

AGENDA

Page No

1. APOLOGIES FOR ABSENCE

2. APPLICATION FOR STREET TRADING CONSENT, THE YORKSHIRE
HIGHWAYMAN, A684 LAYBY

3 - 18

Report of the Director of Law and Governance

3. MATTERS OF URGENCY

Any other business of which not less than 24 hours' prior notice, preferably in writing, has been given to the Chief Executive and which the Chairman decides is urgent.

HAMBLETON
DISTRICT COUNCIL

LICENSING ACT 2003

LICENSING AND APPEALS HEARINGS PANEL

PROCEDURE

1. The hearing of matters will be less formal than hearings before, for instance, a Magistrates' Court. In particular, strict rules of evidence are not adhered to and information is not provided under oath. Nevertheless, proceedings before the Panel will observe basic rules of natural justice.
2. At the beginning of the hearing the Chairman shall:-
 - ask those present to introduce themselves;
 - explain the procedure;
 - ask the parties whether they wish permission for another person to appear at the hearing.
3. The Panel will consider whether the public should be excluded from all or any part of the hearing. This will only be done if the Panel considers that the public interest in so doing outweighs the public interest in the hearing taking place in public.
4. The Panel will consider requests for permission for other persons to appear at the hearing. Such permission will not be unreasonably withheld.
5. The Chairman will ask the Principal Licensing Officer to outline the background to the case. The Principal Licensing Officer's role will be to provide factual information to the Panel.
6. The hearing shall take the form of a discussion led by the Panel (through the Chairman) and cross-examination shall not be permitted unless the Panel considers that cross-examination is required for it to consider the matter.
7. The Chairman is likely to ask for the views of the parties in the following order:-

- (a) the applicant/licence holder/Notice giver (including any other persons who have been given permission to participate);
 - (b) any party making representations (including any other persons who have been given permission to participate).
8. The applicant/licence holder/Notice giver will be given the final opportunity to address the Panel.
 9. Each party will be given an equal maximum period of time in which to put forward any additional information requested by the Council, to question other persons (if given permission by the Panel) and address the Panel.
 10. The Panel may exclude disruptive persons in certain circumstances.
 11. The Panel may adjourn the hearing in certain circumstances.
 12. The Panel may ask the parties to withdraw so that it can consider its determination. In considering its determination, the Panel may ask its Legal Advisor to provide it with legal and procedural advice. The nature of this advice will be notified to the parties.
 13. The Panel will make its determination at the end of the hearing and this will be confirmed in writing.

February 2017

HAMBLETON DISTRICT COUNCIL

Report To: Licensing and Appeals Hearings Panel
1 August 2018

From: Director of Law and Governance (Monitoring Officer)

Subject: **APPLICATION FOR STREET TRADING CONSENT
THE YORKSHIRE HIGHWAYMAN, A684 LAYBY**

Osmotherley and Swainby Ward

1.0 SUMMARY

1.1 This report asks the Panel to consider an application for the grant of a street trading consent in respect of Mr David Wraight trading as The Yorkshire Highwayman.

2.0 PROCEDURE

2.1 The procedure for licensing hearings is attached as an Annex to the Agenda.

3.0 APPLICATION FOR THE GRANT OF A STREET TRADING CONSENT

3.1 The application for the grant of a street trading consent was received by the Licensing Team on 6th June 2018. The application form is attached at **Annex A** along with a map and some photographs provided by the applicant.

3.2 The applicant seeks to authorise the sale of food and drink from a mobile catering unit between the hours of:

- 7am and 5pm on Monday to Friday;
- 8am and 3pm on Saturday; and
- 10am and 3pm on Sunday.

3.3 On 6th June 2018, the application form and the supporting documents were forwarded to the following consultees to invite any comments on the proposals:

- North Yorkshire Police
- Highways (North Yorkshire County Council)
- Planning (Hambleton District Council)
- Economic Development (Hambleton District Council)
- Environmental Health (Hambleton District Council)
- Design and Maintenance (Hambleton District Council)
- Ward Councillors

4.0 OBJECTIONS

4.1 A representative from North Yorkshire County Council's Highways Section has objected to the grant of the consent and the objection notice is attached at **Annex B**. The objection relates to concerns over the visibility of traffic.

