

Agenda

General Purposes Licensing Committee

Extraordinary Meeting

This meeting will be held on:

Date: **Wednesday 30 November 2022**

Time: **6.00 pm**

Place: **Long Room - Oxford Town Hall**

For further information please contact:

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Committee Membership

Councillor Edward Mundy (Chair)
Councillor Mary Clarkson (Vice-Chair)
Councillor Tiago Corais
Councillor Barbara Coyne
Councillor Lizzy Diggins
Councillor Paula Dunne
Councillor Andrew Gant
Councillor Rae Humberstone
Councillor Mark Lygo
Councillor Katherine Miles
Councillor Lois Muddiman
Councillor Rosie Rawle
Councillor Jo Sandelson
Councillor Louise Upton
Councillor Naomi Waite

Apologies and notification of substitutes received before the publication are shown under *Apologies for absence* in the agenda. Those sent after publication will be reported at the meeting. Substitutes for the Chair and Vice-chair do not take on these roles.

Agenda

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The Head of Regulatory Services and Community Safety has submitted a report to update the Committee on progress with the Street Trading Policy Review Programme 2022-23 and seek approval for the draft Consultation Version to go out to public consultation.

Recommendation(s): That the General Purposes Licensing Committee resolves to:

1. **Note** the current position and remaining proposed stages in the Street Trading Policy review timeline.
2. **Approve** the draft Street Trading Policy Consultation Version at Appendix A to go out to public consultation.
3. **Note** the proposed consultation arrangements.
4. **Recommend** the proposed amendments to the Council's Constitution (Appendix B) to Council for adoption.

Information for those attending

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General duty

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you.

What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to your* employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licenses for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

Declaring an interest

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest. If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

Members' Code of Conduct and public perception

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that "you must not place yourself in situations where your honesty and integrity may be questioned". The matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

Members Code – Other Registrable Interests

Where a matter arises at a meeting which directly relates to the financial interest or wellbeing** of one of your Other Registerable Interests*** then you must declare an

interest. You must not participate in discussion or voting on the item and you must withdraw from the meeting whilst the matter is discussed.

Members Code – Non Registrable Interests

Where a matter arises at a meeting which ***directly relates*** to your financial interest or wellbeing (and does not fall under disclosable pecuniary interests), or the financial interest or wellbeing of a relative or close associate, you must declare the interest.

Where a matter arises at a meeting which affects your own financial interest or wellbeing, a financial interest or wellbeing of a relative or close associate or a financial interest or wellbeing of a body included under Other Registrable Interests, then you must declare the interest.

You must not take part in any discussion or vote on the matter and must not remain in the room, if you answer in the affirmative to this test:

“Where a matter affects the financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest You may speak on the matter only if members of the public are also allowed to speak at the meeting.”

Otherwise, you may stay in the room, take part in the discussion and vote.

*Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

** Wellbeing can be described as a condition of contentedness, healthiness and happiness; anything that could be said to affect a person's quality of life, either positively or negatively, is likely to affect their wellbeing.

*** Other Registrable Interests: a) any unpaid directorships b) any Body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority c) any Body (i) exercising functions of a public nature (ii) directed to charitable purposes or (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

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To: General Purposes Licensing Committee
Date: 30 November 2022
Report of: Head of Regulatory Services and Community Safety
Title of Report: Street Trading Policy Review

Summary and recommendations	
Purpose of report:	To update the Committee on progress with the Street Trading Policy Review Programme 2022-23 and seek approval for the draft Consultation Version to go out to public consultation.
Corporate Priority:	Enable an Inclusive Economy; Support Thriving Communities
Policy Framework:	Council Strategy 2020-24
Recommendation(s):That the General Purposes Licensing Committee resolves to:	
<ol style="list-style-type: none">1. Note the current position and remaining proposed stages in the Street Trading Policy review timeline.2. Approve the draft Street Trading Policy Consultation Version at Appendix A to go out to public consultation.3. Note the proposed consultation arrangements.4. Recommend the proposed amendments to the Council's Constitution (Appendix B) to Council for adoption.	

Appendices	
Appendix A	Draft Street Trading Policy Consultation Version
Appendix B	Proposed amendments to the Council's Constitution

Introduction and background

1. At its meeting on 26 September 2022, the General Purposes Licensing Committee resolved to note and endorse the proposed Street Trading Policy Review 2022-23 timeline set out below:

October/ November	Extraordinary meeting of General Purposes Licensing Committee for consideration of pre-
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2022	consultation draft Street Trading Policy
December 2022 – January 2023	Public consultation on revised Street Trading Policy
Monday 06 February 2023	Consultation responses and proposed final version of revised Street Trading Policy considered by General Purposes Licensing Committee. Recommendation that the Committee recommends the Policy to Council for adoption.
Monday 20 March 2023	Council meeting

