

# Street Trading Policy

2026



ASHFORD  
BOROUGH COUNCIL

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**Policy:** Street Trading

**Control Schedule**

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## **Purpose**

1. The Council's street trading policy aims to create a street trading environment which compliments premises-based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments.
2. The policy recognises the importance of street trading to the Borough of Ashford and that it can add to the vibrancy and vitality of the street and communities. It also recognises that control over street trading is necessary to prevent and protect against; nuisances, adverse impacts on highway users, crime and disorder, consumer protection concerns, and adverse impacts on public safety.
3. Through the Licensing and Economic Development services, the council will seek opportunities to promote suitable street trading activities.
4. This policy will be the subject of review after five years.

## What is Street Trading?

5. Street trading is defined under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 as *'the selling or exposing or offering for sale of any article (including a living thing) in a street.'*

The term *'street'* includes any road, footway or other area to which the public have access without payment, and any service areas as defined under Section 329 of the Highway Act 1980.

6. Ashford Borough Council has designated all streets in the borough as *'consent streets'* for street trading purposes in line with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

This designation was reaffirmed by council through the passing of resolution on 17<sup>th</sup> July 2025 .

7. The effect of this designation is that street trading in any *'street'* without first obtaining a street trading consent from the council is prohibited, and would amount to a criminal offence unless a relevant exemption applies.

## Exemptions

8. The Local Government (Miscellaneous Provisions) Act 1982 lists specific forms of trading which are exempt from the need to obtain a street trading consent, which includes: -

- a person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- Anything done in a market, where the right to hold the market was acquired or established by enactment or order
- trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980
- trading as a newsvendor (newspapers or periodicals only) without a stall, or, with a stall not exceeding one metre in length or width, or two metres in height, not occupying a ground area of more than 0.25m<sup>2</sup>, and not standing in a carriageway of a street.
- trading which is carried on at a petrol filling station
- trading which is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop
- trade carried out by roundsmen e.g. milkmen
- Trading authorised by means of a Street Collection Licence under Section 5 of the Police, Factories, & c. (Miscellaneous Provisions) Act 1916

9. It should be noted that even where a relevant street trading exemption applies the need for a street collection licence under the Police, Factories, & c.

(Miscellaneous Provisions) Act 1916 still applies if representation is made that any part of the sale proceeds will be devoted to any charitable purpose.

10. In addition to the statutory exemptions to holding a street trading consent, Ashford Borough Council have adopted the following to clarify the extent to which it considers an area *‘to which the public have access without payment’* to be relevant for the purpose of street trading.

If any of the below scenarios apply, then you will be unlikely to require a street trading consent. Planning permission, food business registration, street collection licences, business rates etc. may however still be required as appropriate to the circumstances.

**Trading on private land, where the stall/trading is not adjacent to the public highway.**

The term ‘adjacent’ is not strictly defined, but it is suggested to be within 25 meters of a public highway

Example – An ice-cream trader operating outside the front doors of a supermarket with the landowner’s permission, but away from the public highway.

**Trading on private land, that is adjacent to the public highway, but where there is no direct access from the highway due to continuous hedging/fencing.**

The term ‘adjacent’ is not strictly defined, but it is suggested to be within 25 meters of a public highway

Example - Trading at a retail unit car park alongside the highway but where customers from the street would need to walk around the site boundary to the public entrance and then back across the car park

**Trading on private land regardless of proximity to the highway but only trading to occupiers of the private land (with no trading to the wider public)**

Example – Sandwich van serving industrial unit employees, or a food stall at a promotional event for retail unit customers

## **Types of Consents**

11. The types of consents issued by this council are detailed below:

### **Hawker**

12. For those trading at different locations within the borough, for no longer than 20 minutes and not returning to the same location or within 200m on the same day.

No planning consent required.

*Examples: Sandwich vendors serving industrial areas, and ice cream vans operating local rounds.*

### **Short Term Static Consents**

13. For those trading at the same location, no more than twice a week and less than 4 hours a day. A separate consent would be required for each trading location.

This consent would not usually require planning consent.

*Example: A fish & chip vans serving rural villages.*

### **Static Consents**

14. For those trading on a street, at the same location, more than twice a week and/or for more than 4 hours a day.

This consent is likely to require planning permission.

