

London Borough of Barnet

Street Trading Policy 2021-2026

London Local Authorities Act 1990 (as amended)

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1. DEFINITION OF TERMS

Within the terms of this policy in respect of street trading the following definitions apply:

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| 1 | Authorised Officer | An officer employed and authorised by The London Borough of Barnet to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended). |
| 2 | Permanent Street Trading Licence | A licence given by the London Borough of Barnet to trade on a licensed street or at a licensed pitch |
| 3 | Temporary Street Trading Licence | A short term/provisional licence (valid for 6 months or less), given by the London Borough of Barnet to trade on a street. |
| 4 | Street Market licence | A street trading licence given by the London Borough of Barnet to an individual to allow him/her to trade on a street as a designated street market. |
| 5 | Advertising board licence | A licence given by the London Borough of Barnet to place an advertisement board on the public highway |
| 6 | Pavement Licence | A licence given by the London Borough of Barnet to premises who sell food and drink to allow them to trade on the street under the Business and Planning Act 2020 |
| 7 | Fast track licence | A licence given by the London Borough of Barnet to premises to allow them to trade on the street for a period of three months only during the coronavirus pandemic |
| 8 | Licence Holder | The person or company to whom the licence to trade has been granted. |
| 9 | Market | An outdoor space where three or more stalls are situated together for the purpose of allowing people to trade on the street. |
| 10 | Itinerant ice cream trading | shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended). |
| 11 | Street Trader | A trader granted permission by The London Borough of Barnet to trade from a specified position. |
| 12 | Street | Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended). |

13	Street Trading:	Shall have the meaning ascribed in Section 21(1) of the London Local Authorities Act 1990 (as amended) and includes the use of tables and chairs situated on the highway for business purposes.
14	Street Trading Pitch/Location	The area in any street authorised as a place from which street trading may be carried on by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet.
15	Advertisement	Any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.
16	Assistant	A person employed by and acting under the directions of a street trader to assist him/her about the business of the stall and whose name and address has been notified to the London Borough of Barnet
17	Awning	A sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.
18	Goods	Any goods, wares or merchandise displayed for sale at a stall
19	Pitch Limits	The agreed area within which street trading is permitted.
20	Refuse	Any waste material.
21	Stall	Any structure used by a trader for the display of goods, or in connection with his or her business, and which occupies a licensed street trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. On "isolated pitches" this also includes all rubbish created as a result of the business.
22	Premises	Any shop, house or block of flats or other building.

2 INTRODUCTION

- 2.1 This document sets out the London Borough of Barnet's policy in respect of its licensing functions for street trading under Part III of the London Local Authorities Act 1990 (as amended) (referred to in this policy as "the Act"). It also sets out the London Borough of Barnet's licensing policy for advertisement boards.
- 2.2 This policy also covers fast track temporary Pavement licences under the Business and Planning Act 2020. Appendix 1 of this policy specifically relates to these licences
- 2.3 This policy will take effect from *****.
- 2.4 This policy will be kept under review and before making any amendments the London Borough of Barnet will consult with licence holders and their representatives and will give consideration to all representations received within the 28-day consultation period.
- 2.5 The policy will be formally reviewed at least every 5 years.
- 2.6 The London Borough of Barnet recognises that street trading can play a part in the cultural identity of the borough and also contributes to the local economy. It may attract visitors and can make for vibrant towns and communities, while at the same time providing employment.
- 2.7 The London Borough of Barnet wishes to ensure at least minimum standards in relation to facilities, appearance and choice are maintained in relation to street trading. Therefore, in granting and renewing licences it is important that stalls are well designed with a high-quality finish that enhances the area.
- 2.8 In regulating street trading activities the London Borough of Barnet acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting positions and all relevant views will be taken into account when making licensing decisions or determining a course of action.
- 2.9 It is also recognised that street trading and markets are hugely important to a vibrant economy, as they offer an excellent low risk step for businesses.
- 2.10 However the London Borough of Barnet will not accept poorly managed or visually untidy and unappealing stalls/pitches, or those that cause an obstruction to persons or prevent safe access and egress.
- 2.11 This policy will apply to all street-trading activities to ensure consistency in decision-making. However, each application will be considered on its own merits so that individual circumstances, where appropriate, are taken into consideration.

- 2.12 On 20th July 2015, Barnet Council made regulations prescribing standard licence conditions in accordance with Section 27(3) London Local Authorities Act 1990 (Appendix 2). These currently remain in force without further amendments. These are reviewed and when changes are needed these can only be made once a formal consultation has been undertaken.
- 2.13 The Licensing functions under the Act will be discharged by officers acting under delegated authority.
- 2.14 The licensing authority will maintain an up-to-date record of all designated street trading pitches including those which are currently vacant.

Hours

- 2.15 Trading hours for street trading covered by this policy will be set on the basis of promoting the following purposes:
- (a) Preventing crime, disorder and anti-social behaviour
 - (b) Avoiding public nuisance
 - (c) Protecting public safety
 - (d) Preventing obstruction of the highway
 - (e) Complementing the location and hours of neighbouring business activity
- 2.16 Licences will not be granted or varied beyond the hours of 07.00 to 23.00
- 2.17 Licences may be granted or varied for shorter periods within these times where, as it appears to the licensing authority to be appropriate
- 2.18 Hours of trading may be variable depending upon the day of the week and will generally be granted having regard to the operating hours of other retail outlets in the vicinity.
- 2.19 Other factors to be taken into account when granting or varying hours of trading pertaining to any licence include:
- (a) The ability to service the pitch (to stock and re-stock)
 - (b) Time needed to set up and take down the street trading stall

Goods Sold

- 2.20 Licence holders must apply to the licensing authority, clearly stating the nature of the proposed good(s) and proposed method of selling either at the stage of first application or for any subsequent change to the goods and services sold on the stall.
- 2.21 The London Borough of Barnet prohibits the sale of certain goods from the street. A list of prohibited goods can be found in Appendix 3.

