

## Street Trading and Market Policy

### Introduction

This is the first review of the Street Trading and Market Policy, which was originally published in September 2012.

Brentwood Borough Council introduced Street Trading into the High Street Brentwood in 2012, with the intention of creating a vibrant atmosphere for residents, local businesses, visitors and shoppers. The aim was to provide residents and shoppers with alternative products including specialist and niche items. The Brentwood High Street Market has expanded since its introduction from one day per week to two, in addition to which, enquiries are increasing received relating to other areas of the Borough. This policy has therefore been updated in order to continue to support Street Trading within Brentwood High Street whilst supporting the overall needs of the Town Centre, but also to support trading in other parts of the Borough if and when such other areas are adopted for Street Trading Purposes.

### Objectives

- To support the local economy, businesses and retailers by increasing footfall to the High Street.
- To attract new visitors, residents and shoppers to the High Street.
- To create a welcoming atmosphere for visitors, residents and shoppers.
- To provide an opportunity to trade for local businesses.
- To complement existing retailers and businesses on the High Street.
- To provide a diverse and/or alternative offer of products to residents, visitors and shoppers.

### Street Trading Designations

Brentwood Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate the High Street, Brentwood, between Wilson's Corner and the junction with Kings Road/Weald Road as Licence Streets for the purposes of Street Trading. The licensed area includes all forecourts, roads, footways or other areas adjacent to the roads listed for a distance of 10 metres to which the public have access by fact and without payment.

From time to time, the Council may determine to resolve to designate other areas of the borough for the purpose of Street Trading, or to prohibit Street Trading in specified areas. In such cases details of these areas will be published on the Council website, advertised as required by legislation and added as an appendix to this policy.

The designation of the High Street and any future areas of the borough as may be determined from time to time, allows street trading to be controlled so as to limit disturbance and obstruction that might otherwise be caused to local shoppers and traders. Street Trading Licences are issued with conditions which specify the date, time, location and type of stall as well as defining certain requirements and parameters relating to the operation of the stall. Such conditions may be standard in that they apply to all licence holders or may be specific to an individual stall or trader.

Street trading in a designated Licence Street without the necessary Street Trading Licence is an offence which can result in a fine of up to £1000.

Further information about Street Trading Licences can be obtained from the Licensing Section. Please call 01277 312500. Alternatively, email [licensing@brentwood.gov.uk](mailto:licensing@brentwood.gov.uk)

## Location

The markets will take place only on the street trading pitch locations indicated on the plan included as Appendix 1 of this policy, for which there is provision for up to 23 stalls. Typically trading will occur on both sides of the High Street between properties 39 – 51 High Street.

Planning Permission has been granted for markets to take place where stalls are situated at a minimum distance of 2.5metres from all shop fronts and a minimum of 2 metres from the carriageway.

On every occasion licence holders must ensure that a sufficient gap is left between stalls/pitches and between stalls/pitches and street furniture to enable unrestricted and unfettered wheelchair, pushchair or pedestrian movement. This gap should normally be a minimum of 1.8 metres.

All individual pitches are for a maximum size of 3m x 3m and no double pitches will be allowed where street furniture or wheelchair, pushchair or pedestrian movement are impeded by the placement of a stall.

Should such an occasion arise the licence holder/stallholder will be required to reduce the size of their stall. Any failure to do so after having first been warned may result in revocation or suspension of the Street Trading Licence, refusal to renew a Street trading Licence and/ prosecution for having breached the licence conditions.

If the market should be located near to a turning circle, disabled bays and overrun areas, a minimum of 0.5 metres should be provided between these areas and the stalls.

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Planning permission has not been granted for the turning circle on the High Street.

## Street Trading Categories:

1. Brentwood Market
2. General Street Trading
3. Lighting Up Brentwood

### 1. Brentwood Markets

1.1 Planning Permission has been granted for markets to take place on designated areas of Brentwood High Street for 7 days per week. Markets are typically held on Fridays and Saturdays on sections of Brentwood High Street and more specifically the large paved area from 39 - 51 High Street. The Council has the right to operate markets 7 days per week; however the Council will only operate a full Market on designated market days and on one-off special occasions and events.