2. Officers have drafted changes to the existing Street Trading Policy to form the proposed consultation draft of the revised Street Trading Policy as detailed in the report, to include:
 - Correcting errors or inconsistencies
 - Improving clarity
 - Incorporating changes to other related regimes, policies and procedures
 - Updating references made to related documents
 - Other significant changes set out in this report
3. Following the public consultation period, the Council is required to respond to comments from current Street Trading Consent holders, Consent process consultees and other stakeholders. The proposed final version of the revised Street Trading Policy will then be presented to the General Purposes Licesning Committee for consideration, with a recommendation that it recommends the policy to Council for adoption.
4. The Committee is recommended to approve the draft Street Trading Policy Consultation Version at Appendix A to go out to public consultation and recommend the proposed amendments to the Council's Constitution as shown at Appendix B to Council.

Proposed Draft Consultation Version

5. The proposed draft consultation version of the revised Street Trading Policy is set out at Appendix A. Significant changes are set out in the report.
6. Significant changes to the existing policy are included within the proposed consultation draft with a shaded background in order to assist Members and consultees in identifying them.

Sustainable Street Trading Motion (referred to Committee)

7. In the Committee's consideration of the report of the Head of Law & Governance submitted to its meeting of 26 September 2022, the Committee resolved to:
 - *Request that officers update the proposed consultation draft of the Street Trading Policy to reflect the points highlighted in the motion.*
8. The points highlighted in the motion have been incorporated into the proposed Consultation Draft (Appendix A) and are set out below:
 - *Seeking and integrating feedback including with traders on the Environment; Air quality; Littering; and Sustainable energy during the policy consultation process.
 - Updating standard street trading consent conditions so they include a:
 - Ban on single use plastic and polystyrene in street trading;
 - Ban on the sale of plastic and helium balloons;
 - Requirement and guidance on the use of sustainable food packaging, utensils, drinks containers and bags
 - Head of Regulatory Services and Community Safety exploring options to update standard street trading consent conditions so that they include a requirement to provide a litter bin for recycling.
 - Encouraging and providing guidance to street traders:
 - To adopt sustainable sourcing of food and drink;
 - To use sustainable sources of energy for their trading activities;
 - To deal with customers' rubbish responsibly; and
 - On the benefits of sustainable street trading.

**this point will be implemented within the consultation process rather than being reflected in the draft consultation version.*

Interim Framework for Street Trading Renewal

9. In the Committee's consideration of the report of the Head of Regulatory Services and Community Safety submitted to its meeting of 19 May 2022, the Committee resolved to:
 - *Endorse an interim approach to be applied to those street trading renewal applications which are in arrears and stand to be referred to Sub-Committee for breach of a condition of street trading consent. This approach being temporary and pending review of the Street Trading Policy and changes to the Constitution.*
10. The interim approach was that: *where street trading renewal applicants are in breach of conditions to their consent, as a result of being in arrears, renewal applications will only be referred to the General Purposes Licensing Casework Sub-Committee for consideration in cases where the trader has not agreed a formal Payment Plan with the Council's Finance Team or settled their debt in full. It is suggested that, in cases where a Payment Plan has been agreed but a trader has*

faltered on payments, that case will be referred to the General Purposes Licensing Casework Sub-Committee.

11. Since the meeting on 19 May 2022, officers have developed an escalation process for debt management, to form a proposed permanent approach. It is proposed that the Head of Regulatory Services and Community Safety be given discretion to refer significant debt that they feel is not being managed to the General Purposes Licensing Casework Sub-Committee for determination of Consent renewal. This is subject to the proposed Constitution amendment set out at paragraph 19.
12. The proposed approach would allow cases in arrears to first be investigated by the Finance Team in liaison with the Business Regulation Team and for steps to be taken in tandem to help the debtor to manage their arrears. This would divert some cases which were in arrears away from Sub-Committee attendance, meaning only those cases of arrears which were not being managed would be referred to the Sub-Committee for decision.
13. Where management of arrears is unsuccessful it is proposed that a report be submitted to the Head of Regulatory Services and Community Safety who may use delegated powers to amend or suspend a Street Trading Consent for up to 28 days, with referral being made to the General Purposes Licensing Casework Sub-Committee for decision on subsequent action.
14. The proposed escalation process would be enabled by proposed changes to the Council's Constitution set out in the report.

Proposed arrangements for new applications, renewal applications and enforcement matters

15. The Council's Constitution (Part 5.7) currently delegates authority to the General Purposes Licensing Casework Sub-Committee to:
 - *Decide Street Trading applications that are for longer than three months.*
 - *Decide applications to renew street trading permission when there has been a complaint about the trader or the trader has broken the conditions of their street trading permission in the past year or where there is competition for a vacant approved site.*

The Head of Regulatory Services and Community Safety has responsibility for everything else.