- 2.22 The level of nuisance should be kept to a minimum and particular attention should be paid to cooking odours, smoke, noise, and litter. Goods should not be sold if they cause an unacceptable level of nuisance as determined by an authorised officer.
- 2.23 The goods applied for should not cause or contribute to crime and disorder.
- 2.24 In a limited range of circumstances it may be unsuitable for different types of stalls to be close together – for example a hot food stand next to clothing stalls.

3 THE APPLICATION

- 3.1 All applications for a licence must be made to the London Borough of Barnet either electronically using the forms on the London Borough of Barnet website or by post, using the standard Barnet application form, addressed to:

**Licensing Team,
London Borough of Barnet,
8th Floor, 2 Bristol Avenue,
Colindale,
NW9 4EW**

Or such other address as the Council may otherwise notify to applicants.

- 3.2 The application must be:

- Made in writing (or submitted electronically)
- Made on the correct application form as prescribed by the London Borough of Barnet
- Accompanied by the full fee
- Accompanied by acceptable passport sized photos (if required)
- Accompanied by the relevant documents

- 3.3 An incomplete or incorrectly completed application will be rejected and the fee refunded.

Renewal Applications

- 3.4 Renewal applications will only be accepted for permanent street trading licences.
- 3.5 A correctly completed application for the renewal of a permanent street trading licence should be submitted no later than two months before the existing licence will expire but not earlier than three months before that date.
- 3.6 An incomplete or incorrectly completed application will be rejected.
- 3.7 An application received more than three months before the expiry date will be rejected.

4. CONSULTATION

Designation of Licensed Streets, Areas and Pitches

- 4.1 Before deciding whether to designate a pitch/street/area the London Borough of Barnet will carry out a consultation with interested parties. In particular, the following will be consulted:
- London Borough of Barnet (Highways Authority)
 - London Borough of Barnet (Environmental Health Service)
 - The Metropolitan Police Service
 - London Fire Brigade
 - The elected ward councillor for the proposed street trading location
 - Any other person that the London Borough of Barnet believes may provide relevant information in respect of the application.
- 4.2 Notices may be displayed in the vicinity of the designation area outlining the application and inviting representations.
- 4.3 Consultation will last for a period of 28 days within which interested parties may submit comments.

Street Trading licence

- 4.4 Before a street trading licence is granted, the London Borough of Barnet will carry out a consultation with interested parties. In particular, the following will be consulted, as appropriate:
- London Borough of Barnet (Highways Authority)
 - London Borough of Barnet (Environmental Health Service)
 - The Metropolitan Police Service
- 4.5 Consultation will last for a period of 14 days starting the day following receipt of a valid application for renewal of a permanent street trading licence
- 4.6 All new sites will be assessed by an authorised officer of the London Borough of Barnet for its suitability for a street trading licence.

Street trading Renewal Applications

- 4.7 Prior to renewal of a permanent street trading licence the London Borough of Barnet, will carry out a consultation with interested parties. In particular the following will be, consulted as appropriate:
- London Borough of Barnet (Highways Authority)
 - London Borough of Barnet (Environmental Health Service)
 - The Metropolitan Police Service

- 4.8 Consultation will last for a period of 7 days starting the day following receipt of a valid application for renewal of a permanent street trading licence.
- 4.9 The purpose of the consultation is to determine whether there has been any significant change in circumstances since the grant of the previous permanent street trading licence.

5 REPRESENTATIONS ABOUT LICENCE APPLICATIONS

- 5.1 Interested parties may make a representation about a Licence application to the London Borough of Barnet during the consultation periods outlined in 4.3, 4.5 and 4.9 in relation to matters that they consider to be relevant to the decision to grant a Licence.
- 5.2 A representation will not be relevant if it is considered by the London Borough of Barnet to be frivolous, vexatious, repetitive or unrelated to the application.
- 5.3 If a relevant representation is received the London Borough of Barnet will make efforts to consult with the applicant and the person or body making the representation in an attempt to resolve any issues.

6 DETERMINATION OF THE APPLICATION

- 6.1 The decision to designate a street shall be determined by authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances, the application may be determined by a Licensing Sub-Committee.
- 6.2 The decision to grant or renew a permanent licence will be made by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances, the application may be determined by a Licensing Sub-Committee.
- 6.3 The decision to grant a temporary licence or a street market (for a period up to 6 months) shall be determined by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by a Licensing Sub-Committee.
- 6.4 The decision to grant an advertisement board shall be determined by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by a Licensing Sub-Committee
- 6.5 The London Borough of Barnet will have regard to any relevant representations received and will assess the impact of the application on the following when deciding whether to grant or refuse an application:

(a) Prevention of crime, disorder and anti-social behaviour

- (b) Avoidance of public nuisance
- (c) Protecting public safety
- (d) Prevention of obstruction of the highway
- (e) Complementing the location and hours of neighbouring business activity

6.6 The London Borough of Barnet will have regard to any relevant factors that may affect the use of a licence if granted including, but not exclusively,

- the suitability of the premises from which it is intended to trade and
- the adequate provision of storage facilities for receptacles or perishable goods when street trading is not taking place.

6.7 The London Borough of Barnet will also consider whether the applicant:

- is unsuitable to hold a licence on the grounds of misconduct or other sufficient reason and may consider imposing penalty points on any existing licence
- has previously failed to obtain a street trading licence
- has previously held a licence that was revoked
- has previously failed to pay fees or other charges in respect of a licence

Advertisement board applications

6.8 The following criteria must be met before the grant of a licence can be considered:

- The board must be of sufficient contrast to its surrounding area.
- Any board must not be more than 0.5m wide or be more than 1.5m tall
- The board must be sufficiently stable so as not to blow over or be easily moved
- The board must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.
- The board must not be fixed to the highway or any furniture on the highway.
- The board must be located in a suitable and agreed position. In most circumstances this will be adjacent to your property.
- A minimum of 2 meters of footway remains along the line of the board between the edge of the object and either the kerb or other highway boundary.
- The advertisement information on the board does not contain any material or information that could cause offence.
- The board must be removed from the public highway when the premises which holds the licence is closed and between 23:00 and 07:00.
- There must be adequate storage facilities provided for the board to be placed in between these times
- The boards should not cause a nuisance or hazard to persons using the highway or any adjacent land or premises.

