

MAIDSTONE BOROUGH COUNCIL

Review of Street Trading Policy 2021 - 24

DRAFT

CONTENTS

SECTION	Page Number
1 Introduction	
2 What is Street Trading	
3 Types of Consents	
4 Choosing a Trading Pitch	
5 Other Matters to Consider Before Making an Application	
6 How to Apply for Street Trading Consent	
7 Fees and Charges	
8 Responsibilities of the Consent Holder	
9 Renewal	
10 Transfer of Consents	
11 Variation of Consents	
12 Conditions attached to Consent	
13 Refusal, Revocation and Appeals	
14 Complaints and Enforcement	
Annex A Standard Conditions	
Annex B Relevant Offences when Considering Suitability of Applicant	

INTRODUCTION

1.1 Introduction

The powers to control Street Trading within the Council's area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.

This policy sets out the Council's approach for managing street trading in the district and the process for applications and making decisions.

This new revised policy was approved by the Licensing Committee on and came into effect on.....

Street trading consents are processed and issued by the Council's Licensing Department.

Licensing Department
Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

Tel: 01622 602028

Email: licensing@maidstone.gov.uk

Web: <https://www.maidstone.gov.uk/business/licensing-permits/street-trading>

1.2 Objectives of this Policy

1.2.1 The objectives of this policy are:

a. The Council recognises the valuable contribution that Street Trading can make to the local culture and economy, and the services that Street Traders provide to residents and visitors. Street Trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.

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 the street trading activities.

d. Provide consistency and transparency in the way in which the Council deals with street trading.

e. Provide applicants and consent holders with advice and guidance on the Council's approach to the administration and enforcement of street trading.

1.3 Review of the Policy

1.3.1 This policy will be kept under review and where any significant amendments are considered necessary these will be approved by the Committee that deals with licensing matters after appropriate and relevant consultations have taken place.

Consultees will include

- Kent Police
- Kent Fire and Rescue
- Kent Highways
- Kent Trading Standards
- Maidstone Planning
- Environmental Health
- Community Protection Team
- Economic Development
- Parish Councils
- Ward Members
- Current Street Traders
- Local businesses
- Residents
- Car parks

Minor amendments that do not impact on the aims and objectives of the policy or reflect changes in legislation will be made with the approval of the Head of Housing and Community Services.

2 WHAT IS STREET TRADING?

2.1 Definitions and Resolution

2.1.1 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling or exposing or offering for sale any article, including a living thing, in a street.

2.1.2 The Act states that a street includes any road, footway, beach, or other area to which the public have access without payment.

2.1.3 Maidstone Borough Council have designated all land within Maidstone Borough Council's boundary that falls within the above definition of "street", as consent streets

2.1.4 A street trading consent is needed for trading on:

- . Streets, laybys, pavements or any land including verges controlled by Kent Highways unless there is payment for entry
- . Streets, laybys, pavements, or any land, including verges which are privately owned and the public can access, unless payment is made for entry. This includes private car parks such as superstore car parks.

2.2 Exemptions from needing Street Trading Consent

2.2.1 The following are exempted in the legislation and do not need street trading consent:

- a. A market that is granted through a charter or order.
- b. A news vendor selling periodicals or newspapers.
- c. Trading at a petrol station.
- d. Trading at a shop or in a street adjoining a shop as part of the business or shop.
- e. Trading as a roundsman who has defined customers and routes. It has been established in law that mobile ice cream sales are not normally deemed to be roundsmen.
- f. Service Providers, e.g. hair-braiding, face painting and henna tattoos, etc. The Act which governs street trading relates to the selling of articles and as such, it is the Licensing Authority's view, that people who provide a service e.g. hair-braiders, are not considered to be trading for the purposes of the legislation. However, if quantities of accessories used in hair braiding are also offered for sale then this may be street trading and may require consent.

Pedlars are not exempt in Maidstone due to the Maidstone Act 2006

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. 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.

