impact upon a single location mobile street traders will automatically be granted a street trading Consent subject to meeting all the above conditions and submitting a complete application.

Renewal Applications for a Street Trading Consent

5.13 Street Trading Consents are renewed annually from the date of first grant, unless granted for a reduced period. A renewal application for Street Trading Consent must be made to the Council in writing at least 28 days before the date of expiry. 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.
- (c) A certificate of Public Liability Insurance that covers the street trading activity for third party and public liability risks.
- (d) A current Level 2 Award in Food Safety in Catering certificate for all food handlers.
- (e) Proof of the applicants and any prospective employees right to work in the UK.
- (f) A gas safety certificate for the vehicle or stall if applicable.
- (g) A licensed waste carrier agreement.

5.14 At this renewal time, the Council may consult further to determine if the street trader is a cause for concern or has been the subject of complaints.

5.15 If a renewal application is not made before the expiry of the current licence, a new application will have to be made. The effect of this will be that a trader will not be permitted to trade until the new Consent is issued.

5.16 Where a renewal application has been made and there have been no justifiable complaints, no enforcement issues and all fees have been paid on time, the Consent will be renewed.

5.17 Where a renewal application has been made and there have been complaints or enforcement issues or fees have not been paid on time, then the application will be referred to the Licensing Committee.

Vacant Sites

- 5.18 In the event of a Consent being revoked, surrendered or not renewed the Council will advertise vacancies on the Council's website for 28 days. If there is more than one applicant for a vacant site, the applications will be referred to the Council's Licensing Committee who will use the criteria listed at paragraph 5.8 of this policy to make their determination of who to award the vacant site to.

Transfers

- 5.19 A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The sub letting of a pitch is prohibited.

6 Markets

- 6.1 Markets (other than those classed as Special Events) are outside of the scope of the street trading scheme at this time.

7 Special Events

- 7.1 For events such as Christmas or Continental Street Markets, the Council will accept one application from the person organising the event. The event street trading application will require full details of each trader attending the event. Consent will be issued to each individual stall holder. This policy is aimed at promoting events and encouraging traders to attend.
- 7.2 Street trading fees for stalls at charitable or special events may be waived. Street trading is considered to be for charity benefit if the profits from individual stalls/units are donated to charity. These stalls/units would be exempt from Street Trading fees. Any traders (such as traders selling food or refreshments) attending for commercial gain will be subject to a Street Trading fee. Trading at small community events will be exempt from Street Trading fees. Approval for such events must be obtained by the organiser from the relevant Town & Community Council.

8 Fees

- 8.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the location, the duration of the Consent, trading hours, and the articles to be sold. Where trading ceases during the term of Consent, refunds will not be given for any outstanding period of less than 3 months. Details of the current fees can be found on the Council's website or on application to the Licensing Officer. Fees must be paid in advance. Consent fees may be paid in equal instalments, but the first instalment must be paid in advance of the issue of Consent.
- 8.2 Applications for annual Consents should be accompanied by a non-refundable fee deposit. If the application is approved, the balance of the fee will be due before the Consent is issued. If the application is not successful the fee will be retained to cover the cost incurred in processing the application.

9 Conditions

9.1 The Council applies standard conditions to Street Trading Consents.

- General conditions for annual and weekly Street Trading Consents
- Additional conditions applicable to Special Events

The standard conditions are not exhaustive and other conditions may be added to individual Consents where appropriate.

9.2 Standard Trading Hours are:

(a) Roadside locations for vehicles

- Daytime site from 08:00 to 18:00.
- Evening sites for the Sale of Hot Food from 18:30 to 03:00 (can be extended to 04:00 Thursdays, Fridays, and Saturdays on application and subject to approval).

(b) Pavement locations

08:00 to 21:00.

9.3 Street trading can only be carried out from the stall or vehicle authorised on the Certificate of Street Trading Consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Planning and Public Protection.

10 Enforcement

10.1 The Council is committed to enforcing the provisions contained within the relevant legislation and to work in partnership with all enforcement agencies, to provide consistent enforcement on licensing issues.

10.2 The Licensing Team aims to work closely with other enforcement authorities to regulate relevant legislation where necessary.

