

# Pecyn Dogfennau Cyhoeddus

Penallta House,  
Tredomen Park,  
Ystrad Mynach,  
Hengoed CF82 7PG

Ty Penallta,  
Parc Tredomen,  
Ystrad Mynach,  
Hengoed CF82 7PG



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Am unrhyw ymholiad yn ymwneud â'r agenda hwn cysylltwch â Rebecca Barrett  
(Rhif Ffôn: 01443 864245 Ebst: barrerm@caerphilly.gov.uk)

**Dyddiad: Dydd Mercher, 19 Ebrill 2017**

Annwyl Syr/Fadam,

Bydd cyfarfod **Pwyllgor Tacsï a Chyffredinol** yn cael ei gynnal yn **Siambur y Cyngor, Tŷ Penallta, Tredomen, Ystrad Mynach** ar **Dydd Mercher, 26ain Ebrill, 2017** am **10.00 am** i ystyried materion a gynhwysir yn yr agenda canlynol.

Yr eiddoch yn gywir,

**Chris Burns**  
PRIF WEITHREDWR DROS DRO

## AGENDA

Tudalennau

1 I dderbyn ymddiheuriadau am absenoldeb.

2 Datganiadau o Ddiddordeb.

Atgoffi'r Cyngorwyr a Swyddogion o'u cyfrifoldeb personol i ddatgan unrhyw fuddiannau personol a/neu niweidiol mewn perthynas ag unrhyw eitem o fusnes ar yr agenda hwn yn unol â Deddf Llywodraeth Leol 2000, Cyfansoddiad y Cyngor a'r Cod Ymddygiad ar gyfer Cyngorwyr a Swyddogion.

I dderbyn ac ystyried yr adroddiad(au) canlynol :-

3 Adolygu Polisi Masnachu ar y Stryd.

1 - 42

A greener place Man gwyrddach

Correspondence may be in any language or format | Gallwch ohebu mewn unrhyw iaith neu fformat



**Cylchrediad:**

Cynghorwyr Mrs K.R. Baker, J. Bevan, P.J. Bevan, D. Bolter, Mrs P. Cook, W. David, Ms J. Gale, C.J. Gordon (Is Gadeirydd), Mrs P. A. Griffiths, C. Hawker, A. Lewis, K. Lloyd, Mrs G.D. Oliver, D.W.R. Preece (Cadeirydd) a Mrs D. Price

A Swyddogion Priodol



## TAXI AND GENERAL COMMITTEE – 26TH APRIL 2017

**SUBJECT: REVIEW OF STREET TRADING POLICY**

**REPORT BY: CORPORATE DIRECTOR, SOCIAL SERVICES**

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### **1. PURPOSE OF REPORT**

- 1.1 To inform Members of a formal consultation on the review of the Council's street trading policy and to seek approval of the revised policy as set out in the report.

### **2. SUMMARY**

- 2.1 The Council adopted the provisions of Schedule 4 of the Local Government (Miscellaneous) Provisions Act 1982 in respect of the control of street trading in 2010. At that time a policy was also adopted to advise the public and potential street traders of the administrative processes, restrictions and controls to be implemented. The report on that occasion advised that the policy would be reviewed and amended as required in future years and would be submitted to the full Licensing Committee for approval.
- 2.2 The current policy was reviewed in 2016 and an amended policy was considered by Members on the 5<sup>th</sup> of December 2016 prior to consulting formally with the trade and other stakeholders.
- 2.3 The report outlines the consultation responses received and further amendments made to the policy. Members' approval is now sought for the adoption and implementation of the revised policy.

### **3. LINKS TO STRATEGY**

- 3.1 The Street Trading Consent policy contributes to the Healthier, Safer, and Prosperous themes of the Single Integrated Plan, Caerphilly Delivers.
- 3.2 The Street Trading Consent policy contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015.
- A prosperous Wales
  - A resilient Wales
  - A healthier Wales
  - A globally responsible Wales

### **4. THE REPORT**

- 4.1 The Council adopted the provisions of Schedule 4 of the Local Government (Miscellaneous) Provisions Act 1982 in respect of the control of street trading in 2010. Street trading is defined as selling or exposing or offering for sale, any article (including any living thing) in a street. A 'street' includes any road, footway or any area to which the public has access

without payment, including service areas as defined by the Highways Act. At that time a policy was also adopted to advise the public and potential street traders of the administrative processes, restrictions and controls to be implemented.

- 4.2 The purpose of the review was to identify any areas which were resulting in difficulties, take account of any changes to legislation or internal mechanisms to ensure that detailed information was available for any person interested in obtaining a street trading consent, and promotes an effective and efficient consent processing regime.
- 4.3 Members considered the proposed changes and draft policy at a meeting on the 5 December 2016 and the report is attached as Appendix 1 for your information.
- 4.4 Stakeholders were consulted on the revised policy in January 2017 and included all Members, CCBC services such as Planning, Environmental Health, Trading Standards, Property Services, Highways, Public Services and Social Services. External consultees included Gwent Police, existing consent holders, Allotment Societies, Welsh Government Highways Authority and the general public.
- 4.5 A number of minor amendments were put forward by some consultees and those changes have been accommodated as they do not alter the context or intention of the revised policy. The changes provide greater clarity and are identified in bold italics in the revised policy in Appendix 2.
- 4.6 A new section on trunk roads has been added at 9.1 (M) in response to comments made by the Welsh Government Highways Authority. The latter have also been added as a consultee for applications relating to trunk roads. Appendix A of the policy at point 6 specifically refers to the Highways Authority as land owner from who permission is specifically required if the site is on or in proximity to the trunk road network.
- 4.7 A protocol is being devised by the Highways Authority in respect of the Gwent Licensing area (covering Caerphilly, Monmouthshire, Torfaen, Blaenau Gwent and Newport council areas). The protocol will provide clear guidance in respect of trading on the trunk road network and ensure consistency in the consideration of applications for street trading across all of the local authorities. Enforcement and inspection of the trunk road network is managed operationally by the South Wales Trunk Road Agent.
- 4.8 Members are asked to consider a response received from a street trading consent holder. The revised policy proposed that mobile traders such as ice cream vans should not remain at any location for more than 30 minutes, however the consent holder has put forward a view that the period of 60 minutes as set out in the original policy is appropriate, as it is a seasonal business and 60 minutes is a reasonable amount of time. A redacted copy is attached at Appendix 3.
- 4.9 Members are asked to consider whether or not the time restriction on mobile traders remaining in one location should be reduced from 60 minutes to a lesser period. Please see paragraph 12.1 of the revised policy at Appendix 2. Licensing Officers proposed a 30 minute limit as a 60 minute period may cause obstructions or conflict with other traders in close proximity who have invested in a consent for a permanent site. A mobile trader is defined as an itinerant trader who moves from place to place.
- 4.10 Future changes to legislation and guidance may have an impact on this policy and the conditions attached to street trading consents. It is proposed that officers review the policy regularly and amend as required for minor administrative purposes or to comply with changes in legislation or statutory guidance. Any significant changes will be brought before this committee for your consideration.

## **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 This report and associated proposals contributes to the Well-being Goals as set out in Links to Strategy above. The Council has a mandatory obligation to issue street trading consents to those persons who seek to legitimately trade on the street and to ensure that they are fit and proper persons to do so, that their activities do not have a detrimental effect on the locality and that they comply with all conditions and controls which may have an effect on them or the public. The prime focus for the Council is to ensure public safety and to provide an efficient and effective licensing service. There are restrictions within the policy on trading within certain distances of educational establishments and hospitals etc. and therefore contribute to a Healthier Wales. Other requirements on waste removal, light and noise pollution also contribute towards a globally responsible Wales.
- 5.2 Having regard to the five ways of working set out in the sustainable development principle, as defined in the Act the proposed policy is integrated in that it contributes to a number of the Well-being goals and supports the objectives of other stakeholders. The Policy promotes involvement particularly through the consultation process for applications allowing other agencies and the community to input into the decision making process. There is an emphasis on prevention as the process ensures that a number of checks and safeguards are in place before consent is granted and trading takes place.

## **6. EQUALITIES IMPLICATIONS**

- 6.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the category identified in Section 8 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report. The Council ensures that it treats all individuals and organisations who are applying for or who hold street trading consents, with equal respect both when corresponding with those individuals and organisations during any licensing process. The policy increases transparency and clarifies what is required for everyone involved in the process or may be affected by a Street Trading Consent.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 There are no financial implications associated with this report.

## **8. PERSONNEL IMPLICATIONS**

- 8.1 There are no personnel implications associated with this report.

## **9. CONSULTATIONS**

- 9.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.
- 9.2 Responses to the consultation with stakeholders have been incorporated into the revised policy where appropriate and shown in italics in Appendix 2.

## **10. RECOMMENDATIONS**

- 10.1 That members determine an appropriate period during which a mobile trader may remain at any location
- 10.2 That Members approve the revised policy and its implementation from 1/5/2017.