2.3 Exemption for individual charity stalls with a Street Collection Permit

2.3.1 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. Please contact the Licensing Team for further information on applying for street collection permits.

2.4 Indoor Market Areas

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

2.5 Events with an Entrance Fee

2.5.1 Events that have an entry fee do not constitute street trading and do not need street trading consent

2.6 Community and Charitable Events

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. These types of events will normally be organised by a Parish Council, Maidstone Borough Council or by a recognised group or charity with aims of engaging with and providing support to the local community. Any trading activity would be incidental to the event and where the event organiser does not charge a pitch or similar fee to trade at the event then it may be possible for the Council to waive the fee, or charge a nominal amount .

3 TYPES OF CONSENTS

The Council issues the following four types of street trading consent: All applications for street consent require 21 days notice to be given to the Licensing Department.

3.1 Static Unit Consent

3.1.1 Static street trading consents are issued for a stall or vehicle which returns to one place every day or for regular periods of time. The unit or stall must be removed each day at the end of the trading period unless planning rules allow otherwise.

3.1.2 A static street trading consent may be granted for any period not exceeding 12 months.

3.2 Mobile Unit Consent

3.2.1 Mobile street trading consents are issued to traders who wish to move from place to place. A mobile consent trader must not remain in one place for more than 30 minutes at a time and not return to the same site within 2 hours. A typical mobile consent would be an ice-cream van.

3.2.2 A mobile street trading consent only permits trading within Maidstone Borough Council's area. If the unit goes into areas outside of Maidstone it will also need consent from the relevant authority.

3.2.3 A mobile street trading consent may be granted for any period not exceeding 12 months.

3.3 Short Term Consent

3.3.1 Short Term Consent - Short term consents are issued to traders who wish to consider whether they could be successful at a certain location selling their specific goods. The consent is considered a trial consent and only one will be issued to an individual. They are granted for a period between 1 and 12 days. Any trader who wishes to continue trading after the 12 day period will need to submit a further application for the full 12 months. There is no consultation fee charged for this type of consent

3.4 Multi User Consent

3.4.1 Multi User consents are issued to specific individuals managing an event.

3.4.2 A Multi User consents can cover a number of stalls.

3.4.3 The Multi User must meet the criteria set below.

- . It has a nominated organiser.
- . It has the approval of the local public authority/landowner.
- . It adds value to the town's trade through the provision of specialist products.
- . It does not operate in detriment to the local community.

3.4.4 If the application is made by an organisation they must nominate a named individual who will be responsible for managing use of the consent.

3.4.5 The consent will be issued for a maximum of 12 months and can be renewed.

3.4.6 The consent holder will be responsible for ensuring compliance with times and location permitted by the consent and the conditions attached at all times whilst the consent is being used to facilitate street trading as well as any relevant bylaws.

3.4.7 The consent holder will be responsible for ensuring that any local residents, businesses or shops are not obstructed by the stall/stalls and that all emergency exits to buildings are kept clear. The consent holder must ensure that stalls can be moved quickly in the event that access is needed for emergency vehicles.

3.4.8 The consent holder will be required to keep records of all traders that trade under the consent which will include:

Event date

Company Name

Individuals Name

Trader Name

DOB

N.I number

Address

Food registration certificate number

Vehicle registration if relevant

Contact details.

Type of goods sold

This information will be required by the Licensing Department

3.4.9 As part of the application process the Council will consult all businesses in the vicinity of the Multi User consent . If, at any point after the grant of the consent, any existing or new occupiers of businesses or residential properties make objection to stalls being located outside of their premises the consent may be reviewed which could result in it being varied or amended.

3.4.10 It should be noted that Multi User Consents may incur other fees and charges from Maidstone Council if the land used belongs to Maidstone Borough Council. This will be in addition to the street trading consent fees.

