
Meeting: Traffic Management Committee
Date: 26 September 2011
Subject: Mobile Food Traders
Report of: Basil Jackson, Assistant Director of Highways and Transport
Summary: The report provides the Traffic Management Committee with details relating to the proposed Mobile Food Trader policy for Central Bedfordshire. The proposed policy was written to deal with the increasing volume of new applications received for mobile food trading as well as a large number of existing unlicensed traders on the public highway. This policy document supports the Councils Street Trading policy and the Councils Tables and Chairs policy.

Contact Officer: David Bowie, Head of Service, Traffic Management
Public/Exempt: Public
Wards Affected: All
Function of: Highways and Transport

CORPORATE IMPLICATIONS

Council Priorities:

The Council priorities affected by this paper are:

- creating safer communities; and
- managing growth effectively.

Financial:

A fee structure is shown in the policy to negate the cost of the installation of a marked area in the agreed trading location. In addition to the yearly fee, there is an application fee which will cover officer time to review the application and make a decision upon the requested location and trading conditions. The proposed annual fee also reflects the cost of managing and enforcing the policy.

Legal:

In April 2009, Central Bedfordshire Council (CBC) succeeded Bedfordshire County Council (BCC) as highway and traffic authority for the road network in Central Bedfordshire. An important function of the traffic authority is to manage unobstructed passage and re-passage on the public highway. This is relevant for highway, footways and lay-by areas. This is all covered by the Highways Act 1980.

Risk Management:

Uncontrolled Mobile Street Traders can create potentially hazardous situations on the highway network by setting up at inappropriate locations. In addition, they can create points of congestion on the network and restrict pedestrian use of footways as well as damaging verges.

Staffing (including Trades Unions):

None as a result of this report.

Equalities/Human Rights:

Ensuring all applicants are treated fairly, and all information provided on the application form is taken in to consideration when making a decision.

Community Development/Safety:

A highway can be defined as a way over which the public have a right of passage, be it on foot or otherwise, and it is an offence to wilfully obstruct such passage. The Highway Act 1980 gives the local authority powers to deal with obstruction on the highway. Central Bedfordshire Council as the highway authority is also able to give permission to locate and operate facilities for recreation and refreshment on the highway. It is also within the same act, the authority can withdraw the very same by serving notice to the licence holder. The highway authority has a desire to allow and promote safe trading from the public highway as it realises that these facilities serve many of the travelling public on Central Bedfordshire roads, especially the Heavy Goods Vehicle community.

Sustainability:

The effective management of mobile trading of all types at all locations is a key part of accommodating Central Bedfordshires growth agenda and ensuring that the district is “open for business” and everyone is treated fairly and allowed safe passage around the highway network.

RECOMMENDATION:

To approve the proposed Mobile Food Trader Policy.

Appendices:

Appendix A – Mobile Food Trader Policy



Code of Practice for the Operation of **Mobile Catering**

This Code of Practice is based on good practice and is designed to help those seeking permission from the Highway Authority in granting a licence to trade on the public highway. Each application will be considered, taking into account its individual circumstances.

Central Bedfordshire welcomes well managed food establishments and may make an exception to the normal policy of keeping pedestrian areas clear because of the special activity and atmosphere they bring to an area. However it may also withhold or withdraw a licence at its discretion however, the Council will endeavour to be as fair as reasonably possible.

This Code of Practice covers Mobile Food Establishments who trade from the Public Highway, owned and managed by the Highway Authority. All the same procedures and rules apply, in the manner of consideration to the other users in the area who are not using the Food Establishment.

The aim of the Code of Practice is to ensure that Mobile Food Establishments are established in appropriate locations, are well designed/maintained and are managed so as to enhance the environment of the town centre or any other location for the benefit of all.

Licensing for all locations and style of establishment will depend on such factors as:

- Location
- Available space and other licence holders in the location
- Street furniture
- Anything else that the Council deems reasonable and practicable.
- No intention to sell Alcohol from the Public Highway

A prime consideration will be the availability of sufficient safe trading space (pavement or highway location) to accommodate, without causing obstruction to other highway user, i.e. normal vehicle or pedestrian flows.