1.2 All traders (with the exception of the long standing High Street Fruit and Vegetable Stall) wishing to operate on any Market day may only do so through the Market Operator as may be appointed from time to time by the Council. Any traders wishing to operate on non Market days must make application direct to the licensing team and such applications will be considered in line with the Standard conditions and this policy on the individual merit of the application and on a case by case basis.

1.3 Traders at Markets operated by third party market operators will need to meet the criteria of the market operator which can be obtained through the market operator. Traders will also require a Street Trading Licence issued by Brentwood Borough Council. Conditions of the Licence are described in the criteria set out below.

1.4 All applicants will be expected to submit an application in which they will provide name and address contact details and also land line and mobile telephone numbers and an e-mail contact address if this is held by the applicant. For further details about the application process see Section 3 of this policy document shown below.

### Fees:

The fee for an application for a Street Trading Licence where a third party market operator has been instructed by Brentwood Borough Council to operate a market will be paid to the Council by the Market operator, however, the applicant must pay the relevant fee plus Market operator costs direct to the Market Operator.

Failure of any trader to pay the appropriate fee to the Market operator or failure to pay the appropriate licence fee to the Council (whether that failure is by the applicant or the Market Operator) may result in disqualification from the Market of that stall(s) until such time as the fees are paid.

## 2. Individual Street Trading Stalls

2.1 From time to time Brentwood Borough Council may issue Licences to individual traders either on non market days or at one-off special events throughout the year. In such circumstances the Council will consider applications in their own right and on their own merits.

### 2.2 Fees:

An application for a Street Trading Licence must be accompanied by the appropriate fee as may be varied by the Council from time to time. Details of all current fees are attached to this policy as appendix A.

### 2.3 Payments

The Stall holder shall pay the full amount stipulated when submitting the application (or with the booking form in advance for the Lighting up event) for the full specified trading period. Unpaid sums will result in refusal to grant a licence, or where a licence may have been granted and sums subsequently fall due such outstanding monies shall be recoverable by way of a common debt and subject to the Council's Debt Recovery policy. Failure to pay may lead to court action where stall holders could be asked to pay the Council's costs.

### 2.4 Exemption

The fruit stall which has been trading outside the location of 71-73 High Street Brentwood for a number of years. The stall holder currently has an existing agreement with Brentwood Borough Council in terms of location and fee agreed prior to the introduction of this policy; however these may be subject to change in the future. It was agreed in 2013 that when this stall is required to move, provision will be made at a point closer or adjacent to the weekly market.

## 3. Lighting Up Brentwood

The Council reserves the right to host the Lighting Up Brentwood Event annually on any day of the week. Fees for this event will be subject to a separate fee structure. For further information contact the Council's Community Safety Team by e-mail at [lightingup@brentwood.gov.uk](mailto:lightingup@brentwood.gov.uk).

There will be no market on the day of the Lighting up Brentwood event. If possible the Council may offer an alternative day for the market. Individual stall holders may apply for a Street Trading Licence directly with Brentwood Borough Council for the Lighting up Brentwood event and fees will be payable direct to the lighting up team, who will ensure that all licence fees are paid from the fee they receive direct to the licensing team, where appropriate..

## Criteria for a Street Trading Licence

### 3. General Terms

- 3.1 An application for a Street Trading Licence or the renewal of such a Licence shall be made in writing to Brentwood Borough Council for individual Street Trading and shall be accompanied by all required documentation and the appropriate fee. However, where a market operator that has been instructed by Brentwood Borough Council to operate the markets in Brentwood the fee will be paid to the Council in accordance with paragraph 1 (above) by the Market operator.
- 3.2 The applicant shall:
- (a) State his/her full name and address;
  - (b) State the street in which, days on which and times between which the trader desires to trade;
  - (c) Give a full description of articles in which the trader desires to trade and the description of any stall or container which the trader desires to use in connection with the trade in those articles;
  - (d) Submit two photographs of themselves with their application.
  - (e) Detail any convictions received in the preceding 10 years and/or any convictions received at any time which are unspent under provision of the Rehabilitation of Offenders Act. (applicants MUST check with the licensing team if they are unsure of the status of any prior conviction received).
- 3.3 A Street Trading Licence shall not be granted:
- (a) To a person under the age of 17 years; or
  - (b) For any trading in a Highway in relation to which a control order under section 7 of the Local Government (Miscellaneous provisions) Act 1976 (road-side sales) is in force, other than trading to which the control order does not apply; and
  - (c) May not be granted to any person that holds a current conviction.
- 3.4 Subject to sub-paragraph (3.3) above, it shall be the duty of the Council to grant an application for a Street Trading Licence or the renewal of such a Licence unless they consider that the application ought to be refused on one or more of the grounds specified in sub-paragraph (3.5) below.

