

# Public Document Pack



**Committee:** Licensing Committee  
**Date:** Wednesday 7 September 2016  
**Time:** 5.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

## Membership

<b>Councillor Douglas Webb (Chairman)</b>	<b>Councillor Bryn Williams (Vice-Chairman)</b>
<b>Councillor Hannah Banfield</b>	<b>Councillor Nick Cotter</b>
<b>Councillor Surinder Dhesi</b>	<b>Councillor Tony Ilott</b>
<b>Councillor Richard Mould</b>	<b>Councillor D M Pickford</b>
<b>Councillor G A Reynolds</b>	<b>Councillor Sandra Rhodes</b>
<b>Councillor Nigel Simpson</b>	<b>Councillor Jason Slaymaker</b>

## AGENDA

### 1. Apologies for Absence and Notification of Substitute Members

### 2. Declarations of Interest

Members are asked to declare any interests and the nature of that interest which they may have in any of the items under consideration at this meeting.

### 3. Petitions and Requests to Address the Meeting

The Chairman to report on any requests to submit petitions or to address the meeting.

### 4. Urgent Business

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. **Minutes** (Pages 1 - 2)

To confirm as a correct record the Minutes of the meeting of the Committee held on 17 May 2016.

6. **Chairman's Announcements**

To receive communications from the Chairman.

7. **Draft Street Trading Policy** (Pages 3 - 30)

Report of Public Protection Manager

**Purpose of report**

To approve in principle a draft revised Street Trading Policy prior to consultation (including the principle of a new fee structure) and subject to consultation to recommend that Council designate all streets within the boundary of Cherwell District Council as Consent Streets from 3 January 2017

**Recommendations**

Members are asked to:

(i) to note and reaffirm the council's adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the purpose of street trading.

(ii) subject to rescinding the current Prohibited Streets Designation (Appendix A), to agree in principle to the draft street trading policy and Consent Streets Designation (Appendix B) thereby designating all of the streets within the Cherwell District Council trading boundary as Consent Streets for the purpose of street trading with effect from 3 January 2017.

(iii) to delegate authority to the Public Protection Manager in consultation with the Chairman of the Licensing Committee to approve the final street trading policy and Consent Streets Designation, following the consideration of any consultation responses.

8. **Taxi Policy and General Licensing Update** (Pages 31 - 34)

Report of Shared Public Protection Manager

**Purpose of report**

To update the Licensing Committee on various licensing matters including the progress of the new Hackney Carriage and Private Hire Licensing Policy

**Recommendations**

1.1 The committee is asked to make any comments in relation to the draft Hackney Carriage and Private Hire Licensing Policy

1.2 The meeting is recommended to note the licensing update

**Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.**

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01295 221601 / 01295 227956 prior to the start of the meeting.

### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

### **Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates**

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

### **Evacuation Procedure**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

### **Access to Meetings**

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

### **Mobile Phones**

Please ensure that any device is switched to silent operation or switched off.

### **Queries Regarding this Agenda**

Please contact Louise Aston - Aaron Hetherington, Democratic and Elections  
[louise.aston@cherwellandsouthnorthants.gov.uk](mailto:louise.aston@cherwellandsouthnorthants.gov.uk), 01295 221601 /  
[aaron.hetherington@cherwellandsouthnorthants.gov.uk](mailto:aaron.hetherington@cherwellandsouthnorthants.gov.uk), 01295 227956

**Sue Smith**  
**Chief Executive**

Published on Tuesday 30 August 2016

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## Cherwell District Council

### Licensing Committee

Minutes of a meeting of the Licensing Committee held at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA, on 17 May 2016 at 6.35 pm

Present: Councillor Douglas Webb (Chairman)  
Councillor Bryn Williams (Vice-Chairman)

Councillor Hannah Banfield  
Councillor Nick Cotter  
Councillor Surinder Dhesi  
Councillor Richard Mould  
Councillor D M Pickford  
Councillor G A Reynolds  
Councillor Sandra Rhodes  
Councillor Nigel Simpson  
Councillor Jason Slaymaker

Apologies for absence: Councillor Tony Ilott

10 **Appointment of Chairman for the Municipal Year 2016-2017**

**Resolved**

That Councillor Douglas Webb be appointed Chairman of the Licensing Committee for the Municipal Year 2016-17.

11 **Appointment of Vice-Chairman for the Municipal Year 2016-2017**

**Resolved**

That Councillor Bryn Williams be appointed Vice-Chairman of the Licensing Committee for the Municipal Year 2016-17.

The meeting ended at 7.24 pm

Chairman:

Date:

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## Cherwell District Council

### Licensing Committee

7 September 2016

#### Draft Street Trading Policy

#### Report of Public Protection Manager

This report is public

#### Purpose of report

To approve in principle a draft revised Street Trading Policy prior to consultation (including the principle of a new fee structure) and subject to consultation to recommend that Council designate all streets within the boundary of Cherwell District Council as Consent Streets from 3 January 2017

#### 1.0 Recommendations

Members are asked to:

- (i) to note and reaffirm the council's adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the purpose of street trading.
- (ii) subject to rescinding the current Prohibited Streets Designation (Appendix A), to agree in principle to the draft street trading policy and Consent Streets Designation (Appendix B) thereby designating all of the streets within the Cherwell District Council trading boundary as Consent Streets for the purpose of street trading with effect from 3 January 2017.
- (iii) to delegate authority to the Public Protection Manager in consultation with the Chairman of the Licensing Committee to approve the final street trading policy and Consent Streets Designation, following the consideration of any consultation responses.

