
CONSULTATION PROCESS FOR STREET TRADING POLICY REVIEW

1 PURPOSE OF REPORT

- 1.1 To approve the draft Street Trading Policy and the timetable for consultation and approval.

2 INTRODUCTION

- 2.1 On 2 August 1995, the Council adopted the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Consent Streets.
- 2.2 This act designated streets (including forecourts, roads, footways or other areas adjacent thereto for a distance of 15 metres) as consent streets and required a licence for street trading within these streets.
- 2.3 The streets adopted in 1995 were:

Rayleigh:

High Street, High Road (Castle Road to High Street), Hockley Road (High Street to Upway), Eastwood Road (High Street to Queens Road), King George's Close, Crown Hill (High Street to Station Road), Station Road (Crown Hill to London Road), London Road (Station Road to Downhall Road), Bellingham Lane, Church Street, London Hill, Websters Way, Bull Lane (Websters Way to Stile Lane), Stile Lane, Castle Road, Daws Heath Road (Eastwood Road to Castle Road), Finchfield, Castle Close.

Rochford:

South Street, North Street, West Street, East Street, Back Lane, Quys Lane, Old Ship Lane, Market Square, Weir Pond Road, Ashingdon Road (West Street to Dalys Road), Union Lane.

Hockley:

Spa Road, Main Road (Southend Road to Buckingham Road), Southend Road (Main Road to Hill Lane, Bramerton Road, Woodlands Road, Broad Parade, Greensward Lane (Spa Road to Leamington Road).

Hullbridge:

Ferry Road, Pooles Lane, Lower Road (Hullbridge Road to Long Lane), Kingsway.

Great Wakering:

High Street.

- 2.4 The existing policy has not been reviewed since the Council adopted the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

Definition of Consent Street

- 2.5 A Consent Street, means a street in which street trading is prohibited without the consent of the council.
- 2.6 A Prohibited Street, means a street in which trading is prohibited.

Definition of Street Trading

- 2.7 The Local Government (Miscellaneous Provisions) Act 1982, defines street trading as *the selling or offering for sale any article (including a living thing) in a "street"*. Anyone wishing to trade in a street within the District will be affected, with the following exceptions:
- A pedlar holding a current Pedlar's certificate and acting as a Pedlar under the authority of the Pedlar's Act 1871.
 - A trader as part of an authorised market or fair.
 - A trader at a petrol station.
 - A person trading in association with an adjoining shop premises.
 - Trading in a trunk road picnic area provided under Section 112 of the Highways Act 1980.
 - Trading as a news vendor, where the only articles sold or offered for sale are newspapers and periodicals.

3 POLICY REVIEW

- 3.1 There have been a number of changes in legislation over the years and it is appropriate to ensure a policy is fit for purpose and follows the most up to date guidance and recommendations. A copy of the draft new Street Trading Policy can be found at appendix A.
- 3.2 In summary, these changes relate to:
- The adoption of further steps to enhance safeguarding
 - The streamlining of some of the administrative processes around the renewal and variation of an application
 - Greater regard to equality and the need to avoid duplication
 - The ability to suspend a licence for poor hygiene and additional controls over waste

4 TIMETABLE CONSIDERATIONS

4.1 Paragraph 2 of the Local Government (Miscellaneous Provisions) Act 1982 states that a District Council may by resolution designate any street in their district as:

(a) a prohibited street;

(b) a licence street; or

(c) a consent street.

4.2 If a District Council passes such a resolution, the designation of the street shall take effect on the day specified but a Council shall not pass such a resolution unless it has:

- published notice of its intention to pass such a resolution in a local newspaper circulating in their area
- it has served a copy of the notice on the chief officer of police for the area in which the street to be designated by the resolution is situated and on any highway authority responsible for that street; and
- The notice itself shall contain a draft of the resolution and shall state that representations relating to it may be made in writing to the Council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.

Representations against the Application

4.3 The legislation states that as soon as practicable after the expiry of the consultation period specified, the Council shall consider any representations relating to the proposed resolution which it has received before the expiry of that period.

Issue of Notice

4.4 The Council shall publish notice that it has passed such a resolution in two consecutive weeks in a local newspaper circulating in its area.

4.5 The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

4.6 The total estimated time to complete the process would be 14 weeks.

5 PROPOSED TIMETABLE

- 5.1 Taking into account the considerations as detailed in paragraph 4 of this report, the following timetable of dates is proposed in order to implement the reviewed Street Trading Policy:

Action	Date
Approve the draft Street Trading Policy for Resolution	
Start public consultation and publish notice of intention to pass such a resolution in a local newspaper	01/10/2021
Served a copy of the notice on Essex Police and Essex Highways Authority	01/10/2021
End of Public Consultation	12/11/2021
Consider any representations	19/11/2021
Produce report for Licensing Committee with findings following the consultation	26/11/2021
Licensing Committee decision following report	03/12/2021
Publish notice for two consecutive weeks in a local newspaper, that the resolution has been passed	17/12/2021
Introduction of New Street Trading Policy (at least 28 days from initial published notice)	24/01/2022

6 RISK IMPLICATIONS

- 6.1 The introduction of a New Street Trading Policy may result in a period where traders need to be supported to implement the Policy, before more formal intervention is taken against unlicensed traders. This risk will impact on the capacity of the Licensing team to ensure compliance with the new policy.

7 CRIME AND DISORDER IMPLICATIONS

- 7.1 The introduction of the new policy will ensure greater safeguarding measures are in place, particularly with those trading outside education establishments.

8 RESOURCE IMPLICATIONS

- 8.1 There are no direct resource implications arising from this decision.