16. The current Street Trading Policy provides that the Head of Regulatory Services and Community Safety can approve street trading consents for up to three months.
17. Officers consider that it would bring greater certainty to new Street Trading Consent applicants, who may be considering significant capital outlay for vehicles, equipment etc. and improve street trading services as a whole, if the Sub-Committee decided all new applications. It is therefore proposed that an amendment to the Constitution (5.7) be recommended to Council, such that the General Purposes Licensing Casework Sub-Committee decides all new Street Trading applications (see Appendix B).
18. In line with the current Constitution wording, officers recommend that renewal applications continue to be decided by the Head of Regulatory Services and Community Safety, unless there has been a complaint about the trader, or the trader has broken the conditions of their street trading permission in the past year, or where there is competition for a vacant approved site.

19. Officers recommend that an amendment to the Constitution (5.7) be recommended to Council, such that where a Consent holder is in breach of condition as a result of being in arrears, the Head of Regulatory Services and Community Safety has discretion to refer significant debt that they feel is not being managed to the General Purposes Licensing Casework Sub-Committee for determination of Consent renewal.
20. The Council's Constitution and the current Street Trading Policy do not confer powers to suspend, vary or revoke Street Trading Consents to either the General Purposes Licensing Committee or the General Purposes Licensing Casework Sub-Committee where there is a breach of condition.
21. Officers recommend that an amendment to the Constitution (5.7) be recommended to Council, such that the General Purposes Licensing Casework Sub-Committee may decide on cases referred by the Head of Regulatory Services and Community Safety whether to suspend, extend a period of suspension, end a suspension, vary, or revoke a Street Trading Consent (see Appendix B).
22. These recommended changes are reflected in the draft Consultation Version.

Special Events

23. Section 7.2 of the current Street Trading Policy refers to trading at charity or small community events and focuses, for charging purposes, on whether profits from individual stalls are donated to charity. Exemption from charges applies to those stalls but not to traders attending for commercial gain. Officers are aware that commercial traders are often invited to such events to encourage the success of the event and that it is the overall organising body rather than individuals that determines how profits are used.
24. Benchmarking with other councils supports a shift in focus away from individual traders towards the event as a whole. A change to the wording for this section of the policy is therefore recommended, as shown in Section 7.2 of Appendix A.

Consultation Exercise

25. Officers have developed a Public Involvement Project Brief in accordance with the Council's toolkit for this purpose and in liaison with the Council's Consultation Officer and Public Involvement Board. Two consultation processes are envisaged:
 - Street Trading Consent holders and other key stakeholders including relevant Council teams, Thames Valley Police and Oxfordshire Highways will be contacted by email and asked to respond to a questionnaire and the proposed policy via the Council's online consultation portal.
 - Members of the public will be invited to do likewise via the Council's online consultation web pages.
26. It is proposed that the consultation will run from Monday 12 December 2022 to Friday 13 January 2023. The Committee is recommended to note the proposed consultation arrangements.

Financial implications

27. The Council is entitled to make reasonable charges for its licensing services, based on the costs of performing those functions. The Street Trading Policy Review 2022-23 is expected to deliver a Policy which will enhance the operation and

management of the Street Trading service so that fee income is proportionate to costs.

Legal issues

28. The Street Trading Policy Review brings an opportunity to check on current legislation and best practice and ensure that the Council meets legal requirements. Officers consider that there are no legal issues arising from the proposed changes set out in this report.
29. It is proposed that a recommendation to Council be made to amend the Council's Constitution, as set out in the body of the report.

Report author	David Stevens
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Background Papers: None

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Licensing Authority

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Street Trading Policy

This Statement will apply from 1st April 2023

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Glossary

The Council	Oxford City Council
The Applicant	The trader who has submitted an application for Street Trading Consent.
The Consent Holder	An individual that holds a Street Trading Consent.
A Street	Includes any road, footway, beach or other area to which the public have access without payment.
A Consent Street	A street in which street trading is prohibited without the Consent of the Council.
A Street Trading Consent	A permission to trade, which is granted by a council subject to conditions and payment of a fee.
A Roundsman	An individual who visits a 'round' of customers and delivers the orders of those customers, for example a milkman. A person operating an ice-cream van is not classed as a roundsman.
A Pedlar	A pedlar is a trader who must: <ul style="list-style-type: none"> • keep moving, stopping only to serve customers at their request • move from place to place and not circulate within the same area • hold a valid pedlar's certificate, issued by a Chief Constable of Police.
A Peripatetic Trader	A peripatetic street trader is one that: <ul style="list-style-type: none"> • continually moves from location to location • moves at least 50 metres from the last trading location and does • not return to that location within four hours • does not wait in one location for more than twenty minutes <p>does not trade within 100 metres of any entrance to any school or college (without formal invitation from the establishment).</p>
The Licensing Officer	An officer employed by the Council and authorised by the Council to act in pursuance of the provisions of the Local Government (Miscellaneous Provisions) Act 1982.
Activities that do not require Street Trading Consent	Trading: <ul style="list-style-type: none"> • as a pedlar under a pedlar's certificate • as a news vendor • at a market or fair, the right to hold which having been obtained by a grant, enactment or order • at or adjoining a shop premises as part of the business of the shop • as a roundsman (i.e. delivering pre-ordered goods to customers) • from a licensed highway area (.e.g. Pavement or Street Café Licence)under a street collection permit for charitable purposes. • Areas or events where there is an admission fee.

