

STREET TRADING LICENSING POLICY

Introduction

For the purposes of controlling street trading in the borough, the Council have previously adopted the relevant provisions of the London Local Authorities Act 1990 (as amended). This policy is intended to provide a framework for the Council's approach to the licensing of street trading throughout the borough. It should be read in conjunction with any specific policies which the Council may agree from time to time for particular areas in the borough, such as the North End Licensing Policy and the Surrey Street Market Licensing Policy.

Legislation

Street trading can include the sale, display or offering of goods for sale outside a shop premises, street markets or the placing of tables and chairs outside a café, restaurant or bar. These activities are controlled by licences under the London Local Authorities Act 1990 (as amended) ("the Act"). Under the Act the Council is responsible for granting, renewing varying or revoking all street trading licences. This function is generally undertaken by the Executive Director of Community Services (CS) and his officers further to the delegations determined by the Licensing Committee (the Committee).

Where street trading is to take place at a site for the first time, the street/area has to be designated (unless it is being done under a temporary licence). Applications for Street Designation Orders and applications for the grant/variation/revocation of a licence where there are objections, or any other matter requiring determination referred to it by the Executive Director of CS, are heard by the Licensing Committee.

A refusal to designate a site can only be challenged by way of judicial review.

Appeals against a refusal to grant, renew or revocation of a licence are heard by the Magistrates Court.

The aim of this Policy is to set out the general approach of the Council where considering:

- applications for street designation orders;
- applications for street trading licences;
- applications for temporary licences;
- the revocation, or prosecution for breach, of a licence.

Consultation

In the development of this Policy local traders, partner agencies and officers were consulted.

Principles

Nothing in this Policy will:

- undermine the rights of any person to make an application under the Act for a licence and to have that application considered on its merits; or
- override the right of any person to make objections or appeal against any decision.

Definitions (Section S21 of the Act)

‘Street’ includes -

- any road or footway; any other area, not being within permanently enclosed premises, within 7m of any road or footway to which the public obtain access without payment—
 - whether or not they need the consent of the owner or occupier; and
 - if they do, whether or not they have obtained it;
- any part of such road, footway or area;
- any part of any housing development provided or maintained by a local authority under Part II of the Housing Act 1985 (c. 68);

‘Street trading’ – means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

‘Street trading licence’ – means a licence granted under the Act and valid for not less than six months and not more than 3 years. The licence can only be granted in a designated street.

Note: Use of the street by customers as a smoking area outside premises is not considered to be street trading. The Licensing Committee will not therefore usually consider requests for designation where the use is solely for these purposes.

‘Temporary licence’ – means a licence granted under the Act valid for a single day or for a period not exceeding 6 months.

Designation of Sites for Street Trading

If the Council considers that street trading should be licensed in an area, they may pass a resolution designating any street or part of a street as a licensed street. This designation is at the discretion of the Committee and each application will be considered on its merits. In determining whether a street or particular site should be designated for the purpose of street trading the following matters may be considered:-

- The presence of existing street furniture;
- The proximity and nature of any road junctions and pedestrian crossing points;
- The number of sites already designated in the same street;
- Whether the proposed site for designation would ensure continued free access to members of the public using the road or pavement or cause obstruction to e.g. pedestrians, prams and wheelchairs;
- Whether it leaves the recommended minimum clear passage of 2.0 metres (or 2.8m on TfL roads), between the front edge of any display and the edge of the kerb or any item of street furniture (railings, lamp posts etc) – whichever is the nearer to the display;
- Put the safety of pedestrians at risk;
- Have a negative effect on the character and appearance of the area;
- Any relevant Council policies relating to the town or district centre in question whose implementation might be impeded or compromised by the designation.

During the application period of 28 days, Police and the Highways Authority are consulted. For certain parts of London Road, Thornton Road, Purley Way, Brighton Road, Addiscombe Road, Godstone Road and Wickham Road, Traffic for London (TfL) is the Highway Authority.

In relation to the streets listed below the Council, having consulted with the officers responsible for food safety, planning, parking, street scene and district centre managers, the Highway Authority, Transport for London, Police and licence holders in those streets or trade bodies representing them, are of the view that there are enough existing designated sites. This is on the basis that any addition to the number of existing designated sites would have an overall detrimental impact on the safe and convenient passage of pedestrians in that part of the street. The Committee will therefore generally be minded to refuse any further requests for designation but will consider each request on its merits.

- Entire length of London Rd
- Entire length of High St, Thornton Heath

Where the Licensing Committee considers that, in any other streets in the borough, there are enough existing designated sites it may, subject to a similar process of consultation, decide to include these additional streets with those listed above. Similarly the Licensing Committee may from time to time

determine that due to a change in circumstances parts of streets may be removed from that list.

Licences

Temporary Licence

There are a number of activities which will require a temporary licence. These include:

- Buskers and street entertainers
- Companies promoting their services or a new product
- Individual stalls e.g. fairground ride, hot dog seller
- Organised multiple stalls forming a street market e.g. farmers market, foreign market.

A temporary licence may be granted for a single day or other periods of time up to a maximum of 6 months dependant on whether the activity/event is a one-off of short duration e.g. promotions or an event taking place over a longer period such as a Christmas market.

Street Trading Licence

The following activities require a street trading licence:

- a street market e.g. Surrey Street;
- items for sale displayed on the public footway immediately outside a shop;
- tables and chairs on the public footway immediately outside their food and drink premises;
- trading activities on private land adjacent to a street e.g. shellfish seller in pub car park, flower seller outside cemetery, phone accessories outside grocers;
- trading from a mobile vehicle e.g. burger van.

Note: The placement of 'A' boards outside a premises do not require a street trading licence. However, they must not cause an obstruction and be maintained so as not to cause injury or accident to passers by.

Where the street trading proposed will first require designation of the street the trader will be recommended to initially apply for a temporary licence. This will give them the opportunity to trade while the licensing process for the street trading licence takes place (this can take up to 3 months) an enable the assessment of whether the street should be designated for street trading.

Note: This does not apply to proposed trading from mobile vehicles.

Monitoring & Enforcement Action

Officers regularly inspect all areas where street trading takes place, to ensure compliance, for example that trading is taking place within the area granted by the licence, which may also be marked on the pavement. In addition all complaints of unlicensed trading or breaches of the licence conditions are investigated.

Enforcement action will also be in accordance with the Council and Divisional Enforcement Policy.

Without prejudice to the Council's powers to prosecute for any offences under the Act, the Council may suspend or withdraw the licence and/or seize the goods where it is believed that there has been a serious breach of the licence conditions or the Act, such as unlicensed street trading. It should be noted that no revocation procedures are required in relation to a temporary licence.

The decision to revoke, suspend or withdraw a licence or to prosecute a licence holder or assistant will generally be taken by the Executive Director of CS or officers under the relevant scheme of authorisation. The decision will take into account:

- seriousness of the breach
- previous trading history
- level of past compliance
- traders response to previous warnings

Review

This Policy may be reviewed by the Licensing Committee or minor changes made to it by the Executive Director of CS, in consultation with the Chair of Licensing Committee, where circumstances require and there is not sufficient time to convene