*Examples: Roadside burger vans/trailers*

Note: The council operate a small number of roadside trading pitches. Details of these pitches and their availability are published at; <https://www.ashford.gov.uk/licensing/street-trading/mobile-food-traders/>

### **High Street, Ashford – Street Trader**

15. For those trading within the High Street in Ashford Town Centre;

#### Lower High Street

Pitches are available in this location for trading on Monday-Saturday between 0900-1500 hours.

### Upper High Street (the display area)

Pitches are available in this location for trading on Monday-Friday between 0900-1600 hours for the sale of goods (excluding hot food/drink).

These pitches will be subject to enhanced conditions surrounding stall setup/presentation and the goods to be sold, reflecting the enhanced impact that trading in these locations has on the town centre environment.

Details of the pitches and availability are published at;  
<https://www.ashford.gov.uk/licensing/street-trading/markets/>

### **One-off Events/Market Consent**

16. For one-off markets, such as Christmas Markets, Ashford Borough Council will issue a single consent to the person organising the event, rather than to each individual trader.
17. It is acknowledged that at the time of application a full list of individual traders may not be confirmed and/or may be subject to change.

As such, this form of consent will require the consent holder to retain (for a period of 12 months) a list of individual traders who are permitted to trade under that street trading consent. The list must include personal details, details pertaining to the trading to be conducted, a declaration that the individual trader is over the age of 17 who has not previously been subject to the revocation of a street trading consent/licence, and has no unspent criminal convictions.

Where an individual trader has an unspent conviction or prior revocation, then advice must be obtained from the Licensing and followed, prior to allowing the trader to commence trading at the event.

A sample 'trader form' will be included with the street trading consent application

Such information shall be provided to an authorised officer of the council upon request.

18. The Council will also require that the event operator submit an application and work with the Safety Advisory Group to ensure that risks to public safety and controlled concerns of partner agencies (such as Kent Police, Kent Highways, and SE Coast Ambulance Service) are managed and controlled.

## Making an Application

19. Application forms for the different types of street trading consent will be published online at; <https://www.ashford.gov.uk/licensing/street-trading/>
20. Where applicable, fees for consents must be paid in full at the time of application. Applications will not be processed or determined where the application fee is outstanding.

However, in order to promote community-based events **fees** will not be required for the following street trading activities: -

- fetes, carnivals or similar community based and run events
  - non-commercial or charitable events
  - farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people)
  - sales of articles by householders on land contiguous with their homes
21. Where deemed necessary applicants may be asked to provide a site plan of the location to which the consent relates.
  22. Where consents attract a pitch fee (council operated pitches) those fees will be payable via a monthly direct debit. A direct debit will be setup during the application process, and failure to maintain payments or address any outstanding payments will ordinarily result in the consent being revoked.

## Insurance

23. Individual traders and small community based, events will be required as part of the application to demonstrate that they hold public liability insurance covering their trading activities to the value of £5,000,000
24. Operators of large or commercial one-off markets and events will be required to hold public liability insurance covering them in their role as market/event organiser and manager **to the** value of £10,000,000.

## Planning Consent

25. Planning consent may be required for street trading where such use amounts to a change of use of the land. The stall/vehicle/trailer being removed after trading each day does not mean that planning consent is not required.
26. If planning consent is required, the onus is on the applicant to obtain planning permission prior to making an application for street trading consent. If planning permission is required, and has been granted, consultation requirements for street trading will be reassessed

27. Further information on may be viewed at [www.ashford.gov.uk/planning](http://www.ashford.gov.uk/planning).

### **Permission of the landowner**

28. The council will not grant street trading consent to new traders unless the permission of the landowner for such trading has been obtained and written evidence supplied.

29. Where Ashford Borough Council is the landowner, written permission should be obtained from the department responsible for the management of the land concerned (i.e. Corporate Property Services, Housing, etc.).

### **Other licence requirements**

30. In addition to the requirement of having a street trading consent, applicants who sell hot food and/or hot drinks between 23:00 and 05:00 hours will need a Premises Licence authorising late night refreshment under the Licensing Act 2003.