9 LEGAL IMPLICATIONS

9.1 The legal implications are as set out earlier in the report.

10 PARISH IMPLICATIONS

10.1 This will impact on the Parish Councils should they wish to hold events within Rochford District Council land or on Public Highway. The Parish Councils will be included within the consultation process.

11 EQUALITY AND DIVERSITY IMPLICATIONS

11.1 An Equality Impact Assessment has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

12 RECOMMENDATION

12.1 It is proposed that the Committee **RESOLVES**

- (1) That the timeline outlined in paragraph 5.1 of the report be agreed.
- (2) That the draft Street Trading Policy be approved.



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Background Papers:-

None.

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If you would like this report in large print, Braille or another language please contact 01702 318111.



Rochford District Council
Street Trading Licensing Policy

January 2022 – January 2027

Effective: 17/01/2022

Version 2.1

June 2021

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1. Introduction & Scope

- 1.1. This policy has been developed to assist persons applying for Street Trading Consents or Licences in the Rochford District. It sets out the standards for determining applications and the enforcement of street trading activities in the Rochford District area.
- 1.2. The Council has designated all of its roads, footpaths, fields and administrative areas as Consent Streets for street trading purposes.
- 1.3. Applicants wishing to have a Street Trading permit or licence will be expected to consider factors to ensure that the unit (i.e., stall, van or other display) enhances the area and complements the street scene. Factors to consider include:
 - a) Visual appearance
 - b) Type of goods being sold
 - c) Location of the unit
- 1.4. Rochford District Council will apply this policy to street trading activities in its area to ensure consistency of decision making, however, each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.
- 1.5. The purpose of this street trading policy is to provide a decision-making framework for the consideration of applications for street trading consents and to create a street trading environment which is sensitive to the needs of the public, provides consumer choice, and

enhances the character, ambience and safety of the local environment.

1.6. A map of the Rochford District, to which this policy applies, is shown at Appendix E.

1.7. The policy objectives are set out below:-

- Public Safety
- Prevention of Crime and Disorder
- Prevention of Public Nuisance

Public Safety

Applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they would achieve that.

The location of the proposed street trading activity should not present additional risks to the public in terms of road safety, obstruction and fire hazard.

The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the street.

Prevention of Crime and Disorder

Applicants should consider when making their application how they will protect the public and local residents from crime and anti-social behaviour. The proposed activity should not present a risk to public order.

Prevention of Public Nuisance

Applicants should consider when making their application how they will control the level of noise or other nuisances emanating from the site.

Consideration will be given to measures taken to reduce the risk of nuisance from noise, refuse, vermin, fumes and smells.

Protection of Children from Harm

Applicants should consider when making their application how they will protect children from harm. This is specifically important for mobile vendors that regularly frequent outside education establishments.

2. In Scope of the Policy

Definition of Street Trading Licence

- 2.1. Street Trading is defined as the selling, exposing or offering for sale of any article in a street. As the definition of “street” includes any land to which the public have access without payment, private land to which the public has free access is also included. Street trading law and associated policy therefore can extend to events off the highway that are conducted on private premises.

3. Out of Scope of the Policy

- 3.1. Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that the following activities are not 'street trading' and, therefore, prior consent of the Council is not required:
 - (a) trading by a person acting as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871 (see point 4.5).
 - (b) anything done in a market or fair; the right to hold which was acquired by virtue of a grant (including presumed grant), or acquired or established by an enactment or order.

(c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.

(d) trading as a news vendor i.e. the sale, exposure or offer for sale of newspapers or periodicals, except from a stall or receptacle that exceeds the dimensions set out in schedule 4 of the Act.

(e) trading which:

- i) is carried on at premises used as a petrol filling station; or
- ii) is carried on at premises used as a shop or in a street adjoining premises so used as part of the usual business of the shop.

(f) selling things, or offering or exposing them for sale, as a roundsman.

(g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway.

(h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.

(i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

Planning Requirements

- 3.2. Prior to any licence being granted, or deemed to be granted, the applicant must comply with any planning legislation and may need to apply for permission to use the land. The applicant should contact

the Rochford District Council Planning department prior to an application being submitted.

4. Types of licences

4.1. Consents and Licences will be issued according to the following categories:

- **A1 – Single Standard Pitches**

Individual units for daily, weekly, quarterly or annual use. Tiered fee structure for licence streets, commercial areas, other highway sites.

- **A2 – Mobile Pitches (Peripatetic Street Trading)**

These Street traders continually move from location to location, move at least 50 metres from the last trading location and do not return to that location within four hours, they do not wait in one location for more than 30 minutes and do not trade within 100 metres of the boundary of any school or college between the hours of 07:30 and 18:00 (without formal invitation from the establishment).

Ice cream vans would typically be deemed to be peripatetic street traders unless they were at a pre-arranged event.

- **B – Event Pitches**

An organised block consent for units at events within Rochford District Council's administrative area. Refer to point 5.6.

- C – Farmers Markets
Will typically sell locally produced fruits, vegetables, meats, cheeses, drinks etc with produce from within a 25 mile radius of the market
- D – Craft Markets / Street Fairs
Examples of such include school fairs/fetes and Christmas Markets, small stalls, fundraisers etc.
- E - RDC Concession holders
A formally tendered concession agreement with Rochford District Council where holder requires occasional additional units

4.2. Fees for each category will be stated within the Council's published fees and charges and subject to annual review. The breakdown of fees can be found at www.rochford.gov.uk/licensing

4.3. The following Street Trading activities have been deemed by Rochford District Council to not require the payment of fees to the Council:

- (a) Fetes or community events held solely for charitable purposes where there is no private financial gain for an individual or company.
- (b) Non-Commercial Car Boot Sales (i.e. events organised by organisations that will not involve private gain for an individual or company).