#### 2.0 Introduction

- 2.1 The policy has been drafted to simplify and update the existing street trading policy for the issue of street trading consents and pavement (table and chairs) licences in the district. The draft policy is attached as Appendix C.
- 2.2 A fair, clear and consistent Street Trading Policy ensures that the local authority can put in place controls to protect the public and provides a level playing field for traders.

2.3 It allows the local authority to attach conditions in relation to food hygiene and making sure that the licence holder keeps the licensed sites clean.

### **3.0 Report Details**

3.1 The Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, requires any individual that sells, exposes or offers for sale any article in a street, to obtain a licence or consent from the local authority. The local authority can charge reasonable fees for the issue of street trading licences or consents.

3.2 Street trading applies to a person who wishes to sell goods or articles, which includes food and living things, from a mobile unit e.g. ice cream vans, fruit and vegetable vans, hot and cold food and drinks, butty/sandwich trailers, flower sellers etc.

3.3 Local authorities can opt to control street trading by designating streets or parts of streets as one of the following:

- Prohibited streets in which street trading is not allowed
- Licence streets in which licences to trade are required
- Consent streets where consent requirements operate

3.4 Designations maybe rescinded or changed from one type to another at any time by following the legal process.

3.5 Cherwell District Council currently has 7 designated “consent street/roads, 54 designated “prohibited” streets/roads and some minor restrictions on the villages of Adderbury and Cropredy as listed in Appendix D & E.

3.6 In order to combat the nuisance caused by unregulated sale of used cars by traders on public highways the Council designated specific arterial roads and laybys in Banbury as prohibited streets in 2009. If this new recommendation is supported the streets will become designated consent streets.

3.7 There is no control over street trading activities anywhere else in the district or any ability to recover local authority costs associated with such activities. Mobile traders can operate without any consent. On occasions the position of a trader and its activities has caused nuisance to residents and has required officer attendance. By extending consent to trade to the entire district the local authority will be able to control trading and will be able to recover costs.

3.8 The council currently issues street trading consents to specified pitches in Banbury, Bicester and Kidlington. It also issues licences to premises wishing to place tables and chairs (also known as pavement licences) outside for al fresco dining. The Council charges for consents and for pavement licences. A review of existing provision and pitch sites will be carried out as the policy is implemented

3.9 Several streets and roads have been subject of road layout alterations which require revision of the existing schedules. This provides an opportunity to update the designated areas.

3.10 Street trading can contribute to town centre vitality (for example street food and café culture) and economic growth. A more vibrant street trading and café culture can attract visitors to our towns. By designating streets as Consent Streets, rather than a blanket Prohibition, each case can be considered on its own merits (subject to police and highways consultation).

3.11 Several of our markets are currently covered by street trading consents. The application of street trading consent to market traders provision will also be reviewed as this policy is implemented.

### 3.12 **Consent and Prohibition**

3.13 Several areas in the district are “prohibited” streets. This means that no street trading can take place in these areas at all. By changing the designation of prohibited streets to consent streets there may be some concern that there will be less control over nuisance trading.

3.14 Under the Local Government (Miscellaneous Provisions) Act 1982 Section 10, it is an offence:

- to engage in street trading in a prohibited street or
- to engage in street trading in a licence street or a consent street without being authorised to do so under the schedule

The offence of trading without consent, or trading in an area which is prohibited therefore, carries the same penalty. The onus of proof to demonstrate legality of the activity remains with the trader.

3.15 If the Council investigates a complaint of illegal trading it will investigate whether the trader has consent in the same way that it would previously have investigated whether the trader operated in a prohibited area.

3.16 This will make street trading controls in Cherwell transparent for all who seek to trade in the district; and for officers who are required to enforce the law.

3.17 In summary the new policy will:

- provide a simpler and clearer regime which will be easier for applicants to understand;
- help to remove any ambiguity for officers who administer street trading consents and pavement licences
- ensure that there is a level playing field for all street trading businesses throughout the district.
- at the moment the Council receive no fees in relation to street trading, other than those at fixed town pitches. By extending designated Consent Streets to the whole of the district and introducing a fee it will ensure that we can recover costs associated with all of our street traders.
- As consent also means that we can attach conditions there will be greater control of safety , waste disposal, noise and (for food vendor), hygiene for all street traders in the district

3.18 This report is only the first part of the consultation process under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Council cannot pass a resolution in relation to street trading unless: -

- (i) they have published notice of their intention to pass such resolution in a local newspaper circulating in their area
- (ii) they have served a copy of the notice: -
  - (a) on the chief officer of Police for the area in which the street to be designated by the resolution is situated
  - (b) on any highway authority responsible for the street

The Council will now consult on the above and invite written representations.

3.19 As soon as practicable the Council shall consider any representations relating to the proposed resolution. After the Council has considered those representations, they may, if they think fit, pass such a resolution

3.20 The Council must then publish a notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in their area. The first publication shall not be later than 28 days before the date specified in the resolution for the coming into force of the designation.

## **4.0 Conclusion and Reasons for Recommendations**

4.1 Members are recommended to:-

- (i) to note and reaffirm the council's adoption of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the purpose of street trading
- (ii) subject to rescinding the current Prohibited Streets Designation, to agree in principle to the draft street trading policy and Consent Streets Designation thereby designating all of the streets within the Cherwell District Council trading boundary as Consent Streets for the purpose of street trading with effect from 3 January 2017
- (iii) to delegate authority to the Public Protection Manager in consultation with the Chairman of the Licensing Committee to approve the final street trading policy and Consent Streets Designation following the consideration of any consultation responses.

