

# **DRAFT - Surrey Heath Borough Council Street Trading Policy**

## CONTENTS

Contents Page No.

1.0 Purpose of the Policy	
2.0 Consultation on the Policy	
3.0 Review of the Policy	
4.0 Legislation and Street Trading in Surrey Heath	
4.1 Legal Framework	
4.2 Types of Street Trading Consent	
4.3 Markets/special events	
4.4 Other relevant regulatory requirements	
5.0 Street Trading Consent Application Process	
5.1 New Applications	
5.2 Renewal Applications	
5.3 Transfer Applications	
6.0 Fees	
7.0 Enforcement	
ANNEX A List of Prohibited Streets	
ANNEX B Camberley Town Centre map	
ANNEX C Suitable Street Trading Locations map	
ANNEX D General Conditions for Trading Consents	

## **1.0 Purpose of the Policy**

1.1 This document sets out the Surrey Heath Borough Council Policy on Street Trading, (‘the ‘Policy’) and takes effect 1 April 2023. The Policy details the arrangements for the management of street trading in Surrey Heath and enables the Council to regulate the location and number of street traders operating in the Borough.

1.2 The Council recognises the importance of mobile street trading businesses to the local economy and the character of the area and will endeavour to ensure that the activities do not cause nuisance or disturbance to the people in the area. The framework and its associated conditions aim to ensure local businesses and communities are not adversely affected by street trading and to prevent the obstruction of the streets and minimise any risk to the public or harm to the environment caused by street trading activities.

1.3 The Policy will be referred to when determining applications for Street Trading Consent and applicants are encouraged to consider the Policy as part of the application process.

1.4 Surrey Heath will endeavour to work with other agencies and stakeholders to ensure their views are considered as part of any street trading application.

1.4 Each application for grant or renewal of a street trading consent will be considered on its individual merits, and the Council may impose such conditions as deemed appropriate including to prevent obstruction of the street or danger to persons using it or prevent nuisance or annoyance (whether to persons using the street or otherwise).

## **2.0 Consultation on the Policy**

2.1 The Council has consulted the following and taken into account their relevant views:

- Surrey Police – Road Safety and Traffic Management
- Surrey County Council Highways
- Surrey Fire and Rescue Service
- Licensing Committee
- Surrey Heath BC Members
- Parish Councils
- Collectively Camberley
- Local Business Groups
- Local businesses via the Council’s electronic newsletter
- Local Resident Groups
- All current street traders operating in the Borough
- Relevant departments within Council including Environmental Health and Licensing, Investment and Development, Corporate Enforcement, Leisure and Planning.
- The general public by use of the Councils consultation webpage and social media.

## **3.0 Review of the Policy**

3.1 The Policy will be kept under review and updated to reflect any material changes that may occur. Minor changes will be agreed by the Strategic Director Environment and Community in consultation with the Chair of the Licensing Committee. Where amendments are considered significant, they will be brought to the Licensing Committee.

## 4.0 Legislation and Street Trading in Surrey Heath

### 4.1 Legal Framework

4.1.1 The Council in 1992 resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 should apply to its area. Under Schedule 4 the Act the Council can manage street trading by designating streets as ‘consent streets’ or ‘prohibited streets’.

4.1.2 ‘Street Trading’ is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street – subject to a **number of exceptions** such as:

- (a) Trading as a pedlar under the authority of a pedlar’s certificate granted under the Pedlars Act 1871.
- (b) Any trade in a market or fair, the right to hold which having been obtained by a grant, enactment or order.
- (c) Trading as a news vendor.
- (d) Trading at or adjoining a shop premises as part of the business of the shop.
- (e) Offering or selling things as a roundsman.

Schedule 4 defines a street as ‘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.’ The Council resolution also includes areas for a distance of up to 50 meters from the centre of the street as being within scope for street trading controls.

4.1.3 A **consent street** is a street in which street trading can only take place if the consent of the local authority has first been obtained and is any street in the Borough that is not designated a prohibited street. All forecourts, footways and other areas adjacent to Consent Streets that are open as a matter of fact to the public without payment, for a distance of 50 meters from the centre of these streets are also designated as consent streets.