7 GRANTING THE APPLICATION

- 7.1 Upon approving an application the London Borough of Barnet may issue a licence as appropriate.
- 7.2 A licence will be issued subject to the London Borough of Barnet's standard conditions and shall be subject to any additional terms, plans and details contained in the application.
- 7.3 A licence may also be issued subject to specific conditions that the licensing authority deems reasonable and necessary.
- 7.4 A permanent street trading licence shall be granted for a period not exceeding 3 years.
- 7.5 A temporary street trading licence may be granted on a daily, weekly or monthly basis up to a maximum period of six months.
- 7.6 An advertisement board licence shall be granted for a period not exceeding one year.

8 REFUSAL OF AN APPLICATION

- 8.1 A licence shall not be granted unless:
- The fee has been paid in full or,
 - An agreement in writing has been obtained from the London Borough of Barnet which contains details of the payment of the fee by instalments.
- 8.2 A licence shall be refused if any of the circumstances in section 25(4) of the Act apply.
- 8.3 A licence may be refused if any of the circumstances in section 25(6) of the Act apply. However, before a final decision is taken the London Borough of Barnet will provide the licence holder or applicant a written notice of its intention to refuse the licence. The licence holder or applicant will be provided an opportunity to appear before a senior authorised officer and to make representations in respect of the matter. The senior authorised officer will determine whether the refusal to issue a licence is upheld.
- 8.4 A licence will not be granted if the proposed street trading pitch will not allow sufficient and safe passage for pedestrians using the footpath. In general, at least 2.0 metres of clear unobstructed passage must be maintained from the roadside kerb to the outermost point of the pitch. In areas of high pedestrian use or high levels of traffic a larger clearance may be required, as determined by the London Borough of Barnet.

- 8.5 A licence will not be granted if it is clear that the granting of the licence will cause significant nuisance, compromise public safety, lead to crime, disorder or anti-social behaviour, obstruct the highway, or seriously conflict with the location and hours of neighbouring business activity.

9 EXPIRY OF THE LICENCE

- 9.1 A licence will expire on the date specified on the licence unless it is renewed in accordance with section 3 above.
- 9.2 A licence holder may surrender his/her licence by sending it to the London Borough of Barnet, at which time it will cease to be valid and will expire.

Lapse

- 9.3 If a licence lapses in circumstances as defined in Section 29A of the Act the licence holder should return the licence to the London Borough of Barnet.

Succession

- 9.4 This section only applies to an individual licence holder of a permanent street trading licence.
- 9.5 If the licence holder dies or retires or is unable to continue due to ill health as described in Section 26 of the Act the London Borough of Barnet shall not grant a licence in respect of the street trading pitch until 28 days have elapsed from the date of the event.
- 9.6 During the 28-day period, the person named as the successor by the licence holder in his/her original application may apply to the London Borough of Barnet for the licence to be transferred.

10 REVOCATION OR VARIATION

- 10.1 The licensing authority may, subject to the appropriate consultation and notification procedures, de-designate streets or street trading pitches where, in the opinion of the licensing authority, they are no longer suitable for street trading. The circumstances under which a location may be considered no longer suitable include:
- (a) It has not been used for trading for a period of greater than six months;
 - (b) There are altered circumstances due to increased pedestrian footfall resulting from altered highway layouts, public realm improvements or construction projects;
 - (c) Where new development and the siting and operation of the trading pitch would adversely affect local pedestrian flow or cause congestion, including close to transport stops and stations.

Permanent street trading licence

- 10.2 The London Borough of Barnet may revoke a permanent street trading licence at any time if any of the circumstances in Section 28 of the Act apply.
- 10.3 However, having considered all the available evidence the London Borough of Barnet may decide that it is appropriate to vary the conditions of the permanent street trading licence to ensure that compliance with the legislation and licence conditions is achieved.
- 10.4 Before a decision is taken the London Borough of Barnet will give the licence holder written notice of its intention to revoke or vary the licence.
- 10.5 The licence holder will then be given an opportunity to appear before a senior authorised officer within 21 days and to make representations in respect of the matter.
- 10.6 The senior authorised officer will consider the representations before a decision is made.
- 10.7 The senior authorised officer will also have regard to this policy before making a decision.

Temporary Street Trading Licence

- 10.8 The London Borough of Barnet may revoke or suspend the use of a temporary licence on land within 7 metres of any road or footway as described in section 21 (1)(b).
- 10.9 If the London Borough of Barnet revokes or suspends the temporary licence it will take effect as soon as this is notified to the relevant party.
- 10.10 As an alternative, or in addition to revocation or variation of a licence, the London Borough of Barnet may decide that other enforcement action is appropriate. This may include pursuing a criminal prosecution in accordance with the Enforcement Policy.

Advertisement board

- 10.11 The London Borough of Barnet reserves the right to request that the board is removed immediately in the event of:
 - (a) Works in or under or over the highway
 - (b) Use by emergency services.
 - (c) Any other reasonable cause.
- 10.12 The London Borough of Barnet may revoke or suspend the use of the advertising board licence on the grounds of safety or nuisance.

- 10.13 If the London Borough of Barnet revokes or suspends the advertising board licence it will take effect as soon as this is notified to the licence holder.

11 FEES

- 11.1 The London Borough of Barnet will set the fees for all street trading licences to recover its reasonable administrative and compliance costs. The cost of street cleaning and other appropriate costs will also be considered when setting the fees.
- 11.2 The fees will be reviewed annually and before any changes are made the London Borough of Barnet will consult with all licence holders and publish a notice of the proposed fees in a local newspaper.
- 11.3 The consultation will last for a period of 28 days from the publication of the notice in the newspaper.
- 11.4 Before a final decision is made, the London Borough of Barnet will consider any representations received during the consultation period.
- 11.5 After a final decision is made, the London Borough of Barnet will inform all licence holders and publish a notice of the fees in a local newspaper.
- 11.6 The fees will take effect no less than 28 days after the publication of the notice.
- 11.7 If an application fee is paid by cheque, the fee shall not be deemed to have been paid until the funds have cleared.

