

STREET TRADING POLICY

Local Authorities (LAs) have a legal discretion to regulate street trading in their administrative area.

Purpose of the policy

This policy is to control street trading across the borough of Thurrock by means of a Street Trading Consent Scheme, whereby specific streets will be prohibited from any street trading at any time and the remaining streets will become Consent Streets. Trading from Consent Streets is also prohibited unless the trader has applied for and received a written Consent to Trade from Thurrock Council. Any such Street Trading Consent will contain restrictions on the location and permitted times for trading, type of goods sold and contain clear conditions which must be adhered to in order for the trader to obtain and retain the Street Trading Consent. The conditions are to protect public safety, promote public health and reduce nuisance to neighbouring properties. These will be attached to any Street Trading Consent given.

Definitions

“Street Trading” is defined in paragraph 1 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 – hereinafter called “the Act” – as

“the selling or exposing or offering for sale of any article (including a living thing) in a street”.

Street The above Act defines the term “street” as including:

“any road, footway, beach or other area to which the public have access without payment”; and a service area as defined in section 329 of the Highways Act 1980”.

Any part of a street is a “street” for the purposes of the Act.

Exemptions:

The Act at paragraph 1(2) of Schedule 4 states that the following types of trade are not street trading:

1. a pedlar trading under the authority of a pedlar’s certificate granted under the Pedlar’s Act 1871;
2. anything done in a market or fair, the right to hold which was acquired by virtue of a grant, enactment or order;
3. trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
4. trading as a news vendor;
5. trading carried out at premises used as a petrol filling station or used as a shop or in a street adjoining premises so used and as part of the business of that shop;
6. selling things or offering or exposing them for sale as a roundsman.

Designation

Thurrock Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to designate the whole borough as Consent Streets for the purposes of Street Trading. The licensed area includes all forecourts, roads, footways, or other areas to which the public have access by fact and without payment.

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

Prohibited Streets

See Appendix 1 for the list of Prohibited Streets in Thurrock. It is a criminal offence for any person to engage in street trading in that street. Streets will be designated as prohibited where it is anticipated that such trading would cause:

- noise or nuisance to residents living in the locality,
- would reduce public safety to persons crossing or using the street or to road users.

Consent Streets

If a street is designated as a “Consent Street” then street trading without a consent is a criminal offence under The Local Government (Miscellaneous Provisions) Act 1982.

When granting or renewing a consent, the council may attach any reasonable condition; furthermore, the council can, at any time, vary the conditions attached to the consent. Any such variations will be notified in writing to the named person in receipt of the consent to trade and will take effect immediately or on the date of the notification letter.

There is no right of appeal against any council decision made in regard of a street trading consent. The consent cannot be granted for a period of time exceeding twelve months and can be revoked at any time.

Considerations when assessing an application for a Street Trading Consent

Public safety

The proposed location of the activity should not present a risk to the public in terms of highway safety and obstruction. Where any proposed trading is within 50 metres of a school entrance, the council will seek the views of the school.

Prevention of crime and disorder

The proposed activity should not increase the risk of crime and disorder. This is likely to be more of an issue in respect of applicants wishing to trade at later hours.

Prevention of public nuisance

The proposed activity should not increase the risk of nuisance from noise, refuse, vermin, fumes, and odours.

Suitability of the Location

That there is insufficient space in the street for the applicant to engage in the trading in which he/she desires to engage without causing undue interference or inconvenience to persons using the street.

Where the street trading may damage the structure or surface of the street.

Where the appearance or quality of the trading equipment or structure/stall in use is not compatible with the character of the area in which it is proposed to be situated.

Suitability of the trading unit

This should be of a good quality design, safe construction and add to the quality of the street scene. The unit shall comply in all respects with any legal requirement relating to the trading activity proposed.

Suitability of the applicant

The applicant must provide a Basic DBS check that is no more than 3 months old (Or 12 months old if the applicant is already the holder of another street trading consent licence that is still in force and a Basic DBS has been provided for that application). A policy with regards to the suitability of applicant is attached as Appendix 3. In addition to the criminal suitability of the applicant consideration will be given to complaints or other matters related to behaviour or compliance with consent conditions or relevant legislation. Any of these matters may result in a consent being refused, revoked, or not renewed or additional conditions added.

Suitability of employees

An employee is defined as those working or providing a service associated with the consent.

