

**SPELTHORNE BOROUGH COUNCIL**

**STREET TRADING POLICY  
2010**



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## **1.0 Introduction**

This Policy will guide the Council when it considers applications under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Council has adopted this legislation and streets have been determined as either 'consent' or 'prohibited'. This means that anyone who wishes to trade on a consent street (which includes a street, highway or other area to which the public have access without payment) must hold a street trading consent. The definition does not include buildings or commercial premises.

## **2.0 Definitions**

Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:

"Street" includes

- (a) Any road, footway, or other area to which the public have access without payment; and
- (b) A service area as defined in section 329 of the Highways Act 1980

"Consent street" means a street in which street trading is prohibited without the consent of Spelthorne Borough Council.

"Prohibited street" means a street in which trading is prohibited

"Street trading" means the selling or exposing or offering for sale any article (including a living thing).

The following are not street trading for the purposes of this schedule:

- (a) Trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlar's Act 1871;
- (b) Anything done in a market or fair
- (c) Trading in a trunk road picnic area as defined in Section 112 of the Highways Act 1980
- (d) Trading as a news vendor (newspapers and periodicals), trading which is carried on at premises used as a petrol filling station or is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop
- (e) Selling things as a roundsman (e.g. milk roundsmen)

## **3.0 Objectives of the policy**

- To regulate the amount of street trading.

- To ensure that permitted street trading is properly regulated as to where, when and how it takes place.
- To make sure public health is protected and that the trading does not cause an unreasonable disturbance to residents
- To make sure that the process involves opportunities for Surrey County Council, as the Highways Authority, Surrey Police, and Environmental Health Residential and Pollution Team to comment on suitability of locations and to refuse permission where sites are not found to be suitable.
- To ensure that traders and people that they employ are “fit and proper” in accordance with the Act and that shall include a requirement for basic criminal record checks.
- To permit temporary or occasional street trading, where appropriate.

#### **4.0 Mobile and non-mobile sites**

Spelthorne has adopted the relevant parts of Section 3 and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, whereby streets in the borough are designated as “Prohibited” or “Consent” streets for the purpose of street trading. The resolution came into effect on 15 May 1987.

Street trading will only be permitted in Consent Streets as listed in **Annex A** and will be subject to the following generic conditions, which remain unchanged:

##### **4.1 Mobile Sites**

Mobile traders, such as ice cream vans, may trade for not more than 30 minutes at any one site in any Consent Street between the hours of 08.30 and 23.00 on all days, including Sundays.

##### **4.2 Non mobile sites**

Street trading may take place at sites on the public highway to which the public have the right of access without payment, provided that:

- (1) the public highway is a Consent Street;
- (2) the location has been approved by Surrey County Council and Surrey Police;
- (3) the trader has obtained a Street Trading consent from the Head of Environmental Health and Building Control Services.

Trading from such sites may take place between the hours of 08.30 and 23.00 (22.30 in areas close to residential properties on Mondays to Saturdays inclusive). No street trading will be allowed at these sites on Sundays. Official consent from Spelthorne is required to trade from any Consent Street.

In some circumstances approval may be given to trade outside these times in non-residential areas. Each case will be considered on its merits. Providing hot food and/or hot drinks between 23.00 and 05.00 will require a Premises Licence under the Licensing Act 2003.

To obtain approval from Surrey County Council's Highway department, the site may need to be visited by a Highway Inspector. There is a fee charged for each inspection payable directly to Surrey County Council.

## **5.0 Temporary Consents**

Temporary consents are possible in popular areas such as the pedestrianised area of Staines High Street, subject to consultation with key organisations (including Surrey County Council and Surrey Police) as to the criteria that shall be used to determine suitability. For Staines Town centre's pedestrianised area, the suggested criteria are listed below:

- a) Cannot operate on Market Days, unless businesses have already been given approval to trade on such days by Spelthorne's market operator.
- b) Any damage caused to the pavement flagstones on delivery/ collection/ during use will result in the trader responsible for such damage being recharged.
- c) Any litter generated by the business must be tidied up during the time of trading and cleaned up thoroughly and suitably disposed of at the end of each day.
- d) Comply with any requirements imposed on the business by Spelthorne's Street scene service.
- e) Comply with the requirements contained in this policy. Must not cause an unreasonable disturbance to residents or nearby businesses

Consents on Spelthorne owned land will be subject to an additional fee.

## **6.0 Parks/Public open spaces**

For the purpose of this policy, parks in Spelthorne are neither consent streets nor prohibited streets. Consent to trade in these parks must be directed to Spelthorne Borough Council's Environment Services for consideration (01784 444235). Any food traders in parks would need to be able to meet the requirements outlined in Annex B. They must also be registered, under EC Regulations 852/2004, with the local authority in whose area their vehicle/trailer, etc. is normally kept.