12 DECISIONS

- 12.1 Decisions will be taken having regard to this Street Trading Policy and Part III of the London Local Authorities Act 1990 (as amended).

13 APPEALS

- 13.1 Any appeal against the decision of the London Borough of Barnet in respect of the grant, variation, revocation or refusal to grant a permanent licence may be made to the magistrate's court.
- 13.2 There is no right of appeal in respect of temporary street trading licences.

14 DEMARCATION

- 14.1 The area of all licensed pitches on a designated street will be permanently demarcated.

- 14.2 Application of the demarcation will be carried out by the Highways authority or their appointed agent on their behalf.
- 14.3 The cost of the permanent demarcation will be borne by the applicant. The cost will be published by the London Borough of Barnet.
- 14.4 If an application is made to vary the licensed area then the cost of removing and replacing the demarcation must be borne by the applicant.
- 14.5 A licence holder must not trade outside of the demarcated area.

15 ENFORCEMENT

- 15.1 Any enforcement action instigated by the London Borough of Barnet will be in accordance with the Act and the current Enforcement Policy.

16 UNLICENSED STREET TRADING

- 16.1 Unlicensed street trading can have a negative impact on legitimate street traders and the community as a whole and will not be tolerated by the London Borough of Barnet.
- 16.2 If an authorised officer suspects that a person has committed an offence of unlawful street trading he may take appropriate action in line with the current enforcement policy which may also involve the seizure of any article or thing deemed necessary.
- 16.3 Before taking any formal action the authorised officer will identify him/herself by showing their identification and authorisation.

17 MOTOR VEHICLES

- 17.1 The sale or exposure for sale of a motor vehicle or motorcycle in a street is prohibited.
- 17.2 Offering a vehicle for sale on the internet by a motor trade business at the same time as keeping the same vehicle on the public highway will be deemed to be street trading and is prohibited.
- 17.3 If an authorised officer identifies a vehicle that is exposed or advertised for sale on the street he may affix a notice to the windscreen or other part of the vehicle requiring the registered owner to remove the vehicle within 24 hours.

18 DATA PROTECTION, FREEDOM OF INFORMATION AND DATA MATCHING

- 18.1 The London Borough of Barnet is the Data Controller of all personal information held by the Licensing Authority. The London Borough of Barnet will process and hold that information in accordance with principles of the Data Protection Act 2018.

- 18.2 The information supplied and held as part of the street trading application and enforcement processes may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004.
- 18.3 The information supplied in all applications will be given to the Audit Commission to participate in the National Fraud Initiative (NFI) data matching exercise and will be used for cross-system and cross authority comparison with other relevant organisations' data for the prevention and detection of fraud.

APPENDIX 1 - TEMPORARY COVID 19 STREET TRADING STRATEGY & POLICY

1. Introduction

The Licensing Authority have adapted their Street Trading policy in order to assist local traders to bounce back for the strain caused by COVID 19 pandemic.

To enable this, the following three trading permissions have been created:

- *Street Trading Fast Track Pavement Licence*
This licence has been created to speed up the process for new applications for street trading where the premises do not sell food and drink.
This licence is only available to premises who are eligible for temporary street scene support or funding. This licence is a fast track application for a minimum of three-months.
The turnaround of this application will be less than one week.
The standard terms and conditions for street trading licences will still apply to these licences.
- *Pavement Licence*
This licence is granted under the Business and Planning Act 2020.
The standard terms and conditions for street trading licences will still apply to these licences.
- *Mobile/Itinerant Trader Permit*
This is a new permit to allow mobile trading to take place within the London Borough of Barnet. For example, a food van would be able to move around numerous highway locations within Barnet and trade from these areas.

This is different to a peddler's licence which is trading on foot and this is dealt with by the police.

This permit will have restrictions in place on areas and times that the holder can trade.

2. Eligibility criteria

Street Trading Fast Track

Any person wishing to obtain a fast track license will be eligible to apply for this. To be eligible for a free 3-month fast track license the trader must qualify for the Temporary Town Centre Streetspace Support or Funding.

Pavement Licence

As set out in the Business and Planning Act 2020.

Mobile/Itinerant Traders

Any person wishing to conduct mobile trading from a vehicle may apply for a licence.

Checks will then be made on the suitability of the person to hold a licence on a case by case basis as set out in the application form.

This will include checking on

- Adequate insurance for the business proposed
- Appropriate permissions in place for their business i.e. food registration
- Adequate provision for dealing with refuse
- A statement to address how they propose to deal with any potential nuisance caused by their business

3. Fees and Charges

Street Trading Fast Track

£180 for a three-month licence - £100 application fee and £80 grant fee

Pavement Licence

£100

Mobile/Itinerant Traders

£180 for a three-month licence - £100 application fee and £80 grant fee

4. Exclusions

The following persons are excluded from holding these street trading/market licence:

- Persons who have previously been prosecuted for street trading offences,
- Persons who have been refused a street trading licence due to the unsuitability of the site, if applying for the same site with no changes
- Persons who are currently under investigation for street trading offending.

5. Determination of applications

Street Trading Fast Track

The Licensing team will quickly assess the suitability of the area and check the applicant is eligible for this licence.

There will be a short one-week consultation prior to grant to these licences. Details of these proposed licences will be provided to all members and all responsible authorities.

Should concerns be raised in relation to any licence that has been granted the Licensing team will investigate this and if necessary, the licence will be revoked immediately. The

trader will then have the opportunity to apply under the normal process with the full consultation taking place. There would be a cost for this in line with usual fees

Pavement Licence

As per the Business and Planning Act 2020.