Introduction

Oxford City Council (hereafter referred to as the Council) recognises that street trading is an established commercial activity that contributes to the vibrancy and vitality of the city and increases the diversity of the local economy.

As the growth and development of the city continues, it is vital that the street trading environment responds to the physical changes and remains sensitive to the needs of the city. The policy allows the Council to continue to regulate the location and number of traders, ensuring that they meet the requirements set out and do not adversely impact the streets they occupy.

In keeping with its vision for a successful and attractive city, the Council aspires to provide an improving street trading offer in terms of appearance/visual amenity and the quality of the goods on sale.

A key priority of the Council is to deliver health and wellbeing improvements in the city. Working with partners, we have made a commitment to reduce sugar intake, particularly amongst young people. The policy will support the objectives of [SUGAR SMART](#) Oxford's campaign, seek to make a positive change and facilitate healthier choices.

1 Purpose of the Policy

- 1.1 This Policy sets out the legal framework for the management of street trading in Oxford and will guide the Licensing Authority when it considers applications for Street Trading Consents.
- 1.2 It outlines how decisions are made and aims to provide a transparent and consistent approach for dealing with the regulation of street trading.
- 1.3 It also highlights the Council's undertaking to avoid duplication with other statutory provisions and commitment to work in partnership with other enforcement agencies.

2 Consultation

- 2.1 In determining this policy, the Council has undertaken a public consultation exercise involving the following stakeholders and organisations:
 - Thames Valley Police
 - Oxfordshire County Council
 - All current Consent Holders
 - All relevant departments within Oxford City Council
 - Members of the public
- 2.2 The Council has considered and taken into account the views of all consultees.

3 Review of the Policy

- 3.1 This policy will be reviewed every three years and all interested parties consulted. In addition, we will continue to evaluate the policy and may update

it at any time. Any minor changes may be agreed by the General Purposes Licensing Committee.

4 Legislation and current provision

- 4.1 In 1986 the Council resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 (LGA82) should apply to its area. Under Schedule 4 of the Act a local authority can manage street trading by designating streets as ‘consent streets’, ‘licence streets’ or ‘prohibited streets’.

All streets in Oxford City Council area are designated as consent streets and any trading requires consent.

Street Trading is defined as “*the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a number of exceptions*”.

The LGA82 exceptions include:

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

Schedule 4 of the LGA82 defines a street as “*any road, footway, beach or other area to which the public have access without payment; and a service area as defined in section 329 of the Highways Act 1980.*” This includes privately owned land

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

5 The Licensing Process and Delegation of Functions

- 5.1 This part of the document sets out how we will deal with applications for Street Trading Consent in the City of Oxford. The Council aims to provide a clear, consistent licensing service for service users. It also aims to protect the safety of highway users and to prevent nuisance or annoyance.
- 5.2 Delegation is laid out in the Council’s Constitution as follows:

Full Council sets policies on licensing.

The General Purposes Licensing Committee:

- recommends and reviews policies on general licensing

- sets and reviews licence fees
- agrees and varies a street trading scheme.

The General Purposes Licensing Committee appoints a General Purposes Licensing Casework Sub-Committee to:

- a) Decide new street trading applications[that are for longer than three months]
- b) Decide applications to renew Street Trading Consent when there has been a complaint about the trader or the trader has breached the conditions of their Street Trading Consent in the past year or where there is competition for a vacant approved site.
- c) Where a trader is in breach of condition as a result of being in arrears, the Head of Regulatory Services and Community Safety has discretion to refer significant debt that they feel is not being managed to the General Purposes Licensing Casework Sub-Committee for determination of Consent renewal.
- d) Decide whether to suspend, extend a period of suspension, end a suspension, vary or revoke a Street Trading Consent for cases referred to the Sub-Committee by the Head of Regulatory Services and Community Safety.