## 7.0 Suitability of Street trading locations

Consent to street trade from fixed sites will in all cases be subject to highway, road safety and environmental considerations determined by Spelthorne, Surrey County Council and Surrey Police. Therefore the location(s) of any street trading must be acceptable to Surrey County Council Highways Department and Surrey Police, and written agreement obtained as to the proposed trading location(s) from them.

Privately-owned land, for example Two Rivers Shopping Centre and its access roads are neither Consent Streets nor Prohibited Streets as defined in this Policy. Consent to trade from these areas must therefore be directed to the relevant land owners.

Street Trading Consents from static locations will **not** normally be granted where:

- Road safety would be compromised either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
- There would be a significant loss of amenity caused by additional traffic, or disturbance (e.g. noise, odour or fumes, etc.); or
- There is already adequate provision of similar goods in the immediate vicinity of the site to be used for street trading purposes; or
- There is a conflict with Traffic Management Orders such as waiting restrictions; or
- The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
- The trading unit obstructs the safe passage of users of the footway or carriageway; or
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or
- The site does not allow the Consent Holder, staff and customers to park in a safe manner; or

A copy of the general conditions are outlined in **Annex B**

The application procedure is described in **Annex C**

A list of offences under the Act are shown in **Annex D**

A list of current Consultees for street trading Consents is shown in **Annex E**

## **Annex A - Schedule of prohibited and consent streets**

### **Prohibited streets**

A30 Staines by-pass from Crooked Billet junction to boundary with Windsor and Maidenhead Borough Council

A30 London Road from London Borough of Hounslow boundary to Crooked Billet junction.

A244 Chertsey Road, Ashford; Cadbury Road, Sunbury; Windmill Road, Sunbury; Upper Halliford Road, Shepperton (from Windmill Road to junction with Upper Halliford By-pass); Upper Halliford By-pass, Shepperton; Gaston Bridge Road, Shepperton (from Upper Halliford By-Pass to junction with Fordbridge Road etc); Walton Bridge Road, Shepperton; and Walton Bridge, Shepperton.

A316 Country Way, Sunbury (from London Borough of Hounslow boundary to M3); Entry and exit slip roads (from A308 Sunbury Cross Roundabout to Country Way)

A308 Staines Bridge, Staines; Clarence Street, Staines; South Street, Staines; Thames Street, Staines; High Street, Staines between South Street and Kingston Road; London Road, Staines (from junction with High Street/South Street to Crooked Billet junction); Staines By-pass, Staines/Ashford (from Crooked Billet junction to junction with Kingston Road/Fordbridge Road); Kingston Road, Ashford (from junction with Staines By-pass/Fordbridge road to Staines Road West); Staines Road West, Ashford/Sunbury; Sunbury Cross roundabout; Staines Road East, Sunbury (from Sunbury Cross Roundabout to London Borough of Richmond boundary).

A3044 Stanwell Moor Road, Staines/Stanwell (from Crooked Billet Roundabout to London Borough of Hounslow boundary. (from Crooked Billet junction to A3113 Cargo Terminal roundabout); Stanwell Moor Road, Stanwell to London Borough of Hounslow boundary

B376 Laleham Road, Staines (from Thames Street to Commercial Road).

B376 Church Street, Staines (from Bridge Street to Clarence Street).

B376 Bridge Street, Staines (from Clarence Street to Wraysbury Road)

Staines Bus Station, Friends Walk and Elmsleigh Road

Staines Pedestrian High Street (between Thames Street & South Street) (There may however be provision to trade on an occasional

basis subject to approval by Surrey County Council Surrey Police and other interested parties such as Spelthorne Borough Council Street Scene officers and the Town Centre Manager).

B375 Church Road, Shepperton; Chertsey Road, Shepperton (from Church Road to Ferry Lane).

B375 Thames Street, Sunbury.

All roads subject to motorway regulations.

### **Consent Streets**

All other streets in the borough. For the purpose of this resolution, the term "street" includes:

- (a) any road, footway, or beach – not required or other area to which the public have access without payment, and
- (b) A service area as defined in Section 329 of the Highways Act 1980.