## **5.0 Consultation**

5.1 A consultation will be carried out with stakeholders, the public and relevant agencies.

## **6.0 Alternative Options and Reasons for Rejection**

### **6.1 The committee could reject the recommendations.**

By doing so, officers would be restricted in their powers to inspect and enforce the provisions of the legislation consistently throughout the district and would not be able to recover costs, nor would they be able to deal effectively with complaints about unlicensed street traders, illegal siting of tables and chairs.

As a result of road layout alterations in the district the existing policy does not align to the position of trading pitches and is not fit for purpose. If the committee reject the recommendations there will be a missed opportunity to address the matter.

Those street traders who pay a fee to trade could challenge the inequity as other traders in the district do not pay a fee.

## **7.0 Implications**

### **Financial and Resource Implications**

#### **7.1 There are no financial implications arising directly from this report.** Comments checked by Kelly Wheeler, Principal Accountant for Operations and Delivery, 01327 322230, [kelly.wheeler@cherwellandsouthnorthants.gov.uk](mailto:kelly.wheeler@cherwellandsouthnorthants.gov.uk)

#### **7.2 Legal Implications**

There is no requirement pursuant to Part III Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the council to adopt a Street Trading Policy, or to undertake a consultation of any such policy the council proposes to adopt.

The council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) for the purpose of street trading. Accordingly, the rescinding of the current Prohibited Streets Designation and resolution of the proposed Consent Streets Designation, including public consultation, is subject to the requirements of the Act

Comments checked by  
Matt Marsh, Solicitor  
[matt.marsh@cherwellandsouthnorthants.gov.uk](mailto:matt.marsh@cherwellandsouthnorthants.gov.uk)  
01295 221 691

#### **7.3 Risk Management**

Comments checked by Louise Tustian, Senior Performance and Improvement Officer  
01295 221786 [louise.tustian2@southnorthantsandcherwell.gov.uk](mailto:louise.tustian2@southnorthantsandcherwell.gov.uk)

#### **7.4 None**

## 8.0 Decision Information

### Wards Affected

All Cherwell wards

### Links to Corporate Plan and Policy Framework

Not applicable

### Lead Councillor

Councillor Tony Ilott

### Document Information

Appendix No	Title
Appendix A	Prohibited Streets Designation
Appendix B	Consent Streets Designation
Appendix C	Street Trading Policy
Appendix D	Prohibited Streets
Appendix E	Existing Consent Street Trading areas
Background Papers	
Report Author	Jackie Fitzsimons Public Protection Manager Nicholas Sutcliffe Licensing Manager
Contact Information	01327 322283 Jackie.fitzsimons@cherwellandsouthnorthants.gov.uk



DISTRICT COUNCIL  
NORTH OXFORDSHIRE

## PROPOSED REGULATION OF STREET TRADING

**NOTICE IS HEREBY GIVEN** that pursuant to adopted powers under Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, it is intended that (subject to consideration of representations received by the date specified below) a resolution be passed rescinding the current prohibited streets designation prior to, (subject to consideration of representations received by a specified date), the passing of a further resolution designating all street within the Cherwell District Council area as consent streets for the purpose of street trading. A draft of the proposed resolution is set out below:

"RESOLVED that pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, that the current prohibited streets designation within the Cherwell District Council area be rescinded.

The resolution shall take effect on [*date to be inserted, which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed*]."

If the resolution is passed, it will mean that street trading in the streets subject to the current designation will no longer be prohibited, but upon the passing of the resolution designating all streets as consent streets, street trading in all streets within the Cherwell District Council area will be subject to the obtaining of consent. Subject to the consent street designation, anyone who engages in street trading in any street within the Cherwell District Council area without consent will be committing an offence and will be liable on summary conviction to a fine not exceeding level 3.

Anyone wishing to make representations about the intended resolution should do so in writing to the Licensing Manager, at the addresses given below, by not later than TBC.

All such representations received by that date will be considered before it is decided whether or not to pass the resolution.

Dated: TBC

Sue Smith  
Chief Executive

The Licensing Department  
Bodicote House  
Banbury  
Oxfordshire, OX15 4AA

[licensing@cherwell-dc.gov.uk](mailto:licensing@cherwell-dc.gov.uk)

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DISTRICT COUNCIL  
NORTH OXFORDSHIRE

## PROPOSED REGULATION OF STREET TRADING

**NOTICE IS HEREBY GIVEN** that Cherwell District Council, pursuant to its adopted powers under Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, intends (subject to consideration of representations received by the date specified below) to pass a resolution to designate all streets as consent streets for the purpose of street trading. A draft of the proposed resolution is set out below:

"RESOLVED that the Council, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, designates all streets within the Cherwell District Council area as consent streets for the purpose of street trading.

The designation shall take effect on [*date to be inserted, which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed*]."

If the resolution is passed, it will mean that anyone who engages in street trading in any street within the Cherwell District Council area without having obtained consent will be committing an offence and will be liable on summary conviction to a fine not exceeding level 3.

Anyone wishing to make representations to the Council about its intended resolution should do so in writing to the Licensing Manager, at the addresses given below, by not later than TBC.

The Council will consider all such representations received by that date before deciding whether or not to pass such resolution.

Dated: TBC

Sue Smith  
Chief Executive

The Licensing Department  
Bodicote House  
Banbury  
Oxfordshire  
OX15 4AA

[licensing@cherwell-dc.gov.uk](mailto:licensing@cherwell-dc.gov.uk)

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# **CHERWELL DISTRICT COUNCIL**

## **DRAFT STREET TRADING, PAVEMENT LICENSING POLICY**

### **INTRODUCTION**

Cherwell District Council aims to support business ventures and encourages the provision of street trading and cafés within the district. In towns and villages cafes in particular make a positive contribution by adding vitality, colour, life and interest to the street scene. They can help maximise the use of public spaces and aid the local economy. In more rural areas, street trading outlets enable residents, visitors and travellers to obtain refreshments when there is nothing else immediately available. Both add to the facilities offered to people who visit, live and work in the district.