5.3 The General Purposes Licensing Committee has in turn delegated authority to the Responsible Head of Service to:

- (a) Issue Street Trading Consents and to attach such conditions as are necessary under the Local Government (Miscellaneous Provisions) Act 1982;
- (b) Refuse any application for a Consent:
 - (i) that is considered unsuitable under this policy;
 - (ii) where there are valid adverse comments from any of the following consultees; (Police or Highways on the grounds of Public or Highway safety);
- (c) Refer applications/Consent holders to the General Purposes Licensing Casework Sub-Committee:
 - (i) when there has been a complaint or safeguarding concern about the trader or the trader has breached the conditions of their Street Trading Consent in the past year;
 - (ii) where there are multiple applications for a vacant approved site
 - (iii) where there are valid adverse representations, serious food safety issues or any other reasonable cause for referral
- (d) Suspend a Consent for a period of up to 28 days pending referral to the General Purposes Licensing Casework Sub-Committee, where serious food safety issues or any other reasonable cause are found.

Applications for a Street Trading Consent

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

- (a) A completed and signed Street Trading Consent Application Form.
- (b) The full application fee as appropriate.
- (c) Proof of Identity (a passport or UK driving licence) for applicant and employees

- (d) Where the proposed street activity is from a fixed position, a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line. (New applications only)
- (e) Colour photographs of the stall or vehicle that is proposed to be used for the street trading activity. (New applications only)
- (f) A certificate of Public Liability Insurance that covers the street trading activity for third party and public liability risks. The minimum insurance cover shall be £5,000,000.
- (g) A current Level 2 Award in Food Safety in Catering certificate for all food handlers.
- (h) A valid Waste Transfer Contract/Agreement or Waste Carrier Licence.
- (i) Proof of the applicant's and any prospective employee's right to work in the UK.
- (j) Disclosure and Barring Service (DBS) checks for applicant and employees (dated within last 30 days before application date). Applies to traders operating in the night time and those who often sell items to children.
- (k) Gas safety certificate for the vehicle or stall if applicable.
- (l) A description of the type of food and drinks to include sugar free and lower sugar drinks options.
- 5.5 Street Trading Consents are issued for a period of up to one year and are renewed annually for the period 1 April to 31 March, unless granted for a reduced period.
- 5.6 Before a Street Trading Consent is granted or refused, the Council will carry out a consultation process with various stakeholders including:
- Oxfordshire County Council Highways
 - Thames Valley Police
 - Ward Councillors
 - Planning Service
 - Environmental Health Authority for food safety and commercial pollution
- Written observations from the above organisations will be sought and taken into consideration when determining an application.
- 5.7 Street Trading Consents will not normally be granted where:
- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site.
 - There is a conflict with Traffic Orders such as waiting restrictions.
 - The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes.
 - The trading unit obstructs the safe passage of users of the footway or carriageway.
 - The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities.
 - The supply of hot or cold food, drinks or confectionery between 07:30 and 18:00 within 100 metres of the boundary of a school or college (during term time).
- 5.8 The council will not normally allow the sale of:

- Tobacco, tobacco products or e-cigarettes
- Items made of animal fur
- Items that cause or contribute to crime and disorder
- Energy drinks to children below 16 years old.
- the sale of plastic and helium balloons
- single use plastic in street trading in Oxford

5.9 In the absence of representations, a new application will be referred to the Council's General Purposes Licensing Casework Sub-Committee who will use the criteria listed below to make their determination of the application, with equal weight applied to the criteria listed. Each case will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

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

(a) Public safety

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

(b) Public order

Whether the street trading activity represents, or is likely to represent, a substantial risk to public order.

(c) Avoidance of public nuisance

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

(d) Appearance of the stall or vehicle

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

(e) Needs of the area

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

(f) Environmental sustainability

Measures to minimise the impact of the proposed operation on the local and global environment including street surfaces and materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, recycling and waste disposal, adopting sustainable sourcing approaches to food and drink; using sustainable sources of energy for their trading activities; and considering how their customers' rubbish is dealt with responsibly including composted and recycled.

(g) Food safety and food offer

Applicants to trade in hot or cold food must be able to demonstrate a good understanding of food safety and be registered as a food business with the relevant local authority. As a minimum, food handlers must hold a current Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health. Consideration will be given to applicant's ability to meet SUGAR SMART Oxford criteria (see Annex 3 for guidance).

(h) Highway safety

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

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

Nature of goods on offer

- 5.12 The type of goods allowed to be sold will be considered on a site by site basis and will be specified in the Consent. Consent holders must seek approval before making significant changes to the type of goods offered for sale.

Suitability of Applicant

- 5.13 When determining an application for the grant or renewal of a Consent, the Council will consider all relevant information relating to the suitability of the applicant and any employees including:

- Whether they have been cautioned or convicted of any offences of:
 - a. Violence
 - b. Dishonesty
 - c. Drug related offences
 - d. Sexual offences
 - e. Public Order offences
 - f. Food safety or health and safety offences
 - g. Any offence resulting in a sentence of imprisonment

This will involve the applicant making a declaration to confirm their status relating to any 'unspent' cautions or convictions under the Rehabilitation of Offenders Act 1974. Guidance on the relevance of cautions and convictions is contained in Annex 4.