Mobile/Traders

Prior to grant of the permit a 14-day consultation will take place. The details of the application will be provided to:

- London Borough of Barnet (Highways Authority)
- London Borough of Barnet (Environmental Health Service)
- The Metropolitan Police Service

The decision to grant a permit shall be determined by an authorised officer under delegated powers. However, if the officer is unable to make a decision due to exceptional or other circumstances the application may be determined by a Licensing Sub-Committee.

The London Borough of Barnet will have regard to any relevant representations received and will assess the impact of the application on the following when deciding whether to grant or refuse an application:

- (a) Prevention of crime, disorder and anti-social behaviour
- (b) Avoidance of public nuisance
- (c) Protecting public safety
- (d) Prevention of obstruction of the highway
- (e) Complementing the location and hours of neighbouring business activity

6. Granting the Application

Upon approving an application, the London Borough of Barnet may issue a temporary street trading licence (a licence) as appropriate.

A licence/permit will be issued subject to the London Borough of Barnet's standard conditions and shall be subject to any additional terms, plans and details contained in the application.

A licence/permit may also be issued subject to specific conditions that the licensing authority deems reasonable and necessary.

7. Refusal of an Application

A licence/permit shall not be granted unless:

The fee, if applicable, has been paid in full or, an agreement in writing has been obtained from the London Borough of Barnet.

A licence /permit shall be refused if any of the circumstances in section 25(4) of the London Local Authorities Act 1990 apply.

A licence /permit may be refused if any of the circumstances in section 25(6) of the London Local Authorities Act 1990 apply. However, before a final decision is taken the London Borough of Barnet will provide the licence /permit holder or applicant a written notice of its intention to refuse the licence. The licence holder or applicant will be provided an opportunity to appear before a senior authorised officer and to make representations in respect of the matter. The senior authorised officer will determine whether the refusal to issue a licence is upheld.

A licence will not be granted if the proposed street trading pitch will not allow sufficient and safe passage for pedestrians using the footpath. In general, at least 2.0 metres of clear unobstructed passage must be maintained from the outmost point (front face of customer serving side) of the pitch to either the roadside kerb or opposing property façade. In areas of high pedestrian use or high levels of traffic a larger clearance may be required, as determined by the London Borough of Barnet.

A licence will not be granted if it is clear that the granting of the licence will cause significant nuisance, compromise public safety, lead to crime, disorder or antisocial behaviour, obstruct the highway, or seriously conflict with the location and hours of neighbouring business activity.

8. Expiry of the Licence/ Permit

A licence will expire on the date specified on the licence unless it is renewed

A licence holder may surrender his/her licence by sending it to the London Borough of Barnet, at which time it will cease to be valid and will expire.

9. Revocation or Variation

The licensing authority may, subject to the appropriate consultation and notification procedures, revoke or vary a licence/permit where, in the opinion of the licensing authority, they are no longer suitable for the street trading permitted in the licence.

The circumstances under which a location may be considered no longer suitable include where there are altered circumstances due to increased pedestrian footfall resulting from altered highway layouts, public realm improvements or construction projects.

10. Appeals

There is no right of appeal in respect of these street trading permits/licences.

London Borough of Barnet Street Trading Licence Conditions

Updated July 2015

DEFINITIONS

In the regulations, unless the context otherwise requires, the following expressions shall have the following meanings:

1.1 **“Act”** means Part III of the London Local Authorities Act 1990 as amended by the London Local Authorities Acts 1994, 1999, 2004 & 2007”.

1.2 **“Advertisement”** means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

1.3 **“Assistant”** means a named person employed by and acting under the directions of a trader to assist him/her in the business of the stall and whose name and address has been notified to the London Borough of Barnet in writing by the trader.

1.4 **“Awning”** means a sheet of canvas or other material, which projects beyond the Pitch Limits.

1.5 **“Authorised Officer”** means an officer employed by The London Borough of Barnet and authorised by the London Borough of Barnet to act in accordance with the provisions of the London Local Authorities Act 1990 (as amended).

1.6 **“Child”** means a person under 16 years of age.

1.7 **“Commodities”** means any goods, wares or merchandise for sale or on display at a Licensed Street Trading Pitch.

1.8 **“Ice Cream Trading”** means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle.

1.9 **“Itinerant Ice Cream Trading”** means ice cream trading from a vehicle which goes from place to place, remaining in any one location in the course of trading for periods of 15 minutes or less and not returning to the same location or any other location in the same street on the same day.

1.10 **“Licensed Street Trader”** means any person who is licensed by the London Borough of Barnet for Street Trading under Part III of the Act.

1.11 **“Licensed Street Trading Pitch”** The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet or a duly authorised officer of the London Borough of Barnet and for which a Licence has been granted.

1.12 **“Premises”** means any land, building or part of a building and includes any commercial premises adjacent to a Licensed Street Trading Pitch.

1.13 **“Receptacle”** includes a box, vessel, table, chair or stand, vehicle or thing which is used (whether or not constructed or adapted for such use) as a container for the display of any article or thing or equipment used in the provision of any service or sale or offer or display of goods for sale.

1.14 "**Refuse**" means waste which has been generated in the course of a Licensed Street Trader's business activity including, but not limited to; fruit and vegetable waste, cardboard, paper, small plastic items and other non-perishable waste.

1.15 "**Regulations**" means the contents of this document.

1.16 "**Shop Front Trading Licence**" means a licence which permits the display of shop goods or the placing of tables and chairs on the street ancillary to the existing business and in a manner permitted by the Act.

1.17 "**Special conditions**" are such conditions as it is deemed reasonable by the London Borough of Barnet to apply / not to apply to any Street Trading Licence in addition to the standard conditions.

1.18 "**Standard conditions**" means those matters set out in Section 27 (7) of the London Local Authorities Act 1990 (as amended) and as stated on a Street Trading Licence together with the conditions set out in these Regulations.

1.19 "**Street Trading**" shall have the meaning described in Section 21 (1) of the Act.

1.20 "**Street Trading Licence**" A licence given by The London Borough of Barnet to trade on a licensed street (valid for a period of not less than 6 months and no more than 3 years).