(c) Sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it.

- 4.4. A trader acting as a 'roundsman' will only require a Street Trading Consent or Licence where trading continues for more than 30 minutes with no return to the same location in the same day.
- 4.5. A pedlar is someone who travels and trades on foot, going from town to town or house to house selling goods such as pictures and household goods or offering their skills in handicrafts. A person trading in a static position for longer than 10 minutes will be treated as a Street Trader and not a pedlar. A pedlar must hold a certificate granted by a chief constable. Guidance notes for pedlars are shown at Appendix F

5. Application of Street Trading Licences

Submission of the application

- 5.1. An application to the local authority must:
- Be completed electronically using the website via www.rochford.gov.uk/licensing and be accompanied by such evidence of public liability insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000;
 - a plan (to a minimum of 1:1250 scale) showing the location of the premises shown by a red line, so the application site can be clearly identified;

- A colour photograph of the stall, van, barrow, cart etc that will be used for the street trading activity;
- Evidence of a formal commercial waste transfer agreement, for more information about waste management, please visit <https://www.gov.uk/topic/environmental-management/waste>
- Written permission from the owner of the land where the street trading is to be carried out on land which is not a public highway.
- Essex County Council are the care takers of the public highway and that consent/support from them is required

5.2. Within the application, the applicant must

- specify the premises and, the part of the relevant highway to which the application relates;
- specify the purpose (or purposes) for which the site will be used;
- specify the days of the week on which and the hours between which it is proposed to operate on the highway;
- describe the type of furniture to which the application relates, for example: stall, van, barrow, cart etc that will be used for the street trading activity;
- specify the date on which the application is made;
- the proposed duration of the licence (for e.g. 1 day, 3 months, 6 months, or a year);

- any other evidence needed to demonstrate how any local and national conditions will be satisfied.

Fees

- 5.3. The fee for applying for a licence under the new process are set locally, the fee will vary upon the category of the application as outlined within section 4.2 of the policy.

Renewal of an existing Licence

- 5.4. The following documents are required to be submitted when renewing a Street Trading Consent or Licence:
- a) A completed Street Trading application form.
 - b) The full fee unless the renewal is for an annual Consent or Licence.
 - c) A copy of the certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000.
 - d) Evidence of a formal commercial waste transfer agreement.
- 5.5. An application for a Street Trading Consent or Licence will not be entertained where permission of the landowner for the proposed trading site to carry out street trading has not been provided, for whatever reason.

Applications for categories B - E

- 5.6. Applications falling within categories B – E (Section 4.1) may be made by submission of one block consent for each event held.
- 5.7. The organiser in receipt of a block consent will become responsible for all the individual trading activities, including the collection and payment of the relevant fees to the Council, where appropriate.
- 5.8. Applications for block consents must also include Third Party & Liability Insurance covering all traders, or individual insurance for all traders. Food hygiene and Gas safety certification for all traders must also be provided.
- 5.9. A site plan showing the maximum number of expected traders and an indication of the type of goods being sold must be supplied with all block applications.
- 5.10. A final list of all the confirmed traders to be covered by the block consent must then be provided (with supporting certification) a minimum of 5 working days before the consent is used.
- 5.11. A separate application will still be required for each further event held.

6. Determination of Street Trading Licences

- 6.1. Once the information is submitted to Rochford District Council, the authority has 28 days from the day after the application is made

(excluding public holidays) to consult on and determine the application. This consists of 21 days for public consultation, and a further 7 days to consider and determine the application after the consultation.

- 6.2. If Rochford District Council does not determine the application within the 28 day period, the application will be deemed to have been granted.

Considerations when deciding whether to grant a street trading licence

- 6.3. Rochford District Council will consider a number of factors, when determining whether to approve the application. These include the scope for national or local conditions to make it possible to approve an application which would otherwise be unacceptable.
- 6.4. Rochford District Council have published local conditions subject to which they propose to grant street trading licences so that applicants and those making representations are aware of them. These can be found in Appendix B of this policy
- 6.5. When considering an application in relation to local conditions, Rochford District Council will bear in mind other legislation and will seek to impose conditions which have the same effect as the no-obstruction condition.

Local Conditions

6.6. When setting our local conditions and determining applications, Rochford District Council will consider the following on each application:

- public health and safety – e.g. ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses re-opening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
 - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
 - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
 - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility¹, and

¹ <https://www.gov.uk/government/publications/inclusive-mobility>

- other users of the space, for example if there are high levels of pedestrian or cycle movements.
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- Sustainability and Product Type - The applicant should set out measures to reduce the environmental impact of the proposed activity. Wherever possible food traders will be encouraged to use biodegradable materials in connection with the packaging of food served to members of the public.
- Suitability of Trading Unit - The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity shall comply with all primary legislation including:
 - a) Food Safety Act 1990
 - b) Food and Hygiene (England) Regulations 2013 as amended
 - c) Health and Safety at Work etc Act 1974 and any regulations made under this Act.
 - d) Environmental Protection Act 1990
- Suitability of the applicant - When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a permission including:
 - a) Persistent refusal or neglect in paying fees due to the council for a street trading consent or licence or for any other charges due for services rendered by the council to the applicant in his capacity as the holder of a street trading consent or licence.

b) The Council will not grant a Street Trading Consents or Licences to persons under the age of 17 years

- Commercial Need - Consideration will be given to the number of other traders in the vicinity of the application site. The presence of other like trading outlets and the proximity of schools shall be taken into consideration. Fast-food vendors will not normally be permitted to trade within 100m of a school. On lay-bys and trading estates there shall be no other street trading consent granted within 100 metres of an existing consent.

