

**STREET TRADING
(IN HEREFORDSHIRE)**

Information and Guidelines

For more Details Contact

Herefordshire Council

on 01432 260805

Herefordshire Council

Markets, Fairs and Street Trading Section

Unit 38

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website: www.herefordshire.gov.uk/streettrading

Please keep this booklet for your reference

Introduction

Hereford City and the Herefordshire Market Town Centres of Bromyard, Kington, Ledbury, Leominster and Ross on Wye along with our Rural Areas have much to offer by way of creating an ambience that is attractive to visitors and residents alike. This vibrancy can be partly established through the presence of quality street trading. On pedestrianised areas usually and weather permitting, the addition of good quality street trading units contributes to a relaxed and social style of eating, drinking and shopping comparable to the continent.

The purpose of this information pack is as follows:

- To assist you, the potential applicant, in understanding the policies and procedures involved when applying for a Street Trading Consent in Herefordshire, under Section 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- To highlight the requirements and standards expected of street trading in Hereford City Centre, the Market Towns and rural areas including lay-bys (our standard terms and conditions are to be found in additional document EMFST ST 5).

Street Trading is regulated to ensure that all traders are adhering to one set of conditions to ensure consistency, whilst still allowing traders to bring variety, diversity and colour to their units and products to meet the needs of both local residents and tourists to Herefordshire.

Street Trading in Herefordshire is covered by legislation that requires any potential trader to:

‘Apply for grant/renewal of consent to sell, expose or offer for sale any article in or on any street or other place designated as a consent street under Section 3, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.’

Street Trading on the highway in Hereford City, Herefordshire Market Town Centres and Rural Areas such as lay-by’s, or other areas to which the public have access without payment are licensed by the Herefordshire Council by the granting of a Street Trading Consent. **The consent is reviewed annually.**

TRADING WITHOUT APPROPRIATE PERMISSION MAY CONSTITUTE A CRIMINAL OFFENCE & CARRY A FINE OF UP TO £1000 IN THE CASE OF A CONVICTION.

It will not normally be necessary to obtain planning permission for outdoor street trading units on the public highway. However, **planning permission may be necessary** if there is an area of permanent development associated with the street trading unit. If the unit is sited on ‘private’ land to which the public have access without payment, planning permission may be required. **If in doubt, please seek guidance from the Planning Department listed under useful contacts at the end of this document.**

Any proposal to sell food and drink between 11pm and 5am would also require a ‘Premise Licence’ issued under the Licensing Act 2003.

APPLICATION PROCESS

Applying For A Consent

The consent application process involves both legal and non-legal procedures, hence the need to follow the guidance in this brochure and on the application form which needs to be completed in full by all potential new traders. A business portfolio or plan would serve to further strengthen an application.

Upon receipt of a completed application form, it will usually take a minimum of 30 days up to a maximum of 60 days for a consent application to be fully processed.

The guidelines and considerations contained within this document need to have been considered prior to applying, as well as in our Terms and Condition document EMFST ST 5.

Applications undergo a consultation period, with some/all of the various interested parties detailed below. Internal consultations may also take place with the 'street trading panel'. The Panel is made up of senior council representatives from a range of departments including Highways, Environmental Health, Legal Services, Licensing, Economic Development, Markets and Fairs and Trading Standards.

Consultations will be carried out with some or all of the following:

- Local Elected Member (s)
- Police
- Fire Service
- Property Owners in close proximity
- Appropriate Parish or Town Council

Applications are ultimately determined by the chair of the street trading panel (Head of Public Protection).

If the application is approved, a fee will be set for that individual pitch.

Methods of Payment

We will accept the following methods of payments (can be monthly or in full):

- Invoice - cash/cheque,
- direct debit,
- debit/credit card

Please note, if your application is approved, you will need to send your first month's or part month's payment to us along with the signed Acceptance of Conditions and Fee form that you would have received.

The granting of a Street Trading Consent applies only to the applicant in respect of the product range approved by the Council and is outside of and in addition to a licence to sell liquor.

Any changes to any part of the street trading operations, including change of menu, personnel, unit/stall or operating times may be the subject of a new or revised consent (we need to be notified accordingly) in advance.

The Street Trading Consent will normally operate somewhere within the hours of 7.30 am – 8.00 pm. In certain areas there may be reductions or extensions on these hours due to specific local requirements.

Public Liability Insurance cover to £5m as a minimum will be required for the business and proof shown in advance to the Council.

A Street Trading Consent will NOT normally be granted where there is already adequate like provision in the immediate vicinity of the proposed trading site. Any application will be judged on the general needs of the locality.

Please be aware that when a trader vacates a pitch, any person purchasing a trading unit does NOT automatically have the right to take over that pitch. That person will need to apply for and obtain a Street Trading Consent in advance.

When notice is given on a pitch, the pitch will be advertised on the council's website for a minimum of 13 days.

Please also note that the council reserves the right to revoke any offer to trade, to any applicant that has been offered a consent/licence for a pitch but does not commence trading within one month of that offer being made.

Refusal of Applications.

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any standard right of appeal against the decision of the Council in relation to the refusal/revocation/amendment of Street Trading Consents.