The needs of all other users such as street cleaning machines, vehicular access, emergency service, special events, etc will also be taken into account.

A highway can be defined as a way over which the public have right of passage, be it on foot or otherwise, and it is an offence to wilfully obstruct such passage. The 'Highway Act 1980' has powers to deal with obstruction on the highway and will be used by Central Bedfordshire Council if it deems necessary.

Central Bedfordshire as Highway Authority is also able to give permission to locate and operate facilities for recreation and refreshment on the highway under powers contained in the 'Highways Act 1980'.

It must be noted that under the same Act, Central Bedfordshire can withdraw any agreed location by serving notice to the licence holder, Central Bedfordshire also has the authority to close trading areas, such as public Lay-bys if essential maintenance is required at that location. The licence holder will be notified in writing at least one week prior to works starting. They will then be able to return once the work is complete and the council will not be responsible for any loss of earnings whilst this work is carried out.



Size and Layout

The Mobile Food Establishment is expected to be of an average size for the type of catering provided and not too large for the proposed site location. The Highway Authority will have the final say whether a location is suitable or not.

If a licence is granted a marked area will be defined within the trading location (lay-by) and the licence holder will have the sole use of the marked area. In pedestrianised areas a clear pedestrian route should be maintained for those walking past the site to ensure that most pedestrians and particularly those with visual impairment can maintain a suitable route. This should be a minimum of 2m.

If tables and chairs are to be used, then a separate licence must be sought and an inspection for the suitability of the tables and chairs will be carried out. The layout of the tables, chairs, access points and means of enclosure needs to be considered. It is important that the layout of these areas does not provide any obstruction or inconvenience to customers with disabilities.

Any licence granted will include a plan showing the agreed dimensions and layout of the trading area.

The initial licence will be granted for one year and the site monitored before a renewal is considered for any licence in subsequent years.

The Council may request a CRB before issuing any licence

A copy of the plan and licence must be available at the premises for inspection on request.

Furniture

Reasonable quality seating and tables are expected if they are provided. A mixture of furniture is not recommended and would normally be rejected as a proposal as uniformity is essential in maintaining a pleasant streetscape. The materials and colours should not be too bright, garish or overly reflective. Tables should be of a design to permit wheelchair use, both for dining and navigation, this should also be considered for buggies and prams. (Picnic type benches are not suitable for people with disabilities and would be rejected, this may not be essential in public lay-bys; a site visit may be required).



The use of parasols, if proposed, should be considered as part of the overall design along with their locations, material and colour. In areas that are particularly plagued with birds then the use of umbrellas or another form of cover may be essential for the licence to be granted.

Environmental Implications

The approved trading area must be kept clean and litter free (with suitable covered bins being provided if a mobile food establishment) by the operator who should ensure that litter does not stray into neighbouring areas, especially if this is the public highway. Periodic checks will be carried out to ensure this and a warning system will be deployed, with the result being a loss of trading licence. Litter bins must be provided and emptied in the correct manner on a regular basis.

It will be the responsibility of the Holder(s) to ensure that all litter is picked up at the end of each working day. Any additional requirements from the Environmental Health Officer will need to be taken into consideration

Requirements for Submission of Applications

All applications should be accompanied by sketch plans (photo's preferred as well as plan) of the area to be used, along with dimensions of area, width of footpath and number of tables and chairs to be installed for which the licence is sought.

Full details of the envisaged use, including identification of whether hot food is to be served, whether a Justices Full On Licence is held, whether all serving of food/drink to the outdoor area will be by table service, or if not by table service, what measures are to be taken to ensure that the transfer of food and/or drink may be undertaken safely and how the area will be managed including litter control.

Photos of street furniture to be provided with application

Compliance with Conditions

Non-compliance with the conditions of consent granted for the street café use will be regarded as a serious matter, and may jeopardise that consent or renewal.

Particular emphasis is placed on the requirement to keep street café areas in a clean and tidy manner.

The terms and conditions are subject to change at any time, with notice only given in certain circumstances.