4 CHOOSING A TRADING LOCATION/PITCH

4.1.1 Before applying for a street trading consent, applicants must first identify a suitable trading pitch or site. It is for the applicant to identify a suitable pitch having regard to the requirements in this policy and their business needs. The Council does not hold a list of available trading pitches.

4.1.2 A suitable pitch must meet the following criteria:

- . Be safe for other street users including traffic and pedestrians.
- . Be safe for customers using the street trading unit.
- . Not cause any potential for obstruction, interference, inconvenience or nuisance to other street users including other traders, traffic and pedestrians.
- . Not cause any potential for nuisance to residents and other businesses for example noise and/or smell.
- . The goods being sold complement and do not conflict with the goods sold by other established retailers within vicinity.

4.1.3 In particular account must be taken of the following:

- . Access roads on industrial estates, where heavy lorries manoeuvre, are generally unsuitable places for static units.

- . Locations close to residential properties are unlikely to be suitable due to the potential noise and smell nuisance to residents.
- . Lay-bys on main roads must have good visibility to ensure the safety for traffic entering and leaving the trading site/lay-by.
- . There should be suitable parking spaces for customer and trading vehicles.
- . Units should not cause loss of parking spaces to residents or businesses.
- . Units in town centres must not impede the movement of pedestrians or delivery vehicles or block the frontage of shops or access to existing premises.

5 OTHER MATTERS TO CONSIDER BEFORE MAKING AN APPLICATION

5.1 Suitability of the Applicant

5.1.1 Applications cannot be considered from anyone under the age of 17.

5.1.2 When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a consent including:

(a) Whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.

5.1.3 Where the criminal conviction certificate provided by the applicant shows current offences (i.e. those that are unspent under the Rehabilitation of Offenders Act 1974, the Council will consider the following:

- . whether the conviction is relevant;
- . the seriousness of the offence;
- . the length of time since the offence occurred;
- . whether there is a pattern of offending behaviour;
- . whether that person's circumstances have changed since the offence occurred;
- . the circumstances surrounding the offence and the explanation offered by that person.

5.1.4 Annex B is a list of the offences that the Council considers relevant to a street trading consent application.

5.2 Goods For Sale

5.2.1 Food - Traders wishing to sell food items must be registered as a food business with the Council in whose area the trading unit is stored when it is not at the trading site. Or, if food is pre-prepared before the unit goes to the trading site, you must be registered with Council in whose area the food preparation is undertaken.

5.2.2 Vehicles on the side of the road -This refers to vehicles placed on the highway and advertised for sale and includes any vehicle displaying signs that name an individual or business; or displays notices/signs intended to sell the vehicle. This

authority may take enforcement action against person who are advertising vehicles for sale on the public highway , currently it is the crime waste team that deal with these matters. For the purposes of this part of the policy public highway includes footpaths and adjacent verges and public open land as well as the road itself. It does not include private land. Where any vehicle is offered for sale on the highway that is not taxed and insured, the Police may also refer it to the DVLA Enforcement Team. Enforcement also may be taken under the Highways Act 1980 and the Clean Neighbourhoods and Environment Act 2005. Street Trading consents are not issued for the purpose of selling vehicles on the highway.

5.2.3 Alcohol - If you intend to sell alcohol you will need authorisation under the Licensing Act 2003 in addition to street trading consent. Please contact the Licensing Section for further advice.

5.3 Assistants/Employees

5.3.1 You will be required to check the right to work of any persons you employ to assist you under your 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 reviewed and/or revoked.

5.3.2 The Council will require the name, address, date of birth, national insurance number, a basic criminal check (not more than 1 month old) and a photograph of all persons assisting on a regular basis. The basic criminal check must be updated every 3 years. For the purposes of this policy we would consider any person who works on the unit, without the consent holder being present, for more than 14 days a year, as assisting on a regular basis.