This policy is intended to help prospective street traders and cafe proprietors to understand where trading might be encouraged. It is important however, that sites are properly administered and managed to ensure that they meet legal requirements and the high standards expected by the Council.

Anyone wishing to apply for either a Street Trading Consent or Pavement (Tables and Chairs) Permit should read this policy, the associated guidance, and detailed conditions in order to check that their proposal meets all the criteria.

Although each application will be considered on its own merits this policy contains key points that must be considered in every case. In order to ensure consistency of decision making, the council will apply these guidelines to all street trading activities and pavement permits in its area.

The document is split into three sections, namely:

- Street trading
- Pavement permits (often called Tables & Chairs permits)
- Other activities

## **STREET TRADING**

Local Government (Miscellaneous Provisions) Act 1982

### **General**

Under the above legislation locations are designated as either consent, licence or prohibited streets.

The means that, subject to certain legal exemptions, nobody can trade in any street in the district without first obtaining a street trading consents or licence from the council.

- In order to trade anywhere in Cherwell District Council area you must receive consent from the council. In certain areas (Banbury, Bicester and Kidlington) the council maintains a list of designated pitches; however, there is a waiting list, and you may have to wait some time before being considered for one of these.
- You may apply for street trading consent on any other street in the district.

### **Definitions of terms used**

The following definitions apply:

‘Street trading’ means the selling of, or exposing or offering for sale any article (including a living thing) in any street. A Street includes:

- any road, footway, beach or other area to which the public have access without payment
- a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street

A ‘consent street’ is a street in which street trading is prohibited without a street trading consent.

‘Consent’ means consent to trade on a street within the council’s area.

‘Consent holder’ means the person or company to whom the consent to trade has been granted by the council.

‘Static street trader’ means a trader granted permission by the council to trade from a specified position.

‘Mobile trader’ means a trader who moves from street to street but trades for less than 60 minutes at any one point and does not return to a similar trading position within 2 hours.

‘Authorised officer’ means an officer employed and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

## **Exempted street trading activities**

The following activities do not require street trading consent:

- pedlars authorised by a certificate granted under the Pedlars Act 1871
- trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980
- newsvendors
- trading on/from the forecourt of a petrol filling station or at a shop premises
- a roundsman (a person who delivers orders to customers by prior arrangement)
- 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
- operating facilities for recreation or refreshment under Part VIIA of the Highways Act 1980
- doing anything authorised by regulations made under section 5 of the Police, Factories, etc, (Miscellaneous Provisions) Act 1916

## **PAVEMENT (TABLES & CHAIRS)**

Highways Act 1980

### **General**

If the area outside particular premises is owned by the town, district or county council, then it is likely that permission will have to be sought under the Highways Act for permission to place the tables and chairs outside.

As a general guide, a clearance of at least 1.8m is required from the kerb to the perimeter of where the tables and chairs are to be placed.

The area for which a pavement permit is sought must be highway as defined by S115A Highways Act 1980, namely:

- a highway in relation to which a pedestrian planning order is in force;
- a restricted byway;
- a bridleway;
- a footpath (including a walkway as defined in section 35(2) of the Highways Act 1980);
- a footway;
- a subway constructed under section 69 of the Highways Act 1980;
- a footbridge constructed under section 70 of the Highways Act 1980;
- a highway whose use by vehicular traffic is prohibited by a traffic order but whose use by
- other traffic is not prohibited or restricted or regulated by such an order; and
- to a local Act walkway.

Applicants for pavement permits are required to confirm the status of the application site with Oxfordshire County Council before making their application.

## **OTHER ACTIVITIES**

### **General**

There are a number of other activities that take place in the streets of the Cherwell district that cannot be controlled by licences or permits. These include:

- Awareness – people, groups or organisations such as radio stations, television stations or the armed forces may wish to raise awareness by handing out leaflets or undertaking promotional activities.
- Busking – street performers is the practice of performing in public places, for gratuities.
- Market research – this type of activity includes mail order companies, insurance companies and national questionnaires.
- Markets – these are dealt with in a separate policy.
- Pedlars – they are required to hold a certificate issued by the police force in the area that they reside. They are able to travel to trade within the area. They must only stop to trade when approached by a customer. They must not remain stationary after the sale has been made.
- Petitions – people or organisations asking members of the public to support their cause, such as political groups, welfare or ecological groups.
- Street collections - Persons wishing to collect money on a street or public place must obtain a permit from the Council. Applications for Street collections must be applied for at least one month in advance of the collection date, and would be subject to the conditions outlined in the Street Collections policy.

## **APPLICATION PROCESSES**

### **Street trading**

When making an application you will need to provide the following:

- a completed application form;
- the correct fee (see Appendix C);
- a map/street plan or aerial photograph clearly identifying the proposed site position (for static street traders);
- specified areas of trade (for non-static traders);
- proposed trading times;
- photographs of the vehicle, stall, cart, etc, that will be used for the street trading activity (in the case of a vehicle, exterior and interior views are required);
- evidence of public liability insurance;
- other associated permissions i.e. planning and any appropriate licences under the Licensing Act 2003;
- Details of a commercial waste agreement (contact Environmental Services on 01295 221921 for further information).
- Proof of identity, and address of the applicant, such as a passport or DVLA photo card driving licence;
- Details of neighbours, business or otherwise, within the immediate vicinity of the specified trading area.