### **Annex B – Street trading consent conditions**

#### **General conditions applicable to all street traders**

1. The Trader or any person employed by him, shall only trade from a site which has been approved in writing by Surrey County Council's Highways Department. No new application for a Street trading consent will therefore be granted unless the Trader's application is accompanied by a letter from Surrey County Council confirming that they have no objection to the use of a specific site or sites.
2. Written consent shall also be required from Surrey Police.
3. Where appropriate, the Trader, and the stall and / or vehicle, must comply with all relevant food hygiene and health and safety legislation.
4. The Trader shall only trade from a stall or vehicle approved by Spelthorne. Prior to approval being given an authorised officer will inspect the stall or vehicle to ensure it complies with relevant Environmental Health legislation such as food hygiene and/or health and safety law.
5. The Trader must notify Spelthorne's Environmental Health Service if he/she sells his/her business to another person(s) or organization, or otherwise transfers ownership or control.
6. The Trader shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition.
7. An application to trade from a vehicle shall be accompanied by the relevant DVLA registration, MOT and insurance documents
8. The Trader shall conduct his/her business in such a manner to ensure he/she does not:



- a) Cause an unreasonable disturbance to the occupiers of any nearby properties (e.g. from litter, noise, vibrations, odour, smoke, etc.);
  - b) Cause an obstruction to other vehicles or pedestrians in the street; and
  - c) Cause a danger to occupiers of any adjoining properties or to other users of the street.
- 9. Traders may only operate between the hours stated on the consent.
- 10. The area around the stall or vehicle must be kept clear of litter. A container for litter, etc must be provided adjacent to the sales area. The container must be of substantial construction, adequate size, capable of being closed, waterproof and cleaned daily. Any litter and trade refuse must be removed to an approved disposal area at the end of each working day.
- 11. In accordance with paragraph 7 (8) of Schedule 4 of the Act, the holder will be authorised to trade from a stationary vehicle or portable stall.
- 12. A copy of the trader's consent, suitably protected against the weather, shall be displayed in a prominent position on the stall or vehicle at all times when the business is taking place.
- 13. A first aid kit comprising suitable and sufficient bandages, waterproof dressings and antiseptic shall be available on the vehicle or stall at all times.
- 14. No street trader operating in the Borough shall sell or display for sale goods within 50 metres of an established commercial premises dealing in the same commodities.
- 15. No unauthorised signs shall be displayed on or about the highway. Any signage must be checked and authorized in writing by the Licensing Team prior to their use.
- 16. Nothing in any consent shall purport to grant to the holder any other licence or permission required under any other Enactment. The holder is advised to obtain such other approval as may be required.

### **Conditions applicable to food traders**

- 1. All floor areas shall be covered with a fitted, non-slip, impervious material free from any joints and sealed at all edges to avoid dirt traps and to be capable of being properly cleaned.
- 2. Wall and ceiling areas shall be smooth, impervious and all joints properly sealed to provide surfaces, which can be effectively cleaned.
- 3. Doors shall be flush finished and windows properly decorated and free from ornamentation such as curtains
- 4. All working surfaces and cupboard areas shall be of laminated plastic or preferably stainless steel construction so as to be smooth, hard, impervious and capable of being effectively cleaned.
- 5. Food handlers shall wear clean, washable over clothing. Suitable locker provision shall be made for any shoes, handbags or outdoor clothing kept on the stall or vehicle.
- 6. An impervious container with plastic liner shall be provided on the stall or vehicle for the temporary reception of refuse and waste prior to disposal.

7. A refrigerator shall be provided to maintain all stored relevant foods at a temperature below 8<sup>0</sup>c or at the temperature recommended by the manufacturer.
8. All cooking equipment shall be maintained in a clean and hygienic condition and if gas fired shall be provided with a suitable shut-off tap between the gas distribution pipe work and each appliance. This tap shall be sited so as to enable easy access to it for isolation of the appliance in case of an emergency.
9. A ventilation canopy incorporating a flue shall be installed to prevent any build-up of grease from cooking fumes. Permanent ventilation, equally divided at both high and low levels, shall be provided in the vehicle to remove combustion products and any L P G leakage.
10. All combustible materials adjacent to or above cooking appliances shall be fireproofed.
11. If crockery and cutlery are to be utilised in the serving of any food, a stainless steel double-bowl sink with integral drainer shall be provided for washing such items.
12. A single bowl sink may be acceptable for washing cooking equipment only.
13. A separate wash hand basin shall be provided with a constant supply of hot and cold water, soap, and suitable hand drying facilities.
14. Waste water shall be collected from washing facilities via sealed traps into sealed containers outside the trailer and the waste disposed to a foul drainage system.
15. Requirements for Liquefied Petroleum Gas (LPG)
  - a) All L P G cylinders, regulators and changeover devices shall be housed in a separate, well ventilated, fire resistant compartment, the compartment shall be ventilated to the external air only and shall have access exclusively from outside the vehicle (to enable safe access to shut off cylinders in case of fire).
  - b) The cylinders shall be fitted upright and fastened securely during transit. All valves and appliance controls shall be turned off while the vehicle is in motion.
  - c) The service and reserve cylinders shall be connected by means of an automatic changeover device. This device shall be connected to both service and reserve cylinder and will automatically divert the supply from service to reserve when the service cylinder is empty. This will ensure an uninterrupted supply and will eliminate the need to change cylinders manually whilst catering is being carried out.
  - d) The storage compartment shall be used solely for the storage of L P G cylinders, associated regulation equipment and specialist tools as necessary.
  - e) All servicing, renovation, repair or improvement work on the gas installation excluding changing cylinders must only be undertaken by Gas Safe Registered contractors.