5.4 Waste

5.4.1 A street trading consent holder is responsible for disposal of refuse and must not use Council, highway or other public waste bins unless there is a specific arrangement in place. The consent holder has a duty of care to dispose of commercial waste lawfully.

5.4.2 There must be no disposal of liquid waste down the drains or onto the pavement, road or grassland. This includes waste cooking oil.

5.5 Trading Hours

5.5.1 An application should specify what hours the applicant wishes to trade. Evening and night time hours are likely to have more impact on local residents in terms of noise and disturbance. Applications for later times are more likely to raise objections which may lead to those times being refused or conditions imposed.

5.5.2 The consent holder will be permitted 30 minutes preparation time prior to the start of their trading hours in order to set up the trading vehicle and there will be 30

minutes to close down and pack up. Consent holders are not permitted to trade during set up and closing times. Multi User consent holders will be permitted 90 minutes prior and after trading times to set up and close down the stalls.

5.5.3 Trader's who wish to serve hot food and drink between 23:00 and 05:00 will also need a licence for late night refreshment under the Licensing Act 2003. Please contact the Licensing Team for further information.

5.6 Planning Permission

5.6.1 A street trading consent is given to units where the unit is removed every day at the end of the trading period. If a unit is permanently located at a site it is unlikely to require street trading consent but will require planning permission. Units that are removed every day may also require planning permission in addition to street trading consent. This will be dependant on the amount of time and days that the unit is located at the site. Please contact the Planning Section for further advice.

5.6.2 If a unit that holds street trading consent is not removed every day at the end of the trading period and it is considered that the unit is in fact permanently located in one position, then street trading consent may be revoked.

6 HOW TO APPLY FOR STREET TRADING CONSENT (All consent types)

6.1 Advice for New Applicants

6.1.1 On receipt of an application the Council will undertake a consultation exercise in order to seek the views of other agencies and, if relevant, neighbouring businesses and residents. There is a non-refundable fee to cover the cost of administering the consultation (this is not applicable to short term consents).

6.1.2 The consultation process will normally take at least 14 days and a decision will then be normally made within 7 days of the consultation ending. All applicants should allow a minimum 21 days for their applications to be processed.

6.1.3 Once a decision is made to grant a street trading consent there is a consent fee. This must be paid before the consent is issued and trading can commence.

6.2 Submitting an Application

6.2.1 The following must be submitted with the initial application:-

- a. Application form.
- b. Notice of Intention.
- c. Proof of eligibility of the applicant to work in the UK (where applicable).

d. Plan showing the proposed trading location with position of the unit(s) shown in red. (Not required for mobile units).

e. Written permission from a landowner if the street trading activity is to be carried out on any land owned privately.

f. Payment of a non-refundable consultation fee to cover initial administration and consultation costs (this not required for short term consents).

6.2.2 If, following consultation the location is deemed suitable, the following must be submitted before a final decision is made:

a. Third party public liability insurance up to £10,000,000.

b. A Basic Criminal Disclosure check that is not more than 1 month old for the applicant and any person/s that will be assisting on a regular basis. Basic Criminal Disclosure checks can be obtained from the Disclosure and Barring Service. Information can be found online at: <https://www.gov.uk/request-copy-criminal-record> or by calling 03000 200 190. (Not applicable to short term consents).

c. One passport sized photograph of the applicant and any person/s that will be assisting with the trading on a regular basis. (Not applicable to multi user and short term consents).

6.3 Consultation

Consultation Static Consents and Multi User Consents

6.3.1 On receipt of a valid static or multi user application the Council will consult with the following:-

- . Kent Constabulary.
- . Kent Highways.
- . The relevant Parish Council(s).
- . The Maidstone Borough Councillor(s) for the Ward(s) concerned.
- . Environmental Health Officers at Maidstone Borough Council.
- . Planning Officers at Maidstone Borough Council.
- . Where appropriate local residents and businesses within 100 metres of the proposed site.
- .the relevant department/individual when it's in relation to public owned land.