For food outlets, the Council also requires:

- (if using gas) a gas safety certificate issued by a GAS SAFE registered engineer;
- (if using electricity) an electrical safety certificate issued by a NICEIC registered contractor;
- copies of certificates to confirm all food handlers have undertaken a satisfactory level of food hygiene training;  
if using a mobile unit, confirmation that it is registered under article 6, paragraph 2 of Regulation EC No 852/2004

### Pavement permits

The Council will not accept an application unless the following have been provided:

- a completed application form;
- proof of identity, and address of the applicant, such as a passport or DVLA photo card driving licence;
- the correct fee is payable on issue of the permit (see Appendix C);
- plans;
- photographs of the type of furniture to be used;
- confirmation of the status of the site (i.e. highway or otherwise);
- evidence of public liability insurance;
- Details of neighbours, business or otherwise, within the immediate vicinity of the specified trading area
- confirmation other associated permissions i.e. planning and any appropriate licences under the Licensing Act 2003;

## Consultations on applications made

Before a street trading consent or a pavement permit is granted for the first time, the council will carry out a consultation process over a period of 14 days with various persons and groups. Dependent on the type of application, we will consult with one or more the following:

- Thames Valley Police;
- Oxfordshire County Council Highways or the Highways Agency (depending on the location);
- Development Control, CDC;
- Environmental Health, CDC;
- Street Scene, CDC;
- the ward member;
- the appropriate parish or town council;
- neighbouring businesses or properties;
- all businesses or properties within the immediate vicinity \*

*\*Note: It is the applicant's responsibility to notify these owners/occupiers by delivering the form (part B of the application) to the relevant property/business. If they fail to do so the application will be refused.*

## Site assessment & inspections

The site will be assessed by an authorised officer of the council. Consents/licences or permits will not normally be granted where:

- a significant effect on road safety could arise, either from the siting of the trading activity, from customers visiting or leaving the site, or from inadequate light or visibility;
- there is a conflict with traffic orders such as waiting restrictions;
- there is already adequate provision of similar trading facilities in the vicinity;
- there would be a significant loss of amenity caused by traffic, noise, odour, etc.

Additionally in the case of street trading food or drink, the vehicle, trailer, stall or other device to be used for the proposed trading activity will be inspected by an Environmental Health officer prior to the issue of consent. It must comply with the legal requirements relating to type of trading proposed. Food hygiene standards must be broadly compliant.

Further advice can be obtained by telephoning Licensing on 01295 753744

Email; [licensing@cherwell-dc.gov.uk](mailto:licensing@cherwell-dc.gov.uk)

Website; [www.cherwell.gov.uk](http://www.cherwell.gov.uk)

## Decision making

If valid representation(s) are made during the consultation period, then the application will be considered at a hearing by the council's Licensing Sub-Committee.

Applications will normally be determined within two months of receipt and may be either:

- granted, whereby the consent or permit will be issued with conditions attached, or
- refused, whereby the fee will be refunded (as appropriate) to the applicant.

The reasons for the decision will be communicated to the applicant, but it should be noted that there is no right of appeal against any decision made in relation to the grant a street trading consent.

### Trading hours & staff requirements

The Council does not permit street trading before 6.00am. Provision of hot food and drink after 11.00pm requires a premises licence under the Licensing Act 2005.

Trading consents/licences are granted to individuals. The consent holder does not have to be present at the site during trading hours but must nominate a person aged 17 or over to cover in their absence, and must hold a Food Hygiene Certificate.

Pavement permits will only be issued to cafes, restaurants, public houses or other catering establishments that serve food and drink within the premises, employ sufficient staff to provide table service to the outside area and have sufficient provision of sanitary conveniences for use by the public.

In approving consents, licences or permits, the Council will have regard to an applicant's previous record of compliance with the conditions attached to any previous ones.

### Licence details

Every licence or permit issued will show specific details and carry conditions which must be complied with (see Appendix B). The licence or permit must be clearly displayed and/or produced for inspection by an authorised officer of the council or a police officer.

Street trading consents will specify:

- the trader's/business name;
- their address;
- a description of items to be sold;
- details of the trading location/s, days and times.

Pavement permits will specify:

- the trader's/business name;
- their address;
- a description of items to be sold;
- details of the trading location, days and times;
- the number of tables and chairs allowed.

In addition, any conditions considered necessary to individual applications may also be attached. The council retains the right to vary the conditions at any time.

## **ENFORCEMENT**

### **General**

This section of the policy details the council's commitment to enforcing the provisions contained within the appropriate legislation. It also highlights the council's commitment to work in partnership with other enforcement agencies, in order to provide consistent enforcement on licensing issues.

Licensing officers aim to work closely with other enforcement authorities when dealing with issues on the street. We will enforce the provisions of all appropriate legislation and will ask persons causing a nuisance to cease the activity that they are conducting and leave the area.

Authorised officers from the council will visit street traders and holders of pavement permits to assess compliance with the conditions or to undertake any other duty that the authority has, such as food hygiene inspections.

Where licensable activities are conducted without the benefit of a licence or consent, we will look to gather evidence and take enforcement action as appropriate. We may call for assistance from the Police when dealing with such issues.

If an officer is of the opinion that the holder of the trading consent has contravened any conditions, the consent/licence, or permit may be revoked.