Approved Fee Structure and Standard Conditions In respect of Street Café Proposals

Fee Structure

<u>Application to use the Highway</u>	£500 to be paid for the first 12 month period – payable on licence issue.
Site Visit	£50 (first applications only)

1. Permitted hours, between 10.00am and 11.00pm, unless otherwise indicated and agreed.

Permitted days – All week

Duration of permission, from 1st April to 31st March

Permitted location as shown highlighted on attached drawing

Permitted furniture or equipment – Tables, chairs and umbrellas, etc

2. The holder(s) of this Permission shall not exercise privileges granted by this Permission otherwise than strictly in accordance with this Permission.
3. The holder(s) shall produce this Permission on demand when so required by a Police Officer or a duly authorised Officer of the Central Bedfordshire Council.
4. The holder(s) shall return this Permission to the Offices of the Chief Executive at the Civic Offices, Priory House, Chicksands immediately on revocation of this Permission.
5.
 - (a) The holder(s) shall not cause any unnecessary obstruction of the highways or danger to persons using it and shall not permit persons to gather so as to cause a nuisance or annoyance or danger to any persons lawfully using the highway.
 - (b) The holder(s) shall ensure by the means of signage of a type to be approved by the Director of Sustainable Communities that the permitted furniture or equipment is placed and remains within the permitted boundary at all times and shall inform the customers accordingly and shall immediately replace within the permitted boundary any furniture or equipment placed outside of the boundary by their customers.
 - (c) The holder(s) shall ensure, as reasonably as possible, that customers who purchase food or drink for consumption on the premises shall not consume such items outside of the permitted boundary.
 - (d) The holder(s) shall ensure that a copy of these conditions is at all times on prominent display somewhere within the permitted boundary or if this is not possible, they are available on request.

NON-COMPLIANCE with any Condition of this Permission resulting in any complaint to the Council and/or the Police will render the holder(s) liable to a written Notice under Section 115k of the Highways Act 1980 and failure to comply with any such Notice immediately AND ANY SUBSEQUENT breach or non-compliance as aforesaid shall render the holder(s) liable to a written Notice under Condition 20 hereof REVOKING this permission forthwith (see attached notes).

6. The holder(s) shall ensure that all drinking glasses in which drinks are served shall be of strengthened glass or served in plastic cups and that no drink shall be served in a glass bottle from which it is intended or likely that a customer will drink.
7. The holder(s) shall ensure that adequate supervision by means of waiter/waitress service is provided over the permitted boundary at all times of operation in order to comply fully with these conditions.
8. The holder(s) shall not suffer or permit any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst exercising privileges granted by this permission.
9. The holder(s) shall not make any excavations or indentations of any descriptions whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.
10. The holder(s) shall (if required) before exercising the privilege granted by the permission place removable physical barriers within the perimeter of the boundary highlighted in the attached plan to the satisfaction of the Director of Sustainable Communities and shall ensure that such barriers are removed at the end of each daily period of use and at the expiry, surrender or revocation of this permission.
11. The holder(s) shall not use the highway for any other purpose whatsoever nor at any time other than during permitted hours, other than lawfully passing or repassing there over as (a) member(s) of the public.
12. The holder(s) shall not place on the highway any furniture or equipment or advertisement other than is permitted by the Council and must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.
13. The permission is a permission granted under Section 115E of the Highways Act 1980 and the holder(s) shall comply with and obtain all other necessary statutory consents and approvals required in connection with the exercise of a refreshment facility on the said highway and comply with the provisions of all such consents and approvals and all statutes and other obligations imposed by law with regards to the provision, maintenance and operation of the refreshment facility.
14. Notwithstanding the specific requirements in Condition 5 above, the holder(s) shall not do or suffer anything to be done in or on the highway which in the opinion of Central Bedfordshire Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the said

Council or the owners or occupiers of any adjacent or neighbouring premises or to members of the public.

