



castlepoint

benfleet | canvey | hadleigh | thundersley

# Street Trading Policy

## Introduction

The Council has by the powers invested in it resolved that for the purposes of controlling street trading all current and future streets (adopted or un-adopted highway), council car parks including all forecourts, roads, footways or other areas adjacent to the streets referred to in this resolution be designated as 'consent streets'.

This policy applies to all street trading activities in the Borough of Castle Point to ensure consistency in decision making. Each application will be considered on its own merits in order that the individual circumstances are taken into consideration.

### 1 Definitions of terms used in this policy

Within the terms of the Council's street trading consent scheme the following definitions apply:

The Council	Castle Point Borough Council
Street trading	the selling or exposing or offering for sale of any article (including a living thing) on any street
Street	a) any road, footway or other area to which the public have access to without payment b) a service area as designed in section 329 of the Highways Act 1980 and also includes any part of a street
Consent street	means a street in which street trading is prohibited without the consent of the Council
Consent	a consent to trade on a street granted by the Council, pursuant to Paragraph 7, Schedule 4 of Local Government (Miscellaneous Provisions) Act 1982
Consent holder	the person or company to whom the consent to trade has been granted by the Council
Authorised Officer	an officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982

### 2 Submission of the application

An application for a street trading consent should be made to the Council in writing or online giving a minimum of 60 day's notice to the Council before the application is submitted.

Some types of trade are legally exempt from the need to obtain a street trading consent. These include:

- A person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- Trade carried out by rounds men e.g. milkmen
- Trade carried on at a petrol filling station

The following will be required to be submitted with the application:

- A completed and signed street trading consent application form
- The full fee as appropriate (see the last page of this policy for fees) for the periods of trading applied for
- Where the proposed street activity is from a fixed position a copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line
- Three colour photographs of the unit that will be used for the street trading activity
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks
- Photo identification – passport or photo driving licence.
- Two passport type photographs

### **3 Consultation on applications made**

Before a street trading consent is granted or renewed the Council will carry out a consultation process with various persons and groups. In particular the following organisations or persons are consulted.

- Essex County Council Highways
- Development Control
- Essex Police
- Essex Fire & Rescue Service
- Canvey Town Council (if applicable)
- Environmental Health

In addition the Council will send copies of the application form to properties within 100 meters of the proposed site.

### **4 Determination of the Application**

The Head of Licensing and Safer Communities acting on delegated powers will use the criteria listed below in determining any street trading consents. Similarly any objections received will be considered against these criteria. Each case will be assessed on its merits and individual circumstances may be taken into consideration.

Once the application is referred to the Head of Licensing and Safer communities the applicant will be informed in writing and notified that the application will be determined within 28 days unless advised otherwise. Persons or bodies making written objections will also be informed along with the appropriate ward councillors for the proposed street trading site.

a) **Public safety:** The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers requesting the street trading activity, and other members of the public using the street. In particular reference will be made to guidelines set out in section 6 on site assessment criteria.

b) **Public order:** The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from Essex Police will be taken into consideration.

c) **Avoidance of nuisance:** The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observation from Council Officers shall be taken into consideration.

d) **Needs of the Area:** The sufficiency of other trading outlets will be taken into consideration in relation to:

1. The presence of like outlets already existing in the immediate locality of the proposed street trading site.
2. The general needs of a locality should no comparable outlet exist.

Applicants will have to demonstrate to the Council the need for the proposed street trading activity in relation to either points 1 or 2 above, whichever applies.

e) **Compliance with legal requirements:** The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation.

f) **Consultees observation:** In relation to points a–d above consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.

g) **Permitted trading hours:** The Council generally will only permit street trading between 6.00am and midnight on any one day. Any trading outside these hours will have to be approved by the Council. Street trading outside of these guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted

hours of trading that are less than those specified above if local circumstances dictate.

h) **Children and Young Persons:** The Childrens and Young Persons Act 1933, as amended by the Childrens and Young Persons Act 1963, controls the employment of children in street trading. The Act prohibits employment of children under 17 years of age.

## 5 **Inspection of the street trading unit and site assessment**

The unit will be inspected by an authorised officer of the Council prior to the issue of a street trading consent if necessary. The unit shall comply in all respects with the legal requirements relating to the type of street trading activity proposed. In particular the unit shall comply with the following legislation:

- Health and Safety at Work Act 1974 and any Regulations made under this Act
- Environmental Protection Act 1990
- Food Hygiene (England) Regulations 2006
- Regulation (EC) 852/2004

The Consent permit must be displayed and available for inspection by a Local Authority Enforcement Officer/Police Officer at all times.

Street trading consents from static locations will not usually be granted where:

- A significant effect on road safety would arise either from the situation of the trading activity itself, or from customers visiting or leaving the site
- Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be situated
- There would be a significant loss of amenity caused by traffic, noise, rubbish, potential for harbourage of vermin, odour or fumes
- There is already adequate like provision in the immediate vicinity of the site to be used for street trading purposes
- There is conflict with traffic orders such as waiting restrictions
- 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
- The trading unit obstructs the safe passage of users of the footway or carriageway
- The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities
- The site does not allow the consent holder, staff and customers to park in a safe manner

- The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff
- Within 500 metres of a school or education establishment.

## **6 Decision to refuse or revoke**

If the Head of Licensing and Safer Communities is unable to grant a street trading consent the applicant will be notified in writing within 21 days.

If the applicant is not satisfied with the decision they may make a representation in writing within 28 days to the Council and the Licensing Committee will consider the application.