10.3 Where licensable activities are conducted without the benefit of a licence, permit or consent or where conditions are breached, the Council will look to gather evidence and take enforcement action as appropriate.

10.4 If the Council feels that there is an issue of public order or threat to public safety in any particular instance, it will call for assistance from North Wales Police.

10.5 The Council may call for assistance from the CCTV centre when dealing with such issues.

10.6 Failure to comply with one or more of the standard conditions of Consent may lead to revocation or non-renewal of Street Trading Consent.

11 Contacts

The street trading function is part of the Licensing Team within the Planning and Public Protection Team.

To enquire about any street trading issue, please visit our website:
_or contact us via email licensing@denbighshire.gov.uk or by ringing the
Licensing Team on 01824 706342.

ANNEX 1 General Conditions for Annual and Weekly Street Trading Consents

1. No trading shall take place other than between the dates specified on the Street Trading Consent.
2. Street trading shall only be carried out during operational hours specified on the Street Trading Consent.
3. The Street Trading Consent relates only to the area/site vehicle or stall specified on the Street Trading Consent.
4. The Street Trading Consent relates only to the vehicle or stall specified on the Street Trading Consent.
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the Consent. Any significant changes to or replacement of the stall or vehicle must be approved by the Head of Planning and Public Protection.
6. The Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
7. The Consent Holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must be carried out legally and must not present a risk to people and structures. The Consent Holder shall not drive or park a vehicle on any part of a footway.
8. The Consent Holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued. All goods shall be displayed on the stall and no freestanding racks or displays are permitted. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorized Council Officer or Police Officer they shall immediately comply with that request.
9. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force.
10. The Consent Holder shall conduct their business in a professional manner and in a way that minimises risks to employees and others.
11. The Consent Holder must take reasonable precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.
12. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer's instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.
13. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.

14. All food businesses must be registered as a food business with the local authority where the van/stall is kept overnight. All food businesses registered outside of the Denbighshire County Council area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant local authority.
15. All food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health.
16. All food businesses must achieve and maintain a minimum Food Hygiene Rating of '3 – Generally Satisfactory'. The Hygiene Rating must be displayed prominently on the stall or vehicle.
17. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Denbighshire County Council. Consent Holders shall have special regard to and must take action to prevent excessive noise.
18. Legislation places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, for example by making a bin available for customers to use.
19. A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The subletting of a pitch is prohibited.
20. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Head of Planning and Public Protection of the name and address of that person. An administration fee will be payable.
21. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Head of Planning and Public Protection.
22. A Consent Holder may terminate a Street Trading Consent by written notice to the Head of Planning and Public Protection. A refund of the portion of the fee equal to the remaining full months will be payable, less £50.00 which the Council will retain to cover administrative costs.
23. Consent holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.
24. A copy of the Consent shall be displayed by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
25. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. Proof of cover

must be produced to an officer of Denbighshire County Council on application and as required.

26. These general conditions, which apply to all Street Trading in Denbighshire, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent. These Special Conditions must also be complied with.
27. For Annual Street Trading Consents fee instalments are required quarterly, in advance. The first instalment must be paid in advance of the issue of Consent. The remaining fee can be paid in 3 further equal instalments on the following dates 1st July, 1st October and 2nd January. Annual fees may be paid in advance.
28. The sale of food and/or drink is not permitted by Weekly Street Traders. The items to be sold must be agreed before a Weekly Consent can be issued.
29. For food traders all packaging and utensils for use by customers shall be made of biodegradable or recyclable materials.

Failure to comply with these conditions

If a Consent Holder fails to comply with any of the conditions attached to a Street Trading Consent, the Consent may be suspended for an indefinite period or revoked. The Consent Holder may also be prosecuted.

Additional Conditions Applicable to Special Events/Markets

1. All stalls to be issued with a number that must be displayed on the stall.
2. The Consent Holder should keep records of each stallholder present on the market, to include the stallholder's pitch number, name and company name, their address, vehicle registration and a contact telephone number. This must be produced on request to an authorised officer.

ANNEX 2 List of Small Community Events Exempt from Street Trading Fees

To be confirmed following consultation

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