### **Offences**

#### Street trading

(1) A person who -  
(a) engages in street trading in a prohibited street; or  
(b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule; or  
(c) contravenes any of the principal terms of a street trading licence; or  
(d) being authorised by a street trading consent to trade in a consent street, trades in that street -  
(i) from a stationary van, cart, barrow or other vehicle; or  
(ii) from a portable stall,  
without first having been granted permission to do so under paragraph 7(8) above; or  
(e) contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(3) Any person who, in connection with an application for a street trading consent or licence makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **Pavement permits**

Section 115A of the Highways Act 1980 covers the placing of tables and chairs on the highway. Any person doing so without permission is obstructing the highway. No person may place tables and chairs on the highway without a valid pavement permit issued by Cherwell District Council, and if they do so they may be committing an offence.

## Appendix A – Licence conditions

The following conditions will be attached to relevant consents, permits or licences:

### Street trading

- This street trading consent/licence does not convey any other approvals that may be necessary under the food hygiene regulations, planning legislation or other appropriate legislation.
- The holder of a street trading consent/licence shall take all reasonable precautions to prevent obstruction of the street or danger to persons using the street and to prevent nuisance or annoyance, whether to persons using the street or otherwise.
- The holder of a street trading consent/licence shall ensure that suitable arrangements are made for the disposal of any litter that may be caused in connection with the trading permitted under this consent.
- The holder shall indemnify the Council against all actions, proceedings, claims
- demands and liability which may at any time be taken, made or incurred in consequence of trading for this purpose must take out at the consent holder's expense a policy of insurance approved by the Council in the sum of at least £5 million in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.
- The holder of a street trading consent/licence shall be required to seek the approval of the Council to any proposed change to the mode of trading permitted under the consent.
- The name of the holder of a street trading consent/licence trading with a vehicle shall be displayed on the vehicle used in connection with the trading.
- This street trading consent/licence does not convey any right to trade on privately owned property.
- Annual Consents run from 1 April and all Consents expire on 31 March in any year.  
Fees for an annual consent may be paid in quarterly instalments but must be paid in advance of the following dates:

1 April, 1 July, 1 October and 2 January.

Fees for six month consent may be paid in two equal instalments, but the first instalment must be paid in advance of the issue of consent and the second instalment not later than three months after commencement of the consent. Fees for three-month or one month consents must be paid in advance of the issue of consent. In the event of any instalment not being paid by the time hereby specified, the consent shall be revoked forthwith.

- The holder of the street trading consent shall ensure that no excessive noise emitting machinery is used in connection with the trading, inclusive of liquid fuelled generators.
- The Council reserves the right to add further conditions, or suspend and revoke a consent if the holder breaches any of the conditions
- Street trading consents are non-transferable.

#### Pavement (tables & chairs) permits

- This permission is not transferrable.
- The tables, chairs and umbrellas shall only be placed outside the premises between the hours of 10 am and 6 pm.
- The area so permitted to be used solely for the purpose of consuming food and drink purchased on the premises. It is strictly forbidden to prepare any food and drink in this area.
- The tables, chairs and umbrellas shall be of such a design as may be approved by the Council in writing and be kept in good repair and condition at the permit holder's expense.
- Nothing contained in this permit gives the holder permission to make fixtures to or excavations of any kind in the surface of the highway which shall be left entirely undisturbed.
- The permit holder shall make no claim or charge against the Council in the event of the chairs or tables or other objects being lost, stolen or damaged in any way from whatever cause.
- The permit holder shall indemnify the Council against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use of the chairs and tables and other objects and for this purpose must take out at the permit holder's expense a policy of insurance approved by the Council in the sum of at least £5 million in respect of any one event and must produce to the Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy.
- No charge shall be made by the permit holder for the use of the chairs and tables and other objects.
- Waste from the permit holder's operations must not be disposed of in the permanent litterbins provided by the Council.

- Refuse and litter deposited on the highway in the vicinity of the chairs and tables and other objects must be removed each day by the permit holder at their expense or at more frequent intervals as may be required by or under the Environmental Protection Act 1990.
- The permit holder shall remove the tables, chairs and windbreaks from the highway outside the hours permitted by Clause 2, and immediately if required to do so in order to permit works in or the use of the highway by:  
the Council, the County Council, the police, fire and ambulance services, any utility operator or builders' vehicles, hearses and furniture removal vans.
- The permit holder shall be responsible for any rates, taxes and other outgoings which may be charged.
- Permissions run from the date of this permit, and would be subject to an annual renewal fee. Failure to pay any relevant fees would result in suspension or removal of permissions.
- The Council reserves the right to condition, suspend or revoke a permit if the permit holder breaches any of the conditions.
- Upon request permit holders will be required to clearly define the permitted area by the use of barriers of a type agreed with the Licensing Authority.

#### FURTHER INFORMATION

For further details of any of these consents, licences or permits please contact:

Licensing, Cherwell District Council, Bodicote House, Bodicote, Banbury, OX15 4AA

Phone: 01295 – 753744

Email: [licensing@cherwell-dc.gov.uk](mailto:licensing@cherwell-dc.gov.uk)

#### USEFUL LINKS

Street trading

<http://www.legislation.gov.uk/ukpga/1982/30>

Pavement licences

<http://www.popall.co.uk/LicensingApplications/pavementlicences.asp>

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# Cherwell District Council Street Trading Policy – Prohibited Streets