The following grounds will be considered for refusing an application or revoking a consent:-

- 1) That the applicant/consent holder has, without reasonable excuse, failed to himself to a reasonable extent of a previous, or as the case may be, current, street trading consent.
- 2) That there is not enough space in the street for the applicant/consent holder to engage in the trading in which they desire to trade without causing undue interference or inconvenience to persons using the street. This is relevant even if the circumstances have reasonably arisen since the granting a consent.
- 3) That the applicant/consent holder has failed to comply with the conditions of a consent or any statutory requirement relevant to street trading (e.g. hygiene or safety requirements).
- 4) That the applicant/consent holder is unsuitable to hold a consent by reason of having been convicted of an offence material to safety of the public, or public order, littering or pollution.
- 5) That the consent holder's stall has been the focus for incidents involving public disorder or nuisance.

## **7 Representation to the Licensing Sub Committee**

The Council's Licensing Sub Committee considers applications and objections and appeals in relation to licensing matters.

If a Sub Committee is to be held the applicant will be advised in writing of the date, time and place of the meeting and applicant may attend. The applicant can be represented by a solicitor or supported by a friend or colleague. The Committee will follow a set procedure that will be notified to the applicant in advance of the meeting along with any reports that will be presented at the meeting.

The decision of the Committee will be confirmed in writing to the applicant within 5 working days of the meeting at which the application was considered.

The Committee will always adhere to the rules of natural justice when it is considering an application to ensure that all persons get a fair hearing.

## **8 Refusal of Applications**

The Local Government (Miscellaneous Provisions) Act 1982 does not allow any legal appeals against the decision of the Council in relation to the refusal of street trading consents. A person aggrieved by a decision of the Council may seek a Judicial Review of the decision.

## **9 Approval of Applications**

The Head of Licensing and Safer Communities may approve applications meeting the criteria contained within these guidelines.

On approving the application the council will issue a street consent to which conditions will be attached. The consent will also contain specific terms such as days and hours when street trading is permitted and the goods that may be sold.

Additional conditions may be attached if special circumstances apply to the consent being granted by the Council. The consent shall be issued within 21 days of the decision.

The conditions attached to the consent form part of the approval to carry out street trading in the Borough of Castle Point. They must be complied with at all times and failure to do so could lead to the consent being either revoked or not renewed.

Consent holders are therefore requested to familiarise themselves with the terms and conditions attached to the street trading consent and comply with the requirements.

## **10 Issue of Street Trading Consents**

A street trading consent for any particular site will be issued for a maximum period of one year. Shorter term consents may be issued on a daily, weekly or monthly basis. The licence must specify the street, days and times that the licence holder can trade and the items that can be sold. These particular consents will expire, unless renewed, on a date specified the consent

In all cases when a consent has expired and an application has not been submitted to the Council for renewal a new application will have to be made. In such cases the application will be required to go through the full consideration process outlined in these guidelines.

## 11 **General Information on Street Trading Consents**

**Reimbursement of Fees:** Fees will be reimbursed to consent holders where they cease to trade and surrender their consent to the Council. Any reimbursement will be strictly from the date the consent is surrendered to the Council.

Refund of any fee paid in connection with the granting of a street trading consent will be based on the following formula:

Number of complete days remaining divided by the fee paid **less** the current administration fee.

**Persons under the age of 17 years:** The Council will not grant a street trading consent to persons under the age of 17 years.

**Access by Council and Police Officers:** Consent holders should allow access to authorised officers of the Council and the Police at all reasonable times.

**Street Trading Consents:** The conditions attached to all street trading consents stipulate that a consent holder shall not assign, sub-let or part with his interest or possession of a street trading consent.

**Variance of conditions:** The Council may at any time vary the conditions of a street trading consent.

## 12 **Enforcement of Street Trading**

The Council will actively enforce the provisions of the street trading legislation within its area in a fair and consistent manner.

## 13 **Complaints**

The Council has a complaints procedure copies of which are available on the Council's website [www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)



## **Fees**

The following fees are payable in respect of street trading consents and applications must be accompanied by the full fee. Any annual street trading consent shall run from 1 June to 31 May

### **Single Day**

£10

### **Short term Consent (up to seven days as a block)**

Fee payable £75

### **Annual consent for one day/night per week**

Subject to availability, applicants will be able to make a block booking for a consent trade on particular days/nights of the week over an annual period. Fee payable £500

### **Annual consents for more than one day/night per week**

Fees payable £500 plus £75 per additional day/night per week a consent is required.

## **Standard conditions**

The following standard conditions will normally be attached to a street trading consent:

- The subletting of consents is prohibited
- Any stall, barrow, vehicle used in connection with a street trading shall be kept in good condition and so presented as not to detract from the appearance of the street
- The consent holder shall be responsible for the temporary storage of refuse, liquid and other deleterious material accumulated or created whilst trading and its subsequent removal from the site and shall satisfy the Council regarding its proper disposal
- The consent holder shall be responsible for collecting, removing all litter within 100 metres in any direction of the stall or vehicle and disposing of it in a proper manner
- No sullage water from the washing of food equipment or hand washing shall be allowed to discharge to ground and the consent holder shall satisfy the Council regarding its proper disposal
- The consent holder shall ensure that at all times whilst trading in a consent street, a sign bearing his name and address and the expiry date of his consent shall be displayed on the vehicle, stall in such a position as to be clearly visible to all customers at the vehicle/stall
- The consent holder, of intending to sell food from a stationary vehicle/stall shall operate from a purpose made vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations currently in force within the provisions of the Food safety Act 1990
- The consent holder shall not obstruct the street or cause danger to using the street
- The consent holder shall not cause any nuisance or annoyance (whether to persons using the street or otherwise)