- 10.3 That officers amend the policy for any minor administrative purposes and in order to keep up to date with changes in legislation or statutory guidance. Any significant changes to be brought before this committee for consideration.

## **11. REASONS FOR THE RECOMMENDATIONS**

- 11.1 To provide a clear policy for all stakeholders as to the requirements and obligations placed on street trading consent holders.

## **12. STATUTORY POWER**

- 12.1 Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.

Author: Myra McSherry, Licensing Manager  
Consultees: Cllr Denver Preece, Chair, Licensing Committee  
Cllr C Gordon, Vice Chair, Licensing Committee  
Cllr Nigel George, Cabinet Member for Community and Leisure Services,  
Robert Hartshorn, Head of Public Protection  
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager  
Ceri Edwards, Environmental Health Manager  
Mike Eedy, Finance Manager  
Sue Ead, Solicitor, Legal Services  
Anwen Rees, Senior Policy Officer, (Equalities and Welsh Language)  
Shaun Watkins, HR Manager  
Tim Stephens, Development Control Manager Planning  
Andrew Witchell, Property Services  
Dean Smith, Principal Engineer, Highways Department  
Tim Keohane, Senior Trading Standards Officer  
Tony White, Waste Strategy and Operations Manager  
Nicola Barrett, Child Protection Coordinator, Social Services

### Background Papers:

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

Current Street Trading Consent Policy

[www.caerphilly.gov.uk/CaerphillyDocs/Licensing/Street\\_Trading\\_Policy.aspx](http://www.caerphilly.gov.uk/CaerphillyDocs/Licensing/Street_Trading_Policy.aspx)

### Appendices:

- Appendix 1 Licensing Committee Report - 5th December 2016 (excluding appendices)  
Appendix 2 Revised Street Trading policy  
Appendix 3 Consultation comment received from an existing street trading consent holder

## LICENSING COMMITTEE – 5TH DECEMBER 2016

**SUBJECT: REVIEW OF STREET TRADING POLICY**

**REPORT BY: CORPORATE DIRECTOR, SOCIAL SERVICES**

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### 1. PURPOSE OF REPORT

- 1.1 To inform Members of a review of the Council's street trading policy. The report is seeking the views of Members prior to a formal consultation process the outcome of which would be the subject of a further report to this Committee.

### 2. SUMMARY

- 2.1 The Council adopted the provisions of Schedule 4 of the Local Government (Miscellaneous) Provisions Act 1982 in respect of the control of street trading in 2010. At that time a policy was also adopted to advise the public and potential street traders of the administrative processes, restrictions and controls to be implemented. The report on that occasion advised that the policy would be reviewed and amended as required in future years and would be submitted to the full Licensing Committee for approval.
- 2.2 A review of the policy has been conducted by Licensing Officers and recommends changes to that policy covering such issues as the inclusion of more information, streamlining of administrative processes and determination of applications, the detail of which are set out in the report.

### 3. LINKS TO STRATEGY

- 3.1 The current and revised Street Trading Consent policies contribute to the Healthier, Safer, and Prosperous themes of the Single Integrated Plan, Caerphilly Delivers.
- 3.2 The current and revised Street Trading Consent policies contribute to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015.
- A prosperous Wales
  - A resilient Wales
  - A healthier Wales
  - A globally responsible Wales

### 4. THE REPORT

- 4.1 The Council adopted the provisions in respect of the control of street trading as a means of protecting the public by regulating what is sold, by whom and where. It also entitles the Council to specify the quality of structures/vehicles and ensure that proper arrangements are made for disposal of waste and litter. Conditions may also be attached to promote public

safety and limit nuisance. The granting of a street trading consent does not obviate the holder from obtaining other permissions such as planning, licences for the provision of hot food late at night and compliance with food registration obligations and standards.

4.2 Street trading is defined as selling or exposing or offering for sale, any article (including any living thing) in a street. A 'street' includes any road, footway or any area to which the public has access without payment, including service areas as defined by the Highways Act. The proposed revised Policy is attached as appendix 1 to this report, whilst the current policy is attached as Appendix 2.

4.3 The purpose of the review was to identify any areas which were resulting in difficulties, take account of any changes to legislation or internal mechanisms to ensure that detailed information was available for any person interested in obtaining a street trading consent, and promotes an effective and efficient consent processing regime. The outcomes of that review are set out below and identify the changes in relation to the current policy.

4.3.1 It is recommended that the objectives be revised in the following manner:

Current objectives:

- public order
- prevention of public nuisance
- public safety
- prevention of crime and disorder

Recommended objectives:

- Prevention of public nuisance
- Promotion of public safety
- Prevention of crime
- Prevention of public disorder and anti-social behaviour
- Protection of local amenity

4.3.2 Inclusion of additional information

- Definition Consent Holder – expanded.
- Other Definitions - Appendix F has been added to the policy to provide detail relating to other definitions such as roundsman, pedlar, proximity, food hygiene requirements and Highway Control Order.
- Inclusion of examples of activities for which a consent may be required.
- Inclusion of locations deemed unsuitable and includes those previously set out as 'Needs of the area' in the original policy. Difficulties have been encountered in respect of distances between outlets and such premises as schools, hospitals etc. i.e. is the distance calculated from outlet to door of establishment or boundary, is the distance 'as the crow flies' or via pedestrian or vehicular routes. Further explanation has been included to take account of those factors which may have a bearing in respect of those distances.

4.3.3 The original policy required an applicant to produce a Police National Computer check prior to consideration of any application. The PNC check set out any convictions etc. that may have a bearing as to the person's suitability. Due to changes in legislation and Police procedures the PNC check is no longer available and applicants are required to obtain a basic disclosure check available from 'Disclosure Scotland'.

4.3.4 Members will be aware that the Council's Planning service were consulted on all initial grant applications. The revised policy recommends the removal of Planning as a consultee but that they should be notified of all applications. The Planning service is responsible for the administration and enforcement of the requirements in respect of whether planning permission



is required for particular locations. Therefore an applicant may be entitled to hold a street trading consent but not be in a position to utilise that consent until the requisite planning permission is in place.

- 4.3.5 The revised policy sets out changes that have been necessary in respect of the payment of fees. The administration of fees was proving difficult as such it has been replaced by an invoicing procedure which is more effective in respect of timely fee recovery.
- 4.3.6 A list of Council owned locations where street trading will not be permitted is included at Appendix G to the policy for applicant's information.
- 4.4 Members are also asked to consider changes to the determination of street trading consent applications that are either contested or do not meet the obligations of the Council's policy. Currently such applications are placed before the relevant sub-committee for consideration, and where the person is aggrieved by the decision of the sub-committee it has recourse to the full committee with the exclusion of those Members who initially heard the matter. This arrangement was put in place as the legislation does not give any appeal rights to the Courts where a person is aggrieved by the decision of the Council and is in line with other areas of licensing where an "appeal" process exists.

Difficulties may arise where a sub-committee refuses an application and the applicant elects to appeal that decision to the full committee. If the full committee take the same view as the sub-committee the applicant may consider that the full committee would agree with the sub-committee in that it could not be impartial and may be biased. In the event that the full committee took an opposing view to the sub-committee it may appear that the decision making process of the sub-committee has been undermined.

The options available for consideration are:

- I. To retain the current arrangement of initial application to a sub-committee with recourse to a full committee, where the applicant is aggrieved by the initial decision.
  - II. To remove the appeal provision to the full committee in the current policy and that contested or non-compliant applications are automatically referred to the sub-committee.
  - III. Determination of applications that are contested or are not policy compliant is initially considered by a licensing officer (with management responsibility) and that where appropriate the applicant is advised that the officer is minded to refuse the application. In such circumstances the applicant would have a right of appeal to the Licensing sub-committee.
- 4.5 It is proposed that following consideration of this report by Members and any required amendments including changes in line with 4.4 above that the draft policy be subject to a wider consultation of all stakeholders, including consultees, existing street trading consent holders and the general public.

## **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 This report and associated proposals contributes to the Well-being Goals as set out in Links to Strategy above. The Council has a mandatory obligation to issue street trading consents to those persons who seek to legitimately trade on the street and to ensure that they are fit and proper persons to do so, that their activities do not have a detrimental effect on the locality and that they comply with all conditions and controls which may have an effect on them or the public. The prime focus for the Council is to ensure public safety and to provide an efficient and effective licensing service. There are restrictions within the policy on trading within certain distances of educational establishments and hospitals etc. and therefore contribute to a Healthier Wales. Other requirements on waste removal, light and noise pollution also contribute towards a globally responsible Wales.

5.2 Having regard to the five ways of working set out in the sustainable development principle, as defined in the Act the proposed policy is integrated in that it contributes to a number of the Well-being goals and supports the objectives of other stakeholders. The Policy promotes involvement particularly through the consultation process for applications allowing other agencies and the community to input into the decision making process. There is an emphasis on prevention as the process ensures that a number of checks and safeguards are in place before consent is granted and trading takes place.