3.5 The Council may refuse an application on any of the following grounds:

- (a) That there is not enough space in the street for the applicant to engage in the trading in which he/she desires to engage without causing undue interference or inconvenience to persons using the street;
- (b) That there are already enough traders trading in the street from shops or otherwise in the exact goods in which the applicant desires to trade. NB: Goods that are high demand products and/or with a reasonably short shelf life e.g. Bread, cakes and other perishables are less likely to be refused although the Council reserves the right to make judgement on all matters on a case by case basis;
- (c) That the applicant is unsuitable to hold the Licence by reason of having been convicted of an offence or for any other reason;
- (d) That the applicant has at any time been granted a Street Trading Licence by the Council and has persistently refused or neglected to pay fees or charges due for the licence or any associated services in his/her capacity as Licence-holder;
- (e) Where the street trading may damage the structure or surface of the street;
- (f) Where the appearance or quality of the trading equipment or structure/stall in use is not compatible with the character of the area in which it is proposed to be situated.
- (g) That the applicant has without reasonable excuse failed to avail him or herself to a reasonable extent of a previous Street Trading Licence.
- (h) Where the applicant has at any time been granted a Street Trading Consent or Licence and has persistently contravened conditions of the policy.

3.6 A Street Trading Licence shall specify:

- (a) The street in which, days on which and times between which the Licence- holder is permitted to trade; and
- (b) The description of articles in which he is permitted to trade.

3.7 If the Council determines that a Licence-holder is to confine his/her trading to a particular place in the street, his/her Street Trading Licence shall specify that place.

- 3.8 Matters that fall to be specified in a Street Trading Licence by virtue of sub-paragraph (3.6) or (3.7) above are referred to in this Schedule as the “principal terms” of the Licence.
- 3.9 When granting or renewing a Street Trading Licence, the Council may attach such further conditions (in this Schedule referred to as the “subsidiary terms” of the Licence) as appear to them to be reasonable.
- 3.10 Without prejudice to the generality of sub-paragraph (3.9) above, the subsidiary terms of a Licence may include conditions:
- (a) Specifying the size and type of any stall or container which the Licence-holder may use for trading.
  - (b) The items for sale could offend members of the public or businesses.
  - (c) The items for sale are not in keeping with the Council’s policy and objectives for street trading, in providing quality specialist markets including the sale of alternative and niche products.
- 3.11 The Street Trading Licence requires:
- (a) That the licence shall be displayed during all hours of trading and available for inspection by any authorised officer of the Council or by any Police officer upon request; and
  - (b) Prohibiting the leaving of refuse by the Licence-holder.
- 3.12 A Street Trading Licence shall, unless previously revoked or surrendered, remain valid for a period of 12 months from the date on which it is granted or, if a shorter period is specified in the Licence, for that period.
- 3.13 If the Council resolve that the whole or part of a Licence Street shall be designated a Prohibited Street, then, on the designation taking effect, any Street Trading Licence issued for trading in that street shall cease to be valid so far as it relates to the prohibited street.
- 3.14 The Council may at any time revoke a Street Trading Licence if they consider that:
- (a) owing to circumstances which have arisen since the grant or renewal of the Licence, there is not enough space in the street for the Licence holder to engage in the trading permitted by the Licence without causing undue interference or inconvenience to persons using the street;
  - (b) the Licence holder is unsuitable to hold the Licence by reason of having been convicted of an offence or for any other reason;
  - (c) since the licence was granted the licence holder has persistently refused or neglected to pay fees or charges due for the licence or any associated services in his/her capacity as Licence-holder;