4.1.4 A **prohibited streets** is a street where no street trading may take place at all. However all forecourts, car parks and other areas adjacent to Prohibited Streets that are open as a matter of fact to the public without payment, for a distance of 50 meters from the centre of these streets that are not public highway are designated as Consent streets. This enables street trading to take place with the consent of the Council in those areas adjacent to prohibited streets where street trading could enhance an area and can take place without detrimental effect.

Fifty-six roads in Surrey Heath have been designated as prohibited streets and these are listed in Annex A. This list will be kept under review and the necessary resolution sought to amend as necessary. Nothing within this Policy will allow street trading to occur on prohibited streets.

Locations within the defined Camberley town centre area where street trading is deemed to be suitable following consultation with Collectively Camberley, subject to obtaining the necessary street trading consent, are detailed in Annex B.

## 4.2 Types of Street Trading Consent

4.2.1 The types of street trading consent available are as follows:

### Permanent Trading

i) 4 days or more for 12 month period :

- Takeaway Food (food prepared/served onsite ready for immediate consumption)
- Ice Cream vehicles/unit
- Fruit and Veg
- Other Traders

ii) 1 day per week for 12 month period (any category of trader)

iii) Camberley Town Centre for 12 month period - markets/events 37 days a year (to include 25 markets and 12 events)

### Ad hoc Trading

iv) Daily

v) Weekly

vi) Monthly

vii) Market/special event one day - up to 20 stalls/ 20 stalls and over

4.2.2 Permanent consents are normally issued for a period of one year, but applications for less than a year or for a specified trial period may be granted depending on individual circumstances e.g. to determine the trading viability of a site or where potential concerns have been raised by a consultee. Fees will be pro-rated accordingly,

## 4.3 Markets/ Special Events

4.3.1 For markets/special events held on the highway for a limited time, the Council will accept one application (and associated fee) from the person organising the event, however details of the street trading that will be taking place will be required on application.

4.3. The requirement for street trading consent and the associated fees for stalls at charitable or small community events may be reduced, at discretion of the Strategic Director Environment and Community. Street trading is considered to be for charity benefit if the profits from individual stalls are donated to a registered charity and proof can be evidenced on request. Examples of such events are Street Parties, Festival and Sports Days, Community Fun/Activity Days, Charity Events, Parades. Any traders attending for solely commercial gain would be subject to street trading controls.

#### 4.4 Other relevant regulatory requirements

4.4.1 Pavement Licences - the licensing of the placement of tables and chairs on pavements is administered by the Council under the Business and Planning Act 2020. See <https://www.surreyheath.gov.uk/pavement-licences>

4.4.2 Late Night Refreshment - traders that serve hot food or drink at any time between the hours of 23.00 and 05.00 will require the relevant licence under the Licensing Act 2003. See <https://www.gov.uk/premises-licence/surrey-heath/apply>

4.4.3 Planning permission may be required depending on the location and number of days that trading takes place. See <https://www.surreyheath.gov.uk/residents/planning/development-planning-advice>

### **5.0 Street Trading Consent Applications**

#### **5.1 New Applications**

5.1.2 Applications for a new street trading consent must be submitted where possible to the Council online and the following must be included:

- (a) A completed/ signed application form and the relevant fee.
- (b) A passport style photo of the applicant where a sole trader.
- (c) A map showing the precise location of the proposed site.
- (d) Electronic colour image of the unit that will be used for the street trading activity.
- (e) Dimensions of the unit in metres (length, height, width).
- (f) A certificate of Public Liability Insurance for a minimum value of £5 million.
- (g) If handling open food, a copy of the current Level 2 Award in Food Safety in Catering certificate for all food handlers working on the unit should be provided if available.
- (h) Proof of a valid Waste Transfer Contract in place for commercial waste where applicable.
- (i) Current valid gas safety certificate for the unit if applicable.

The Council cannot issue a consent if the applicant is under 17 years of age.