## **6. EQUALITIES IMPLICATIONS**

6.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the category identified in Section 8 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report. The Council ensures that it treats all individuals and organisations who are applying for or who hold street trading consents, with equal respect both when corresponding with those individuals and organisations during any licensing process. The policy increases transparency and clarifies what is required for everyone involved in the process or may be affected by a Street Trading Consent.

## **7. FINANCIAL IMPLICATIONS**

7.1 There are no financial implications associated with this report.

## **8. PERSONNEL IMPLICATIONS**

8.1 There are no personnel implications associated with this report.

## **9. CONSULTATIONS**

9.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

## **10. RECOMMENDATIONS**

10.1 That members consider the proposed reviewed policy and approve the consultation with all relevant stakeholders.

10.2 That members consider the options set out in point 4.4 and either determine:

- I. To retain the current provisions for consideration of street trading applications.
- II. Remove the appeal provision to the full committee.
- III. That a licensing officer consider initial applications and where it is contested or non-compliant advise the applicant of an appeal right to the licensing sub-committee.

## **11. REASONS FOR THE RECOMMENDATIONS**

11.1 To provide a clear policy for all stakeholders as to the requirements and obligations placed on street trading consent holders.

11.2 To seek clarification of the appeal process for the determination of contested or non-compliant applications for street trading consents.

## 12. STATUTORY POWER

### 12.1 Schedule 4 Local Government (Miscellaneous Provisions) Act 1982.

Author: Myra McSherry, Licensing Manager  
Consultees: Cllr, Denver Preece Chair, Licensing Committee  
Cllr C Gordon, Vice Chair, Licensing Committee  
Cllr Nigel George, Cabinet Member for Community and Leisure Services,  
Robert Hartshorn, Head of Public Protection  
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager  
Mike Eedy, Finance Manager  
Sue Ead, Solicitor, Legal Services  
Anwen Rees Senior Policy Officer (Equalities and Welsh Language)  
Shaun Watkins, HR Manager

#### Background Papers:

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

#### Appendices:

Appendix 1 Proposed revised Street Trading policy  
Appendix 2 Current Street Trading policy

REVISED STREET TRADING POLICY



# STREET TRADING POLICY

**Dated 23 November 2010**  
Amended XXXXXXXXX

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# CAERPHILLY COUNTY BOROUGH COUNCIL

## STREET TRADING POLICY

### 1. Introduction

- 1.1 This Policy was initially adopted by Caerphilly County Borough Council on the 23 November 2010 and was adopted to control street trading and set out the Council's standards for determining applications for, and enforcement of, street trading activities within Caerphilly County Borough. The policy was reviewed and updated on **DATE to be inserted**. Caerphilly County Borough Council adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to control street trading for the whole of its area by way of designating all streets in Caerphilly County Borough as Consent Streets for street trading purposes. The Act also provides a local authority with a flexible system with which to control itinerant and infrequent street trading.
- 1.2 The effect of this designation is that street trading in any consent street in Caerphilly County Borough is prohibited, subject to legal and council defined exemptions without first obtaining consent to trade from the Council.
- 1.3 Caerphilly County Borough Council will apply this Policy to street trading activities in its area to ensure consistency of decision-making. However each application or contravention will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.
- 1.4 ***This Street Trading Policy contributes to the following Well-being Goals within the Well-being of Future Generations (Wales) Act 2015:***
- ***A prosperous Wales***
  - ***A healthier Wales***
  - ***A Wales of cohesive communities***

***This Policy is consistent with the sustainable development principle and five ways of working as set out in the Act and reflects a long term approach to the well-being of future generations. There is an emphasis on prevention as the process ensures that a number of checks and safeguards are in place before a consent is granted. The comprehensive approach to consultation demonstrates a commitment to involving stakeholders with an interest in achieving the well-being goals.***

### 2. Policy Review

- 2.1 This Policy initially took effect on 10 November 2010. In accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, the Council, prior to publishing this Policy, consulted fully with those bodies, businesses and groups specified. It was resolved that the Council would review the Policy whenever it is considered that relevant issues have arisen. The policy has been reviewed and amended following consultation with relevant bodies. The purpose of the review is to provide clarification and

additional information for the benefit of applicants and existing street trading consent holders.

### 3. Purpose

3.1 The Council will carry out its functions in respect of controlling street trading activities in its area, to protect the public, by promoting the following objectives (each of which is of equal importance):

- Prevention of crime
- Prevention of public disorder and anti-social behaviour
- Prevention of public nuisance
- Promotion of public safety (***Please note this includes public health aspects in regard to the prevention of the spread of disease***)
- Protection of local amenity

### 4. EQUALITIES AND HUMAN RIGHTS

4.1 The Equalities Act 2010 introduced measures to tackle discrimination encountered by disabled people in certain areas including employment, and access to goods, facilities and services. The applicant shall have regard to this legislation.

The Welsh Language (Wales) Measure 2011 makes both Welsh and English the official languages of Wales, and the Licensing Authority will ensure that it provides its services in accordance with the Council's current policies on Welsh language service provision and production of bilingual material.

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with such a right. The Licensing Authority will have regard to the Human Rights Act when considering any licensing issues, and particularly in respect of the way in which applications are considered and enforcement activities are carried out.

The Council expects that in granting an authorisation the holder of that authorisation will take all reasonable and practical steps to prevent and eliminate unlawful discrimination and to promote equality of opportunity and good relations within and between staff, customers and visitors. This is irrespective of a person's ethnic origin, sex, age, marital status, sexual orientation, disability, gender reassignment, religious beliefs or non-beliefs, use of Welsh language, BSL and other languages, nationality, responsibility for any dependants or any other reason which cannot be shown to be justified.

The Council ensures that it treats all individuals and organisations who are renewing or making new applications for licenses, with equal respect both when corresponding with those individuals and organisations, and during the licensing approval process and will do so in the language or format of their choice, in line with the Council's Strategic Equality Objectives.

The Council is satisfied that this policy satisfies the statutory requirements and where there are restrictions, they satisfy the provisions on proportionality and balance of competing rights.

## 5. Definitions of terms used in this policy

5.1 Within the terms of the Caerphilly County Borough Council's Street Trading Consent Scheme the following definitions apply:

<b>The Council</b>	Means the Caerphilly County Borough Council
<b>Street Trading</b>	Means the selling or exposing or offering for sale of any article (including a living thing) in any street. Any person selling animals as pets in any part of a street or public place or at a stall or barrow in a market would commit an offence (Pet Animals Act 1951)
<b>Street</b>	Includes: (a) Any road, footway, beach or other area to which the public have access without payment. (b) A service area as defined in section 329 of the Highways Act 1980, and includes any part of a street. This does not include private land, access to which is restricted because the area is enclosed such as a farmer's field, areas to which access is occasionally restricted such as premises only open to the public at specified times, such as shopping malls, school fields, etc.
<b>Consent Street</b>	Means a street in which street trading may only be conducted with the benefit of a consent issued by Caerphilly County Borough.
<b>Prohibited Street</b>	Means a street in which street trading is prohibited.
<b>Consent</b>	Means consent to trade on a street by Caerphilly County Borough.
<b>Consent Holder</b>	Means the person or company to whom the consent to trade has been granted by Caerphilly County Borough. Applications for consents will be refused where granting of the consent would be a contravention of the Children and Young Persons Act 1933.
<b>Highway Control Order</b>	Issued under the Local Government (Miscellaneous Provisions) Act 1976 may control the sale of goods on the highway. Extract attached at Appendix A.



<b>Static Street Trader</b>	Means trader granted permission by Caerphilly County Borough to trade from a specified position.
<b>Mobile Trader</b>	Means an itinerant trader who moves from place to place.
<b>Authorised Officer</b>	Means an officer employed by Caerphilly County Borough Council and authorised to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
<b>Other Definitions</b>	Refer to Appendix F

## 6. Street Trading Consent Required in respect of locations or type of activity.

6.1 The type of street trading activities that may require a street trading consent, unless the exemptions/criteria set out in the relevant sections apply, would include:

- (a) Trading in any goods and includes hot and cold food, for example burger vans, **mobile trolleys / barrows**, sandwich sellers, fruit and vegetables, household linens, etc.
- (b) Trading from fixed static locations: for example as may be found on industrial estates, trading estates, car parks associated with large retail outlets, **pub or club car parks**, etc for which no admission charge is made to the public.
- (c) Trading at events such as car boot sales where the public have unrestricted access and where there is no charge to the public for admission
- (d) Road side sales: for example sale of motor vehicles,
- (e) Itinerant/Mobile traders: for example ice cream and grocery vans

## 7. Exempt Street Trading Activities

7.1 The following street trading activities are legally exempt from the requirement to obtain a consent from the Council:

- (a) Trading by a person acting as a pedlar, i.e. travelling on foot and going to customers and selling goods, under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
- (b) Anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by an enactment or order.
- (c) Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- (d) Trading as a newsvendor, selling newspapers or periodicals.
- (e) Trading which:
  - (i) is carried on at premises used as a petrol filling station; or

- (ii) is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business or shop.
- (f) Selling things, or offering or exposing them for sale, as a "rounds man" (see Appendix F for definition). It has been established in law that mobile traders such as ice cream sales will not be deemed to be exempt from street trading controls on the grounds that they are roundsmen. Sandwich sellers operating in the same manner as ice cream vans may not avail themselves of the exemption of operating as a rounds man.
- (g) The use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway.
- (h) The operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
- (i) The doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

## **8. Street Trading for which a consent is not required**

8.1 The following Street Trading activities have been deemed by Caerphilly County Borough to not require the consent of the Council.