Further information on late night refreshment is available at;  
<https://www.ashford.gov.uk/licensing/>

## **Consultation and Determination**

### **Consultation**

31. Before a new pitch is created by the Council for the purposes of street trading (non-market) we may consult and seek written observations from some or all below potentially interested parties: -

- occupiers of premises immediately adjacent and opposite
- ward councillors
- parish or town council
- Kent Police
- Development Control (ABC)
- Kent County Council Highways

### **Determination**

32. In determining whether to create a street trading pitch the Council will have regard to:

- any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving
- any loss of amenity caused by noise, traffic or smell
- existing Traffic Orders e.g. waiting restrictions, parking, etc
- any potential obstruction of pedestrian or vehicular access
- any obstruction to the safe passage of pedestrians
- the safe access and egress of customers and staff from the pitch and immediate vicinity
- congestion
- impact on the character of the area
- whether the applicant(s) is under the age of 17 years – in which case a consent cannot be granted
- the suitability of the applicant – See Appendix D

33. Twenty-eight days will be given to consultees to make comments or place objection, after which the application will be determined.

34. Where consent is issued it will be subject to conditions appropriate to the purposes of this policy.

35. There is no right of appeal against refusal to issue consent, but where an application is refused, payment of the application fee shall be refunded. The applicant may choose to pursue a formal service complaint through the council's formal complaints procedure.

## **Conditions**

36. Consents issued will specify the trading day(s), timings, the size of the pitch, location, and goods in which the trader is permitted to trade.
37. Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.
38. The Environmental Health Manager may review the conditions set out in the appendices of this policy and may add to, delete or amend the conditions as necessary.
39. Failure to comply with conditions, non-payment of fees, and non-attendance may lead to revocation or non-renewal of a consent.

## **Enforcement**

40. Persons trading without a street trading permission, applicants who fail to disclose relevant information, traders whom breach conditions or display unsuitable behaviour will be the subject of enforcement action.
41. Enforcement action will also be taken where a person holds a certificate granted under the Pedlar's Act 1871, but who fails to operate in accordance with said certificate.
42. There are a range of enforcement options available including (but not limited to) a verbal warning, a written warning, caution, prosecution, and revocation of consent.

## **Fee Structure**

43. The Environmental Health Manager has delegated authority to set fees and to review the fee structure to ensure that they remain suitable.
44. However, in general the fees applicable for street trading consents and pitch fees will be set by annually, and shall reflect the pitch location, trading days, and hours.
45. Fees will be published online at <https://www.ashford.gov.uk/licensing/street-trading/>

## Appendix A: Hawker, Short-Term Static, and Static Conditions

### Definitions

In these conditions:

- "*assistant*" means any person, (not being a consent holder trading under the authority of and in accordance with any condition of a street trading consent) who engages in street trading on or from a stall which is under the control of a consent holder whether in return for payment or not
- "*consent holder*" means any person, not under 17 years of age, who is authorised by the council to engage in street trading under section 3 and the fourth schedule of the Act
- "*council*" means Ashford Borough Council
- "*hawker consent*" refers to consents granted to those trading at different locations within the borough, for no longer than 20 minutes and do not return to the same location or within 200m, on the same day.
- "*short term static consent*" refers to consents granted to those trading for no more than twice a week and less than 4 hours a day
- "*static consent*" refers to consents granted to those trading on a street, at the same location, more than twice a week and/or for more than 4 hours a day.
- "*street trading unit*" in this consent includes any stall or mobile shop or similar vehicle from which trading is conducted;
- "*surrounding area*" refers to all private and public land that is open to the air, within a 50 meters radius from the trading location over which the public have access
- "*the Act*" means the Local Government (Miscellaneous Provisions) Act 1982
- "*the schedule*" means the schedule relating to this street trading consent.

Except where the context otherwise requires words and phrases shall have the meanings assigned to them by paragraph 1 of the fourth schedule to the act.

### Conditions

#### General

1. A street trading consent is valid only for the period and location specified in the document granting consent.
2. Holders of consents are not permitted to trade in the vicinity of sensitive areas. Primarily this is related to the safety of children and the development of healthy eating practices, but locations near nightclubs, hospitals, etc. May have restricted use or not be permitted. A location is 'in the vicinity' of a school if it is situated such that pupils may be encouraged to walk to it during a break from school, or immediately before or after school.
3. A street trading consent may be revoked at any time by the council and may be surrendered at any time by the holder of the consent.
4. A street trading consent shall not be assigned or transferred.
5. A street trading consent is required in respect of each street trading unit, i.e. For each vehicle, stall or other street trading facility or structure used as a sales point.
6. The consent holder and/or his/her employees or assistants shall sell/offer for sale only authorised goods; that is to say, only such goods or types of goods as may be specified in the permission granted to the consent holder
7. The consent holder shall present the street trading unit to an officer of the council for inspection as required.
8. The consent relates only to the unit described in the application or as specified in the

permission granted to the consent holder. The unit may not be replaced or altered without the written permission of the environmental health manager.

