

## APPENDIX B

### Responses to the online consultation

**Q1. Comments on draft Street Trading policy - 1 Agree with proposed changes - The proposed new condition requiring licence holders to use street trading vehicles that meet the Euro 6 emissions standards where the engine is required to be kept running for the purpose of providing power in connection with the licensed activity**

Response	Number of respondents
Strongly agree	4
Agree	1
Disagree	0
Strongly disagree	0
Don't know	1

**Q2. The proposed terms for Market Trading Operators**

Response	Number of respondents
Strongly agree	2
Agree	2
Disagree	1
Strongly disagree	0
Don't know	1

**Q3. The proposed Special Provisions for Community/Charity Trading Licences**

Response	Number of respondents
Strongly agree	1
Agree	3
Disagree	0
Strongly disagree	0
Don't know	1

**Q4. The key considerations that will be taken into account for Street Trading fees & waivers**

Response	Number of respondents
Strongly agree	0
Agree	3
Disagree	1
Strongly disagree	0
Don't know	1

**Q5. The decision-making process for Street Trading applications/review of existing licences**

Response	Number of respondents
Strongly agree	0
Agree	3
Disagree	1

Strongly disagree	0
Don't know	1

**Q6. The factors that the Council will take into account when considering a refusal of Street Trading licence**

Response	Number of respondents
Strongly agree	0
Agree	2
Disagree	2
Strongly disagree	0
Don't know	1

**Q7. The revised standard conditions that the Council proposes to attach to Street Trading licences**

Response	Number of respondents
Strongly agree	0
Agree	2
Disagree	2
Strongly disagree	0
Don't know	1

**Q8. The delineation process**

Response	Number of respondents
Strongly agree	0
Agree	2
Disagree	2
Strongly disagree	0
Don't know	1

**Q9. The Enforcement approach**

Response	Number of respondents
Strongly agree	0
Agree	2
Disagree	2
Strongly disagree	0
Don't know	1

**Q10. The proposed commodities list**

Response	Number of respondents
Strongly agree	0
Agree	1
Disagree	2
Strongly disagree	0
Don't know	2

<b>Q11. How clear you think the Policy is?</b>	
Response	Number of respondents
Very clear	0
Somewhat clear	3
Somewhat unclear	2
Very unclear	1
Don't know	1

<b>Q12. To what extent do you agree with the introduction of the draft Street Trading Policy?</b>	
Response	Number of respondents
Strongly agree	0
Agree	4
Disagree	2
Strongly disagree	0
Don't know	1

Q13. Additional comments about the proposed new Street Trading Policy	
Comments	Response
<p>"The Council will not deviate from this policy unless there is a good reason to do so and full reasons are provided." The Council must adhere to this, otherwise it brings the Council's decision-making process, and the Council itself, into disrepute. I am not convinced that this has been the case in the past.</p>	<ul style="list-style-type: none"> <li>• Section 2 of the draft Street Trading Policy sets the purpose of the policy.</li> <li>• Paragraph 2.4 states that the Council will not deviate from this policy unless there is a good reason to do so, and full reasons are provided.</li> <li>• It should be noted that this is the first proposed Street Trading Policy for the London Borough of Merton.</li> </ul>
<p>I am supportive of the space requirements in section 9.9 of the policy. It should be noted that additional street clutter such as electronic advertising (which is subject to planning approval) will limit the ability of shops and restaurants to use street space.</p>	<ul style="list-style-type: none"> <li>• The recommended space of 2m under Section 9 of the Street Trading Policy is in line with the <a href="#">National guidelines</a></li> <li>• The placing of Advertisements boards on the Highway is controlled by the Council's Planning and Highways Sections. Any restricted thoroughfare to pedestrians due to placement of 'A' boards outside the premises will be enforced by Officers from the Council's Highways Section collaboratively with the Licensing Enforcement Officers</li> </ul>
<p>I don't understand the fees, some fees have increased while others haven't. Some of the fees seem very cheap (e.g., Mitcham and Morden market fees) and where fees have increased they don't seem to have increased enough given inflation rate. I wonder how commercially focussed the team is, what benchmarking has been done (not just with other councils but with private events that have stalls as they are much more than a tenner a day)</p>	<ul style="list-style-type: none"> <li>• Street Trading fees and charges are set to recover the cost of administering the street trading licensing regime. The fees are set in accordance with a well-known case <a href="#">Hemmings v Westminster City Council (2015)</a>, which regulators of licensing regimes have to comply with. The Council is not required to make any profit from the fees set. Where fees charged result in a surplus, then this surplus would be used to reduce the fees charged in the following year. Deficits will similarly be recovered.</li> <li>• When setting the street trading fees and charges, London Borough of Merton must take into consideration its own true costs in delivering the service and not benchmarking against another Council's Street Trading fees</li> </ul>
<p>Street trading should become easier and create a more Northcote style environment in main Wimbledon. NOT the village!</p>	<ul style="list-style-type: none"> <li>• Applications for street trading licences will be granted if the applicant satisfactorily meets the application criteria and if no objections are received.</li> <li>• A street trading licence can be issued for any specified location provided the applicant satisfies the above requirements. Section 29 (3) of the London Local Authorities Act 1990 (as amended) specifically states that a person's address should not prevent them from obtaining a licence. This is consistent with other legislation brought in to provide balance and fairness to decisions.</li> </ul>