- Charitable, and community type events where vendors are in attendance by prior agreement or permission of the event organiser. Any vendor attending such events without the prior agreement or permission of the event organiser will require a street trading consent issued by the Council.
- Trading within the site of Local Authority organised and managed events such as festivals, fairs, and other entertainments that are open to the public. This includes trading at events managed / arranged / controlled by Town Centre Managers. Any vendor attending such events without the prior agreement or permission of the event organiser will require a street trading consent issued by the Council.
- Any market recognised/arranged by the Council. Confirmation of market status can be obtained from the Licensing section on request. Recognised markets include farmers, craft and seasonal markets.
- Sale of goods by residential occupiers from within the curtilage of their properties or by a person occupying land where a rental agreement is in place (subject to the terms of the rental agreement), where payment of goods does not take place outside of the curtilage of the premises (often referred to as garden gate sales).
- Any sales made in association with premises that hold 'pavement licences' (permission to locate tables and chairs on pavements outside of premises) issued by CCBC Highways Department.

## **9. Locations deemed unsuitable for Street Trading**

9.1 Street Trading Consents from specific locations will not normally be granted where any of the following may apply:

- A. A significant effect on road safety would arise either from the siting of the trading activity, or from customers visiting or leaving the site,

- B. There are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited,
- C. There would be any likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site,
- D. There is a conflict with Traffic Orders such as waiting restrictions,
- E. The site or pitch obstructs pedestrian or vehicular access; traffic flows, and places pedestrians in danger when site is in use for street trading purposes,
- F. The trading unit obstructs the safe passage of users of the footway, right of way, bridleway or carriageway.
- G. The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities,
- H. The site does not allow the Consent Holder, staff and customers to park or access the site either by vehicle or on foot in a safe manner. ( For example this includes: where access and egress to/from sites by vehicular or towed trading units would necessitate crossing pedestrianised areas, interrupt the normal traffic flow of a route, be unsafe or cause damage to verges, paving etc. or pedestrians would have to cross busy roads, or stand on the highway to purchase goods, etc.)
- I. The site and its environment are not sufficiently well lit during any hours of the day so as to allow safe access and egress from the site for both customers and staff.
- J. Street Trading consents will not normally be granted at any time on sites that are within the distances set out below. Determination of the distances will take account of the topography, road layout, access and egress to and from the trading site and the specified premises/site.
  - 250 metres of the boundary of any hospital, nursing or residential care home.
  - 500 metres of the boundary of any educational establishment whilst they are in operation.
  - 30 metres of any roundabout, road junction or pedestrian crossing.
  - 50 metres of any other authorised street trading location (other than at festivals, events, etc)
- K. Street Trading consents will not normally be granted at any time on sites that are within:
  - Residential areas or where there is likely to be an unacceptable impact on residential amenity, access or egress.
  - Any Council owned pay and display or park and ride car parks.
- L. Trading is **generally** prohibited on all roads with a classified maximum speed in excess of 40 miles per hour. This would include lay-bys, verges and adjacent land the trader or customers **would be required to** manoeuvre or stop **on the highway so as** to access **the trading location**.

***Where an applicant proposes a site on a road with a speed limit in excess of 40 miles an hour but considers that the road layout / facilities would be suitable for a street trading consent, the applicant must submit a detailed explanation/risk assessment in support of their proposed use of the site. Applicants must note that any decision would be subject to compliance with point N below.***

- M. There is a presumption against trading from lay-bys on trunk roads, the standards for lay-bys are contained within the Design Manual for Roads and Bridges and deal with necessary criteria for speeds over 40 mph. As a consultee Welsh Government would consider each location according to these standards.***
- N. Trading on any industrial site managed and controlled by the Council. A list of such sites as at the time of this policy being written is attached at Appendix G, however enquiries should be made with the Licensing section as to the situation in respect of such sites at the time of application.
- O. Street trading consents will not be granted where the applicant cannot produce up to date written permission of the landlord to occupy the site.***

## **10. Restrictions on Street Trading:**

10.1 Please note that the grant of a street trading consent does not:

- Permit trading outside the terms of the Consent.
- Indicate that planning permission is not required.
- Indicate that the unit is exempt from business rates.
- Override parking restrictions or any other traffic regulations.
- Imply approval from the highway authority or any other person or authority.
- Permit trading from sites/areas owned and operated by the Council without the benefit of a concession agreement.
- ***Permit the siting of A boards or other advertising materials without the express permission of the Council.***
- ***Indicate that a food business does not require food registration***

## **11. Permitted Trading Hours**

11.1 The Council generally will normally only permit Street Trading between 8.00 am and 10.00 pm on any day in predominantly residential areas and between 6.00 am and 11.00 pm in any other area. Street Trading outside these hours will take into account the objectives set out at paragraph 3 above. i.e. assessed in terms of the potential for public disorder and antisocial behaviour, impact on public safety, crime, avoidance of nuisance and local amenity.

11.2 If trading includes the supply of hot food or drink after 23.00 hours or before 05.00 hours the following morning a Licensing Act 2003 (late night refreshment) premises licence will also be required. Such licences are site specific and are not permitted for mobile trading (ie moving from place to place between these hours for the sale of hot food or drink).

11.3 The Council retains the right to specify permitted hours of trading that are less than those specified above.

## **12. Mobile Trading**

12.1 Consent for mobile trading will normally only be granted on conditions that the mobile trader must not trade from a site for more than **PERIOD TO BE DETERMINED** (unless there is a queue of customers waiting to be served) and not return to the same site within 2 hours.

12.2 Mobile units selling ice cream etc may sound chimes in accordance with Code of Practice on Noise from Ice Cream Van Chimes etc. 1982, but not before 12.00 noon and after 7.00pm, on any day and not when the vehicle is stationary.

## **13. Consultation on initial (first) application**

13.1. Information on the submission of either grant or renewal application is attached as Appendix A.

13.2 Before a Street Trading Consent is granted the Council will carry out a consultation process with appropriate bodies which may include any or all of the following listed below. Applicants should note that the Planning Department will be notified of the application and that they should make their own enquiries, independent of the street trading consent regime, in respect of any requirement for planning permission.

- The Highways Authority for Caerphilly County Borough Council where proposed sites are located in close proximity to transport networks.
- Property Services, Caerphilly County Borough Council where the proposed site is on Council owned land.
- Trading Standards, Caerphilly County Borough Council.
- Community and Leisure Services, Caerphilly County Borough Council in respect of waste management issues.
- Environmental Health, Caerphilly County Borough Council in respect of such aspects as food and health and safety and prevention of nuisance.
- Social Services, in respect of the Local Safeguarding Children Board in order to ensure that there will be no safeguarding issues in respect of traders, sites or types of goods to be sold.
- Business Enterprise Support, Caerphilly County Borough Council
- Heddlu Gwent Police.
- South Wales Fire and Rescue Service in respect of those applications that indicate the potential for fire hazard such as using petrol generators, gas cylinders, etc.
- Caerphilly County Borough Council Members of the relevant Ward.

- The Landowner of the proposed site
- Local residents or businesses submitting written observations that have a bearing on the promotion of the stated objectives.
- **Welsh Government Highways Authority in particular relation to applications for sites on the trunk road network.**
- Any other organisation or body that may be relevant to the particular nature of the proposed street trading consent.

13.3 Consultations on applications for mobile or temporary street trading consents will not be as extensive as for an annual site specific location but would include as a minimum the following consultees:

- Trading Standards, Caerphilly County Borough Council
- Public Services, Caerphilly County Borough Council in respect of waste management issues
- Environmental Health, Caerphilly County Borough Council in respect of such aspects as food and health and safety, and prevention of nuisance.
- Social Services, in respect of the Local Safeguarding Children Board in order to ensure that there will be no safeguarding issues in respect of traders or types of goods to be sold.
- Heddlu Gwent Police
- Any other organisation or body as is considered appropriate by CCBC Licensing section that may be relevant to the particular nature of the proposed street trading consent.

13.4 In respect of initial and renewal applications for location specific sites the applicant will advertise details of the proposed activities in the vicinity, by posting an approved notice provided by the Licensing section on or close to the proposed site stating:

- The name of the applicant,
- Type of vehicle or stall to be used and the goods to be sold,
- The proposed times and days of operation,
- The exact location of the proposed site,
- How to make representations and the final date by which objections can be made.

13.5 Mobile trading will not be required to advertise their application either on initial or renewal application. Temporary trading for a period of less than two weeks will not be required to advertise their application on initial or renewal application.