The applicant/consent holder will be required to ensure that any person that is employed to work on the stall associated with the consent is suitable to do so in relation to their behaviour and or previous convictions.

Number of Street Trading Consents issued

Consents may not be issued where Thurrock Council considers that sufficient street traders already exist in that locality, particularly where there are already sufficient traders in the street from shops or other consent holders, particularly in the exact or significantly similar goods in which the applicant desires to trade.

Consents may not be issued where additional traders may cause risks to public safety or nuisance to the occupants of neighbouring properties.

Public Health

Consent holders will be encouraged to offer health alternatives as part of their menu provision.

A Public Health consideration will be made in relation to the location of the proposed consent, with regards to premises such as schools or similar, particularly with regards to applications for static pitches.

Sexual and Criminal Exploitation Training.

Consent holders and or persons working on the stall authorised by a consent, shall participate in Thurrock Council's exploitation training, at the request of the Licensing Department where it is deemed that the activity that consent is granted in relation to may benefit from sexual or criminal exploitation training, such as an ice cream trader or a trader providing late night refreshment.

Duration of Consents

Street Trading Consents will normally be issued for one year from the date of grant for new applications or from the date of renewal for existing holders. A Street Trading Consent cannot be issued for more than one year.

Types of Consent

The following types of consent can be issued:

- Static consent – Is for a trader that will trade from the same site on each occasion for the duration of the consent.
- Mobile consent – Traders with a mobile consent must not trade from the vicinity of any one location for more than 1 hour in any one day.

Fees

All fees must be paid in advance. A copy of the current fees can be found on the council's website.

The following Street Trading activities have been deemed by Thurrock Council to **not** require the payment of fees to the Council:

- Non-commercial car boot sales,
- Fetes, carnivals and similar community based not for profit run events.
- Within the curtilage of Tilbury, South Ockendon and Grays markets controlled by the relevant market authority.

Conditions

Standard conditions (attached at Appendix 2) will be attached to every Consent, detailing the holder's responsibility to maintain public safety, prevent nuisance and preserve the amenity of the locality.

Additional conditions may also be attached limiting the days and hours when street trading is permitted, the goods which may be sold, the size of the trading unit or pitch or any other relevant matter.

Failure to comply with these conditions may lead to revocation or non-renewal of the consent.

Enforcement

The following are offences under the above Local Government (Miscellaneous Provisions) Act 1982 and will be considered for prosecution:

1. Street trading in a prohibited street,
2. Street trading in a Consent Street without a relevant Consent to Trade,
3. Street trading with a Consent to Trade, but not complying with the times or location stated within the Consent to Trade.

All decisions regarding enforcement action will be made in accordance with the Public Protection Department Enforcement Policy and the Enforcement Concordat adopted by Thurrock Council.

The Council may at any time revoke a Street Trading Consent if they consider that:

- (a) owing to circumstances which have arisen since the grant or renewal of the Consent, there is not enough space in the street for the Consent holder to engage in the trading permitted by the Consent without causing undue interference or inconvenience to persons using the street.
- (b) the Consent holder is unsuitable to hold the Consent by reason of having been convicted of an offence or for any other reason.
- (c) since the Consent was granted the Consent holder has persistently refused or neglected to pay fees or charges due for the Consent or any associated services in his/her capacity as Consent -holder.
- (d) since the grant or renewal of the Consent, the Consent holder has without reasonable excuse failed to avail him or herself of the Licence to a reasonable extent.

If the council consider that they have grounds for revoking a Consent by virtue of sub-paragraph (a) or (d) above, they may, instead of revoking it, vary its principal terms:

- (a) By reducing the number of days or the period in any one day during which the Consent holder is permitted to trade: or
- (b) By restricting the descriptions of goods in which he is permitted to trade.

A Consent holder may at any time surrender his/her Consent to the council and it shall then cease to be valid.

Applications

Appendix 1

An application for a Street Trading Consent or the renewal of such a Consent shall be made in writing to Thurrock Council and shall be accompanied by all required documentation and the appropriate fee.

The applicant shall provide:

- Fully completed application form,
- Copies of public liability insurance or evidence of the proposed insurance,
- A Basic DBS certificate not more than 3 months old (or 12 months in line with this policy),
- A passport style photograph of the applicant,
- Details of all staff either paid or voluntary that will be engaged in relation to the consent,
- Details of proposed vehicle, trailer or stall, including photographs where relevant.
- Any MOT, vehicle insurance etc or other documentation associated with vehicles used in association with the application.