6.3.2 The Council will allow up to 5 working days to begin the 14 days consultation for people/relevant bodies to make comments in relation to the application.

Consultation - Mobile and Short Term Consents

6.3.3 On receipt of a valid mobile or short term consent application the Council will consult with the following:-

- . Kent Constabulary.
- . The relevant Parish Council.
- . Relevant Ward Councillor(s).
- . Environmental Health Officers at Maidstone Borough Council.
- . the relevant department/individual when it's in relation to public owned land.

6.3.4 The Council will allow up to 5 working days to begin the 14 days consultation for people/relevant bodies to make comments in relation to the application.

6.4 Determining Applications

6.4.1 The Head of Housing and Community Services has delegated powers to issue or refuse an application following the consultation period.

6.4.2 Account will be taken of objections and/or letters of support made during the consultation period. The authority will consider the suitability of the site and the applicant taking account of, but not exclusively, the criteria in this policy.

6.4.3 Each application will be decided on its own merits.

6.5 Street Trading Badges

6.5.1 On grant of a street trading consent a street trading identification badge (except for short term consents and multi user consents) will be issued. The badge must be worn by the person it relates to where it can be clearly seen by the public at all times the person is trading. If the badge is lost or damaged the consent holder must contact the Council as soon as possible. A charge will be made for a replacement badge.

7 FEES AND CHARGES

7.1.1 A list of the current street trading consent fees and charges is available by contacting the Licensing Team.

7.1.2 Initial applications (apart from short term consents) must be accompanied by payment of a non-refundable administration fee to cover initial administration and consultation to determine suitability of the site. The consultation exercise will not commence until this payment is made.

7.1.3 Once a decision is made to grant a consent the full consent fee must be paid before the consent will be issued.

7.1.4 The fees will normally be reviewed on an annual basis.

7.1.5 Street trading fees may be waived in relation to charitable or community events at the discretion of the Head of Housing and Community Services. Each event will be judged on its own merits. However the following criteria will be considered:

- . The street trading is part of an organised event with an organising group/committee/individual.
- . The primary purpose of the event is fundraising for a charitable cause or is for the benefit of the community.
- . The event does not take place any more than once a year.
- . Stalls are pre-booked.

7.2 Payment Methods

- . Cheque - made payable to "Maidstone Borough Council".
- . Debit or credit card – Can used at the Council Offices or by telephone to the Licensing hub between normal office opening hours on 01732 227001.

8 RESPONSIBILITIES OF THE CONSENT HOLDER

8.1.1 The consent holder must act in accordance with the conditions attached to the consent.

8.1.2 A street trading consent entitles the applicant to trade lawfully in the location(s) specified in the consent. Please note there are many other users of streets and the consent does not grant exclusive rights of occupation or ownership of a specific location.

8.1.3 A street trading consent is not a permit to disregard other laws or usual restrictions. For example:

- . Always observe parking restrictions and do not obstruct the highway or entry or exit roads to private property.
- . Other relevant legislation such as the Food Hygiene (England) Regulations 2006, Safety At Work etc Act 1974 and Part II, section 34 of the Environmental Protection Act 1990 (disposing of waste) must be complied with.
- . A consent holder must not cause a nuisance to the occupants of neighbouring properties from noise, litter, disposal of waste or any antisocial activity.

8.2 Changes to The Unit

8.2.1 You must contact the Licensing Section if you want to change your unit. You may need to make a new application or a variation application if the change is significant and impacts on the objectives of this policy.

8.3 Changes of Assistants

8.3.1 A consent holder must provide the Licensing Section with a photograph and basic criminal record disclosure that is not more than 1 month old for any new persons that assist on a regular basis. See paragraph 5.3.2 for definition of assisting on a regular basis.

9 RENEWAL

9.1.1 Applications to renew an existing street trading consent must be made at least 21 days prior to the expiry of the existing consent.