## **14. Inspection of the Street Trading Unit**

14.1 Where appropriate the vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading Consent and shall comply in all respects to the relevant legislation.

14.2 In the event that representations are received from relevant bodies advising that the trading unit is unsuitable and/or works are required there will be a short period of grace to remedy the issues raised. Failure to remedy any issues raised within 4 weeks of the date of notification of those issues, will result in the application being rejected, any deposit paid will be refunded. In the interim if an application is received for the same site by another trader they will take precedence over any rejected applications.

## **15. Consideration of Applications**

15.1 A flow chart of the determination process is attached at Appendix C for information.

15.2 Officers will consider each application on its merits and in accordance with the Councils policy. In reaching a conclusion the officer will have regard to the following:

- A. Public disorder and anti-social behaviour: The street trading activity should not present a risk to good public order or encourage anti-social behaviour in the locality in which it is situated. Particular consideration will be given to any observations received from Heddlu Gwent Police and Community Safety.
- B. Prevention of nuisance: The street trading activity shall not present any likelihood of nuisance from noise, light, smells, litter or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Environmental Health officers will be taken into particular consideration.
- C. Public Safety: The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, local residents and other members of the public using the street. In respect of food traders, particular consideration will be given to any observations received from Environmental Health officers regarding food hygiene and the potential for harm. (Please see Appendix D for clarification of food hygiene requirements)
- D. Any relevant written observations received from any of the consultees either in support or against the application that have a bearing on the promotion of the stated objectives.

## **16. Assistants**

16.1 The holder of a street trading consent may employ any other person to assist them without requiring a further consent, an assistant must be over the age of 17 years. As an employer the consent holder should be satisfied that the assistant would not give any concerns in respect of the promotion of the objectives set out at point 3 above and that they have a right to work in the UK. Employers would be advised to ensure that if the consent involves trading in food, that the assistant has received food hygiene training to an appropriate level.

## **17. Approval of Application**

- 17.1 Applications that are not contested and are compliant with policy requirements will be approved without recourse to a Licensing committee for determination, subject to the production of relevant public liability insurance and any other certification required by other agencies. A consent will be issued with attached conditions, including specific terms such as the days and hours when street trading is permitted, and goods that may be sold. The consent will also be subject to the Council's standard conditions as set out in Appendix E, and attached to all Street Trading Consents.
- 17.2 The conditions attached to the Consent form part of the approval to carry out street trading in Caerphilly County Borough and must be complied with at all times. Failure to do so could constitute an offence and the consent could be revoked or not renewed. Persons who fail to comply with conditions as to the position and times from which street trading may be conducted, or make a false statement shall be guilty of an offence and may be liable to prosecution.
- 17.3 Street Trading Consents will be issued for a maximum period of 12 months or such lesser period as may be determined following a committee decision or as applied for, and will be renewable on the date specified in the Consent. Consents will expire, unless renewed, on the date specified in the Consent.

## **18. Determination Process - Initial applications**

- 18.1 Where officers have considered an application and have received substantiated relevant objections and are minded to refuse an application, arrangements will be made for the application to be considered by the relevant Committee and the applicant and all parties making objections, will be notified in writing of the date, time and place where the application will be heard.
- 18.2 Committees have been established to consider applications and hear objections in relation to licensing matters. The Committee consists of elected members of Caerphilly County Borough Council. These meetings are normally held in public unless there are matters to be considered that are of a confidential or sensitive nature.
- 18.3 The person or body making an objection will be invited to attend the hearing and be allowed the opportunity to address the Committee and ask questions relating to the application. In those cases where an objector fails to attend, the committee will give proper consideration to the written submission. The applicant may be represented by a solicitor, or supported by a friend or colleague.
- 18.4 Objections or information that has been received by the Council will be circulated to members of the Committee in advance of the meeting. Any objections or information will also be sent to the applicant, but any details that would identify members of the general public who lodged objections will be removed.



18.5 The Committee will always determine applications by:

- a. Considering each case on its merits.
- b. Using this Policy to assess applications.
- c. Dealing with the hearing in a balanced and impartial manner.
- d. Ensuring that the rules of natural justice are applied.
- e. Giving all parties sufficient opportunity to present their case, ask questions and provide information for consideration in support of their application or objection.

## **19. Renewal of Street Trading Consents**

19.1 Applications for the renewal of street trading consents will be subject to a streamlined process provided that there are no material changes such as change of trading outlet, application to extend days or times permitted by the consent or changes to the nature of goods to be sold. Renewal applications for fixed locations only must be advertised on site by way of a notice provided by the Licensing section and will be subject to consultation with the following:

- The Highways Authority for Caerphilly County Borough Council where proposed sites are located in close proximity to transport networks.
- Trading Standards, Caerphilly County Borough Council.
- Community and Leisure Services, Caerphilly County Borough Council in respect of waste management issues.
- Environmental Health, Caerphilly County Borough Council in respect of such aspects as food and health and safety, and prevention of nuisance.
- Social Services, in respect of the Local Safeguarding Children Board in order to ensure that there will be no safeguarding issues in respect of traders, sites or types of goods to be sold.
- Heddlu Gwent Police in respect of the prevention of crime and disorder arising from the operation of the proposed site.
- Any other organisation or body as is considered appropriate by CCBC Licensing section that may be relevant to the particular nature of the proposed street trading consent, and / or any written observations that have a bearing on the promotion of the stated objectives of this policy.

19.2 In the event of an application for the renewal of a street trading consent and there have been material changes in respect of the trading site, the suitability of an applicant or material changes to the trading unit, the application will be subject to the full consultation process as for the grant of a new consent.

19.3 In respect of applications for renewal of street trading consent and allegations are received that a location is no longer suitable for street trading the allegations will be subject to investigation prior to the renewal of the consent. However if there have been no material changes (such as change to road layouts, pedestrian access, no increase in road usage, trading in the proximity, etc), or there have been no accidents or incidents affecting public safety, allegations may be deemed to be irrelevant. Allegations regarding the

operation of the unit including behaviour of the operator will be fully investigated and given careful consideration.

## **20. Determination Process - Renewal Applications**

20.1 Where the licensing officer considers that there are sufficient grounds to refuse to renew the street trading consent the matter will be referred to the relevant committee which will consider the officers recommendation and any information, objections, complaints etc that have been received. The committee may add conditions, suspend or refuse to renew the consent. The committee process will replicate the process as set out above in respect of initial grant of consent.

20.2 In all cases when a Street Trading Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the application will be required to go through the full consultation process outlined in this Policy.

## **21. Refusal of Applications**

21.1 Where the relevant committee refuses an application or revokes consent the applicant/consent holder will be informed in writing of the reasons. The decision of the relevant committee is final.

## **22. Suspension Or Variation of Conditions Of Consent**

22.1 The Council may at any time suspend or vary the conditions of a street trading consent by notifying the consent holder in writing of the suspension / variation giving the reasons. For example consent may be suspended if the site of the consent would cause an obstruction or interfere with a large pre-planned entertainment, building construction, major traffic works, major incident, serious risk to health arising from the operation of the consent, etc.

## **23. Application to Vary the Terms of a Consent**

23.1 Applications submitted by consent holders to vary the terms of their consent so as to alter the hours of operation or removal of specific conditions will be subject to consultation with consultees as is considered appropriate.

23.2 Applications to fundamentally change the type (ie changing from a food stall to household goods) / method (i.e permanent to mobile) / trading unit (where there was a marked increase in the size of unit) would be rejected. Such changes should be subject to a full consultation as required for an initial application.

## **24. Transfer**

24.1 The transfer of consents from one to holder to another is not permitted. Exceptions may be permitted where the new holder is a close family member or established associate of the holder.

## **25. Review of Street Trading Consents**

25.1 The Council may review any consent where any of the following apply:

- (i) Information is received that a consent holder is in breach of the terms of their consent,
- (ii) The consent holder is convicted of an offence or information is received that would indicate the holder is unsuitable for any other reason.
- (iii) Complaints have been received
- (iv) Where the consent permits the sale of foodstuffs and the consent holder has failed to reach or maintain an acceptable standard in respect of food hygiene requirements. In the event of serious issues regarding food hygiene issues which jeopardise public safety the consent may be immediately suspended until such time as the authorised officer is satisfied that a risk to the public no longer exists.
- (v) Is considered unsuitable for any other reason.

25.2 Where there are substantiated grounds, street trading consents will automatically be referred to the relevant committee who will consider any information, objections, complaints etc that have been received and if upheld may add conditions, suspend or revoke the consent. The committee process will replicate the process as set out above in respect of initial grant of consent. Where consent has been revoked the consent holder shall return the consent and the approved authorisation for display on the trading unit, to the Council.

## **26. Surrender Of Consent**

26.1 The consent holder may surrender the Street Trading Consent at any time by returning the consent and the approved authorisation for display on the trading unit to the Council and the consent will then cease to be valid.