Appendix 1

PROHIBITED STREETS

STREETS PROHIBITED BY THURROCK COUNCIL

- South Road, South Ockendon,
- Romford Road, Aveley,
- Lodge Lane, Grays,
- Stanford Road between the A128 and London Road, Stanford le Hope,
- A1306 westwards from the A1012,
- B1335 Stifford Road, South Ockendon,
- East Tilbury Road, Linford.

STREETS PROHIBITED (AND ENFORCED) BY THE HIGHWAYS AGENCY

- A13 between Wennington (A1306) and the A1089 junction at Baker Street)
- A13 link roads between A282/M25 junctions 30 and 31 and A282 Canterbury Way) Highways Agency roads and they do not allow roadside trading on their roads.
- A1089 between the A13 junction and the London Tilbury Cruise Terminal

Appendix 2.

GENERAL CONDITIONS FOR STREET TRADING CONSENTS

The Council will not grant a Street Trading Consent to persons under the age of 17 years and no person employed by a Consent Holder to assist him/her in the street trading shall be under the age of 16 years.

The consent granted is specific to the person it is issued to and is non-transferable.

No trading stall, vehicle etc. is permitted to remain at the locality in question outside the permitted hours. It must be removed at the end of each trading day and not returned until the agreed trading commencement hours the following day without the landowners written consent

Planning Permission

The land from which you intend to trade may require planning permission for such use. It is your responsibility to check with the Council's planning department prior to applying for a Consent.

Location of static trading units

Static units must not trade from any area other than the site defined in their Consent to Trade. If the Consent Holder wishes to move the trading unit to another site he/she must apply for a new Consent to Trade.

Goods sold from the trading vehicle

The Consent Holder can only sell goods identified in the Consent to Trade. If he/she wishes to sell different or additional goods, he/she must apply for a new Consent to Trade.

Trading Times

The Consent Holder shall not trade within the borough of Thurrock outside the time and days permitted by the Consent.

Legal requirements of the trading unit

The mobile vehicle, stall, barrow etc. must at all times comply with the requirements of the Food Safety Act 1990, Food Hygiene (England) Regulations 2006 and the Health and Safety at Work etc. Act 1974 and any other relevant public safety legislation.

Traders that are permitted to trade at any time between 11.00pm and 5.00am must also be licensed under the Licensing Act 2003 if providing late night refreshment.

Sanitary Provision

The Consent Holder when operating on a static site shall have access to suitable and sufficient sanitary (toilet) facilities for both the Consent Holder, and any persons employed in the street trading activity.

Private and Thurrock Council land

You must provide written confirmation of permission obtained from Thurrock Council's Lands department or the private landowner for the land where the stall/vehicle is to trade from.

Possession of a street trading consent does not, in any way, override parking restrictions or other traffic regulations for either the Consent Holder or his customers.

Change of home address

The consent holder must inform the Council of a change in his/her home address during the period of the consent within seven days of such a change taking place.

Trading unit identification plates

All vehicles, stalls, carts, or other devices used for street trading will be required whilst trading to display a trading unit identification plate. The plate is issued by the Council and remains the Council's property throughout the duration of the Consent. The plate should be displayed in a prominent position on the trading unit, so that it is clearly visible to members of the public using the trading unit.

The trading unit identification plate must be returned to the Council if the Consent Holder ceases to trade and surrenders his/her Consent.

Condition of the stall/vehicle

The Consent Holder must ensure that the appearance of the stall/vehicle is of a high standard and the structure and procedures comply with all relevant legal requirements, in particular the Food Safety Act 1990, the Health and Safety at Work etc. Act 1974, the Food Hygiene (England) Regulations 2006, the Environmental Protection Act 1990 and associated regulations.

The Consent Holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Consent 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.

Behaviour

The consent holder shall at all times be clean and respectable in his dress and person and behave in a civil, orderly and courteous manner.

Trading shall not take place in such a manner as to cause nuisance or annoyance to persons whether using the street or otherwise.

Sexual and Criminal Exploitation Training

The consent holder and or persons working on the stall/unit authorised by a consent, shall participate in Thurrock Council's exploitation training, at the request of the Licensing Department.

Mobile Consents

A mobile vehicle shall not remain on any one site for more than one hour in any twenty-four-hour period.