1.21 "**Temporary Street Trading Licence**" A short term/provisional licence given by The London Borough of Barnet to trade on a street (valid for a period up to 6 months).

1.22 "**Street Trading Pitch**" The area in any street authorised as a place at which street trading may be engaged in by a street trader, and includes any temporary alternative place approved by the London Borough of Barnet or a duly authorised officer of the London Borough of Barnet.

1.23 "**The London Borough of Barnet**" means the council of the London Borough of Barnet.

1.24 "**Trader**" A trader granted permission by The London Borough of Barnet Council to trade from a specified position.

General Conditions Applicable To All Street Trading Licences

GENERAL

2.1 The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-Law, enactment or regulation other than Part III of the London Local Authorities Act 1990 (as amended).

2.2 These conditions may be dispensed with or modified by the London Borough of Barnet in any individual case by means of a Street Trading Licence variation in accordance with the statutory requirements;

2.3 Where in these conditions there is reference to the consent or agreement of the London Borough of Barnet, such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be specified by the London Borough of Barnet; any variation shall not take effect until the consent of the London Borough of Barnet has been received in writing by the licensed street trader.

2.4 If a licensed street trader wishes any of the terms or conditions of a Street Trading Licence to be varied, application must be made in writing to the London Borough of Barnet in accordance with the statutory requirements. Any variation shall not take effect until the licence holder has received the consent of the London Borough of Barnet in writing.

2.5 Licensed street traders shall ensure that they comply with all relevant legislation including orders and regulations and any amendment or replacement of such legislation. Failure to comply with such legislation may result in the revocation of the Street Trading Licence.

2.6 The Trader shall engage in street trading only from the position, which is indicated on the licence, unless otherwise directed by an Authorised Officer.

2.7 The street trading pitch shall not exceed the dimensions specified on the Street Trading Licence and any licensed street trading pitch limits marked on the ground. An awning may be permitted to extend 30cm (12inches) at the front of the licensed street trading pitch but no articles are to be suspended from the awning beyond the permitted area.

2.8 A trader shall not cause or permit any receptacle, part of a receptacle, goods or other articles whatsoever to project beyond the licensed street trading pitch.

2.9 Traders shall not cause or permit receptacles, vehicles, commodities or other articles to be placed or to stand anywhere on the street otherwise than within the limits a licensed street trading pitch. Traders shall not use feeder barrows, feeder vehicles or feeder receptacles for the display of goods.

2.10 "A" boards or other free-standing advertisements located within the pitch area will only be allowed if written approval has been given for these as part of the application process. Free-standing advertisements outside the pitch area are not permitted under any circumstances.

2.11 The licence holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the London Borough of Barnet adjoining

street, or place or fix equipment of any description in the said surface except with the previous consent from the London Borough of Barnet in writing.

2.12 Advertisements or other notices shall not be displayed on any street furniture or any other location without the licence holder first obtaining written consent from the highway authority or any other relevant authority.

2.13 Only those goods specified on the Street Trading Licence may be sold from the Licensed street trading pitch and traders shall be limited to the group of goods listed on the licence.

2.14 No advertisement shall be displayed on the licensed pitch, which relates to any goods, commodities or services other than the goods offered for sale or provided on that pitch.

2.15 Licensed street trading may only take place on the days and during the times specified on the Street Trading Licence.

2.16 Traders or their assistants shall remove their receptacles and commodities by the closing time stated on the Street Trading Licence.

2.17 Except where specifically authorised by an Authorised Officer, no receptacle shall be left in the street after the closing time stated on the Street Trading Licence.

2.18 Vehicles are not permitted into the street trading area when prohibited by a road traffic Order.

2.19 Nothing in this section permits or purports to permit a trader to contravene the terms of any parking restriction or order that applies to the street in question.

2.20 The dimensions of a licensed street trading pitch shall be such that a minimum of 2.0 metres clear of any obstruction shall be maintained on the public highway for the safe pass, re-pass and free flow of pedestrian and vehicular traffic.

2.21 Barriers will only be allowed on a licensed pitch where they have been specifically included and permitted within the licence application process. Barriers are only permitted to enclose the outer perimeter of the pitch or to enclose the outer perimeter of a seating area within the pitch (or, in the case of markets, any other such area as agreed with the licensing authority)

2.22 Any barrier erected on a pitch should be constructed of posts joined by textile panels. All such barriers should stand on the ground and be removable. All feet and supports should be within the defined pitch area.

2.23 No street trading will take place beyond the hours of 07:00 to 23:00

2.24 Excessive and inappropriate lighting is not allowed, as determined by an authorised officer

2.25 No hot food shall be cooked in an open and unenclosed area.

2.26 If food is sold at the street trading pitch, then the trader must ensure they comply with the Food Safety and Hygiene (England) Regulations 2013 and the Food Information Regulations 2014.

2.27 No goods should be sold if the cooking odours, smoke, or noise from them cause an inappropriate nuisance to persons and businesses in the vicinity, as determined by an authorised officer.

REFUSE

3.1 It shall be the Trader's responsibility to ensure that all litter and waste generated by their street trading activity is moved to a place from where it will be collected for transport to an authorised place of disposal. This may be by storage in suitable containers within the licensed street trading pitch until its collection by an authorised collector of waste.

3.2 The trader shall keep the pitch area (and its environs up to 5 metres in any direction from the pitch) clean and swept free of any remaining debris throughout the street trading day. In particular it shall be the duty of every trader to pick up all litter, debris, packaging and detritus that has been produced in the course of street trading or could reasonably be assumed to have been so produced or from any other source.

3.3 Where relevant, traders are required to have in place a commercial waste agreement with a registered carrier of waste. Any commercial waste agreement shall be sufficient in quantity and frequency of collection to cover all the waste produced by the trader at the street trading pitch or in the market environs as a result of street trading.

3.4 Any refuse considered by law to be an animal by-product shall be stored in an approved sealable container. For these purposes animal by product from a market stall shall include all waste water or water contaminated with material of animal origin or blood or other like fluid and no such liquid shall be allowed to drain onto the street or into the public street drainage system. All such refuse shall be stored and disposed of in accordance with the relevant legal requirements.