## **27. Fees**

27.1 The Council reviews all fees on an annual basis, applicants are advised to check with the Licensing section as to the fees that would be payable if an application were granted. Normally a consent is issued for a full year and the relevant fee is applicable. Seasonal and temporary consents will be issued for the relevant period subject to the Council's fees which are relevant at the time of issue of the consent.

27.2 Consent holders will be invoiced in respect of all fees that are due in respect of annual or seasonal consents on the issue of the consent, unless the Licensing Section are advised that the applicant wishes to settle the fees in full immediately on the issue of the consent. Arrangements may be made with the Council to settle invoices by instalments but such arrangements must be made with the finance department not the Licensing Section. Formal action may be taken where invoices are not settled in a timely fashion. In the event any payment is made by way of a cheque which is subsequently 'returned to drawer' payment of the outstanding fees must be made in cash within 5 working days of notification by the Council, failure to do so will result in the

consent being withdrawn. Fees for temporary consents must be settled in full on the issue of the consent.

27.3 Fees will be reimbursed on a pro rata basis to Consent Holders where they cease to trade and surrender their consent or it is revoked. Reimbursements will only occur where any invoice has been settled in full. Any fee reimbursement will be calculated on a monthly pro rata basis from the date the consent is formally surrendered or revoked. Refunds will not be considered retrospectively.

27.4 Where a street trading consent is temporarily suspended for a period of one month or more the fees for the period will be reimbursed on a monthly pro-rata basis.

## **28. Access by Council and Police Officers**

28.1 Consent Holders shall allow access to Authorised Officers of the Council and Police Officers at all reasonable times. Council officers will carry with them and produce on request official identification.

## **29. Enforcement of Street Trading**

29.1 Caerphilly County Borough Council will actively enforce the provisions of the Street Trading Scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Public Protection Enforcement Policy, copies of which are available on the Council's website. [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)

### Submission of a Street Trading Application

The protection of the public is a basis for requiring the suitability of the traders to be established as well as the suitability of the site/unit.

As part of the application process, applicants are required to provide evidence of any unspent convictions by way of application to the Criminal Records Bureau in Scotland by telephoning 0870 6096006. Further information is available on their website at [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk). Please see Appendix D regarding a person's suitability,

Applicants must be aware that a street trading consent would be granted where the application is uncontested and complies with this policy, however, the issue of a consent does not obviate the requirement to obtain any other requirement such as planning permission, **registration as a food business** or a premises licence under the Licensing Act 2003 for the provision of hot food between 11.00 pm and 5.00 am the following morning. Failure to obtain all necessary permissions may render them liable to enforcement action..

Applicants must submit the following to the Council:

1. A completed and signed Council's Street Trading Consent application form. Applications from persons aged under 18 years of age will not be accepted.
2. One passport type photograph and a report obtained from Disclosure Scotland. The report must not be more than 4 weeks old at the time of presenting the application. An applicant with any unspent criminal convictions or who is considered unsuitable for any other reason will be required to attend a hearing before the relevant committee of the Council.
3. A form of photographic identification such as passport or DVLA photo driving licence.
4. Where the proposed street trading activity is from a specific static location / position, a scaled site plan showing the precise trading position, indicate roads, footpaths, pedestrian areas, landmarks, offices, retail outlets and public buildings within a 100 metre radius. This requirement shall not apply to mobile trader applications.
5. One colour photograph of the stall/ van / barrow/ cart, / etc that will be used for the street trading activity. A plan of the trading outlet to include external dimensions, any cooling or cooking facilities, hand washing facilities, fire-fighting equipment, storage areas, etc. The following detail will also be required where appropriate:
  - (i) The registration mark of the vehicle
  - (ii) Make and model of trading unit
  - (iii) Any chassis number or identification number
  - (iv) Power sources i.e. generator, LPG gas, vehicle battery, etc.

6. Written permission from a landowner if the street trading activity is to be carried out on land in private ownership. **Trading from sites on or adjacent to the trunk road network will require the express permission of the Welsh Government Highways Authority.** If the land is in the ownership of Caerphilly County Borough Council, written permission from the Property Services Division. There are a number of Council operated sites where permission to trade may not be permitted. Please check with the Licensing Office before submitting an application.
7. Any other permission, registration, licence or consent already granted with regard to the proposed operation, e.g. planning consent, **food premises registration**, late night refreshment premises licence, waste disposal agreement, etc.
8. Applications for the grant of an initial consent in respect of mobile food traders who have been registered with another local authority and have been operating outside of this area will be required to supply proof of their food hygiene rating. Where a rating is below '3' the application will be given careful consideration.
9. Applications for the renewal of consent in respect of mobile food traders where the food hygiene rating is below '3' will be given careful consideration.
10. Grant of initial street trading consents will not be effective until such time as the appropriate consent fee has been paid or arrangements have been agreed that fees are to be paid by instalments. Fees in respect of renewed street trading consents will be invoiced directly by the Council.
11. Applications for either the grant or renewal of street trading consents may either be submitted online to: [www.licensing@caerphilly.gov.uk](mailto:www.licensing@caerphilly.gov.uk), or direct to the Licensing Section of Caerphilly County Borough Council.
12. An original certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000 will be required prior to consent being issued.
13. An application for Street Trading Consent is not one that can be given tacit approval, as it is in the public interest that this authority must process an application before it can be granted. It is anticipated that applications should be resolved within 28 days provided that there are no unforeseen circumstances. Incomplete applications will not normally be accepted.
14. A Street Trading Consent may only be transferred where the transfer is to a close family member or established business associate.
15. Any proposed change to the type of vehicle or stall to be used, the goods to be sold, the times and days of operation, or the exact location of the trading site, requires an application for variation of the street consent.

**Appendix B**

**N.B. Please note this form may be amended as considered necessary or appropriate.**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982  
APPLICATION FOR GRANT / RENEWAL OF STREET TRADING  
CONSENT**

**Applicant:**

Name			
Date of Birth			
Address (Residential)			
Address (Contact if different to above)			
Telephone Nos.			
Email address.			

**Second Applicant (where appropriate, where there are more than two applicants please provide full details on separate sheet of paper)**

Name			
Date of Birth			
Address (Residential)			
Address (Contact if different to above)			
Telephone Nos.			
Email address(es).			

Business name if company:	
Registered business no.	
Intended Trading name:	
Contact details if different to above:	

Are you a registered food business?	YES / NO
If YES with which Local Authority are you registered?	
Current Food Hygiene rating:	
Date of registration:	

Address or details of the precise location from which you propose to trade if granted a street trading consent. (A scaled site plan showing the precise trading position must be submitted with this application)	
---	--

Name and address of landowner. (Written permission / landlord's consent to operate from the site must be attached to this application)	
Description of the trading unit that will be used.	
A plan of the unit and one colour photograph of the unit must be attached to this application	

What type of goods to you intend to sell – ie hot food, cold food, household linens, etc	
--	--

Details of arrangements for the disposal of waste arising from the unit. Evidence of a Waste Disposal Agreement must be submitted with this application where appropriate.	
---	--

Details of the Insurance Company with whom you have or will be insured for third party and public liability risks. (The certificate of insurance must be produced prior to any consent being granted).	
--	--

Type of consent required:	Fixed location	Yes/No
	Mobile: Full details of proposed route(s) to be submitted with this application.	Yes/No
	Temporary 1 day Temporary up to 7 days Temporary 8 to 28 days	
	Seasonal (x months): Please list operating months requested.	

Please note: if you intend to sell alcohol at any time or hot food and/or drink between the hours of 23.00 and 05.00 hours the following morning you will require to obtain a premises licence under the Licensing Act 2003 in addition to a street trading consent.

Please provide details of any ancillary furniture, equipment (e.g. tables chairs, generator, litter bins, etc) you intend to place on site.

Proposed days and times of trading:		
Day of week	Start	End
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Sunday		
Have you ever held a Street Trading Licence(s) or	YES / NO	



Consent(s) with any other Council(s)?	
If YES please give details of applicant, date(s) and the Council(s) concerned:	
Have you ever had a Street Trading Licence(s) or Consent(s) suspended or revoked.	YES / NO
If YES please give details of applicant, date(s), the Council(s) concerned and the grounds for suspension revocation.	
Have you ever been refused a Street Trading Licence or Consent by this or any other Council?	YES / NO
If YES please give the reasons for the refusal.	