#### **5.1.2 Consultees**

Before a Street Trading Consent is granted or refused the Council will consult the following on the application:

- Surrey County Council (SCC) Highways
- Surrey Police – Road Safety and Traffic Management
- Surrey Fire and Rescue
- Ward Councillors
- Parish Council
- Planning
- Environmental Health and Licensing

A public notice will be displayed by the Council close to where the street trading is proposed and/or the Council may consult local businesses/residents in the area where relevant in writing. All applications received will be publicised on the Council's website - *new*

Any written representations received within the 21-day consultation period will be considered when determining the application and where objections are received the applicant will be given the opportunity to make any relevant submissions regarding the objection.

### 5.1.3 Determination of applications

The Strategic Director Environment and Community has delegated authority to determine street trading consent applications and the criteria listed below and any consultee representations will be taken into consideration. Each application will be assessed on its merits and individual circumstances.

In considering applications for the grant or renewal of a consent the following criteria will be considered:

#### (a) Public Safety

Whether the street trading activity represents, or is likely to represent, a substantial risk to the public. Factors taken into account will include obstruction/trip hazard, fire hazard, gas & electrical safety and risks that may occur when a trader is accessing/exiting the site.

#### (b) Highway Safety

Whether the street trading activity represents, or is likely to represent a risk to road safety as follows:

- there is interference with sight lines for any road users (vehicles and pedestrians) from the trader's location or from customers visiting/leaving the site
- there is a conflict with Traffic Orders such as waiting restrictions
- the trader obstructs the safe passage of users of the footway or carriageway.
- there are inadequate public parking available to allow traders and customers to park without obstructing local business and residents access.

The location and operating times will be such that the highway can be maintained in accordance with the SCC requirements and that there are no dangers to those who have a right to use the highway and present no obstruction for emergency access. The trader must relinquish the right to trade when required by SCC or other relevant body or organisation in order to allow maintenance or repair to occur.

#### (c) Public Order

Whether the street trading activity represents, or is likely to represent, a risk to public order. Traders will need to conduct themselves in a professional manner and to take reasonable measures to deter disorder associated with the trading activity.

(d) The Avoidance of Public Nuisance

Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance or disturbance to the public from noise, waste, litter and/or odour particularly in residential areas.

(e) Appearance of the Unit

The unit must be of smart appearance and not detract from the appearance of the surrounding area. It must meet the criteria in the standard consent conditions and be maintained in a good condition. Photographs, including dimensions, must be provided with all new applications and requests for approval of any changes to, or replacement of, a vehicle or unit.

(f) Needs of the Area

The demand for the articles for sale and proximity of the proposed site in relation to traders selling similar goods.

(g) Food Safety

Food trader applicants must be able to demonstrate a good understanding of food safety. They must be registered as a food business with the relevant local authority. As a minimum, open food handlers should hold a current Level 2 Award in Food Safety in Catering or equivalent from an accredited training provider. It is recommended for all staff working from the site to have their food hygiene training renewed every 3 years. Traders with a Food Hygiene rating scheme of less than 3 (Satisfactory) will not be granted a street trading consent. Where more than one trader is seeking to operate from the same pitch, and all other criteria has been met, the applicant with the highest Food Hygiene Rating Scheme award is likely to be selected.

(h) Healthy Eating Choices.

Traders are encouraged to consider offering healthy eating choices that satisfy the requirements of Eat Out Eat Well – healthy eating scheme. The scheme aims to encourage food businesses to provide healthier options to customers, through the use of healthier catering practices, increasing fruit, vegetables, and starchy carbohydrates, and decreasing fat, especially saturated fat, sugar and salt. It also recognises provision of healthy options for children and rewards staff training and promotion and marketing of healthier options.

Where more than one trader is seeking to operate from the same location and all other criteria has been met- the applicant that demonstrates the highest compliance with the Eat Out Eat Well award is likely to be selected. See <https://eatouteatwell.org/>

To restrict the availability of potentially unhealthy food choices to under 18s, traders applying to supply of hot or cold food and drinks or confectionery between 07:30 and 18:00 within 400m of the boundary of a school or college is unlikely to be approved.