9. The consent holder shall observe, perform and comply with all relevant statute law, common law, and byelaw provisions including road traffic regulation orders.
10. All stalls selling food or drink must be registered appropriately as a food business operator with their home environmental health authority and shall at all times they hold a minimum food hygiene rating of a three-stars (equating to '*broadly compliant*').
11. The council may vary or make additions to the conditions applying for any or all street trading consent, at any time.
12. Nothing in these conditions shall relieve or excuse the consent holder or their assistants from any other legal duty or liability.

#### Litter and refuse

13. When departing from a street trading location, the consent holder shall ensure, as far as is reasonably possible, that the location and surrounding area is cleared of waste (including litter caused by members of the public) arising from the trading.  
Note: for these purposes the term
14. No waste matter shall be discharged into or allowed to enter any highway drain or water course.
15. The consent holder shall provide and maintain at their expense adequate refuse receptacles for litter.
16. The consent holder shall comply with the requirements of section 34 of the Environmental Protection Act 1990 with respect to waste resulting from their trading. The consent holder will make available the relevant documentation as proof of compliance at the request of an authorised officer of the council.

#### Landowner consent

17. The consent holder shall not operate the street trading unit, or cause or permit the unit to be so operated, on any privately owned or council owned land unless the owner's or the council's written permission has been obtained.

#### Nuisances, damage and obstruction

18. The consent holder shall not trade in such a way that is likely to cause undue obstruction to any part of any street or private place.
19. The consent holder shall not trade in such a way that is likely to cause damage to the highway or any property in the street.
20. The consent holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity. Noise from equipment used in conjunction with consented street trading activity shall not be audible inside nearby noise sensitive property (e.g. Dwellings, offices, etc).
21. Every street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of trading unless prior permission is granted by the council or from the private landlord.
22. The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are prohibited without the written permission of the environmental health manager.
23. The display of advertising signs, other than on the unit itself, is prohibited.

#### Insurance

24. The consent holder shall indemnify the council against any claims in respect of injury damage or loss arising out of the grant of this consent (except insofar as any claim in respect of injury damage or loss is attributable to the negligence of the council) and shall maintain a public liability insurance policy with a limit of indemnity of up to £5 million for any one incident. The consent holder shall produce the certificate of insurance and any renewal thereof within 24

hours of the original expiry date.

#### Convictions and address

25. The consent holder or their assistant shall inform the council of any arrest, conviction, caution or fixed penalty notice they are subject to within seven days of the occurrence.
26. The consent holder or their assistant shall inform the council of any change of address or contact number within seven days of the event.

#### Notes

27. The serving of hot food or hot drinks between 23:00 and 05:00 requires the licence holder to hold valid premises licence authorising late-night refreshment in accordance with the licensing act 2003. This is in addition to the need for a street trading consent.

**Note:** the consent holder's attention is drawn to schedule 4 of the local government (miscellaneous provisions) act which provides that failure to comply with the above conditions could lead to revocation of the permission and would be taken into account in considering any application

### **Additional conditions for hawker consents**

#### General

28. Holders of a hawker street trading consent must not trade in one place for more than 20 minutes at a time and must not return to the same location (or to any other location within 200m) in the same street, on the same day. Traders who wish to trade in one place for a longer period of time must apply for either a short term static or static street trading consent.

#### Chimes

29. Hawker consent holders may sound chimes but not:
  - i. For longer than 4 seconds at a time;
  - ii. More often than once every three minutes;
  - iii. Not when a vehicle is stationary (and to be properly used should only be audible when a vehicle is approaching a selling area or point).
  - iv. When in sight of another vehicle which is trading;
  - v. When within 50 metres of schools (during school hours), hospitals and places of worship (on Sundays and other recognised days of worship);
  - vi. More often than once every 2 hours in the same street;
  - vii. With the volume too loud (i.e. Not more than 80dB<sub>(A)</sub> at 7.5 meters).
  - viii. Not before 12pm (midday) or after 7pm, or if they are sounded at any time as to cause an annoyance.