Details of convictions, criminal, motoring or otherwise, if any, recorded against the applicant(s). (Subject to the Rehabilitation of Offenders Act 1974).				
Applicant name	Date of conviction	Convicting Court	Offence	Penalty

Do you intend to employ any person to assist you or operate the unit in your absence. YES / NO		
If YES please note that they must not be under 17 years of age. Please provide their details below (Please note that employers are obliged to check the status of individuals and their right to work within the UK. Failure to make appropriate checks may render you liable for prosecution.)		
Name	Address	Date of Birth

Caerphilly County Borough Council is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

I/we confirm that –

I/we have read fully and understood the content of the Street Trading Policy and agree to the terms and conditions set out within

- The details contained in the application form and supporting documents are correct to the best of my knowledge and belief
- I/we understand that if any false information is provided, I/we may be guilty of an offence and liable to prosecution
- I/we understand that if this application is granted, I/we must inform the Council of any change in circumstances that mean I/we no longer meet the conditions of consent

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

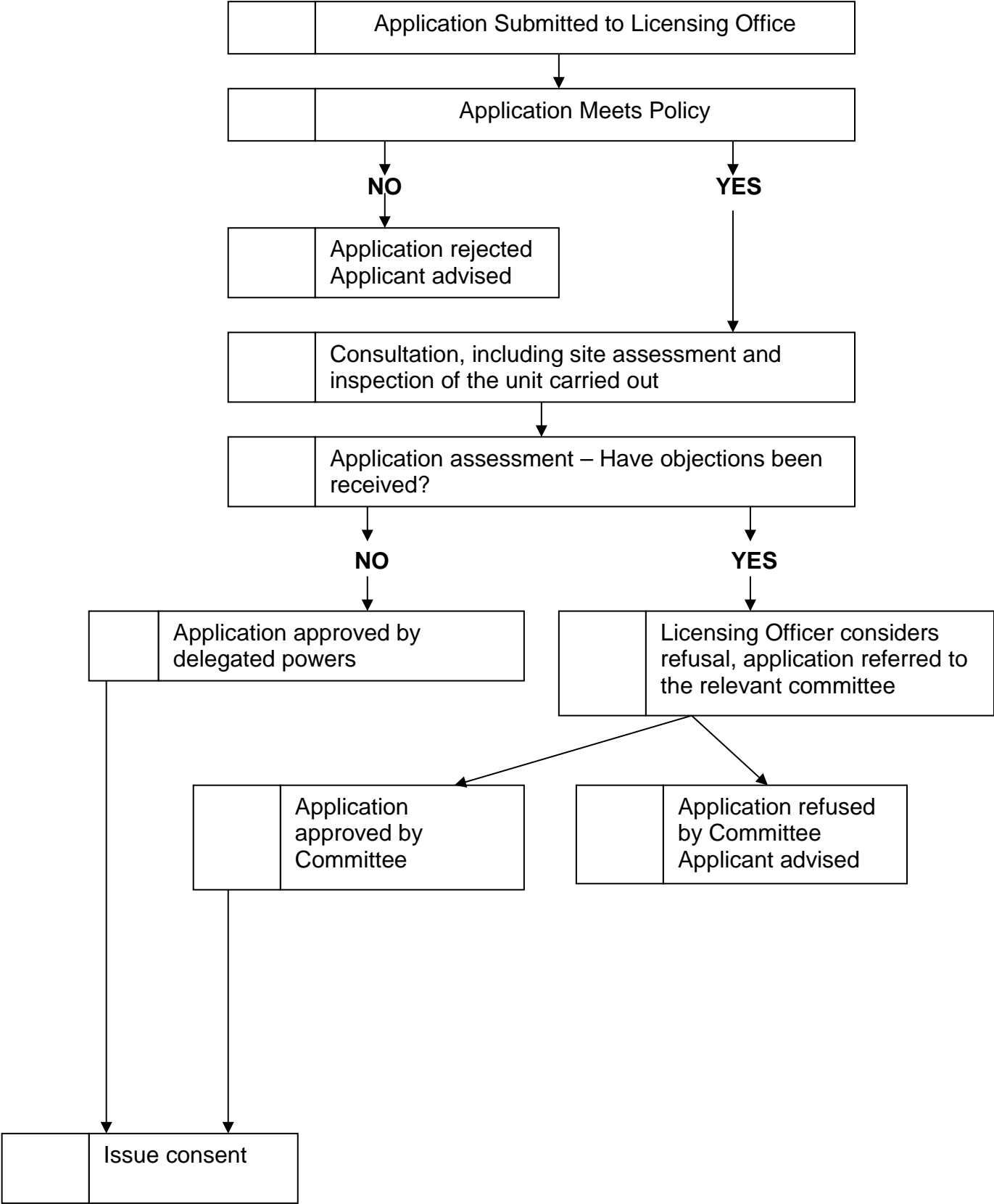
Print name:

Signature of Other Applicant \_\_\_\_\_ Date \_\_\_\_\_

(if Appropriate)

Print Name:

Procedure for Determining Street Trading Consent Applications



## Guidance as to applicants fitness to hold a street trading consent

- 1.0 The following sets out the criteria that will be taken into account by the Council when determining whether or not an applicant or an existing consent holder is a fit and proper person to hold a street trading consent.
- 2.0 The aim is to protect the safety of the public as the Council is concerned to ensure:
  - That the applicant or consent holder is a fit and proper person;
  - That they do not pose a threat to the public;
  - That the public are safeguarded from dishonest persons;
  - The safeguarding of children, vulnerable and young persons;
  - That the public have confidence in their use of street trading outlets.
- 3.0 A person with a conviction for a serious offence need not be automatically barred from obtaining a street trading consent , but would normally be expected to:
  - Remain free of conviction for an appropriate period as set out by the Rehabilitation of Offenders Act. Advice is available from the Licensing Office;
  - Show evidence that he or she is a fit and proper person to hold a street trading consent (the onus is on the applicant to produce such evidence).
- 4.0 Other matters which may be taken into consideration may include but are not limited to the following:
  - Criminal/motoring convictions;
  - Court Martial;
  - Cautions;
  - Fixed penalty notices or other penalty notices;
  - Anti-social behaviour orders or other similar orders;
  - Breach of licensing/consent conditions;
  - Formal warnings or reprimands
  - Charges or matters awaiting trial;
  - Fitness and propriety which may include allegations of sexual impropriety, violence or drug offences.
- 5.0 Of particular concern is the safeguarding of children and vulnerable persons who may be attracted to consents trading in fast food, ice cream etc. Therefore where the Council receives notification that:
  - (a) An applicant or consent holder is the subject of an investigation by the Police into inappropriate conduct, or illegal activity, or
  - (b) An applicant or consent holder has been implicated in a safeguarding issue i.e. where children or other vulnerable persons have been or may be exposed to inappropriate behaviour or language by the applicant / consent holder;

the matter shall be placed before the relevant committee at the earliest opportunity for consideration of the information and determination of whether or not the person can be considered as fit and proper to either apply for or retain a street trading consent.

**STREET TRADING CONSENT CONDITIONS**

These conditions may be subject to change at the discretion of Caerphilly County Borough Council

**GENERAL CONDITIONS**

The Consent Holder and any employee shall:

- Display such Consent authorisation as provided by the Council on / in the unit/vehicle in such a position that it is clearly visible to customers.
- Immediately notify the Council in writing of any changes to contact details including email, telephone and address.
- Notify the Licensing section immediately of any convictions or proceedings arising out of the use or enjoyment of the Consent, or from any other relevant offence as listed having been committed.
- Observe and comply with any directions in relation to the use of the street or public place by an authorised officer of the Council.
- Indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent, as nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability.
- At all times maintain a valid Third Party Public Liability Insurance Policy to the satisfaction of the Council and produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
- On request of an authorised officer of the Council or Police provide written proof that permission of the landowner or lessee has been obtained to carry out the street trading activity.
- On request of an authorised officer of the Council or the Police provide written proof of any permissions or consents required for the street trading activity e.g. planning consent, late night refreshment premises licence, waste disposal agreement etc.
- The Consent Holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but may surrender it to the Council at any time.

Conditions attached to consent may be varied by the Council at any time, the consent holder will be advised in writing of any such variation. The Council may temporarily suspend any consent where the trading location conflicts with any major event, road works, construction/demolition, or serious concern is expressed by the appropriate body regarding the safe operation of the unit or standard of food hygiene. Notification of temporary suspension will be notified in writing.

## **SPECIFIC SITE CONDITIONS**

The Consent Holder when operating from a fixed location shall:

- Ensure that any advertising boards or notices are only placed in the immediate area of the street trading site and do not exceed 750mm x 450mm with at least 2m clear footway passage maintained, interfere with sight lines or obstruct vehicular access or egress.
- Keep the trading position and the immediate adjacent area in a clean and tidy condition during the permitted hours and also leave that area in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
- Provide and maintain (at consent holder's expense) adequate refuse receptacles for litter and ensure that they do not become overfilled.
- Remove litter and trade waste arising from the street trading activities from the site and its vicinity (up to 100 metres) on a daily basis. (Failure to remove litter and trade waste may result in the consent holder being subject to formal enforcement action under the relevant legislation applicable. All litter and trade waste must be disposed of by means of a waste disposal agreement.
- Make such provision as necessary to prevent the deposit in any street or public place of solid or liquid refuse.

Unless specific written permission has been given by the landowner / landlord the trading unit or associated vehicle or other equipment shall be removed from site at the cessation of trading each day.

The Consent Holder when operating from a fixed location shall not:

- Discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
- Provide music, speech, chimes or any other broadcasts from the consent site, which is audible beyond 5 metres from the site. Please note particular conditions in respect of ice cream vans as set out in paragraph 12.2 of policy.
- Place any advertising boards or notices on any street lighting column or fixed street furniture.
- Make any excavations or alterations, place or fix equipment of any description to the surface of the street, or land in the ownership of the Council adjoining a street.