15. The holder(s) shall not assign underlet or part with any interest or possession given by this Permission or any part thereof but the holder(s) may surrender at any time.
16. The holder(s) shall observe and comply with any directions in relation to the use of the highway given by the Chief Executive of the Director of Sustainable Communities for the time being of the Council.
17. The holder(s) shall maintain the boundary shown on the plan attached to this Permission and the immediately adjacent area in a clean and tidy condition during the permitted hours and shall leave the same clean and tidy condition and unobstructed at the end of each daily period of use and on revocation or surrender of this Permission.
18. The holder(s) shall provide litter bins or similar receptacles for the deposit of cartons, wrappers, containers and similar discarded items if required by the Director of Environment Services and ensure that the same are emptied daily. All litter is picked up at the end of trading hours.
19. The holder(s) shall remove all furniture or equipment, litter bins or other articles placed on the highway in accordance with this Permission at the end of each daily period of use and at the expiry, surrender or revocation of this Permission.
20. The holder(s) shall indemnify and save harmless the Council and their agents, servants and workmen from the against all proceedings, claims, damages, costs or expenses in respect of any injury (including personal injury) or damage which may be sustained by the Council or any person or persons, body or company whatever arising out of or in any way connected with the provision or use of facilities under the Permission (save where the injury, damage or loss is attributable to the negligence of the Council). The holder(s) shall inform the council of any defects to the highway likely to cause injury within five days of the defect appearing.
21. The holder(s) shall suspend the operation of any permission granted at the request of the Director Sustainable Communities for the time being of the Council to enable any street works to be carried out on or near the permitted location.
22. This Permission may be revoked in writing by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation or refund any fees to the holder(s) in respect of such revocation.
23. Nothing herein contained shall be constructed as the granting or purported by the Council of any tenancy under the Landlord and Tenant Act 1954, or any permission under the Town and Country Planning Act 1990 or any statutory modification or re-enactment thereof for the time being in force.
24. This permission shall tenure for a period of three (1) years from the date of issue subject to the requirements of conditions 19 and 20 above.

25. In cases where there is a perceived problem created by the smells generated by the preparation and cooking of food, a prohibition shall be placed on the cooking of onions or any such food as deemed necessary by the council.. If problems persist, the Permission Holder acknowledges that further consideration will be given to the siting of hot food stalls.
26. The Permission Holder shall ensure that the appearance of their stall/trailer shall be of a high standard and shall display a sign stating "Authorised Central Bedfordshire Street Trader" as supplied by the Council.
27. All Permission Holders shall have and maintain a proper insurance policy against public liability and third party risks. A minimum insurance cover of £5million (five million pounds) shall be obtained by the Permission Holder and shall cover the operators vehicle, van, stall, barrow or cart and any additional equipment under their control such as generators, etc. If food is sold, the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced before the Street Trading Consent is issued and at any other time during the currency of the Permission on demand.
28. Adequate precautions shall be taken by the Permission Holder to prevent the risk of an outbreak of fire at their vehicle, van, stall, barrow or cart. Where a power source or heating appliance is present, e.g. a generator or bottled gas container, then a suitable fire extinguisher shall be provided. In addition, a fire blanket shall be provided in vehicles selling hot food.
29. At all times the Permission Holder shall comply with all statutes, statutory instruments and byelaws currently in force. Particular attention shall be paid to the requirements of the Health and Safety at Work Act 1974, the Food Hygiene (Market Stalls and Delivery Vehicles) Regulations 1966, the Shops Act 1950, the Food Safety Act 1990 and the Environmental Protection Act 1990.
30. If a trailer is used the Permission Holder is responsible for ensuring that the tow bar of the trailer is adequately covered to minimise any potential safety hazard to members of the public.
31. A street trading consent shall not be given if there is any intention to sell alcohol and revoked if alcohol is ever sold from the establishment.
32. In the normal course of the street trading, a Permission Holder shall not use any form of artificial lighting, electrical generator or gas cylinder without the prior consent of the Council.
33. The Permission Holder shall ensure that waste liquids arising at the stall are not disposed of into any highway channel, gully or manhole or any other manner likely to cause pollution of any surface water drainage system.

Notes:

1. Section 115K of the Highways Act 1980, provides as follows:-

(1) If it appears to a Council that a person to whom they have granted a Permission under Section 115E of this Act has committed any breach of the terms of that Permission, they may serve a notice on him requiring him to

take such steps to remedy the breach as are specified in the notice within such time as is so specified.