6.7. The Council's standard conditions are set out at Appendix C. In some cases, extra measures may be required. This will be determined when assessing any application, on a case-by-case basis.

6.8. Where a locally set condition are added, these takes precedence over the national requirements where there is reasonable justification to do so. This is not the case for the statutory no-obstruction condition which is as applies to all Licences. The 'no obstruction conditions is shown in Appendix C.

Site specific conditions

- 6.9. Rochford District Council may impose additional conditions and will provide a clear justification for the need of a condition which is in addition to any published local conditions.
- 6.10. Conditions might, for example, limit the maximum size, or type of furniture, time and days of operation with justification for this.

Decision options available to Rochford District Council

- 6.11. If the local authority determines the application before the end of the determination period the local authority can:
- grant the licence in respect of any or all of the purposes specified in the application,
 - grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
 - refuse the application.

Appeal Process

- 6.12. There is no right of appeal to the Magistrates Court against decisions of the Council in relation to Street Trading Consents under the Local Government (Miscellaneous Provisions) Act 1982.
- 6.13. A person aggrieved by a decision of the Licensing Committee may make an application to the High Court for Judicial Review of the decision. There are strict time limits for making such applications. For further information about the potential grounds for Judicial Review and

the procedure for making an application, applicants should seek legal advice from a solicitor as soon as they receive notice of the decision.

7. Consultation

- 7.1. The applicant is required to affix a notice to the premises, so it is easily visible and legible to the public on the day they submit the application to Rochford District Council. Applicants must ensure the notice remains in place for the public consultation period which is the period of 21 days beginning with the day after the day the application is submitted to Rochford District Council. Applicants are encouraged to keep evidence of this.

- 7.2. The applicant is encouraged to talk to neighbouring businesses and occupiers prior to applying to Rochford District Council, and so take any issues around noise, and nuisance into consideration as part of the proposal.

Public Notice

- 7.3. The notice must:
 - be in the form which Rochford District Council prescribe as outlined in Appendix A;

 - state that the application has been made and the date on which it was made;

- indicate that representations relating to the application may be made to Rochford District Council during the public consultation period and when that period comes to an end; and
- contain such other information or material Rochford District Council may require.

Other publications

- 7.4. Rochford District Council is required to publish the application and any information or material which the applicant has submitted on its website www.rochford.gov.uk/licensing
- 7.5. Rochford District Council is also required to publicise the fact that representations may be made during the public consultation period and when that period comes to an end.

Consultation with interested parties

- 7.6. Applications are consulted upon for 21 days, starting with the day on which a valid application was made to the Council.
- 7.7. Rochford District Council is required to consult with the Highways Authority.
- 7.8. In addition, to ensure that there are not detrimental effects to the application the Council will consult with:
- Rochford District Council Environmental Health Service
 - Rochford District Council Planning Service
 - Rochford District Council Community Safety Service
 - Local Parish / Town Council
 - Essex Fire & Rescue Service
 - Essex Police

Representations against an application

- 7.9. The Council must take into account representations received during the public consultation period and consider these when determining the application.
- 7.10. If not representations are received, the Council will approve the application subject to meeting the criteria contained within these guidelines.

8. Objections to an application

- 8.1. Where there are no relevant representations made, the application will be deemed as granted and issued by officers under their scheme of delegated Authority
- 8.2. The application will be referred to the Council's Licensing Committee for determination if relevant objections are received against the granting of a Street Trading Consent or Licence from any of the following:
- a) Occupiers of property within 100 metres of the proposed site.
 - b) Rochford District Council Ward Members (who can object as an individual or on behalf of constituents).
 - c) Parish or Town Councils.
 - d) Police or Highway Authorities.
 - e) Rochford District Council Environmental Health Service
 - f) Rochford District Council Planning Service

- 8.3. Officers will assess the objections to determine their relevance based on the following criteria:
- a) Potential, or actual, nuisance to a property occupier from noise, fumes or smells.
 - b) Whether any road safety issues have been identified.
 - c) Compliance with food and health and safety legislation.
 - d) Concern of public order problems resulting from the proposed street trading activity.
 - e) Whether there are any fire safety issues present.
 - f) Whether the objection is relevant, vexatious or repetitive.
- 8.4. If a relevant objection is made against an application for a Street Trading Licence or Consent, the applicant will be contacted to discuss the reasons for a potential refusal of the application. During this discussion the applicant will be informed of the criteria from this policy which are considered to have not been met and they will be given an opportunity to discuss any relevant matters in relation to the application.
- 8.5. If after this discussion the applicant still wishes to continue with the application, the application will be referred to the Councils Licensing Committee for determination.
- 8.6. If a written objection is received and deemed appropriate, the application will be referred to the Licensing Committee for consideration and determination.

- 8.7. Persons making written objections will also be informed of a decision to refer an application to the Licensing Committee and notified of the date of the hearing of the application.
- 8.8. If an applicant refuses an offer of discussing the application with officers, they will be notified of a referral to the Licensing Committee for determination of the application.
- 8.9. The person making a representation against an application or an existing Street Trading Consent or Licence to the Licensing Committee will normally be expected to attend the hearing. The applicant can be represented by a solicitor or supported by a friend or colleague. The Licensing Committee will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.
- 8.10. In determining an application the Licensing Committee will consider presentations from the applicant, a person or organisation making an objection and the Council's Licensing Officer. Applicants and persons making objections to an application should notify the Council's Members Services Section at least five working days in advance of the meeting of any witnesses they intend to call and details of any evidence (written, photographic or other material or media) they intend to present at the hearing.
- 8.11. Where objections have been raised to the granting a Street Trading Consent or Licence the Licensing Committee will consider the objections or representations made. Only persons who have raised objections to the application will be allowed the opportunity to address the Licensing Committee and ask questions relating to the application.