- (d) since the grant or renewal of the Licence, the Licence holder has without reasonable excuse failed to avail him or herself of the Licence to a reasonable extent.
- 3.15 If the council consider that they have grounds for revoking a licence by virtue of sub-paragraph (3.14)(a) or (d) above, they may, instead of revoking it, vary its principal terms:
  - (a) By reducing the number of days or the period in any one day during which the Licence holder is permitted to trade; or
  - (b) By restricting the descriptions of goods in which he is permitted to trade.
- 3.16 A Licence holder may at any time surrender his/her Licence to the council and it shall then cease to be valid.
- 3.17 The Council may charge such fees as they consider reasonable for the grant or renewal of a Street Trading Licence.
- 3.18 The Council may determine different fees for different types of Licence, in particular, but without prejudice to the generality of this sub-paragraph, by:
  - (a) reducing the number of days or the period in any one day during which the Licence-holder is permitted to trade; or
  - (b) restricting the descriptions of goods in which he is permitted to trade.
  - (c) restricting the duration of the Licence.
  - (d) altering the street in which it authorises trading; and
  - (e) amending the descriptions of articles in which the holder is authorised to trade.
- 3.19 The Council require that applications for the grant or renewal of Licences shall be accompanied by the full fee as the Council may require, to be repaid by the Council to the applicant if the application is refused.
- 3.20 The Council may recover from a Licence holder such reasonable charges as they may determine for the collection of refuse, the cleansing of streets and other services rendered by them to him in his capacity as Licence holder.
- 3.21 The Council reserves the right to use the Licence fees to advertise and promote the market as a reasonable cost incurred in providing the service for market stallholders.
- 3.22 The stall shall be kept in the space allocated by the Council from time to time and the stallholder must keep the avenues adjoining the stall clear and free from refuse and litter.



3.23 Traders will need to supply their own stall and will be given a pitch approximately 3m x 3m. Stalls must be of high quality and safety is paramount. Stalls must be robust and withstand winds and therefore stalls will require weights. The size and positioning of the stall must be such that it does not contravene the restrictions specified in these conditions. In respect of markets, all stalls need to be compatible in size, style and colour and the appearance of the market must be attractive and consistent in nature. The arbiter of this standard will be the Council at all times.

#### 4. Stall Requirements

4.1 All stalls need to be:-

Provided in full compliance with the legal standards laid down by the Health and Safety at Work etc Act 1974 and all regulations made there under. Without prejudice to the generality of the foregoing, the following controls must be in place:

- a) Only placed on firm level ground.
- b) Erected by competent persons with experience of such, pitched and secured firmly in order to prevent any possibility of overturn.
- c) Where connected in any way to a generator, that generator to be sited externally along with any fuel supply and pipe work to it and to fully comply with all relevant provisions of electrical safety acts and regulations.
- d) Electrical cables and wires must be placed so as to prevent tripping hazards. In the first instance these should always be placed away from any pedestrian areas. It is not permissible to cover cables and wires even with a bespoke rubber mat or duck tape as these may also present a tripping hazard. Cables and wires may however be suspended and at a height of no less than 198 centimetres above the ground below so that pedestrians may walk safely beneath. Additional support via a 'catenary wire' must be provided where electrical cables are suspended so as to prevent electrical short circuit.
- e) All electrical circuitry must be weather resistant, and so placed and maintained to prevent electrical short circuit and danger from electrical shock.
- f) Where supported by guy ropes, those ropes and ground pegs to be positioned in such a way that they cannot be inadvertently tripped over and do not extend into any designated public walk-ways or traffic routes.
- g) Where used to contain any cooking apparatus that the apparatus is placed in such a way within the confines of the stall such that it will not catch fire nor produce a fire hazard as a consequence of any naked flame or heat producing surface.
- h) Where used to contain any heating apparatus that the apparatus is placed in such a way within the confines of the tent/marquee such that it will not catch fire nor produce a fire hazard as a consequence of any naked flame or heat producing surface.
- i) Provided where necessary with suitable apparatus to extinguish fire.