(On behalf of Merton Cycling Campaign): We note there is no mention of cycling, active travel or climate in the policy. There is only a passing reference to accessibility. The policy needs to be assessed from a climate perspective if the council is to succeed in its aim to reduce carbon emissions. Trading can and should be as sustainable as possible, and the policy should be predisposed to sustainable business. And should be predisposed against unsustainable/polluting practices including patio heaters, outdoor heating, fossil fuelled power generation, use of motor vehicles etc.

Requiring trading vehicles to be Euro-6 compliant isn't enough. Euro-6 is not zero pollution or low-carbon. Better not to lock the policy to a standard that will become out-of-date: better to state compliance with best available current standards expected. Need a requirement for equipment to be powered by mains electricity, not fossil fuelled.

2m gap between a trading pitch and kerb is often insufficient for a usable footway. It depends on many factors, including expected foot traffic, any street clutter, hoardings, lampposts, parking bays, need to access cycle parking etc. If customers will stop in front of the pitch to shop, this reduces the effective available footway space.

Accessibility must be considered: wheelchair and mobility scooter access and the effect on people with visual impairments must be considered. Policy should talk about repurposing parking bays and road space to increase available footway space, and/or for use by traders.

Policy must guard against obstruction of shared-use footways, cycle tracks and cycle parking. A 2m gap is clearly not acceptable in such areas. Policy must safeguard future cycle provision:

Merton has massive lack of safe cycle infrastructure- this must change installing safe cycle infra must not be made more difficult by street trading: provision must be made in all agreements to be able to vary/relocate pitches/arrangements as needed.

- The Council has set out its [Climate Change Strategy and Action Plan](#). As part of this action plan, the Council has supplied electricity bollards for majority of Street Traders in Merton to use when carrying out street trading activities. The proposed additional condition for improving Air Quality for Street Trading activities is supporting the Council plans amongst its wider plans for improving Air Quality in Merton.
- Applications for street trading activities which supports climate change including zero emission capable street trading vehicles will be favourably considered.
- Section 9 of the draft policy sets out a minimum space of 2m for clear accessibility for pedestrians and disabled persons. The recommended space is line with [National guidelines](#). Section 9 of the policy (Paragraphs 9.2, 9.3, 9.7, 9.8 and 9.9) sets out the criteria for assessing proposed street trading locations to ensure they are suitable before any licence can be granted.
- The Licensing officers will carry out enforcement action if a street trader is found operating in breach of their street trading licence conditions.
- It should be noted that street trading licensing and highways issues are dealt with separately. Street Trading activities are controlled by the Licensing Section under the London Local Authorities Act 1990 (as amended). The repurposing of parking bays, road space, placing of 'A' boards on the highway and cycle infrastructure is controlled by Highways Section.

The main problem I have with the new policy is the width of footway that has to be left clear is only 2.0 metres, regardless of the road. This width is inadequate on the majority of roads where licences are likely to be sought, i.e., main roads / high streets. Wimbledon (Village) is a good example of how unpleasant the pavements are when licences are inappropriately given to allow use of the footway so that the space remaining squeezes pedestrians and pushchair users into an inadequate space. Please review and revise your policy so that Merton exceeds (in favour of pedestrians) the Mayor of London's guidance at <https://tfl.gov.uk/corporate/about-tfl/how-we-work/planning-for-the-future/encouraging-cycling-and-walking>, especially <https://tfl.gov.uk/cdn/static/cms/documents/pedestrian-comfort-guidance-technical-guide.pdf>. No licence should be granted for a main road, including all A and B roads, if the unobstructed footway width (so net of obstructions such as lamp posts etc) is less than 3.0 metres, and in many cases, more than this. People want to stroll along high streets at leisure and not feel like they are negotiating a Northern Line tube carriage.