## **Annex C – Application procedure**

Please note fees are charged. Please speak to the Licensing Team for the current fee.

New applications to (street trade) as defined above must be made in writing and accompanied by:

- An application fee which is payable for an initial enquiry into the suitability of a proposed location. If the site is not approved then the fee will be retained to cover administrative costs. The initial fee may be subject to annual increases.
- A copy of a site plan indicating proposed location in relation to the surrounding area, and the position from which trading will be carried out should be sent by e-mail to [environmental.health.commercial@spelthorne.gov.uk](mailto:environmental.health.commercial@spelthorne.gov.uk) where possible. If hard copies are to be submitted then 3 copies will be required to be sent to the Licensing Team, Spelthorne Borough Council, Knowle Green Staines TW18 1XB. The site plan shall include an indication of any signs to be used. A photograph of the vehicle to be used, showing rough dimensions. Again it is preferable for this to be sent by e-mail.
- A single passport sized photograph A “basic” criminal record check, paid for by the applicant. If there are any “unspent” convictions then the application will be referred to Surrey Police. Applicants can request basic criminal record checks from [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk) . Such a check must be no older than one month of the date of application.
- For a food trader: confirmation from the local authority Environmental Health Department where the vehicle/trailer, etc. is normally kept, confirming that the business is registered with them under the EC Regulations 852/2004.
- Copy of a valid Public Liability Insurance certificate must be provided.

Decisions on whether or not to issue new consents to street trade will be made by Spelthorne’s Head of Environmental Health and Building Control Services in conjunction with the Cabinet Member for Community Safety

### **Appeals**

Aside from Judicial Review, there is no appeal mechanism in law against the refusal to issue a street trader’s Consent. Decisions to refuse, suspend or revoke a consent, or a refusal to renew a consent shall be taken by Spelthorne’s Licensing Committee.

- In terms of initial applications needing the consent of Surrey County Council’s Highways department, they shall have the final say. If they refuse on highway grounds, then that decision is final. There are no rights of appeal.
- In some circumstances it may be appropriate to offer a trader a trial period to see whether the location is viable and that the trade does not

impact adversely on traffic movements or result in substantiated complaints.

## **Annex D - Offences**

Schedule 4 (10) of the Local Government (Miscellaneous Provisions) Act 1982 states:

- (1) A person who
- (a) Engages in street trading in a prohibited street; or
  - (b) Engages in street trading in a consent street without being authorised to do so; or
  - (c) Contravenes any principal terms of a street trading consent; or
  - (d) Being authorised by a street trading consent to trade in a consent street in a van, cart barrow or other vehicle that has not formed part of the consent;
  - (e) Contravenes a condition imposed.

shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under sub-paragraph 1 above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(3) Any person who, in connection with an application for a street trading consent, knowingly makes a false statement shall be guilty of an offence.

(4) A person guilty of an offence under this paragraph shall be liable on conviction to a fine not exceeding £1,000

Enforcement will be carried out by Spelthorne Borough Council in accordance with this policy and the Environmental Health and Building Control Services enforcement policy.

## **Annex E – List of Consultees**

- 1) Surrey County Council's Highways Department:
  - a) Local Transportation Manager for Spelthorne;
  - b) Parking Strategy and Implementation Group.
- 2) Surrey Police – Spelthorne's Casualty Reduction Officer.
- 3) Paul Irvine Trading – Spelthorne's Staines Town Market contractor.
- 4) Staines Town Centre Partnership.
- 5) Two Rivers Management

- 6) Elmsleigh Centre Management
- 7) Local businesses with Spelthorne Street Trading Consents.
- 8) Spelthorne Borough Council:
  - a) Head of Environment Services;
  - b) Head of Environmental Health and Building Control Services
  - c) Sustainability & Open Space Manager;
  - d) Head of StreetScene;
  - e) Head of Corporate Governance;
  - f) Leisure Services Manager.