- Failure to pay the Council's Street Trading Consent fees.
- An applicant's history of street trading including whether previous Consents have been used appropriately.

- 5.14 The Council reserves the right to request a Disclosure and Barring Service (DBS) check where it considers there is a significant risk to children and/or vulnerable people, e.g. traders operating in the night time and those who often sell items to children.

Advertisements

- 5.15 The use of 'A' boards is prohibited on the highway (unless express permission is given).
- 5.16 Advertising should only relate to goods offered for sale at the consented site.
- 5.17 Third party advertisements are prohibited.

Peripatetic Street Trading

- 5.18 Street traders that meet the conditions below will be classed as peripatetic. Ice cream vans and mobile sandwich sellers would typically be deemed to be peripatetic street traders.
- 5.19 Traders must meet all of the criteria below to be classed as peripatetic:
 - Move from location to location.
 - Move at least 50 metres from the last trading location and do not return to that location within four hours.
 - Do not wait in one location for more than 20 minutes.

Renewal Applications for a Street Trading Consent

- 5.20 Street Trading Consents are renewed annually for the period 1st April to 31st March, unless granted for a reduced period. A renewal application for Street Trading Consent must be made to the Council in writing by 1st February.
- 5.21 If a renewal application is not received before the expiry of the current licence, a new application must be made. In this situation, trading will not be permitted until a new Consent is issued.
- 5.22 At renewal, the Council may take into consideration any relevant information about the trading operation
- 5.23 Where a renewal application has been made and there have been complaints or enforcement issues or fees have not been paid on time, then the application may be referred to the General Purposes Licensing Casework Sub-Committee for decision.

Advertising new or vacant sites

- 5.24 The Council will advertise new unallocated or vacant sites on the Council's website for 28 days. Applications will be referred to the Council's Licensing Sub-Committee who will use the criteria listed at paragraph 5.8 of this policy to make their determination.

Transfers

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

6 Markets

6.1 A market or fair, the right to hold which has been obtained by a grant, enactment or order is exempted from the street trading regime and is outside the scope of this policy.

7 Special Events

7.1 For events such as Christmas or Continental Street Markets, the Council will accept one application from the person organising the event. The event street trading application will require full details of each trader attending the event. Consent will be issued to each individual stall holder. This provision aims to promote events and encourage traders to attend.

7.2 Trading at charity or small community events, where the proceeds of the event are to be used solely for charitable or community purposes are exempt from the Council's Street Trading requirements.

8 Fees

8.1 Fees will be set and reviewed annually on a full cost recovery basis. The level of fees applicable takes into account the location, the duration of the Consent, trading hours and the articles to be sold. Details of the current fees can be found on the Council's website

8.2 Fees must be paid in advance as set out in Annex 2, General Condition 24.

8.3 Applications for Consents must be accompanied by the relevant non-refundable fee. If the application is approved, the balance of the fee will be due before the Consent is issued. If the application is not successful the application fee will be retained to cover the cost incurred in processing the application.

8.4 A Consent Holder may terminate a Street Trading Consent by written notice to the Responsible Head of Service. Where trading ceases during the term of Consent, a refund will not be given for any remaining period of less than 3 months. Where payable, a refund of the portion of the fee equal to the remaining full months will be given, less £50 which the Council will retain to cover administrative costs.

9 Conditions

9.1 The Council applies Standard Conditions to Street Trading Consents and other Individual Conditions may be added to individual Consents where appropriate.

9.2 Standard Trading Hours are:

- (a) Roadside locations for vehicles
 - Daytime site from 08:00 to 18:00.
 - Evening sites for the Sale of Hot Food from 18:30 to 03:00 (can be extended to 04:00 Thursdays, Fridays, and Saturdays on application and subject to approval).
- (b) Pavement locations
 - 08:00 to 21:00.

- (c) Weekly Let Sites
• 08:00 to 21:00.

9.3 The Standard Conditions applied to Street Trading Consents are attached to this policy as Annex 1.

10 Enforcement

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

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

10.3 The Council will investigate any complaints relating to street trading activities e.g. trading without Consent or breach of conditions and may take enforcement action as appropriate. Consent holders should liaise with the Council to resolve complaints.

10.4 If the Council feels that there is an issue of public order or threat to public safety associated with any street trading activity it will call for assistance from Thames Valley Police.

10.5 Failure to comply with one or more of the standard conditions of Consent may lead to suspension, variation, revocation or non-renewal of Street Trading Consent. The Consent Holder may also be prosecuted where a criminal offence has occurred

11 Revocation

11.1 The Council may revoke a Street Trading Consent at any time, on any reasonable grounds. This may be for a variety of reasons including breach of conditions, non-payment of fees or when the site location is no longer suitable/accessible e.g. due to emergency repairs in the street or construction/redevelopment work.