- 8.12. Letters of objection that have been received by the Council will be published in full in advance of a meeting where a contested application is being considered. The letters of objection will also be sent to the applicant.
- 8.13. The Licensing Committee will consider all the evidence presented to it during the hearing and members may ask questions of the applicant, officers and persons making an objection.
- 8.14. After hearing the evidence presented to it, the Licensing Committee will retire and come to a decision on the application. When a decision has been reached the Committee will inform the applicant of their decision, and the reasons for coming to that particular decision.
- 8.15. The decision of the Licensing Committee will be confirmed in writing to the applicant within 5 working days of the meeting at which the application was considered.
- 8.16. The Licensing Committee will always strive to ensure that when it is considering an application that all persons get a fair hearing through:
- a) Considering each case on its merits.
 - b) Using these guidelines to assess applications where it is felt appropriate.
 - c) Dealing with the application in a balanced and impartial manner.
 - d) Ensuring that the rules of natural justice are applied in any hearings held.

e) Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Committee and present information for consideration in support of their objection.

9. Deemed licences and conditions

- 9.1. If a local authority determines an application before the end of the determination period (which is 21 days, beginning with the first day after the public consultation period, excluding public holidays) the authority can specify the duration of the licence.
- 9.2. If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for the period indicated on the application.
- 9.3. On approving the application, Rochford District Council will issue a Street Trading Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when the licensable activity is permitted and appearance and location of the furniture corresponding to the application.
- 9.4. A copy of the Council's standard conditions, which will be attached to all Licences are shown at Appendix C. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

- 9.5. The Council however retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.
- 9.6. Street Trading Consents or Licences will be issued for a maximum period of 12 months. Shorter term Consents or Licences may be issued on a weekly basis
- 9.7. In all cases when a Consent or Licence has expired, and an application has not been submitted to the Council for renewal, a new application will be required. In such cases the application will be subject to the full consideration process outlined in this policy.
- 9.8. The Consent Holder will not be permitted to sub-let or transfer this Consent, but may surrender it to the Council at any time.
- 9.9. Fees for each category will be stated within the Council's published fees and charges and subject to annual review.
- 9.10. If an application is refused any fees paid on application will be returned, less an administration fee.
- 9.11. If an annual licence or permit is surrendered, consideration will be given to refunding fees for any remaining months paid for in advance.
- 9.12. No refunds will be available for any other length consents or licences.
- 9.13. Annual consents or licences will be subject to a three month probationary period.

10. Enforcement and Revocation of a licence

- 10.1. Rochford District Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or by Essex Police.
- 10.2. Obtaining a Consent does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Social distancing controls, and applicants must ensure all such permissions, etc. are in place prior to applying.
- 10.3. If a condition imposed on a licence either by Rochford District Council is breached, Rochford District Council will be able to issue a notice requiring the breach to be remedied and the authority can take action to cover any costs.
- 10.4. Rochford District Council may revoke a licence in the following circumstances:
- For breach of condition, (whether or not a remediation notice has been issued) or where:
 - There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;

- the highway is being obstructed (other than by anything permitted by the licence);
- there is anti-social behaviour or public nuisance – for example, the use is increasing the amount of noise generated late at night and litter is not being cleaned up;
- it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had applied for tables and chairs on which drinks could be consumed; or
- the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.

10.5. Rochford District Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

11. Review Procedures

11.1. This Policy will be reviewed when changes occur in relevant legislation, or in the nature of Street Trading generally or as a result of local considerations within the Rochford District.

APPENDIX A – PUBLIC NOTICE

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT
PUBLIC NOTICE OF APPLICATION**

**APPLICATION FOR A STREET TRADING LICENCE
(under Schedule 4 of the Local Government (Miscellaneous
Provisions) Act 1982)**

Name of Applicant	
Postal address of premises including Postcode (where possible) or a description to enable the location to be identified.	
Do hereby give notice that on [date of application] [I/we] have applied to Rochford District Council for a 'Street Trading Licence' at:	
[location]	
The application is to [brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink)]	

The Licensing Register may be inspected at the Licensing Department, Rochford District Council South Street Rochford Essex SS4 1BW between 9.00 am and 4.30 pm (Monday to Friday except public holidays).

The application and information submitted with it can be viewed on the Council's website at: www.rochford.gov.uk/licensing

Any representations by a Responsible Authority or Interested Party must be made in writing to the above address by **[enter date]**

It is an offence knowingly or recklessly to make a false statement in connection with an application punishable on summary conviction with an unlimited fine.

APPENDIX B – STANDARD CONDITIONS

Standard Street Trading Licence Conditions

General Conditions

1. A copy of this Consent shall be kept onsite by the holder and available for inspection by an authorised officer of the Council, or a Police officer.
2. The Consent Holder shall not sub-let or transfer this Consent or any part thereof, but may surrender it to the Council at any time.
3. The Consent Holder shall observe and comply with any directions in relation to the use of the street or public place by a duly authorised officer of the Council.
4. Nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent
5. The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy for a minimum of 5 million pounds to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
6. This Consent does not infer or grant exclusive right rights to the holder for use of the location specified in the permission. If at any time at the permitted trading location other statutory bodies or organisations require access and use of the location to carry out emergency or other remedial works, they shall be afforded such access for such time as the required works need to be completed.
7. The Council may vary the Conditions attached to the Consent at any time, subject to reasonable notice being given to the Consent Holder.