### **Additional conditions for short-term static and static consents**

#### General

30. Holders of a short-term static street trading consent must not trade in one place for more than 4 hours a day, more than twice a week. Traders who wish to trade in one place for a longer period of time must apply for a static street trading consent.
31. Street trading from the unit to which these conditions apply shall be limited to the location, days of the week and between the hours stated in the consent. Trading is not permitted outside those hours without written permission.
32. The council reserves the right to revoke or refuse to renew a street trading consent if the applicant has not, without reasonable cause, traded at the site on a regular basis. In such circumstances the street trading consent may be granted to another applicant.
33. Street trading on council controlled static pitches shall not be carried on at any time unless the appropriate pitch fee has been duly paid to the council.

#### Sanitary provision

34. Holders of static consents when operating on a static site shall have access to suitable and

sufficient sanitary provision for both the consent holder and any assistants. The sanitary provisions shall be approved by the council.

## Appendix B: Ashford High Street Conditions

### Definitions

In these conditions:

- "*assistant*" means any person, (not being a consent holder trading under the authority of and in accordance with any condition of a street trading consent) who engages in street trading on or from a stall which is under the control of a consent holder whether in return for payment or not and has been notified to and approved by the council
- "*consent holder*" means any person, not under 17 years of age, who is authorised by the council to engage in street trading under section 3 and the fourth schedule of the Act
- "*council*" means Ashford Borough Council
- "*street trading unit*" in this consent includes any stall or mobile shop or similar vehicle from which trading is conducted;
- "*surrounding area*" refers to all private and public land that is open to the air, within a 50 meters radius from the trading location over which the public have access
- "*the Act*" means the Local government (Miscellaneous Provisions) Act 1982
- "*the schedule*" means the schedule relating to this street trading consent.

Except where the context otherwise requires words and phrases shall have the meanings assigned to them by paragraph 1 of the fourth schedule to the act.

### Conditions

#### General

1. A street trading consent is valid only for the period and location specified in the document granting consent.
2. No article or thing shall be caused or allowed to project beyond the approved pitch size. All goods must be displayed/stored at the pitch location within the specified pitch size.  
Note: The council reserve the right to charge traders for additional space used, or to revoke consent where deemed appropriate
3. A street trading consent may be revoked at any time by the council and may be surrendered at any time by the holder of the consent.
4. A street trading consent shall not be assigned or transferred.
5. A street trading consent is required in respect of each street trading unit, i.e. For each vehicle, stall or other street trading facility or structure used as a sales point.
6. The consent holder and/or his/her employees or assistants shall sell/offer for sale only authorised goods; that is to say, only such goods or types of goods as may be specified in the permission granted to the consent holder
7. The consent holder shall present the street trading unit to an officer of the council for inspection as required.
8. The consent relates only to the unit described in the application or as specified in the permission granted to the consent holder. The unit may not be replaced or altered without the written permission of the environmental health manager.
9. The consent holder shall observe, perform and comply with all relevant statute law, common law and byelaw provisions, including road traffic regulation orders.
10. All stalls selling food or drink must be registered appropriately as a food business operator with their home environmental health authority and shall at all times they hold a minimum food hygiene rating of a three-stars (equating to '*broadly compliant*').
11. The council may vary or make additions to the conditions applying for any or all street trading

consent, at any time.

12. Nothing in these conditions shall relieve or excuse the consent holder or their assistants from any other legal duty or liability.

13. A consent holder shall:

- (a) at all times while engaging in street trading, have in their possession their Street Trading Consent, as issued by the Council;
- (b) if so required by the Council at all times while engaging in street trading, carry about their person a badge or such other means of identification (if any) as may be prescribed by the Council;
- (c) on being required to do so by an authorised Officer of the Council (who if so required shall produce their authority) or by a Police Officer, produce this consent;
- (d) on changing their address, or the address at which articles will be stored when not being offered for sale, within 14 days of such change give notice to the Council, of such change and at the same time produce this consent in order that a memorandum of such change may be endorsed thereon.

14. A consent holder shall not at any time lend or purport to transfer or assign this consent to or permit it to be used by any other person.

15. This consent must not be altered, defaced or tampered with in any way

#### Attendance

16. The consent holder shall not attend at the street before 6 a.m. on the day(s) for which this consent is valid, but shall attend there by 8 a.m. The consent holder shall remain at the stall until the ceasing of trading at 4 p.m. following which he shall immediately vacate the stall clearing away all goods and articles including refuse to the satisfaction of the Council.

17. Repeated non-attendance, without authorisation from the Licensing Authority, may result in the revocation of the consent.