9.1.2 A renewal application may be refused if the renewal application is made late.

9.1.3 The following must be submitted with a renewal application

- . Renewal Application Form
- . Renewal Fee
- . Copy of current third party liability insurance up to £10,000,000.

9.1.4 Additional Requirements at Renewal:

. A Basic Criminal Disclosure for the consent holder and any persons that assist on a regular basis from the Disclosure and Barring Service that is not more than 3 years old.

. 1 recently taken passport size photograph of the consent holder and any persons that assist on a regular basis.(Not required for Multi User Consents)

10 TRANSFER OF CONSENTS

10.1.1 Street trading consents are non transferable. If there is an agreement between a current consent holder and a proposed new consent holder to take over an existing unit and location, the original consent holder must surrender their consent and the proposed new consent holder must submit a new application. The proposed new consent holder, who has made the agreement with the existing consent holder, will be given priority in applying for the location provided that the new application is submitted within 5 working days after the current consent holder surrenders their consent. The applicant will need to follow the process for submitting a new application.

11 VARIATION OF CONSENTS

11.1 A street trading consent may be varied to change the conditions attached to the consent. This includes conditions relating to trading times and periods. This does not include a change of consent holder or a change of location. A variation application should be submitted with the following:

- a. Variation Application form.
- b. Notice of Intention.
- c. Written permission for the proposed change from the landowner if the street trading activity is carried out on any land owned privately.
- d. Photograph of the new/changed unit if applicable.
- e. Payment of the non-refundable consultation fee.

11.2 Consultation will be in accordance with the new application process. However if the variation is minor the consultation may be reduced at the discretion of the Head of Housing and Community Services.

12 CONDITIONS ATTACHED TO CONSENTS

12.1 When granting or renewing a street trading consent the Council may attach such conditions to it as they consider reasonably necessary.

12.2 Street trading consents will usually be granted subject to the standard conditions detailed in Annex A to this Policy.

12.3 Where appropriate, additional conditions may be added to a specific consent.

13 REFUSAL, REVOCATION AND APPEALS

13.1 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

13.2 The Act does not provide an applicant or a consent holder with any direct right of appeal against a decision to refuse the grant, variation or renewal of a street trading consent, the revocation of a street trading consent, or against any restrictions or conditions imposed on a street trading consent.

13.3 If an applicant or any relevant party wishes to make representations in respect of a decision to grant, refuse or revoke a street trading consent the applicant/consent holder/relevant party should put this in writing with the reasons to the Licensing Section within 28 days of being notified of the decision. The request will be reviewed by the Head of Housing and Community Services, who will consider whether it is reasonable and proportionate for an appeal to be heard by the Licensing Sub Committee. The review of the decision will take account of the reasons for the original decision and the representation or any further evidence put forward by the applicant/consent holder/other party.

14 COMPLAINTS AND ENFORCEMENT

14.1 General Principles

14.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

14.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

14.1.3 Consent Holders must allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

14.2 Offences

14.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relevant to the Maidstone area:-

- . Engaging in street trading in a consent street without Consent.
- . Breaches of a condition in relation to trading location or unit or trading period.
- . Breaches of a condition attached to the granted Consent.

14.2.2 A person guilty of the above offences may be liable on conviction to a fine of up to £1000.

14.3 Complaints

14.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

14.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:

- . Verbal warning.
- . Written warning.
- . Simple caution.
- . Prosecution.
- . Revoke the Consent.

ANNEX A

STANDARD CONDITIONS APPLICABLE TO HOLDERS OF A STREET TRADING CONSENT THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

It is important that the consent holder should understand and at all times observe these conditions. Any breach of any Condition could result in revocation of the street trading consent.

1 Street trading can only take place in accordance with the times and permissions of the consent.

2 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation the holder in respect of such revocation.

3 The consent holder shall return this consent to Maidstone Borough Council immediately on revocation or surrender of the Consent.