Site Conditions

8. The Consent Holder when operating on a static site shall have access to suitable and sufficient sanitary accommodation for both the Consent Holder, and any persons employed in the street trading activity. The sanitary accommodation arrangements shall be approved by the local authority.
9. The Consent Holder shall not use any sound or music amplification equipment whilst trading which is audible beyond 5 metres from the site.
10. The Consent Holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of

APPENDIX B – STANDARD CONDITIONS

any description whatsoever except with the previous consent in writing from the Council.

11. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without the approval of the Council.
12. The Consent Holder shall make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street, or place or fix equipment or markings of any description in the said surface except with the previous consent from the Council in writing.
13. The Consent Holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Council and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
14. The Consent Holder shall keep his trading position and the area within 25m of the pitch in a litter free condition during the permitted hours and also leave the same in a litter free condition at the end of each daily period of use under the terms of this Consent.
15. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
16. Litter and Trade Waste arising from the activities of the Consent Holder shall be removed from the site on a daily basis. The consent holder shall have in place a formal commercial waste transfer arrangement.
17. The Consent Holder shall make such provision as is necessary to prevent the deposit in any street or public place of solid or liquid refuse and shall not discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
18. Any special costs, other than those legally required to be borne by the Council, incurred in preparing a pitch fit for purpose shall be borne by the applicant

APPENDIX B – STANDARD CONDITIONS

Essex Highway Conditions

19. Essex County Council are the care takers of the public highway and that consent/support from them is required
20. Any street licence being given to a trader located within a carriageway must be parked a minimum of 15 metres from a junction
21. Any street licence being given to a trader located within a carriageway must not be parked on any parking restrictions
22. Any street licence being given to a trader located within a carriageway must not be parked in front of or opposite a dropped kerb which will cause issues for entering/exiting a business or property
23. Any street licence being given to a trader located within a carriageway must not obstruct any forward visibility
24. Any street licence being given to a trader located within a carriageway cannot use the footway/verges to place any bins/tables/chairs/signage/umbrellas without written consent

Natural Heritage Site Conditions

The following activities must not take place within these areas:

25. The introduction of grazing and changes in the grazing regime (including type of stock or intensity or seasonal pattern of grazing and cessation of grazing).
26. The introduction of stock feeding and changes in stock feeding practice, including changes in the number of animals stocked.
27. Application of pesticides, including herbicides (weedkillers).
28. Dumping, spreading or discharge of any materials
29. Burning.
30. The release into the site of any wild, feral or domestic animal (includes any mammal, reptile, amphibian, bird, fish or invertebrate), plant or seed.
31. The killing or removal of any wild animal (includes any mammal, reptile, amphibian, bird, fish or invertebrate), excluding pest control.
32. The destruction, displacement, removal or cutting of any plant or plant remains, including tree, shrub, herb, dead or decaying wood, moss, lichen, fungus, leaf mould and turf.

APPENDIX B – STANDARD CONDITIONS

33. Tree and/or woodland management (including afforestation, planting, clear and selective felling, thinning, coppicing, modification of the stand or underwood, changes in species composition, cessation of management) and changes in tree and/or woodland management
34. Modification of the structure of watercourses (eg streams, springs and ditches), including their banks and beds, as by re-alignment, re-grading and dredging.
35. The changing of water levels and tables and water utilisation (including irrigation, storage and abstraction from existing water bodies and through boreholes).
36. Infilling of ditches, ponds, pools or pits
37. Extraction of minerals, including sand and gravel, topsoil, subsoil, and spoil.
38. Construction, removal or destruction of roads, tracks, walls, fences, hardstands, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines and cables, above or below ground.
39. Storage of materials in the woodland
40. Erection of permanent or temporary structures, or the undertaking of engineering works, including drilling.
41. Use of vehicles likely to damage or disturb features of interest
42. Recreational or other activities likely to damage woodland flora and fauna
43. Introduction of game management or hunting and changes in game and hunting practice.

Trading Conditions

44. The Consent Holder shall not carry out street trading activities other than those permitted by the Consent.
45. The Consent Holder shall not trade outside the time and days permitted by the Consent.
46. The Consent Holder shall keep on any van, cart, barrow or other vehicle or stall, a street trading consent document that has been issued by the Council.
47. The Consent Holder shall not trade in such a way that is likely to cause:
 - a) undue obstruction to any part of any street or public place.
 - b) any injury to any person using the street or public place.

APPENDIX B – STANDARD CONDITIONS

- c) damage to any property in the street or public place.
48. The Consent Holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity. Noise from equipment used in connection with consented street trading activity shall not be audible inside nearby residences so as to be deemed a Statutory Nuisance.
49. All street Trading fees are due in advance on the 1st July of any year. Annual fees may by agreement be paid by instalments. Failure to pay an annual or instalment fee will render the consent holder liable to action by the Council to revoke this consent
50. Static street trading units, vehicles or other equipment associated with the street trading activity shall be removed from the site at the cessation of trading each day.

Legal Provisions

51. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his employees or agents from any legal duty or liability.
52. At all times the Consent Holder shall comply with the appropriate primary legislation in force.

Revocation or surrender of consent

53. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
54. The holder shall return this Consent to the Rochford District Council immediately on revocation or surrender of the Consent
55. Rochford District Council reserves the right to revoke this licence at any time if any of the above conditions are not fulfilled and maintained.