18. All vehicles being used by the consent holder or their assistant for servicing their trading shall be loaded or unloaded and leave the Town Centre without delay and without causing obstruction to pedestrians and traffic in the Town Centre and shall be parked away from the Town Centre and no such vehicle shall, except in cases of emergency, be in the Town Centre between 9am and 4pm (3pm for lower High Street traders)

#### Stall presentation

19. All stalls used under the authority of this consent must:

- (a) Be of a market quality 'pop-up' gazebo type construction of broad stripes of teal and white colours (for both the awning and any walls), with suitably weighted legs/bases (unless agreed in writing by the council). Such stalls must be maintained in good condition and be cleaned/repaired/replaced as may be necessary.  
Note: Where the council has provided a gazebo unit then it is expected that the supplied unit shall be used for trading.
- (b) be used in such a manner that no damage is caused or is likely to be caused to the surface of the street or any person, building, structure, article or thing therein and
- (c) no stall or article associated with it shall be physically attached in any manner to the surface of any street or any building, structure, article or thing therein.

#### Litter and refuse

20. When departing from a street trading location, the consent holder shall ensure, as far as is reasonably possible, that the location and surrounding area is cleared of waste (including litter caused by members of the public) arising from the trading.

Note: for these purposes the term

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

22. A consent holder or their assistant shall:

- (a) Cause all refuse arising from the business carried on being stored only within the extent of their approved pitch and where relevant placed in suitable containers which shall be kept exclusively for that purpose. Such containers to be kept in a reasonably clean state.
- (b) Remove all refuse generated by their trade at the end of each trading day for disposal via a commercial waste contractor or via a licensed waste disposal site. At no time should waste generated from trading be left on the street or in litter bins etc.

#### Nuisances, damage and obstruction

- 23. The consent holder shall not trade in such a way that is likely to cause undue obstruction to any part of any street or private place.
- 24. The consent holder shall not trade in such a way that is likely to cause damage to the highway, or any property in the street.
- 25. The consent holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity. Noise from equipment used in conjunction with consented street trading activity shall not be audible inside nearby noise sensitive property (e.g. Dwellings, offices, etc).
- 26. Every street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of trading unless prior permission is granted by the council or from the private landlord.
- 27. The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are prohibited without the written permission of the environmental health manager.
- 28. The display of advertising signs, other than on the unit itself, is prohibited.
- 29. No petrol/diesel generators may be used in connection within this consent, except with the specific approval of the Licensing Authority.
- 30. No hot food/drink may be sold, except with the specific approval of the Licensing Authority.
- 31. The consent holder shall pay to the Council the cost incurred by the Council in making good any damage to the Town Centre or its furniture or landscaping caused by the consent holder or their assistant.
- 32. A consent holder or their assistant shall immediately remove their stall and any articles or things associated therewith for so long as may be necessary if required to do so by an authorised Officer of the Council (who if so required shall produce their authority) or a Police Officer in the event of an emergency or in the exercise by the Council of any of its powers or duties or in the event of works being carried out in the street by statutory undertakers.

#### Insurance

- 33. The consent holder shall indemnify the council against any claims in respect of injury damage or loss arising out of the grant of this consent (except insofar as any claim in respect of injury damage or loss is attributable to the negligence of the council) and shall maintain a public liability insurance policy with a limit of indemnity of up to £5 million for any one incident. The consent holder shall produce the certificate of insurance and any renewal thereof within 24 hours of the original expiry date.

#### Convictions and address

- 34. The consent holder or their assistant shall inform the council of any arrest, conviction, caution or fixed penalty notice they are subject to within seven days of the occurrence.
- 35. The consent holder or their assistant shall inform the council of any change of address or contact number within seven days of the event.

**Note:** the consent holder's attention is drawn to schedule 4 of the local government (miscellaneous provisions) act which provides that failure to comply with the above conditions could lead to revocation of the permission and would be taken into account in considering any application

## Appendix C: One-Off Event (Market) Conditions

### Definitions

In these conditions:

- "*assistant*" means any person, (not being a consent holder trading under the authority of and in accordance with any condition of a street trading consent) who engages in street trading on or from a stall which is under the control of a consent holder whether in return for payment or not
- "*consent holder*" means any person, not under 17 years of age, who is authorised by the council to engage in street trading under section 3 and the fourth schedule of the Act
- "*council*" means Ashford Borough Council
- "*street trading unit*" in this consent includes any stall or mobile shop or similar vehicle from which trading is conducted;
- "*surrounding area*" refers to all private and public land that is open to the air, within a 50 meters radius from the trading location over which the public have access
- "*the Act*" means the Local government (Miscellaneous Provisions) Act 1982
- "*the schedule*" means the schedule relating to this street trading consent.

