



## Street Trading Policy

### **Introduction**

South Holland District Council is proposing to fully adopt Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 whereby streets have been determined as being either 'consent' or 'prohibited' streets. 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 purpose of this policy and related conditions / procedures is to guide the Council in the manner in which it regulates street trading.

### **Definitions**

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

**"Street"** includes:

- (a) any road, footway or other area to which the public have access without payment.
- (b) a service area as defined in Section 329 of the Highways Act 1980.

**"Street Trading"** means the selling or offering or exposing for sale of any article (including a living thing) in any street.

**"Consent"** A consent to trade on a street granted by the Council, pursuant to Paragraph 7 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982.

**"Consent Street"** A street in which street trading is prohibited without the consent of the Council.

**"Consent Holder"** The person or company to whom the consent to trade has been granted by the Council.

**"Prohibited Street"** A street in which street trading is prohibited.

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

- (a) Trading by a person acting as a pedlar under the authority of pedlar's certificate granted under the pedlars 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 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).

### **Submission of applications**

An application for a Street Trading Consent must be made to the Council in writing using the appropriate application form. The following items must be submitted with the completed application form :-

- (a) Payment of the full fee as appropriate for the periods of trading applied for.
- (b) Where the proposed street trading activity is from a fixed position, a copy of a map should be included which clearly identify the proposed site position.
- (c) One coloured photographs of the vehicle, stall, etc that will be used for the street trading activity.
- (d) A copy of a current certificate of insurance that covers the street trading activity for third party and public liability risks.
- (e) An overview/evidence of how the trader complies with relevant food safety, Health & safety and other legislation. If a food business, this shall include a copy of the current National Food Hygiene Rating Score ( where applicable).

## **Trading on private land**

In order to trade on private land (including car parks) within South Holland District, you will also be required to produce written permission from the landowner before the Council can consider the site suitable for trading.

### **Inspection of trading unit**

The vehicle, van trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council prior to the grant of any Street Trading Consent to ensure compliance with relevant legislation.

### **Determination of the application**

The Council will adopt and carry out its street trading functions with a view to promoting the following objectives-

1. **Public Safety** - The location of the proposed street trading activity should not present a significant risk to the public in terms of road safety, obstruction and fire hazard. The term 'public' refers to customers of the street trading activity and other members of the public using the street.
2. **Avoidance of Nuisance** - The street trading activity should not present a significant risk of nuisance from noise, smells, fumes, rubbish, litter or the harbourage of vermin to households or businesses in the vicinity of the proposed street trading site. Observations from Officers of the Council will be taken into consideration.
3. **Compliance with Legal Requirements** - The proposed street trading activity should be carried out in full compliance with relevant legislation. Persons wishing to obtain a Street Trading Consent should be fit and proper in terms of the nature of the proposed business and their previous criminal convictions.
4. **Permitted Trading Hours** - The Council will generally only permit street trading between 5 am and 11 pm. Any trading where hot food and drink is supplied outside of these hours will have to require the Consent Holder to hold a Premises License under the Licensing Act 2003, for the supply of late night refreshment.

### **Mobile traders and schools**

Mobile traders will not be permitted to operate in the vicinity of schools or colleges between 8.30 am and 4 pm during term time.

## **Issue of street trading consents**

A Street Trading Consent will be issued for a maximum period of 12 months.

## **Decision to refuse or revoke**

If the Council decides not to grant a Street Trading Consent, the applicant will be notified within 10 working days of that decision and giving reasons for the refusal.

If the applicant is not satisfied with the decision, they may make representations in writing to the council's Environmental Health Department within 28 days of being notified of the decision to refuse/revoke.

## **Appeal to the council's appeal committee**

The council's appeals committee has been established to hear objections and appeals in relation to licensing matters ( Licensing Panel). The role of the committee as regards Street Trading Consents is to hear representations from applicants or licence holders where an application has been refused or a licence revoked.

## **Refusal of applications**

The Local Government (Miscellaneous Provisions) Act 1982 does not make provision for any legal appeals against the decision of a Council in relation to the refusal or revocation of Street Trading Consents. A person aggrieved by a decision a Council may seek a Judicial Review of the decision, should it be felt necessary.

## **General information**

### **Persons under 17 years**

The Council will not grant a Street Trading Consent to a person under 17 Years of age.

### **Street Trading Consents**

The conditions attached to all Street Trading Consents stipulate that a Consent Holder may not assign, sub let, or part with interest or possession of a Street Trading Consent.