No Obstruction Condition

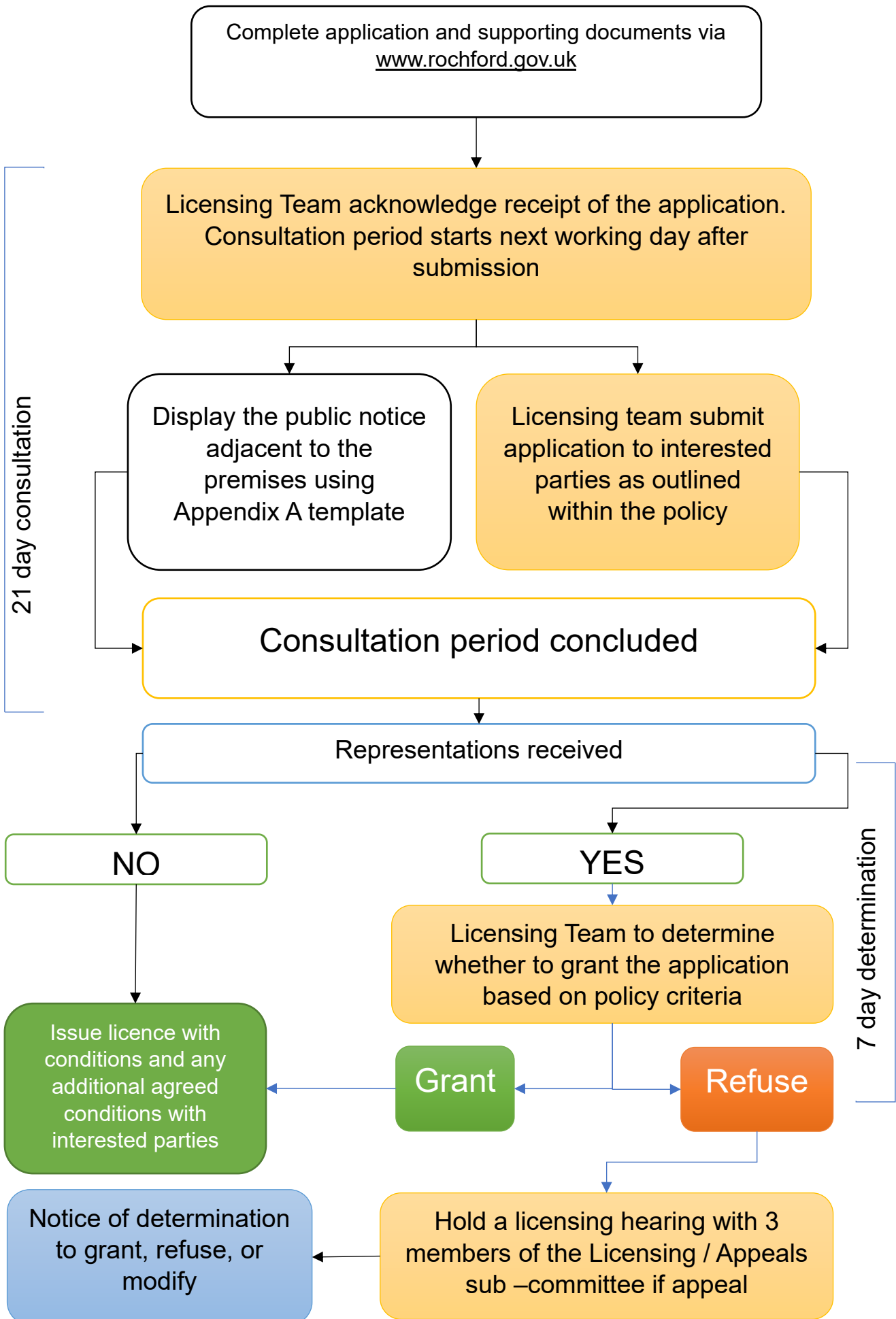
When determining whether the structure constitutes an unacceptable obstruction in light of the no-obstruction condition, the provisions require that local authorities consider the needs of disabled people. In order to do this, authorities should consider the following matters when setting conditions, determining applications (in the absence of local conditions), and when considering whether enforcement action is required:

- Section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users, but is clear that in most circumstances 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway
- any need for a barrier to separate furniture from the rest of the footway so that the visually impaired can navigate around the furniture, such as colour contrast and a tap rail for long cane users. In some cases, it may be appropriate to use one or more rigid, removable objects to demarcate the area to which the licence applies, for example wooden tubs of flowers. However, this will need to be balanced to ensure any barriers do not inhibit other street users, such as the mobility impaired, as such barriers may create a further obstacle in the highway;
- any conflict of street furniture with the principal lines of pedestrian movement particularly for disabled people, older people and those with mobility needs. The positioning of furniture should not discourage pedestrians from using the footway. The available route must be entirely clear and not pass through an area with tables and chairs;
- so that where possible furniture is non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction – for example, the local authority could refuse the use of plastic patio furniture, unless measures have been taken to ensure it is kept in place.