Except where the context otherwise requires words and phrases shall have the meanings assigned to them by paragraph 1 of the fourth schedule to the act.

### Conditions

#### General

1. A street trading consent is valid only for the period and location specified in the document granting consent.
2. No article or thing shall be caused or allowed to project beyond the approved pitch(es).
3. A street trading consent may be revoked at any time by the council and may be surrendered at any time by the holder of the consent.
4. A street trading consent shall not be assigned or transferred.
5. The consent holder and/or his/her employees or assistants shall sell/offer for sale only authorised goods; that is to say, only such goods or types of goods as may be specified in the permission granted to the consent holder
6. The consent holder shall observe, perform and comply with all relevant statute law, common law and bylaw provisions, including road traffic regulation orders.
7. All stalls selling food or drink must be registered appropriately as a food business operator with their home environmental health authority and shall at all times they hold a minimum food hygiene rating of a three-stars (equating to '*broadly compliant*').
8. The council may vary or make additions to the conditions applying for any or all street trading consent, at any time.
9. Nothing in these conditions shall relieve or excuse the consent holder or their assistants from any other legal duty or liability.
10. A consent holder shall:
  - (e) at all times while engaging in street trading, have in their possession their Street Trading Consent, as issued by the Council;
  - (f) if so required by the Council at all times while engaging in street trading, carry about their person a badge or such other means of identification (if any) as may be prescribed by the Council;

- (g) on being required to do so by an authorised Officer of the Council (who if so required shall produce their authority) or by a Police Officer, produce this consent;
- (h) on changing their address, or the address at which articles will be stored when not being offered for sale, within 14 days of such change give notice to the Council, of such change and at the same time produce this consent in order that a memorandum of such change may be endorsed thereon.

11. A consent holder shall not at any time lend or purport to transfer or assign this consent to or permit it to be used by any other person.

12. This consent must not be altered, defaced or tampered with in any way

#### Assistants

13. Where the consent holder authorises assistants to operate stalls or trading units under this consent, they shall retain records of; the traders person details (name, address, telephone number, date of birth), details of any unspent convictions, and any prior suspensions/revocations of street trading consents/licences. Such records shall be retained for a minimum period of 12 months from the last date of trading, and must produced to an authorised officer of the council on demand.

Note: Assistances shall not be permitted to trade where they are under the age of 17 years. In the event of an assistant holding an unspent conviction Licensing must be consulted and advise sought prior to allowing the assistant to trade

#### Litter and refuse

14. When departing from a street trading location, the consent holder shall ensure, as far as is reasonably possible, that the location and surrounding area is cleared of waste (including litter caused by members of the public) arising from the trading.

Note: for these purposes the term

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

16. A consent holder or their assistant shall:

- (c) Cause all refuse arising from the business carried on being stored only within the extent of their approved pitch and where relevant placed in suitable containers which shall be kept exclusively for that purpose. Such containers to be kept in a reasonably clean state.
- (d) Remove all refuse generated by their trade at the end of each trading day for disposal via a commercial waste contractor or via a licensed waste disposal site. At no time should waste generated from trading be left on the street or in litter bins etc.

#### Nuisances, damage and obstruction

17. The consent holder shall not trade in such a way that is likely to cause undue obstruction to any part of any street or private place.

18. The consent holder shall not trade in such a way that is likely to cause damage to the highway, or any property in the street.

19. The consent holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity. Noise from equipment used in conjunction with consented street trading activity shall not be audible inside nearby noise sensitive property (e.g. Dwellings, offices, etc).

20. Every street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of trading unless prior permission is granted by the council or from the private landlord.

21. The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are prohibited without the written permission of the environmental health manager.

22. The display of advertising signs, other than on the unit itself, is prohibited.

23. The consent holder shall pay to the Council the cost incurred by the Council in making good

any damage to the highway or its furniture or landscaping caused by the consent holder or their assistants.

24. A consent holder or their assistant shall immediately remove their stall and any articles or things associated therewith for so long as may be necessary if required to do so by an authorised Officer of the Council (who if so required shall produce their authority) or a Police Officer in the event of an emergency or in the exercise by the Council of any of its powers or duties or in the event of works being carried out in the street by statutory undertakers.