### **Variation of Conditions**

The Council may from time to time vary the conditions of a Street Trading Consent.

## **Guidance for food businesses**

The Council has developed a guide to help you comply with the law for both food and health and safety matters which is available on the council's website.

## **Enforcement**

The council will enforce the provisions of Street trading legislation within its area. All enforcement activities will be carried out in accordance with the Council's Enforcement Policy.

Whilst each individual circumstance will be judged on its own merits, in accordance with the Council's Enforcement Policy, it is not the Council's intention to normally regulate small quantities of gate sales from domestic or agricultural/horticultural premises. Officers will only intervene where there is a clear case for public protection and/or the prevention of nuisance or annoyance.

## **Charitable purposes**

The street trading provisions will also apply in certain circumstances to charitable fund raising activities carried out in the street by churches, scout groups or similar community organisations. It is proposed that for such organisations, Street Trading Consents are issued free of charge to ensure that such groups are not financially disadvantaged.

## **Appendix One: Street Trading Consent Conditions**

### **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT (1982)**

#### **Street Trading Consent Conditions**

1. Display rating scheme.
2. The Consent Holder shall at all times have a copy of this Consent available for inspection by a duly Authorised Officer of the Council or any Police Officer. The Consent Holder shall allow an authorised officer to inspect all parts of the vehicle, associated records and provide all reasonable assistance.
3. A Street Trading Consent Plate will be issued along with the Consent which must be clearly displayed on the vehicle, trailer, stall or other device. In the case of vehicles or trailers the Consent Plate will be displayed on the rear of the vehicle/trailer.
4. The Consent Holder shall only trade from the location/s specified, size and type of vehicle, stall, trailer or other device specified in this Consent
5. The Consent Holder must not permit any person under the age of 17 years to be left in charge of a Street Trading establishment.
6. The Consent Holder must not use or permit anyone else to use this Consent to trade.
7. There must be no alteration to the design, construction or appearance of the vehicle, stall, trailer or other device used in connection with the street trading activity without the written permission of the Council having been obtained.
8. There must be no change in the type/range of articles sold without the written permission of the Council having been obtained.
9. The Consent Holder must present his vehicle, stall, trailer or other device used for street trading for inspection by a duly authorised officer of the Council at a time and place designated by the officer if requested.
10. Consent Holders must ensure that staff who prepare open high risk food, or handle food and have a supervisory role, have training to the level equivalent to the Chartered Institute of Environmental Health (CIEH) Level 2 Award in Food Safety within three months of the consent being issued.

11. The Consent Holder if selling food from a stationary vehicle/stall must operate from a purpose made vehicle/stall constructed and managed so as to comply with relevant food hygiene and health and safety legislation.
12. The Consent Holder 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.
13. No water from the washing of equipment or hand washing shall be allowed to discharge to ground and the Consent Holder shall satisfy the Council regarding its proper disposal.
14. At least one refuse container must be provided by the Consent Holder and positioned near to the vehicle, stall, trailer or other device and be available for use by customers. A notice must be displayed requesting customers to deposit litter in a waste container.
15. Consent Holders who sell food must observe proper food safety and hygiene standards at all times, including the provision of adequate washing facilities which shall include a constant supply of hot and cold or suitably mixed running water.
16. The Consent Holder must take all reasonable steps to ensure public safety, in particular, that the vehicle, stall, trailer or other device used in connection with the street trading activity is maintained in a safe condition and is tested/serviced annually. The vehicle, stall, trailer or other device must be kept in a clean condition.
17. The Consent Holder shall be responsible for collecting and removing all litter within 10 metres in any direction of the stall or vehicle and disposing of it in a proper manner.
18. The Consent Holder must at all times have available for inspection an up to date and valid Certificate of Insurance (vehicle and public liability) - the level of public liability cover must be a minimum of £1,000,000.
19. The Consent Holder must ensure that no animals shall be present on any stall or vehicle.
20. The Consent Holder shall, where applicable, at all times when trading comply with the 'Code of Practice on Noise from Ice Cream Vans Chimes etc 1982'
21. The Consent Holder must take adequate precautions to prevent the risk of an outbreak of fire at his vehicle, stall, trailer or other device. Where a

power source or heating appliance is present, e.g. generator or bottled gas container, then current safety certificates must be in force and a suitable fire extinguisher must be provided. In addition, a fire blanket must be provided when selling hot food.

22. The Consent will expire on the date given on the Consent.
23. If the Consent Holder fails to comply with any of the conditions attached to this Consent the Consent may be revoked and the Consent Holder will be liable to prosecution.