4 Any consent holder found to be employing persons who do not have the right to work in the UK will have their consent immediately revoked.

5 A consent cannot be sub-let.

6 Consent holders shall permanently and clearly display on the street trading unit, in a conspicuous position readily visible to the public, the valid consent that has been issued by the Council. (Static and Mobile Consents only).

7 The consent holder and any assistants shall sell/offer for sale only such goods or types of goods as may be specified in the street trading consent granted to the consent holder.

8 The consent holder shall at all times maintain a valid Third Party Public Liability Insurance Policy of at least £10,000,000 to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.

9 The consent holder shall keep his trading site and immediate adjacent area in a clean and tidy condition during permitted trading hours and also leave the site in a clean and tidy condition and unobstructed at the end of each period of use under the terms of this consent. For these purposes the term 'immediate adjacent area' refers to all public land within a 50 metres radius from the trading location over which the public have access.

10 No waste matter shall be discharged into or allowed to enter any highway drain or water course.

11 Every static street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of the day. The unit must not be left on site when not in use unless explicit written consent has been given by the Head of Housing and Community Services.

12 The consent relates only to the unit described in the application or as defined on the certificate of consent.

13 The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are also prohibited without the written permission of the Head of Housing and Community Services.

14 The display of advertising signs, other than on the unit itself, is prohibited without the written permission of the Head of Housing and Community Services. Signage may also require planning permission.

15 Holders of a mobile street trading consent must not trade in one place for more than 30 minutes at a time and must not return to the same location within 2 hours.

16 No street trading unit shall be located and no street trading activity shall be carried on so as to cause obstruction of any street or endanger persons using the street.

17 The consent holder shall not trade in such a way as to cause a statutory or public nuisance to persons using the street, public place, or occupiers of premises in the vicinity. Noise from equipment (including amplified audio equipment) used in connection with the consented street trading activity shall also not give rise to a statutory or public nuisance.

18 The consent holder shall make adequate arrangements to ensure that all persons connected with the operation of the unit have the means and opportunity to visit suitable toilet facilities when necessary. The consent holder shall ensure that the facilities available are made use of.

19 The consent holder shall comply with the requirements of Part II, section 34 of the Environmental Protection Act 1990 with respect to waste resulting from his/her trading. The consent holder will make available the relevant documentation as proof of compliance at the request of an authorised officer of the Council.

20 If, and when required, the consent holder shall present the street trading unit to an officer of the Council for inspection.

21 The Council reserves the right to refuse to renew a static street trading consent if the applicant has not, without reasonable cause, traded at the site on a regular basis in the previous 6 months. In such circumstances the street trading consent may be granted to another applicant.

22 Street trading shall not be carried on at any time unless the appropriate fee for the street trading consent has been duly paid to the Council.

23 The consent Holder shall at all times conduct business in a clean, honest, civil and business like manner without interfering with the business of other traders and consent holders.

24 Nothing contained in these conditions shall relieve the consent holder or their employees or agents from any legal duty or liability and the consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this consent.

25 The Council may vary or make additions to the Conditions applying for any or all street trading consents, at any time.

ANNEXE B

RELEVANT OFFENCES WHEN DETERMINING SUITABILITY OF AN APPLICANT FOR A STREET TRADING CONSENT

a. Dishonesty

A street trading consent will not be granted unless 3 - 5 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

b. Violence

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted.

In other cases a street trading consent will not be granted unless 3 – 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

c. Drugs

A street trading consent will not be granted unless 5 - 10 years have lapsed since a conviction relating to the supply or importation of drugs or completion of any sentence imposed whichever is the later.

A Street trading consent will not be granted unless 3 - 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

d. Sexual and Indecency Offences

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

e. Exploitation

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

f. Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious

nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 3 - 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

g. Street Trading Legislation

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction then 5 years must have lapsed.

h. Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

i. Existing Consent Holders Convicted Of An Offence

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

DRAFT