3.5 Traders shall keep waste 'Duty of Care' transfer notes or any such proof of proper disposal of commercial waste as may be required by law. All proof of proper disposal should be available for inspection at the street trading licensed pitch during trading day for inspection by Authorised Officers upon request. Obtaining of any such proof shall be the absolute liability of the Trader irrespective of the body or company removing the waste.

DISPLAY OF LICENCE

4.1 A copy of the street trading licence must be kept on the premises and produced to an authorised officer or police officer immediately upon request indicating: the trader's name, names of assistants, commodity, licence number, licensed street trading pitch, Street Trading Licence issue date and expiry date. This licence shall include the trader's photograph and those of the assistants registered to trade on the street trading licence pitch with the London Borough of Barnet. This information (save for the photographs) shall also be supplied in writing immediately to any person who requests it.

SAFETY OF EQUIPMENT

5.1 Prior to using any electrical equipment on a licensed street trading pitch permission must be sought in writing from the London Borough of Barnet.

5.2 Electrical equipment must be tested annually by a suitably qualified electrician. Traders will be required to retain and produce the original safety certificate for electrical equipment approved for use on the stall to an authorised officer of the London Borough of Barnet on request. All equipment will require a safety tag to be displayed recording that the equipment has passed the necessary test and the date on which it was last tested.

5.3 All traders using an electric supply must have consent from the London Borough of Barnet before seeking installation from an electricity supplier. Where relevant, the trader and the supplier will be required to provide the London Borough of Barnet with an indemnity for the safety of the supply of electricity.

5.4 Traders will disconnect from the supply when directed to do so by an authorised officer of the London Borough of Barnet.

5.5 Where mobile electrical generators are used their use and position must be approved by the London Borough of Barnet. They shall be so positioned as to ensure that:

5.5.1 They do not present a danger to the passing public.

5.5.2 They do not present a fire or similar hazard risk to the stall or goods displayed thereon.

5.5.3 They do not cause any noise or fume nuisance.

5.5.4 Any inflammable fuel is stored away from the stall in a London Fire Authority approved location and an approved container.

5.5.5 A generator shall be turned off at the request of an authorised London Borough of Barnet officer or police officer.

5.6 A Trader must not tamper with, or use an electricity supply of the London Borough of Barnet without payment. Any trader causing damage to any London Borough of Barnet installation or equipment will be required to pay the full cost of any repair or replacement. Any trader responsible for such acts may be subject to a separate prosecution or civil proceedings.

RECEPTACLES

6.1 Receptacles shall be easily and immediately assembled and removed. The London Borough of Barnet reserves the right to inspect receptacles for health and safety compliance and to ensure that they are fit for purpose. Any receptacle deemed to present a risk or hazard shall be immediately removed at the request of an authorised officer of the London Borough of Barnet. It shall be and shall remain the responsibility and liability of the Trader to ensure that any receptacle is safe in its construction, siting, erection and use and will not cause injury to any person.

6.2 Traders or their assistants shall remove the receptacles and commodities for so long as may be necessary in the event of extreme circumstances and when required to do so by a police officer or an authorised officer of the London Borough of Barnet.

6.3 All receptacles shall be of an approved type and shall be kept in clean condition and good repair. A receptacle shall be repaired or repainted within one month of a written request from an authorised officer of the London Borough of Barnet.

6.4 A Trader shall ensure that until such time as a receptacle that is unsafe or becomes unfit for purpose or beyond repair in the opinion of an authorised officer of the London Borough of Barnet is replaced with one fit for purpose.

6.5 Only those receptacles and containers which are suitable and fit for purpose and approved by the London Borough of Barnet shall be used by the licence holder and assistants for trading. Displays shall not be formed by the use of unsuitable items such as milk crates.

6.6 A display, receptacle, table or chair shall not be used if it is likely to damage the street.

6.7 The display/stand must be of a construction that will cause minimal damage if there is a collision. There must be no sharp edges or protruding parts.

6.8 Well-designed high quality finish styled appropriately for the street they are placed on

CONDUCT

7.1 A licensed street trader and any assistants employed by them shall ensure that all members of the community are fairly treated and with courtesy and respect. Traders and their assistants shall not use any form of racist, sexist, homophobic or abusive language or display any materials that can cause offence to a person's race, religion or sexual orientation. Traders must not behave in an aggressive manner or commit any acts of aggression or harassment (whether racial, sexual or otherwise) against any person.

7.2 In order to protect the community, any trader or assistant who commits one of the offences listed below will be liable for immediate suspension of their Street Trading Licence whilst the matter is investigated and until the London Borough of Barnet determines if their licence should be permanently revoked:

- ☐ Possession or supply of any controlled drugs,
- ☐ Supply of counterfeit goods or offensive weapons,
- ☐ Sale and supply of alcohol unless permitted by licence.
- ☐ Trading under the influence of drugs or alcohol.

7.3 All licensed street traders shall produce their Street Trading Licence when requested to do so by an Authorised Officer of the London Borough of Barnet or police officer.

7.4 Traders shall not use or permit another person to use on the licensed street trading pitch or within the immediate vicinity any equipment or apparatus to produce music or other similar sound, except in connection with the sale of their commodity and then either through ear phones or at a volume level that allows a face to face conversation at normal speech level from the traders stall. Any Trader must reduce the level of sound from any device when required to do so by an authorised officer.

7.5 There shall be no continuous playing of amplified music other than for the purposes in the paragraph above.

INSURANCE

8.1 The licensed street trader shall indemnify the London Borough of Barnet against all actions, proceedings, claims demands and liability which may at any time be taken, made or incurred in consequence of the use or presence of the trader, their assistant, their stall, receptacle or goods and any other object or thing they bring with them or produce in the course of their business and for this purpose must take out at the traders expense a policy of public liability insurance approved by the London Borough of Barnet in the minimum sum of £5,000,000 (5 million pounds) in respect of any one event and must produce to the London Borough of Barnet on request the current receipts for the premium payment and confirmation of the renewals of the policy. The London Borough of Barnet reserves the right to vary this amount from time to time and to notify traders of any increase required by letter. A copy of the certificate of insurance shall be handed to the London Borough of Barnet on request.