- Place on the street or in a public place, any furniture or equipment other than specifically permitted by the Consent. Permitted items must be maintained in a clean and tidy condition and not placed so as to obstruct the public, entrance or exit from any premises.
- Permit noise from equipment used in connection with consented street trading activity to be audible inside any nearby residences.
- Cause nuisance from noise, light, smells or fumes to householders and businesses in the vicinity of the site.
- Operate before dawn or after dusk unless the site is adequately lit to allow safe access and egress of customers and staff.
- Carry out street trading activities other than those permitted by the Consent.
- Trade outside the time and days permitted by the Consent.
- Trade in such a way that is likely to cause:
  - (i) undue obstruction to any part of any street or public place;
  - (ii) any injury to any person using the street or public place;
  - (iii) damage to any property in the street or public place, or
  - (iv) a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity.
- Permit any person to operate within the terms of the Consent, unless in the employ of the consent holder and acting under their instruction or supervision.

## **MOBILE TRADING CONDITIONS**

Consent is granted on the basis that a mobile trader must not trade from a site for more than 30 minutes (unless they have a queue of customers waiting to be served) and not return to the same site within 2 hours.

Mobile units selling ice cream etc may sound chimes in accordance with Code of Practice on Noise from Ice Cream Van Chimes etc. 1982, but not before 12.00 noon and after 7.00pm, on any day and not when the vehicle is stationary.

Mobile units shall not:

- Stop in any location so as to cause an obstruction to:
  - (i) the highway
  - (ii) any residential property
  - (iii) any pedestrian access
  - (iv) any emergency access or egress

- Trade within 500 metres of the boundary of any education establishment.
- Cause nuisance from noise, light, smells, litter or fumes to households and businesses whilst stationary.
- Provide music or any other broadcasts whilst stationary.
- Discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
- Place any advertising boards or notices on any street lighting column.

## **LEGAL PROVISIONS**

Nothing contained in these conditions shall relieve or excuse the Consent Holder or their employees or agents from any legal duty or liability and at all times the Consent Holder shall comply with the relevant legislation in force.

### Other Definitions

#### **Rounds man**

'Rounds man' denotes a person who follows a set route to attend on specific identifiable customers for the purposes of either taking orders or for the delivery of goods. A small minority of speculative sales to the public are considered to be analogous to a genuine rounds man making ancillary immediate sales.

Sales patterns that are largely speculative and where only a very small minority of the trade is the fulfilment of direct orders or delivery of pre-ordered items would not be classed as a 'rounds man' and would still require consent.

Wholesale delivery vans where transaction with business take place within the business premises and include the fulfilment of regular orders and the promotion of new products and where sales are concluded and receipts are generated within the business premises would not require consent.

#### **Pedlars**

A pedlar is someone who travels and trades on foot, going from town to town or house to house selling goods or offering their skills in handicrafts and selling such things as pictures, dusters and household goods. A pedlar must hold a certificate granted by a chief constable. The certificate is valid for one year and applies throughout the United Kingdom. Someone who acts as a pedlar without a certificate commits an offence.

A person legitimately trading under a Pedlar's Certificate from the Police may trade in a street on a limited basis, provided they abide by the following rules:

- A pedlar is a pedestrian
- A pedlar trades whilst travelling rather than travelling to trade
- A pedlar goes to customers rather than allowing them to come to the pedlar
- A pedlar is a seller rather than a mender
- A pedlar must not remain stationary for long periods of time
- A pedlar must not set up a stall and wait for people to approach

Failure to comply with these rules will make the offender liable to prosecution as an illegal street trader. The licensing authority robustly enforces the law relating to illegal street trading and will prosecute illegal street traders attempting to avoid liability by purporting to be a pedlar when not so. The Council will work with partner agencies to prevent obstruction and nuisance. Offenders face prosecution and the seizure of their goods.

#### **Proximity**

Proximity to a road with a classified maximum speed in excess of 40 miles per hour, normally means within 30 metres of vehicular / pedestrian, access/egress from the road to the location of the trading outlet. Pedestrian access does not include potential access across verges or other land but relates solely to properly laid surfaces such as roads and pavements.



## **Food Hygiene Requirements**

It is recommended that street trading food outlets should strive to attain a food hygiene rating of at least three. For further advice on the Food Hygiene Rating (Wales) Act 2013 or any other queries relating to food law you should contact Caerphilly's Environmental Health department, [www.foodhealthsafety@caerphilly.gov.uk](mailto:www.foodhealthsafety@caerphilly.gov.uk)

## **Highway Control Orders**

Highway Control Orders are issued under the Local Government (Miscellaneous Provisions) Act 1976 which sets out the following:

### **Control of road-side sales**

- (1) If a highway authority considers that, for the purpose of avoiding danger on or facilitating the passage of traffic over a highway for which it is the highway authority, it is appropriate to make an order under this subsection in respect of the highway, the authority may make an order (hereafter in this section referred to as a "control order") specifying the highway and providing that, subject to subsection (5) of this section—
  - (a) No person shall sell anything on the highway or offer or expose anything for sale on the highway; and
  - (b) No person shall, for the purpose of selling anything or offering or exposing anything for sale on the highway or of attracting from users of the highway offers to buy anything, put, keep or use on the highway, or on land within fifteen metres from any part of the highway any stall or similar structure or any container or vehicle.
  
- (4) If a person contravenes a control order which is in force for a highway, the highway authority for the highway may by a notice served on him require him not to contravene the order after a date specified in the notice (which must not be before the expiration of the period of 7 days beginning with the date of service of the notice); and—
  - (a) If a person on whom a notice relating to a contravention of a control order is served in pursuance of this subsection contravenes the order after the expiration of that period, or causes, permits or procures another person to contravene it after the expiration of that period, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale;
  - (b) If a contravention in respect of which a person is convicted of an offence in pursuance of the preceding paragraph is continued by him after the expiration of the period of 7 days beginning with the date of the conviction he shall, as respects each day on which the contravention is so continued, be guilty of a further offence and liable on summary conviction to a fine not exceeding £10.

(5) A control order does not apply—

- (a) To anything done at premises used as a shop or petrol filling station either—
  - (i) In pursuance of planning permission granted or deemed to be granted under the Town and Country Planning Act 1990, or
  - (ii) In a case where the premises are, without such permission, lawfully used as a shop or petrol filling station, or
- (b) To anything done at a market in respect of which tolls, stallages or rents are payable;
- (c) To the sale, offer or exposure for sale of things from or on a vehicle which is used only for the purpose of itinerant trading with the occupiers of premises or which is used only for that purpose and for purposes other than trading;
- (d) To such a vehicle as is mentioned in the preceding paragraph or to containers on the vehicle;
- (e) To, or to containers used in connection with, the sale, offer or exposure for sale, by or on behalf of the occupier of land used for agriculture and on that land, of agricultural produce produced on that land;
- (f) To the provision, in a lay-by situated on a highway, of facilities for the purchase of refreshments by persons travelling on the highway or on another highway near to the highway;
- (g) To anything as respects which the control order provides that the order is not to apply to it.

At the time of amending this policy there were no Highway Control Orders in place within the Council area.

## APPENDIX G

### **STREET TRADING CONSENTS - INDUSTRIAL SITES OWNED AND MANAGED BY THE COUNCIL**

Applicants should note that landlord's permission is required prior to any street trading consent being issued. As such Caerphilly County Borough Council as landlords for the following industrial estates are likely to refuse permission for street trading on any of the following industrial estates that are owned and managed by the Council.

At the time of writing the policy industrial estates owned and managed by the Council are listed below. An up to date list will be available via the Council's website at [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk):

1. Oakdale Business Park – Bryn Brithdir, Cherry Tree House, Oakdale Court and Foxes Lane
2. Woodfieldside Business Park
3. Penmaen Small Business Centre
4. Penmaen Industrial Estate
5. Tram Road Industrial Estate
6. New Tredegar Business Park
7. Lawn Industrial Estate
8. Waunfawr Business Park, Newtown Industrial Estate
9. Park Road Industrial Estate (also known as Station Workshops)
10. Caerphilly Business Park
11. Dyffryn Business Park
12. Tredomen Park
13. St David's Industrial Estate

**Consultation Comment Received from an Existing Street Trading Consent Holder**

I wish to respond with regards to the mobile street trading (precision) in section 12.1 Mobile Trading states no more than 30 minutes trading.

The 60 minute trading is ideal and should remain the same due to the fact if this is reduced this will not only effect the ice cream trade but will most certainly definitely effect our income as it is only a seasonal business 60 minutes is reasonable amount of time.

Please can you consider not changing this as it would only make a street trader reluctant to pay for a mobile street traders licence to trade within your borough (loss of payments to the council).

I believe this is the only decision that could have an impact on ice cream, vendors if it is changed.