## BANBURY

- i. Bolton Road (including the footway between Bolton Road and Cornhill).
- ii. Bridge Street (between its junction with Castle Street to the point at which it joins Middleton Road).
- iii. Broad Street (between its junctions with George Street and Marlborough Road/Gatteridge Street).
- iv. Butchers Row.
- v. Calthorpe Street.
- vi. Castle Street.
- vii. Cherwell Street.
- viii. Church Lane.
- ix. Church Walk.
- x. Cornhill.
- xi. Footways linking High Street and Butchers Row and High Street and Market Place.
- xii. George Street.
- xiii. Horse Fair.
- xiv. Marlborough Road.
- xv. North Bar.
- xvi. Parsons Street.
- xvii. Pepper Alley.
- xviii. South Bar.
- xix. The Tchure.
- xx. Tink-a-Tank.
- xxi. Wildmere Industrial Estate and nearby roads.
- xxii. SOUTHAM ROAD from the junction with Castle Street/Warwick Road up to and including the junction with Noral Way and 20 metres into Noral Way and each of the highways that spur from Southam Road between these junctions with the exception of Ruscote Avenue/A422.
- xxiii. RUSCOTE AVENUE/A422 from the junction with A422/B4100 to the junction with A361/A423 and 180 metres into Nursery Drive and 20 metres into each of the other highways that spur from Ruscote Avenue/A422 between these junctions with the exception of Longelandes Way.
- xxiv. LONGELANDES WAY from the junction with Ruscote Avenue/A422 up to and including the junction with Portway, 20 metres into Portway and each of the highways that spur from Longelandes Way between these junctions with the exception of Highlands.
- xxv. HIGHLANDS from the junction with Longelandes Way up to and including the junction with Hardwick Park, 20 metres into Hardwick Park and each of the highways that spur from Highlands between these junctions.
- xxvi. BANKSIDE and the unnamed road between Oxford Road and Bankside and 20m into each of the highways that spur from Bankside.
- xxvii. BLOXHAM ROAD/A361 from the junction with Ell's Lane, Bloxham to the junction with South Bar Street/B4100 and 20 metres into each of the highways that spur from Bloxham Road/A361 between these junctions with the exception of Queensway.
- xxviii. B4100/OXFORD ROAD/A4280 from the junction with South Bar Street/Bloxham Road/A361 to the junction with Twyford Road, Adderbury and 20 metres into each of the highways that spur from B4100/Oxford Road/A4280 between these junctions with the exception of the unnamed road between Oxford Road and Bankside.

- xxix. WARWICK ROAD/B4100/A422 from the junction with Southam Road/North Bar up to and including the junction with Dukes Meadow Drive and 20 metres into each of the highways that spur from Warwick Road/B4100/A422 between these junctions with the exceptions of Ruscite Avenue/A422, Dukes Meadow Drive, Stratford Road and Orchard Way.
- xxx. ORCHARD WAY, WOODGREEN AVENUE AND QUEENSWAY and 20m into each of the highways that spur from Orchard Way, Woodgreen Avenue and Queensway.
- xxxi. MIDDLETON ROAD from and including the junction with Merton Street up to and including the junction with Ermont Way, 20 metres into Ermont Way and Merton Street and each of the highways that spur from Middleton Road between these junctions.
- xxxii. CAUSEWAY From the junction with Junction Road to the furthest point west
- xxxiii. DAVENTRY ROAD from the junction with Manor Road to the furthest point north within the dead-end section
- xxxiv. STRATFORD ROAD/A422 From the junction with the Warwick Road/B4100 up to and including the junction with Bretch Hill, 20 metres into Bretch Hill and 20 metres of Trinity Close where it abuts the Stratford Road/A422
- xxxv. DUKES MEADOW DRIVE From the junction with the Southam Road/A423 up to the junction with the Warwick Road/B4100 and 20 metres into each of the highways that spur from Dukes Meadow Drive between these junctions.

#### **BICESTER**

- i. Bell Lane.
- ii. Bure Place.
- iii. Causeway.
- iv. Chapel Street.
- v. Footways adjacent to No's. 39 and 49 Sheep Street, linking Sheep Street and Bure Place.
- vi. Launton Road (between its junctions with London Road and Victoria Road).
- vii. London Road (between its junctions with Market Square and Launton Road).
- viii. Manorsfield Road.

#### **KIDLINGTON**

- i. Banbury Road (between its junctions with Benmead Road and High Street).
- ii. Oxford Road (between its junctions with High Street and Sterling Road).
- iii. Sterling Road Approach.
- iv. Watts Way.

#### **ADDERBURY**

- i. Most streets in Adderbury (please request further details).

#### **CROPREDY**

- i. All of Parish during Fairport Convention Music Festival.

#### **OTHER AREAS**

- i. the A34 from the point where it enters the Cherwell District at the south western extremity in the parish of Gosford and Water Eaton up to and including junction 9 of the M40 including also the whole length of the layby, on the south western side of the A34, which provides access to and egress from the Shell filling station and the Weston-on-the-Green sewage works;
- ii. the A41 from and including junction 9 of the M40 to the junction with the A421;
- iii. the B430 from and including the junction with the A34 up to junction 10 on the M40;
- iv. the A44 from its junction with the A34 to the junction with the A4095.
- v. the A43 from junction 10 of the M40 to the boundary with Northamptonshire south west of the B4031.

## Cherwell District Council Street Trading Policy – Consent Streets

### BANBURY

- i. Bridge Street, on the north side of the Town Hall between its junctions with Market Place and Castle Street, and on the south side of the Town Hall between its junction with Broad Street and Castle Street.
- ii. Broad Street (between its junctions with High Street and George Street).
- iii. High Street.
- iv. Market Place.

### BICESTER

- i. Market Square.
- ii. Sheep Street.

### KIDLINGTON

- i. High Street (between its junctions with Banbury Road/Oxford Road and Home Close).