12 Contacts

The Street Trading function is part of the Business Regulation Team within Regulatory Services and Community Safety.

Business Regulation Team SA3.2D
Oxford City Council
Town Hall
St Aldate's
Oxford
OX1 1BX

To enquire about a street trading issue, please visit our website: www.oxford.gov.uk or contact us via email street_trading@oxford.gov.uk or telephone on 01865 252862.

ANNEX 1**General Conditions for Street Trading Consents**

1. Street trading must only take place between the dates specified on the Certificate of Street Trading Consent.
2. Street trading must only take place during the operational hours specified on the Certificate of Street Trading Consent.
3. The Street Trading Consent relates only to the area/site vehicle or stall specified on the Certificate of Street Trading Consent.
4. The Street Trading Consent relates only to the vehicle or stall specified on the Certificate of Street Trading Consent.
5. Any significant changes to or replacement of a stall or vehicle must be approved by the Responsible Head of Service.
6. The vehicle or stall must be removed from the site at the end of each day's trading.
7. The Consent Holder's vehicle/stall must be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
8. The Consent Holder's vehicle must be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate. Vehicle movements must be carried out legally and must not present a risk to people and structures. The Consent Holder shall not drive or park a vehicle on any part of a footway.
9. The Consent Holder must ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued.
10. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they must immediately comply with that request.
11. The Consent Holder must comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work etc. Act, 1974 and the Food Safety and Hygiene (England) Regulations 2013 (where relevant). Advice on these requirements is available from the Business Regulation Team.
12. The Consent Holder must conduct their business in a professional manner and in a way that minimises risks to employees and others.
13. The Consent Holder must take reasonable precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. A serviceable fire blanket and a suitable fire extinguisher shall be provided in all vehicles selling hot food.
14. Reasonable steps must be taken to ensure gas safety where gas appliances are used on a stall or vehicle. Gas appliances must be maintained and serviced as per manufacturer's instructions. Gas appliances and systems must be checked for safety by a competent Gas Safe engineer at least annually. Any faults or concerns in relation to gas safety must be

- appropriately investigated and made safe by a competent Gas Safe engineer as soon as possible.
15. The Consent Holder must not cause any nuisance or annoyance to any other user of the highway or the occupier of any land or building. In particular, Consent Holders must prevent excessive noise.
 16. The Environmental Protection Act 1990 (as amended) places a duty of care on businesses to dispose of their trade waste in an appropriate manner. Trade waste must be stored appropriately and be disposed of by a licensed waste carrier. No water or waste material shall be discharged on to the highway or any adjacent property.
 17. The Consent holder shall take reasonable steps to ensure that litter arising from their own trade is minimised as far as possible, for example by making a bin available for customers to use. The consent Holder is required to provide a litter bin for recycling
 18. A Street Trading Consent must not be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The subletting of a consent site is prohibited.
 19. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Council of the name and address of that person. An administration fee will be payable.
 20. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Council.
 21. Consent holders must make adequate provisions to ensure access for wheelchair users or customers with disabilities.
 22. A copy of the Consent must be displayed by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
 23. Consent Holders must have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £5,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance must specifically include cover against food poisoning to the same amount. Proof of cover must be produced to an officer of Oxford City Council on application and as required.
 24. Annual Street Trading Consent fee installments are required quarterly, in advance. The first installment must be paid in advance of the issue of Consent. The remaining fee can be paid in installments on the following dates 1st July, 1st October and 2nd January. Alternatively, annual fees may be paid in full in advance.
 25. General Conditions, which apply to all Street Trading in Oxford, may be varied, having regard to a particular location. They are termed Special Conditions and are listed on the Consent Certificate. These Special Conditions must also be complied with.
 26. Consent holders must make full use of their Consent.

Conditions Specific to Food Traders

27. All packaging and utensils for use by customers shall be made of recycled or part recycled materials.
28. Food businesses must achieve and maintain a minimum Food Hygiene Rating of '3 – Generally Satisfactory'. The Hygiene Rating must be displayed prominently on the stall or vehicle.
29. Food handlers must hold a Level 2 Award in Food Safety in Catering accredited by The Chartered Institute of Environmental Health or The Royal Institute for Public Health with a certificate dated within the last 3 years...
30. Food businesses must be registered as a food business with the Local Authority where the van/stall is kept overnight. Food businesses registered outside of the Oxford City Council area must be able to demonstrate food business registration, e.g. by written confirmation from the relevant local authority or by providing a copy of the latest inspection letter or report. Any changes in registration details must be notified to the relevant Local Authority.
31. All hot food vans/trailers are required to carry a basic first aid kit and have the means to contact the emergency services if necessary.