#### Insurance

25. The consent holder shall indemnify the council against any claims in respect of injury damage or loss arising out of the grant of this consent (except insofar as any claim in respect of injury damage or loss is attributable to the negligence of the council) and shall maintain a public liability insurance policy with a limit of indemnity of up to £10 million for any one incident. For small community events the limit of indemnity shall be up to £5 million for any one incident. The consent holder shall produce the certificate of insurance and any renewal thereof within 24 hours of the original expiry date where appropriate.

26. Where the consent holder authorises assistants to operate under their consent, they must retain evidence of public liability insurance (to the value of £5m) for each stall/unit. Such records shall be produced to an authorised officer of the council on demand.

#### Convictions and address

27. The consent holder or their assistant shall inform the council of any arrest, conviction, caution or fixed penalty notice they are subject to within seven days of the occurrence.
28. The consent holder or their assistant shall inform the council of any change of address or contact number within seven days of the event.

**Note:** the consent holder's attention is drawn to schedule 4 of the local government (miscellaneous provisions) act which provides that failure to comply with the above conditions could lead to revocation of the permission and would be taken into account in considering any application

## **Appendix D: Guidelines relating to the relevance of convictions**

### **General policy**

It should be advised that the relevance of prior convictions applies to persons applying for grant or renewal of a street trading consent.

Each case will be decided on its own merits

The Council will assess whether an applicant for the grant or renewal of a street trading consent is a suitable person to hold or to continue to hold a street trading consent

In considering the previous convictions of the applicant, 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; and
- the circumstances surrounding the offence and the explanation offered by that person.

### **Offence types**

The following is a description of the Council's general approach to certain categories of offences.

#### Dishonesty

The holders of a street trading consent and their assistants have to be persons who can be trusted. It is easy for a dishonest trader or assistant to take advantage of the public.

Members of the public using a street trading outlet expect the holder and his assistant to be honest and trustworthy.

For these reasons a serious view will be taken of any conviction involving dishonesty. In general, an applicant for the grant or renewal of a street trading consent is unlikely be granted a street trading consent where the application is made within 3 to 5 years of a conviction or the date of release from jail.

#### Violence

As street traders and their assistants have close contact with the public, a robust approach will be taken with applicants who have convictions for violence. In cases where the commission of an offence involves loss of life, a street trading consent will normally be

refused. In other cases, a period of 3 to 10 years free of conviction from the date of conviction or the date of release from jail where a custodial sentence has been imposed, depending upon the nature and seriousness of the offence(s), will generally be required before an application is likely to be considered favourably.

### Drugs

Where an applicant has a conviction for an offence that relates to the supply or importation of drugs and the date of the conviction or the release from jail, where a custodial sentence has been imposed, is less than 5 to 10 years before the date of the application, an application will normally be refused. After 5 years from a conviction or the date of release from jail, where a custodial sentence has been imposed, the circumstances of the offence and any evidence which shows that a person is now a suitable person to hold a street trading consent will be taken into consideration.

An application will normally be refused where the applicant has a conviction for an offence relating to the possession of drugs and the date of the conviction or the release from jail, where a custodial sentence for such an offence has been imposed, is within 3 to 5 years of the date of the application. After a period of three years from conviction or the date of release from jail where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a suitable person to hold a street trading consent

An application will normally be refused where an applicant has more than one conviction for offences related to the possession of drugs and the last conviction or the date of release from jail, where a custodial sentence has been imposed, is less than 5 years before the date of the application.

### Sexual and indecency offences

As the holders of street trading consents and their assistants, and in particular those who sell ice cream, have access to children, applicants who have convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a street trading consent. Where an applicant has a conviction for a sexual offence such as indecent exposure they will normally be refused a street trading until they can show a substantial period usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release from jail where a custodial sentence has been imposed.

After a period of 5 years from conviction or the date of release from jail, where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a suitable person to hold a street trading consent.

When considering applications, the Council may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a suitable person to hold

a street trading consent. In cases where the Council considers that information shows an applicant is not a suitable person, it will normally require a period of not less than 5 years free of such incidents from the date on which the incident occurred or, if more than one from the date of the last incident.

#### Motoring convictions

In most cases, motoring offences are unlikely to be relevant when deciding if an applicant for a street trading consent is a suitable person. However, there may be instances where the offences are of a very serious nature. In those cases, an applicant for a street trading consent would be expected to show a period usually between 3 and 5 years free of any such convictions from the date of conviction or the date of release from jail, where a custodial sentence has been imposed.

#### 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