Ice Cream Van Chimes

The Consent Holder must comply with the provisions of the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982, that is: it is an **offence** to sound the chimes so as to cause annoyance. Do NOT sound the chimes:

1. For longer than 4 seconds at a time – use an automatic cut out device.
2. More often than once every 3 minutes.
3. When the vehicle is stationary,
4. Except on approach to a selling point,
5. When in sight of another ice-cream van which is trading,
6. When within 50 metres of schools (during school hours), hospitals and places of worship (on Sundays and any other recognised days of worship),
7. More often than once every 2 hours in the same street,
8. Louder than 80 dB(A) at 7.5 metres distance from the vehicle,
9. As loudly in quiet areas or narrow streets as elsewhere.

It is also an Offence under the Control of Pollution Act 1974 to sound chimes:

1. Before 12 noon and after 1900 hours,
2. At any time, in a way which gives reasonable cause of annoyance.

Refuse

The consent holder shall in no circumstances, deposit litter, rubbish or refuse in the street, but shall at all relevant times provide adequate and proper containers for the disposal of such refuse from his vehicle and customers and shall encourage his customers to use those containers. The consent holder shall tidy up, clear up and clean up all refuse, litter etc. before leaving the locality and take the refuse and containers with him/her.

The Consent Holder must ensure that waste liquids arising at the stall are not disposed of into any highway channel, gully or manhole or in any other manner likely to cause pollution of any surface water channel.

All refuse generated by the business must be taken to a licensed waste disposal site. Consent Holders must identify their method of waste disposal at the time of application and keep records of their waste arrangements, which must be made readily available to authorised officers from Thurrock Council on request.

Access by Council and Police Officers

Consent Holders must allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

Street Trading Consents

The conditions attached to all Street Trading Consents stipulate that a Consent Holder cannot assign, let, sell, rent or otherwise part with his interest or possession of a Street Trading Consent.

If a Consent Holder or his/her employee is requested to move the stall/vehicle by an authorised Council Officer, a Police Officer, an Officer of the Thurrock Fire or Ambulance Service, he/shall shall immediately comply with that request.

The Council may vary the Conditions attached to the Consent at any time.

Price List

All Consent Holders must clearly display a price list for the goods on offer for sale.

Insurance

All Consent Holders shall have and maintain an insurance policy against public liability and third-party risks. A minimum insurance cover of £2 million shall be obtained by the Consent Holder and shall cover the operator's vehicle or stall and any additional equipment under his control such as generators etc. The insurance certificate or cover note shall be produced to the Licensing Team before the Street Trading Consent is issued and at any other time on demand during the currency of the Consent.

Renewal

The consent holder must apply to the Council for a renewal at least 30 days prior to the date of the current consent's expiry. If an application for renewal is not received by the expiry date, the consent will lapse. It is a criminal offence to engage in street trading without holding a current consent.

Prospective applicants are most strongly advised to seek the necessary permissions, consents and, where appropriate, planning permissions before making a commitment to any financial outlay and before applying for the Street Trading Consent.

Employees.

An employee is defined as those working or providing a service associated with the consent.

The consent will be required to require any person that is employed to provide a Basic DBS check that is no more than 3 months old. This check must be undertaken at the commencement of employment or before the issue of new consent. Any employee must meet the suitability of applicant criteria to be engaged in any activity.

Appendix 3

Assessment of Previous Convictions

Convictions for attempt or conspiracy will be regarded as convictions for the substantive crime. A caution is regarded in exactly the same way as a conviction. Fixed penalties and community resolutions will also be considered in the same way as a conviction.

Matters which have not resulted in a criminal conviction (whether that is the result of an acquittal, a conviction being quashed, decision not to prosecute or an investigation which is continuing where the individual has been bailed) can and will be taken into account by the licensing authority. In addition, complaints where there was no police involvement will also be considered. Within this document, any reference to "conviction" may also include matters that amount to criminal behaviour, but which have not resulted in a conviction.

In the case of any new applicant who has been charged with any offence and is awaiting trial, the determination will be deferred until the trial has been completed or the charges withdrawn. Where an existing licensee is charged, it will be for the licensing authority to decide what action to take in the light of these guidelines.

Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases.

1. Crimes resulting in death.

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

2. Exploitation.

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

3. Offences involving violence against the person.

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

4. Possession of a weapon.

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

5. Sexual offences.

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted. In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

6. Dishonesty.

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

7. Drugs.

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed.

8. Discrimination.

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.