- j) To be pitched in such a way that the public may exit quickly through unimpeded and clear signed exits.
- k) Where containing any gas cylinders, that those gas cylinders (LPG) should be stored / used in the fully upright position at all times. The cylinders should where necessary be tethered in that position to a rigid supporting structure to prevent the possibility of being inadvertently moved or overturned. are either laid down or tethered to a rigid supporting structure to prevent falling/overturn.
- l) Flame and fire retardant material must be used in the construction of the individual stalls. Stall holders are reminded that their stall will come under the requirements of the Regulatory Reform (Fire Safety) Order 2005 and the person/company/business responsible for the stall will be required under this order to undertake a fire risk assessment. The significant findings of that assessment are to be recorded. The completed assessment must be maintained available for inspection by the Fire & Rescue Service/Event Organiser or Council Officers at all times. The assessment will take into consideration amongst other issues most of those identified under Section 4.1 of the Policy for Market Stall and Street Trading activities.
- m) Residual Current Devices and Residual Current Circuit Breakers (RCD's/RCCB's) to be placed as appropriate within all mains electrical provision to prevent all exposed metal components from becoming electrically energised.
- n) Where any gas system is provided that it complies with the Gas Safety (Installation and Use) Regulations 1998 Section 35 and has been certificated by an appropriately qualified Gas Safe Engineer.
- o) No fire hydrant indicator plate or fire hydrant pavement cover shall be obstructed, or access to it restricted at anytime by the activities of the stall holder(s)

4.2 The Stall shall only be used for the sale of goods specified.

4.3 The Stall shall only be used by the Stallholder and his employees. The Stallholder shall not do or allow anything to be done which may cause or be a nuisance or annoyance to any member of the public or which may be detrimental to the efficient operation of the Market.

4.4 Traders must not set up before 7am Monday to Friday or before 8am on Saturday and Sunday. Traders must remove vehicles from the market site by 8am on Monday and Friday and by 9am on Saturday and Sunday. Traders must continue trading until 5pm on all market days and will not be able to begin loading before 5pm on market days.

4.5 Stallholders will be expected to treat their colleagues and all visitors and residents with respect.

4.6 No traders' vehicles will be placed on the Market site, other than for loading and unloading at the times permitted under paragraph 4.4 of this policy.

4.7 It is the Council's intention to ensure that the market is well presented and adequately stocked to be attractive to potential customers and in support of the town centre. A high quality standard is required of all traders' presentations and merchandising and in pursuit of this the Council will set quality standards. Poor presentation could lead to termination of the right to trade.

4.8 A Street Trading Licence does not convey any other approvals that may be necessary under the Food Hygiene regulations, Planning legislation or other appropriate legislation.

4.9 All food traders need:

Where the stall is used for the sale or offering of food, that it complies in full with all relevant provisions of the Food Safety Act, and EC Regulation 852/2004.

Without prejudice to the generality of the foregoing, the following controls must be in place:

a) To have registered the business under food law with the local authority in which they reside overnight or trade.

b) A copy of the food registration certificate to be available for inspection.

c) The food business to be 'broadly compliant with food hygiene law relative to its last inspection (i.e. a score of no more than 10 with regard to any of the three compliance areas, namely: -hygiene, structure and management).

d) Food handlers to have received commensurate food hygiene training relative to their role within the business and this to be demonstrable in the form of certificates or records.

e) To have evidence of a demonstrable food safety management system on site. This may take the form of an SFBB manual or similar to show adequate records of opening and closing checks.

f) Traders selling hot and cold food will need to supply proof of the relevant food hygiene training certificate before you can apply for a Licence to sell food.

4.10 If you don't have a certificate you need to make your own arrangements to attend food hygiene training. You can find out more about training from Brentwood Environmental Health on 01277 312504. You'll also need to register your business with Environmental Health with you own local Council.

4.11 The Stall shall be kept in an orderly manner, clean and free from litter. No heating or lighting apparatus shall be installed without the permission of the Markets Manager.