2. Related to 1., I am dismayed that A-boards are regulated by Highways (according to S 5.9 of the proposal). Again, using Wimbledon as the example, Wimbledon is dreadful because of the number of A-boards, many of which effectively halve the unobstructed width of the footway. The plethora of A-boards detract hugely from not only the look of the area but the permeability, and definitely deter one from wanting to walk down the high streets. The licensing committee should seek to regulate A-boards instead of Highways, and then only permit A-boards for temporary advertising, with a general assumption that licensing of an A-board should be denied.

3. For Enforcement, an additional clause should be added that all costs associated with Enforcement, regardless of how minor, are to be borne by the licence holder.

- Please refer to the response above.

## APPENDIX C

### Direct responses to consultation

Number	Organisation	Issue	Summary of comments	Response
1.	RSP, Environmental Health Pollution Practitioner (Air Quality)	Improving Air Quality	<p>Euro 6 emission standards for vehicles is strongly supported by Environmental Health and will help to significantly reduce local emissions in some circumstances (i.e., where vehicles are vintage/old, usually with diesel engines). This is particularly important since some of the customers will be vulnerable receptors (children), queueing to buy ice creams very close to the source of emissions. Emissions contain NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> harmful to human health. This supports LB Merton's Air Quality Action Plan which encourages the uptake of low emission vehicles through such policies as emissions-based parking for residents, encourages the switch to electric vehicle through the roll out of electric vehicle charge points (EVCP) borough wide and controls emissions from building sites through NRMM (non-road mobile machinery) enforcement.</p> <p>When Licensing come to review LBRUT this will need revising so that, in addition, all static mobile food vendors/ice cream vans "will be required to plug into an electrical source to avoid running the engine, unless the vehicle is a zero emissions vehicle, for the purpose of providing power in connection with the licensed Street Trading activities".</p> <p>I see payment to the Council for power supplied is covered in Appendix B 12b. This is good news and has been queried by the Richmond/Wandsworth Energy Management Team</p>	Noted
2.	Michael Turner Policy and Strategy Manager Merton Centre for Independent Living	Disabled people access	<p>The response is on behalf of Merton Centre for Independent Living - the only user-led pan-disability Deaf and Disabled people's organisation in the borough. We are run and controlled by and for Deaf and Disabled people. We support Deaf and Disabled individuals across the full spectrum of impairment including physical and sensory impairments,</p>	Noted.

			<p>mental health, long term health conditions, learning difficulties and neurodiversity. Our work includes an information and advice service, campaigning, co-production and policy.</p> <p>This means we only need to give a brief response as most of the policy is about issues of concern to traders. We very much welcome the policy's requirement (9.2) for a minimum of 2 metres space for pedestrians and the specific recognition (9.7) of the problems caused for Disabled people when space is restricted below 2 metres.</p> <p>What is of concern, which may be beyond the scope of what you are able to consider directly in the consultation, is that other aspects of the streetscape including A boards, the positioning of permanent advertising and other obstructions are covered by different laws and regulations. It seems that where tables and chairs and displays of goods are combined with these other factors that the space becomes limited. Another factor in places is mopeds providing home deliveries from take away outlets being parked on the pavements, which while legal seems to push the idea of whether they are causing an obstruction in many cases, particularly where there is a group of them. A good example of where this happens is the section of Wimbledon Broadway near the theatre.</p> <p>We believe it is appropriate for council to consider how these issues combine to create access barriers when granting licenses and in enforcement</p>	<p>Section 9 of the draft policy sets out a minimum space of 2m for clear accessibility for pedestrians and disabled persons. The recommended space is in line with <a href="#">National guidelines</a>. Section 9 of the policy (Paragraphs 9.2, 9.3, 9.7, 9.8 and 9.9) sets out the criteria for assessing proposed street trading locations to ensure they are suitable before any licence can be granted.</p> <p>The placing of Advertisements boards on the Highway is controlled by the Council's Planning and Highways Section. Any restricted thoroughfare to pedestrians/disabled persons or obstruction to the highway due to placement of 'A' boards outside the premises would be enforced by Officers from the Highways Section collaboratively with the Licensing Enforcement Officers (if the premises has a street trading licence in force)</p>
3.	<p><b>Alan Gibbs</b> Policy and Research Officer to the Conservative Group Democracy Services Corporate Services Department</p>	<p>In support of the draft Street Trading Policy</p>	<p><b>Sent on behalf of Merton Conservatives</b> Merton Conservatives support the draft street trading policy and urge the council to continue to engage with residents to ensure future policy reflects their concerns.</p>	<p>Noted.</p>

	Merton Council <a href="http://www.merton.gov.uk">www.merton.gov.uk</a>			
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