### (i) Environmental Impacts

The impact of the proposed operation on the environment will be considered and the carbon footprint of the proposed activity with regard to power supply, supply chain, waste minimisation and waste disposal will be taken into consideration.

Where more than one trader is seeking to operate from the same pitch, and all other criteria has been met, the applicant that can demonstrate the lowest environmental impact is likely to be selected.

#### 5.1.4 Conditions

The Council applies standard conditions to Street Trading Consents and these are attached to this Policy as Annex C. The standard conditions are not exhaustive and other conditions may be added to individual consents where appropriate. Additional conditions applicable to Special Events may also be added where appropriate.

Street trading can only be carried out from the unit authorised on the consent. Any changes to or replacement of the unit must be approved by the Council by means of variation request for which a variation fee payable.

Applicants are advised to read carefully the conditions for consent as the Council may revoke, vary or refuse to renew this licence if the conditions are breached. Any contravention of the conditions specified may result in prosecution.

### **5.2 Renewal Applications**

5.2.1 Street Trading Consents are renewed annually and a renewal application should be made to the Council at least 6 weeks before the renewal date by submitting an online application accompanied by the appropriate fee. If a renewal application is not made before the expiry of the current licence a full new application will have to be made. The effect of this will be that a trader will not be permitted to trade until the new consent is granted.

5.2.2 Consultation as for new applications, will be carried out for renewal applications and any representations received within 21 days taken into account in the decision to renew the consent.

5.2.3 Where a renewal application has been made and there have been no justifiable complaints or enforcement issues and all fees have been paid on time, the consent is likely to be renewed. There is no automatic right to renewal. If there have been significant complaints, enforcement has been necessary or there are fees have not been paid on time, then the application may be refused.

### **5.3 Transfer Applications**

5.3.1 A street trading consent cannot be transferred or sold to another person, however the consent may be transferred to a member of the consent holder's immediate family, (spouse, adult child, parent sibling) in the event of the consent holder's death or incapacity on payment of a variation fee.



5.3.2 The subletting of a pitch is prohibited. Where sub-letting is identified, the consent will be withdrawn from the holder. No right to claim a refund for the period remaining on the consent will be accepted.

#### **5.4 Application Refusal/Consent Revocation**

5.4.1 There is no right of appeal against refusal to grant, renew or revoke a consent, but reasons will be given for the decision in writing.

The Council's complaints procedure is available to the unsuccessful applicant if they are unhappy with how their application has been determined – see <https://www.surreyheath.gov.uk/council/complaints-compliments>

#### **6.0 Fees**

6.1 Fees will be set and reviewed annually. Details of the current fees can be found on the Council's website.

6.2 Applications for annual consents must be accompanied by the correct fee. The fee consists of two parts. Part 1 a non-refundable application fee and Part 2 the issuing fee for the licence. The application fee must be paid before the application is considered. If the application is successful, the issue fee (Part 2) will be required to be paid before the consent is issued.

6.3 A fee is payable if the consent holder wishes to vary the consent or its conditions or requires a replacement copy of the consent and conditions.

6.4 Consents run from 1<sup>st</sup> April to 31<sup>st</sup> March. For applications received part way through the year the fee will be pro-rated based on the number of months the consent will be valid. Fees for consents for a trial period will be pro-rated accordingly.

6.5 Where trading ceases during the term of the consent, refunds will not be given for any outstanding period of less than 3 months, greater than 3 months refunds will be calculated on a pro-rata per calendar month basis.

#### **7.0 Enforcement**

7.1 The Council will carry out periodic inspections of street trading activity to check compliance with consent conditions and to identify any unauthorised trading. Any complaints received regarding street trading in the Borough will be investigated.

7.2 Where activities are conducted without the benefit of a consent or where conditions are breached, the Council will look to gather evidence and take enforcement action as appropriate in accordance with the Council's Enforcement Policy.

7.3 Failure to comply with one or more consent conditions may lead to revocation or non-renewal of the consent. Where revocation occurs in such circumstances no refund will be payable.