Within these consent streets there are designated pitches, these designated pitches are as follows:

#### Banbury

Site No	Street	Location
1	Bridge Street (North Side)	Area in vicinity Halifax and Marks & Spencer.
2	Bridge Street (North Side)	Area in vicinity of Marks & Spencer and HMV.
3	Bridge Street (South Side)	Area in vicinity of Tony & Guy Hairdressers.
4	Bridge Street (South Side)	Area in vicinity of MacDonalds.
5	Bridge Street (South Side)	Area in vicinity of Wilkinson's (Nov-Dec Only).
6	Bridge Street (South Side)	Area in vicinity of Barclays Bank (Evening Only).
7	Bridge Street (South Side)	Area in vicinity of Barclays Bank.
8	Broad Street	Area in vicinity of Shoe Zone.
9	Broad Street	Area in vicinity of Prontaprint / Paperway.
10	High Street (South Side)	Area in vicinity of Stead and Simpson.
11	High Street (North Side)	Area in vicinity of Que Pasa.
12	High Street (North Side)	Area in vicinity of Yorkshire Bank / Clinton Cards.

#### Bicester

Site No	Street	Location
16	Market Square	Area at western end of car park in vicinity of Bicester Kebab & Pizza House / Proctors Florist.
17	Sheep Street (South Side)	Area in the vicinity of HSBC.

18	Sheep Street (South Side)	Area in the vicinity of Boots and Bicester Bakery.
19	Sheep Street (South Side)	Area in the vicinity of Superdrug and Halifax.
20	Sheep Street (North Side)	Area in the vicinity of Woolworths.
21	Sheep Street (North Side)	Area in the vicinity of Oxfam (Oct to Dec only).
22	Sheep Street (North Side)	Area in the vicinity of Oxfam.

### **Kidlington**

<b>Site No</b>	<b>Street</b>	<b>Location</b>
26	High Street	Area on corner with Watts Way (Not Fri & Sat).

## Cherwell District Council

### Licensing Committee

7 September 2016

<b>Taxi Policy and General Licensing Update</b>
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### Report of Shared Public Protection Manager

This report is public

#### Purpose of report

To update the Licensing Committee on various licensing matters including the progress of the new Hackney Carriage and Private Hire Licensing Policy

#### 1.0 Recommendations

- 1.1 The committee is asked to make any comments in relation to the draft Hackney Carriage and Private Hire Licensing Policy
- 1.2 The meeting is recommended to note the licensing update

#### 2.0 Introduction

- 2.1 This report provides an opportunity for members to comment on the draft Hackney Carriage and Private Hire Licensing Policy
- 2.2 The committee will be given a verbal update on all other licensing matters

#### 3.0 Report Details

- 3.1 A draft Hackney Carriage and Private Hire Licensing Policy is currently out for public consultation. The consultation period closes on the 9 September. The policy amalgamates and updates the current South Northamptonshire Council and Cherwell District Council policies.
- 3.2 It is not a statutory requirement for a local authority to have a formal taxi policy but it is seen as best practice and that any policy is reviewed on a 5 yearly basis or when legislative changes require a review.
- 3.3 We have consulted with Thames Valley Police, Northants Police, all Northamptonshire and Oxfordshire local authorities, Milton Keynes Council, all licensed drivers and all licensed private hire operators.

3.4 Taxi forums were held with the taxi trade on the 20 July at Cherwell District Council and the 27 July at South Northamptonshire Council members of the taxi trade were invited to listen to an explanation as to why the new policy is being introduced and to ask any questions. All responses will be considered at the close of the consultation period.

3.5 As of this month the council currently has the following licensed:

- 479 drivers
- 377 vehicles
- 59 operators

The licensing team are actively working with Thames Valley Police on enforcement activity and this will result in a number of joint operations between now and March 2017 as part of the wider Nightsafe initiative.

Over the weekend of the 23 and 24 July 2016 a number of licensed drivers were involved in an incident of violent disorder. This has resulted in 5 drivers having their licences revoked. 4 drivers have lodged appeals with the magistrates' court. All 5 drivers are still under investigation by the police.

3.6 We have had one major event during the summer, the Cropredy Festival. There was a licensing presence at the event and it was trouble free.

3.7 The licensing department is now a shared service and currently has a manager, a lead enforcement officer; 2 enforcement officers and 3 full-time and 1 part time technical officer. Recruitment is underway to have someone in post by early September.

## **4.0 Conclusion and Reasons for Recommendations**

4.1 There is no recommendation

## **5.0 Consultation**

5.1 There has been no consultation in relation to this report.

## **6.0 Alternative Options and Reasons for Rejection**

6.1 The following alternative options have been identified and rejected for the reasons set out below:

- None identified

## 7.0 Implications

### Financial and Resource Implications

7.1 There are no financial implications arising directly from this report.

Comments checked by Kelly Wheeler, Principal Accountant for Operations and Delivery, 01327 322230, [kelly.wheeler@cherwellandsouthnorthants.gov.uk](mailto:kelly.wheeler@cherwellandsouthnorthants.gov.uk)

### 7.2 Legal Implications

Comments checked by Matt Marsh, Solicitor, 01295 221691, [matt.marsh@cherwellandsouthnorthants.gov.uk](mailto:matt.marsh@cherwellandsouthnorthants.gov.uk)

## 8.0 Decision Information

### Wards Affected

Not applicable

### Links to Corporate Plan and Policy Framework

Not applicable

### Lead Councillor

Councillor Ilott

### Document Information

<b>Appendix No</b>	<b>Title</b>
	None
<b>Background Papers</b>	
<b>Report Author</b>	Nicholas Sutcliffe, Licensing Manager
<b>Contact Information</b>	01327 322278 <a href="mailto:licensing@southnorthants.gov.uk">licensing@southnorthants.gov.uk</a>

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