DATA PROTECTION ACT:

Herefordshire Council is the Data Controller under data protection law and will use the information you provide on this form in order to process your application.. The legal basis for processing this data is our legal obligations for regulating street trading. We will keep your data for 6 years or as long as the trading pitch exists. Where necessary we may share this personal data with partner organisations for the protection of public funds administered which may include the prevention or detection of fraud and auditing purposes. Individuals have a number of rights under data protection law, including the right to request their information. You also have a right to make a complaint about our handling of your personal data to the Information Commissioner's Office <https://ico.org.uk/>

GENERAL INFORMATION

Towns And City Centre

A clear pedestrian route normally of at least 2 metres width shall be maintained on the highway, adjacent to the building line. Where suitable recesses exist along the building line a clear route shall be provided elsewhere at the front of the selling/seating area. In areas of very high pedestrian flows it may be necessary to leave a clear route of greater than 2 metres in width.

The area to be used must take into account other needs in the immediate vicinity e.g. kerbside parking, bus stops, pedestrian crossings. In any event a minimum distance of 2 metres must be kept between the kerblines of regularly trafficked routes and the street trading unit boundary.

Any tables and chairs or other street furniture intended to be used outside a unit or stall requires a separate Highways Amenity Licence (also available from Herefordshire Council – please contact the Licensing Officer, Street Trading on (01432) 260805).

All emergency exits and routes must be kept clear.

If the proposed area fronts other properties in close proximity, then prior consent of these owners/occupiers will be required. If a trading unit is to be sited on non-Highway land then written permission will also be required from the landowner in advance.

Lay-Bys

Only lay-by's which are separated from the main carriageway e.g by a grassed or tarmac verge will normally be considered by the Street Trading Panel for Health and Safety reasons. Lay by trading after 6:00pm will not be permitted.

Applicants should take the following into account when deciding on a location:

- Traffic Flow – are there enough potential customers to sustain a business?
- Size of Lay-by – is there sufficient room for numerous cars/lorries etc?
- Proximity to Competition – the Street Panel must consider existing street traders and are unlikely to approve an application for a lay-by if there is another trader close by.

Please Note that there are additional consent conditions placed on lay-by traders – please refer to the full set of conditions for more information – form EMFST ST 5.

Fair Trade.

Herefordshire became the first county in the Midlands to achieve 'Fairtrade' Status in Spring 2006. Street Traders are actively encouraged to use Fair Trade products where possible. The Fair Trade ethos encourages sustainable development for Third World communities by helping people to work their way out of poverty.

For more information visit www.fairtrade.org.uk

The Council also wishes to encourage the use of local products and healthy eating options whenever possible, through any street trader it may licence to trade.

ENVIRONMENTAL ISSUES

It is imperative that all legislative requirements relating to Environmental Health and Trading Standards are adhered to by our Street Traders. Failure to observe these obligations could potentially lead to revocation of a consent or even result in a prosecution for more serious offences. Some of the key environmental points are listed below:

- It will be the responsibility of the trader to keep the area clean and free from litter, during the licensed/operational hours.
- All waste generated must be disposed of in accordance with the requirements of the 1990 Environmental Protection Act.
- An annual allowance of trade waste bags is usually issued to permanent street traders, which will then be collected and disposed of by Herefordshire Council. Any requirements for additional bags over and above the allowance will result in the cost being borne by the consent holder. Waste disposal through an alternative registered waste carrier is also deemed acceptable.

The Street Trading Unit/Stall will be inspected by an authorised officer from Environmental Health before a Street Trading Consent is issued, where this is reasonably practicable.

The unit/stall shall comply in all respects with the legal requirements relating to the type of street trading activity proposed.

In particular compliance with the following legislation is required for catering units:

- 1. Food Safety Act 1990**
- 2. Health and Safety At Work Act 1974 and any applicable Regulations made under it.**
- 3. Environmental Protection Act 1990**
- 4. Food Hygiene (England) Regulations 2006**
- 5. Gas Safety Regulations – see <https://www.ncass.org.uk/mobile-catering-home/content/get-legal/law-pages/gas-safety/gas-safety-what-the-law-says>**

(Please note if you are offered a street trading consent, where applicable we will first ask to see evidence of gas safety certification)

Environmental Health will carry out appropriate checks to ensure the unit/stall is fit for purpose, that safe working practices are in evidence and only suitably trained personnel are employed.

USEFUL CONTACTS/LINKS

Markets, Fairs and Street Trading Section

Ask for the Licensing Officer for Street Trading

E-mail: markets@herefordshire.gov.uk

Tel: 01432 260805

Food and Health and Safety (Commercial) Section

Food Safety and General Health and Safety

Ask for the Duty Officer (Commercial)

E-mail: ethelpline@herefordshire.gov.uk

Tel: 01432 260543

Planning Services

Tel: 01432 260342

E-mail: planning_enquiries@herefordshire.gov.uk

Highways and Transportation

Ask for a member of the Streetscene team

Tel: 01432 260000

E-mail: streets@herefordshire.gov.uk

Other Licensing Enquiries:

E-mail: licensing@herefordshire.gov.uk

<https://www.ncass.org.uk/home> The National Caterers Association

<https://www.food.gov.uk/business-guidance/safer-food-better-business>