(2) If a person whom a notice is served under sub-section (1) of this Act fails to comply with the notice, the Council may take steps themselves.

(3) Where a Council have incurred expenses in the exercise of the power conferred on them by sub-section (2) of this Act, those expenses, together with interest at such reasonable rate as the Council may determine from the date of service of a notice of demand for the expenses, may be recovered by the Council from the person on who the notice under sub-section (91) of this Act was served.

2. Failure to comply with any Condition of the Permission and/or the issuing of any Notice under conditions 5 or 22 hereof will require the Council to consider whether any subsequent Permissions should be granted to the holder(s) of this Permission.
3. Any Notice hereunder shall be deemed to be sufficiently served if handed to holder personally or left addressed to him at the address given on page 1 of the attached Permission

**CENTRAL BEDFORDSHIRE COUNCIL
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
APPLICATION FOR A STREET TRADING CONSENT**

To: Traffic Manager

I/We apply under the provisions of the above act for a street trading consent.
(Please complete a separate application form for each location if you wish to be considered for more than one).

I/We submit the following particulars:-

1.(a) Full name(s) (Block Capitals) (b) Trading name (if any)			
2.(a) Address (b) Telephone Number			
3. Have you been convicted of any offence in the past 10 years? If 'YES', please give details (A CRB may be required if it involves fraud, dishonesty or violence)	YES / NO		
	Court Code and Date of Conviction	Offence Code and Date of Offence	Fine, Penalty or Sentence
4. Are there any prosecutions Pending against you?	YES / NO		
If 'YES' please give details	Alleged Offence	Date of Court Hearing	
5. Description of articles to be sold:			
6. Trading site (Please give details and mark the map attached).			

7. Proposed days and times of trading.	
8.(a) Type of Stall (b) Brief description of your proposed stall (please enclose a photograph of the stall, ID of the persons who will normally operate it in the appropriate dress)	
9. Address of premises used for storage/accommodation of stall and, if appropriate food.	
10. Will you be the sole operator(s) of the stall? If 'NO', how often will you operate the stall?	YES / NO
11. If answer to 11 is 'NO', please give details of persons who will operate the stall (include date of birth, proof of age, Birth certificate, passport or driving licence)	
12. Do you have Public Liability Insurance in the sum of £5 million? If 'Yes', please enclose a copy of the policy. If 'NO', give details of any Public Liability Insurance you presently have and indicate whether you would be willing to obtain £5 million Public Liability Insurance	YES / NO

FOOD CONSENTS

13. Please give details about your food handling experience to date (if any).	
14(a) Have you ever attended a food hygiene course offered by a local authority? (b) If 'YES', where and when?	YES / NO
15. Are you at present registered with the Council as a food hawker? If 'YES', please give date of registration	YES / NO

BUSINESS INTERESTS

16.(a) Present occupation (b) Previous employment during last five years	
17.(a) Have you ever traded in any part Bedfordshire before? (b) If the answer to the above is YES, please give details (e.g. dates, times and areas involved in trading).	YES / NO
18.(a) Have you traded in any other town/city? (b) If the answer to the above is YES, please give details (e.g. dates, times and areas involved in trading).	YES / NO
19.(a) Are you related to other street traders in the County? (b) If the answer to the above is YES, please give details	YES / NO
20. Do you have an interest in any other businesses?	YES / NO

If 'YES', please give details	
21. Are you related to any elected members or staff employed by Central Bedfordshire Council	

OTHER INFORMATION	
22. Names and addresses of two independent referees to whom reference may be made about you	1.
	2.
23. Please give any other details you wish to be considered when dealing with your application. (use a separate sheet if necessary)	

I/We declare that I am/we are not under 18 years of age and I/We certify that, to the best of my/our knowledge and belief, the above particulars are correct.

Fee of £..... accompanies this application. (Cheque to be made payable to Central Bedfordshire Council). Please note that in the event of your application being refused the fee will be returned to you.

Dated

Signed

Print