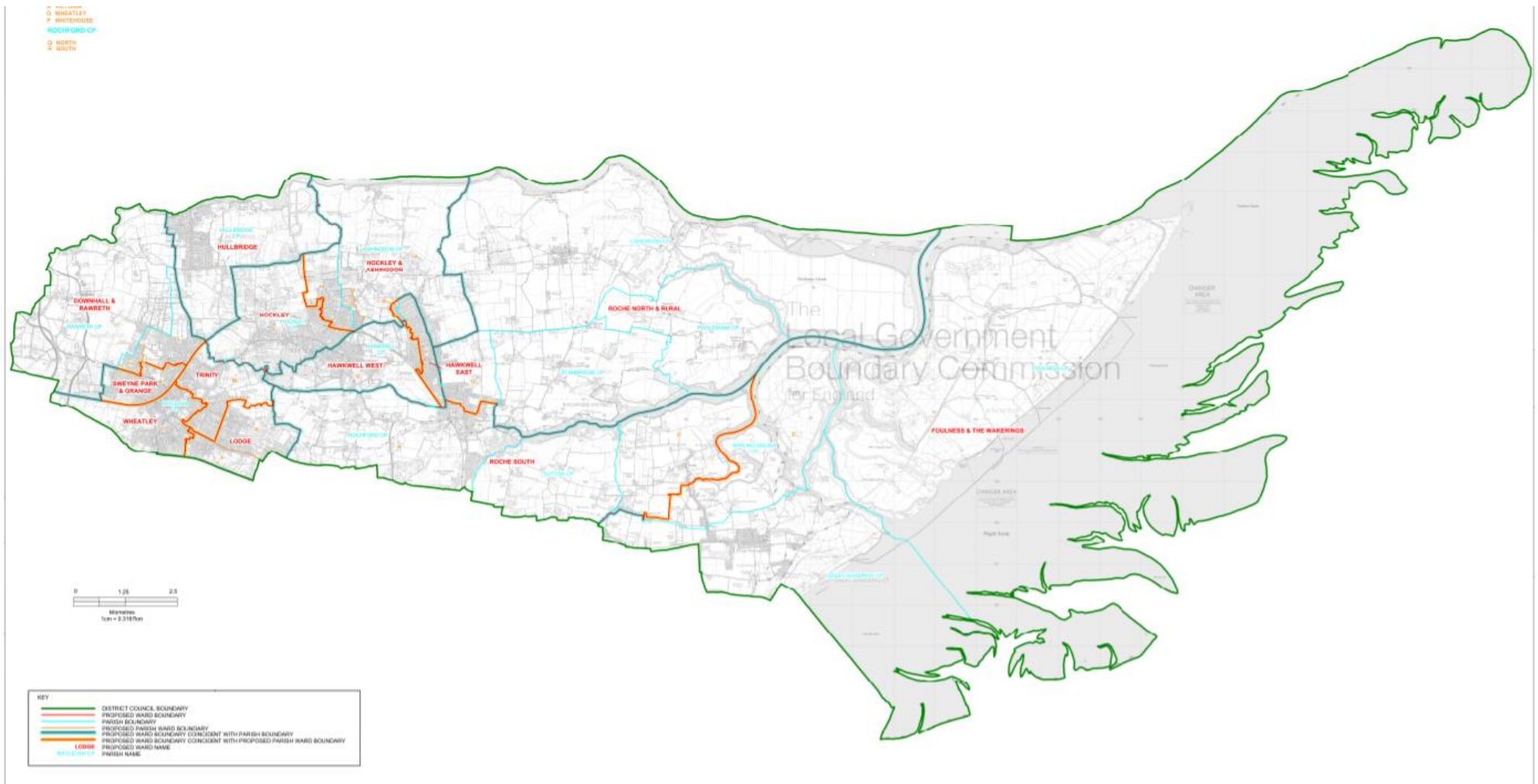
APPENDIX C – STANDARD CONDITIONS

Section 149 of the Equality Act 2010 places duties on local authorities, to have due regard to: the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who don't and foster or encourage good relations between people who share a protected characteristic and those who don't.

APPENDIX D – PROCESS FLOWCHART



APPENDIX E – MAP OF THE DISTRICT



APPENDIX F – PEDLARS GUIDANCE

Rochford District Council is applying a clearer and more modern definition of pedlary to enable genuine pedlars to continue to trade. The definition is taken from the recent Government consultation on Street Trading and Pedlary and recent case law. The guidance is given below:

1. As a Pedlar you must 'go from town to town' so you must not frequent the same town every day

2. As a pedlar you must 'travel and trade on foot' so you should not use a motor vehicle to carry your goods to and around the Rochford District

3. A pedlar can remain static in the same location for a maximum of 10 minutes after arrival. As a pedlar, you should then move on (at a reasonable speed) to a location which is at least 50 metres away from the first location, and again you should not remain in that second location for more than 10 minutes. You cannot immediately return to the first location, nor to any other location which you have occupied within 50 metres or within the previous three hourly period. These requirements are intended to keep a pedlar trading while on the move

4. It is acknowledged that a pedlar may be approached by potential customers during the 10 minute period mentioned above but you may be unable to conclude the transaction with that customer during that period. It is recognised that a pedlar may be approached by potential customers while travelling from one location to a location at least 50 metres away. Since we do not want to place unreasonable restrictions on a pedlar's ability to do business, there is an exception to the above limitations to enable a pedlar who is approached in this way to remain in his location beyond the 10 minute period or to stop to conclude those transactions. Once all such transactions have been concluded (or aborted) the pedlar must continue to move away immediately.

5. If as a pedlar you are not actively making a sale or being approached by a customer at the 10 minute cut-off point, you must immediately start to move away from the location towards a location at least 50 metres away from that location. If while on the move to your next location, you are approached by a customer, you may stop to deal with that customer. But, as soon as the sale is concluded, you should continue on the move towards your next location (unless, of course, you are approached again by another customer on your way there).

APPENDIX F – PEDLARS GUIDANCE

6. Pedlars should not use large, wheeled trolleys or similar as a device to carry and expose for sale all, or the vast majority of goods as these can cause an obstruction of the highway which is an offence under Section 137 of the Highways Act 1980.

7. Pedlar's Certificates can be obtained from Essex Police. It is an offence to peddle without a certificate and an offence to lend a certificate or use someone else's. The Council, in partnership with Essex Police, will take formal action against illegal Street Trading under Paragraph 10(1) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.