Conditions Specific to Peripatetic Traders

32. The Consent holder is required to comply with the Code of Practice on Noise from Ice-Cream Van Chimes Etc. in England 2013 or any modification or re-enactment thereof.
33. The vehicle must not trade within 100 metres of the boundary of any school or college between the hours of 07:30 and 18:00 (without formal invitation from the establishment).
34. The vehicle must not wait in one location for more than twenty minutes, moving at least 50 metres to the next trading location. The vehicle must not return to that location within four hours.

Conditions Specific to Weekly Street Traders

35. Weekly Street Trading Consents fees must be paid two weeks in advance before trading commences. This is to allow sufficient time to process the application and receive the consent. Traders must be in possession of their Consents before they can trade.
36. The items to be sold must be agreed before a Weekly Consent will be issued.
37. The sale of food and/or drink is not permitted by Weekly Street Traders.
38. For Weekly Street Traders on Cornmarket Street, the Consent Holder's stall must not exceed 2.3 metres in height nor occupy an area greater than 2.3 metres x 1.4 metres.

ANNEX 2
Guidance on SUGAR SMART Oxford Criteria

The Council welcomes applications from food traders who meet all the following criteria:

- Offer 80% low* sugar and sugar free drinks options
- Make low sugar and sugar free drinks more visible and prominently displayed to customers
- Adopt a simple traffic light sticker system for drinks (traders will receive free resources, support and advice to set up)

Contact: mail@sugarsmartoxford.org for information. More details about the scheme can be found at <http://goodfoodoxford.org/sugar-smart-oxford/>.

*Low sugar is defined as 5g per 100g or less

ANNEX 3**Guidance on suitability of applicants**

The Council will take into account the following guidance concerning any ‘unspent’ cautions or convictions for the offences listed below when determining whether a new applicant, consent holder or their employee is suitable to hold a Street Trading Consent.

a. Violence

A Consent application will normally be refused when it is made within 3 years (at least) of a conviction or caution for an offence of violence.

b. Dishonesty

A Consent application will normally be refused when it is made within 3 years (at least) of a conviction or caution for an offence of dishonesty.

c. Drug related

A Consent application will normally be refused when it is made within 3 years (at least) of a conviction or caution for a drug related offence. For offences of supplying drugs, consent applications will normally be refused for 5 years (at least) following conviction.

d. Sexual Offences and indecency

A Consent application will normally be refused when it is made within 5 years (at least) of cautions or convictions for any serious sexual offences. Applications will be refused from applicants currently on the Sex Offender's Register.

e. Public Order

A Consent application will normally be refused when it is made within 3 years (at least) of a conviction or caution for an offence relating to breaches of public order.

f. Food safety or health and safety

A Consent application will normally be refused when it is made within 3 years of a conviction or caution for an offence relating to food safety (where the consent involves sale of food or drink) or health and safety.

g. Any offence resulting in a sentence of imprisonment

A Consent application will normally be refused when it is made within 3 years (at least) of the date of release from prison, where a custodial sentence has been imposed.

The safeguarding of children, young people and vulnerable people is of a particular concern. Where the Council receives notification that:

- i. an applicant or consent holder is the subject of an investigation by the Police into inappropriate conduct, or illegal activity, or
- ii. an applicant or consent holder has been implicated in a safeguarding issue i.e. where children, young people or vulnerable people have been or may be exposed to inappropriate behaviour or language by the applicant/consent holder

the matter shall be referred to the General Purposes Licensing Casework Sub-Committee to determine whether the person can be considered as suitable to either be granted or retain a Street Trading Consent.

Notwithstanding the existence of the convictions guidance, each case will be decided on its own merits.

Street Trading Policy

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Oxford City Council
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Appendix B: Proposed amendments to the Council's Constitution

Proposed additions are set out in bold italics. Proposed removals are struck through.

5.7 (b) Who carries out the responsibility?

Council sets policies on licensing and registration.

The General Purposes Licensing Committee:

- reviews and recommends policies on licensing and registration to Council
- reviews and recommends to Council fees and charges as necessary in line with the relevant legislation
- agrees a charity collections scheme
- appoints a General Purposes Licensing Casework Sub-committee to:
 - decide sex establishment licence applications when there are objections
 - decide ***new*** street trading applications ~~that are for longer than three months~~
 - decide applications to renew street trading permission when there has been a complaint about the trader or the trader has broken the conditions of their street trading permission in the past year or where there is competition for a vacant approved site.
 - ***where a trader is in breach of condition as a result of being in arrears, the Head of Regulatory Services and Community Safety has discretion to refer significant debt that they feel is not being managed to the General Purposes Licensing Casework Sub-Committee for determination of Consent renewal.***
 - ***decide whether to suspend, extend a period of suspension, end a suspension, vary or revoke a Street Trading Consent for cases referred to the Sub-Committee by the Head of Regulatory Services and Community Safety.***

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