8.2 Satisfactory evidence of such insurance must be produced to the London Borough of Barnet before a Street Trading Licence will be granted or renewed. Failure to produce insurance certificates when requested by an Authorised Officer of the London Borough of Barnet will lead to temporary suspension from trading until the certificate is produced and the London Borough of Barnet is satisfied with the level of cover.

8.3 The London Borough of Barnet reserves the right to contact insurance companies for the purposes of verifying the authenticity of the cover. Any trader who does not have full insurance for the period specified within their licence and for the value stated by the London Borough of Barnet will be suspended from trading until suitable insurance is in place and the cover note or policy presented to the London Borough of Barnet.

8.4 Traders must inform the London Borough of Barnet in writing and provide an updated copy of the certificate of insurance where there are any changes to their insurance cover. The London Borough of Barnet may use the information provided to contact the trader's insurer to confirm the details of any policy held or purported to be held and the applicable level of cover and indemnity provided.

STORAGE

9.1 Traders in foodstuffs shall notify the London Borough of Barnet in writing of any change of address or addresses at which the receptacle and any commodities are stored. Such notice shall be given within 7 days of the change and the London Borough of Barnet reserves the right to conduct an inspection to confirm occupancy and to ensure the storage space is compliant with relevant standards.

EMPLOYED ASSISTANTS

10.1 Traders shall notify the London Borough of Barnet in writing on the relevant forms of the name, address and national insurance number of each and every assistant who assists with sales on the licensed street trading pitch. Details of any subsequent change of assistant or any other relevant information regarding assistants shall be given in writing to the London Borough of Barnet.

10.2 The licence holder shall provide the London Borough of Barnet with details of all assistants who may work on the licensed street trading pitch whether the trader is present or not.

10.3 A licensed street trader shall not employ a child in any capacity in the course of his trade or business.

10.4 The licensed trader may employ any other person to assist in the conduct of the business but may not let, assign or part with his interest or possession under this licence, but he may surrender it at any time. The right granted by this licence cannot be sub-let transferred or shared with any other person or party.

10.5 Traders shall notify the London Borough of Barnet of any changes of assistants as soon as the changes occur.

10.6 Any contravention of these regulations by an assistant shall be deemed to be a contravention by the trader whether the trader was present at the time of the contravention or not.

ASSISTANCE TO LONDON BOROUGH OF BARNET OFFICERS

11.1 A trader shall give immediate assistance to London Borough of Barnet officers when requested so to do in the exercise of their official duties.

11.2 A trader shall not use rude or offensive language or behave in an aggressive manner when dealing with any agent, officer or elected member of the London Borough of Barnet.

PAYMENT OF CHARGES

12.1 A Trader shall pay all charges in connection with street trading to the London Borough of Barnet, on the dates and intervals advised by the London Borough of Barnet upon the issue and/or renewal of the street trading licence and in the manner agreed as appropriate for payment by the London Borough of Barnet.

13 CHANGE OF ADDRESS AND CIRCUMSTANCES

13.1 A trader shall give notice in writing to the London Borough of Barnet of the change of any of the addresses and circumstances including the trader's health. Notice of a change of address shall be given within seven days of the said change. Proof of new address will need to be submitted to the London Borough of Barnet. The London Borough of Barnet reserves the right to conduct a home visit to confirm occupancy.

14 PITCH AREA

14.1 The trading area shall not exceed the agreed dimensions specified within the licence; except solely in connection with the setting up or taking down of the stall and other equipment.

14.2 No goods or other articles whatsoever shall project beyond or be placed alongside or around the extremities of the agreed trading area. The trader shall immediately remove items placed outside the licensed area if requested to do so by an authorised officer of the London Borough of Barnet.

14.3 No patio heaters or other CO2 emitting heaters are permitted in the licensed area.

14.4 Any awnings sheets, covers, screens, clips and ties need to be secured in a manner that they do not pose a hazard or nuisance to any person. No part of an awning may be less than 2.6 metres from the ground or project into the carriageway without prior approval. No items may be affixed to it.

14.5 Paper goods must be secured so that they do not blow away.

14.6 Ashtray units allowing for the secure disposal of butts shall be present at all premises licensed for tables and chairs.

14.7 The licence holder shall ensure that customers using the tables and chairs do not cause any nuisance whatsoever to residents, other businesses or persons using the highway.

VEHICLES

15.1 The trader shall not leave his vehicle in the street in which he trades apart from approved parking spaces upon full payment of any relevant fee. Where permitted loading and unloading of goods shall be carried out as quickly as possible with the vehicle moved immediately on completion.

15.2 A licensed trader shall not permit vehicles used in connection with his licensed pitch to be in the vicinity of the trading area for loading/unloading or other purposes during trading hours.

SHOP FRONT LICENCES

The Regulations below shall apply to Tables and Chairs and shop front display Licences only in addition to the preceding conditions:

16.1 Only those items sold in the shop premises to which the street trading area is adjacent to can be sold under the 'shop front licence'.

16.2 Only those services provided within the premises can be provided in the licensed area where a licence permits tables and chairs to be placed on the street.

16.3 Alcohol shall not be consumed in the licensed street trading pitch unless the plan attached to the premises licence issued under the Licensing Act 2003 includes the licensed street trading pitch.

APPENDIX 3 PROHIBITED ITEMS

The following are prohibited to be sold as part of a street trading licence:

- Live animals
- Second hand electrical goods
- Sex articles
- Medicines or treatments
- Alcohol (unless consumption in an shop front licence adjacent to a licensed premises and covered by the premises licence or as part of a street market with a relevant authorisation for alcohol sales)
- Cigarettes or tobacco
- Any form of gambling
- Firearms