- 4.12 No electrical connections must be made by stall holders to any public or utility equipment. Only generators or gas cylinder equipment that are compliant with paragraph 4.1 c), j), i) and m) are permissible.
- 4.13 Stalls, produce or products will only be allowed to be left out or stored overnight in the High Street town centre pavement area for markets lasting more than one day such as a continental or themed markets for example at the discretion of the Council and on the strict proviso that they are securely guarded all night and that they will not be left out in adverse or inappropriate conditions such as high winds etc. Ordinarily all stalls, produce or products must be removed and cleared away at the end of each trading day.
- 4.14 The Stallholder shall:
- (i) Indemnify the Council against all costs, demands, claims proceedings and actions incurred by the Council relating to or arising out of the use of the space allocated by the Council.
  - (ii) Obtain and maintain Public Liability Insurance with a minimum indemnity limit of £5,000,000 (five million pounds) and shall produce to the Council evidence of such insurance with the application to trade.

## 5. Guidance on products

- 5.1 The Council operates a fair system and welcomes all applications.
- 5.2 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that Council's may refuse an application on the following grounds:

That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;

The Government has recently issued guidance that states that restricting certain types of trading may fall foul of competition laws and therefore suggests that schedule 4 of the Local government (Miscellaneous Provisions) Act 1982 should not generally be applied. However, it is the view of this Council that the Market has been introduced for a specific purpose and that schedule 4 has not to date been repealed. Therefore some trading may still be refused if the Council believes that there is a surplus of certain products already available whether on the Market or in local shops. Whilst there is flexibility within this policy and each case will be considered on merit this restriction will normally only apply to branded goods or goods that are unsuitable for a Market environment. Final determination will lie with the Council.

- 5.3 Healthy competition is good for the town, however, the objective of the market is to compliment and enhance the offering provided by the shop traders in the town.
- 5.4 The Act allows the Council to attach such further conditions as appear to be reasonable. Each application will be considered in its own right and on its own individual merits. In this respect the Council has produced some guidance on the types of products which may be refused in order to be in keeping with the character of the Council and of the town centre and which as part of the Council's policy may also form part of the licence conditions. These are:
- a) To allow one type of product, or class of products to be sold by any individual trader.
  - b) To ordinarily refuse products not in keeping with the character of the High Street or the objectives of providing specialist and niche products this could include for example:
    - Products of a sexual content
    - Trailer vehicles
    - Cooked food of burgers, hotdogs, chips, pizza and fast food
    - Cleaning products where they contain potentially harmful chemicals e.g bleach
    - Products promoting the use of drugs or tobacco related products
    - Individual Branded products found in local supermarkets and shops, including household items, make-up and health products
    - Designer or recognised brand label clothing, footwear or accessories
    - Funfair type products; donuts and candyfloss
    - Knives and other weaponry
- 5.5 There are a sufficient amount of shop traders already selling cut flowers, fruit and vegetables, hot drinks such as tea and coffee, therefore the Council is likely to refuse such items in the current climate, as legitimised by the Local Government (Miscellaneous Provisions) Act 1982.
- 5.6 Each application will however be considered in its own right and on its own merits. This means that some licences may be issued where it would be normal to refuse the application under provision of paragraphs 3.5, 5.2 and 5.4 if the applicant is able to demonstrate good reason for the Council to divert from policy in the individual circumstances of that application.

#### Car Parking Information for Traders

The height restriction for all car parks in Brentwood is as follows:

6M Length

2.1M High

2.3M Width

Blue badge holders may only park free of charge in Brentwood Borough Council surface car parks that are pay and display and do not have barrier access.

Season ticket holder only car parks are not to be used for casual parking and no vehicles are allowed to remain overnight in any of the car parks.

The nearest overnight camping ground is situated at Warren Lane Doddinghurst, Kelvedon Hatch, Brentwood CM15 OJG. The telephone number is 01277 372773. The site is open March to November and there are 90 pitches available. It is dog friendly and has electric hook –ups, hard standing, gas refills, disabled facilities, showers and toilet block, washing up facilities, laundry room, chemical disposal and internet access. This site is approximately two miles from Brentwood so it is convenient for traders.

Please note that this information is provided without prejudice to assist traders and is not intended to be an endorsement of the site or its services by Brentwood Borough Council and is only accurate to the time the information was included in the policy in August 2012. Brentwood Borough Council accepts no responsibility for any of the above information that might not be accurate in the future.