5.0 POLICY CONSIDERATIONS

5.1 Applications will be considered on their individual merits and objections may relate to any of the following criteria:-

- public order;
- public nuisance;
- public safety;
- commercial needs of the area;
- suitability of the applicant or the proposed unit; or
- any other reasonable cause

5.2 In accordance with the council's Street Trading Policy, standard conditions will be attached to all consents. In addition, the council may impose conditions to consents in light of the specific circumstances of a case. Consent will not be granted if it is considered that one or more of the conditions will be breached. The standard conditions are attached at **Annex C**.

6.0 DETERMINATION BY THE PANEL

6.1 The Panel must, having had regard to the objections, take such of the steps mentioned in paragraph 6.2 as it considers appropriate.

6.2 The steps are:-

- to grant the consent subject to any standard conditions;
- to grant the consent subject to any modified conditions; or
- to reject the application.

6.3 Following determination of an application, there is no statutory right of appeal against a decision of the Panel. If an applicant is aggrieved by the Council's decision they have the option to seek a Judicial Review of that decision.

GARY NELSON
DIRECTOR OF LAW AND GOVERNANCE (MONITORING OFFICER)

Background papers: Hambleton District Council's Street Trading Policy

Author ref: SF

Contact: Simon Fisher
Principal Licensing Officer
Direct Line No: (01609) 767209

HAMBLETON

DISTRICT COUNCIL

**Application for
Street Trading Consent**

SECTION 1 - APPLICANT DETAILS

1	Application Type	<input checked="" type="checkbox"/> New Application <input type="checkbox"/> Renewal* *Existing permit number (if applicable) _____
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PART A - APPLICANT DETAILS

2	Name	Mr David Wraight
3	Address	32, High Street, Swainby, DL6 3EG
4	Date of birth	31 st July 1967
5	National Insurance No.	NR 43 25 31 D
6	Telephone No.	07919286054
7	Email address	DWRAIGHT@GMAIL.COM

PART B - SECOND APPLICANT DETAILS (IF APPLICABLE)

8	Name	
9	Address	
10	Date of birth	
11	National Insurance No.	
12	Telephone No.	
13	Email address	

SECTION 2 - TRADING DETAILS

14	Trading Name	The Yorkshire Highwayman
15	Street name of proposed location	Layby - A684 (See MAPS)
16	Town of proposed location	Northallerton
17	Please describe exactly where on the street the trading unit is to be located. Please include a site plan to illustrate the location.	Trailer (see picture) will be located in grass verge layby on A684 between Northallerton & A19
18	Mobile traders only - please list every street on which it is proposed to trade. Please include a map to illustrate the locations.	AS ABOVE - only.

19 Proposed dates for consent to be valid

All year round
 Specified dates*

*Please provide specific dates below (if applicable)

Trading will take place all year round starting 1st August 2018

20 Proposed hours for consent to be valid

	Start Time	Finish Time
Monday	7 AM	5 PM
Tuesday	7 AM	5 PM
Wednesday	7 AM	5 PM
Thursday	7 AM	5 PM
Friday	7 AM	5 PM
Saturday	8 AM	3 PM
Sunday	10 AM	3 PM

21 Description of goods to be sold

*Hot & cold food - Burgers, POTATOES, ETC
 Hot & cold Drinks - Tea, coffee, pop.
 SNACKS - crisps, chocolate, cakes, Sweets*

22 Type of trading unit

Mobile catering unit (see picture)
 Ice cream van
 Stall
 Barrow
 Cart
 Other

23 Please give further details about the trading unit.

Height 6'6"
 Length 9'
 Width 6'
 Colour white (with x 2 Yorkshire flags on roof 2' high)
 Vehicle registration (if applicable) N/A
 Any other relevant information (please include photographs)
1 x patio table & 4 chairs (green)
1 x paravel for sea snake
1 x 3m x 3m GAZEBO (Green) to cover table



SECTION 3 – DECLARATION AND SIGNATURE

To be completed by all persons named on the application form.

- I hereby declare that the above information is true to the best of my knowledge.
- I understand that it is a criminal offence to make a false statutory declaration.

24	Have you enclosed written confirmation from the landowner authorising you to trade from the proposed location?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
25	Have you enclosed your public liability insurance?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
26	Have you enclosed a copy of your food business registration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
27	Have you enclosed the correct fee?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

N/A?

28	Signature of first applicant	
29	Name (please print)	MR DAVID WRAIGHT
30	Date of signature	

31	Signature of second applicant	
32	Name (please print)	
33	Date of signature	

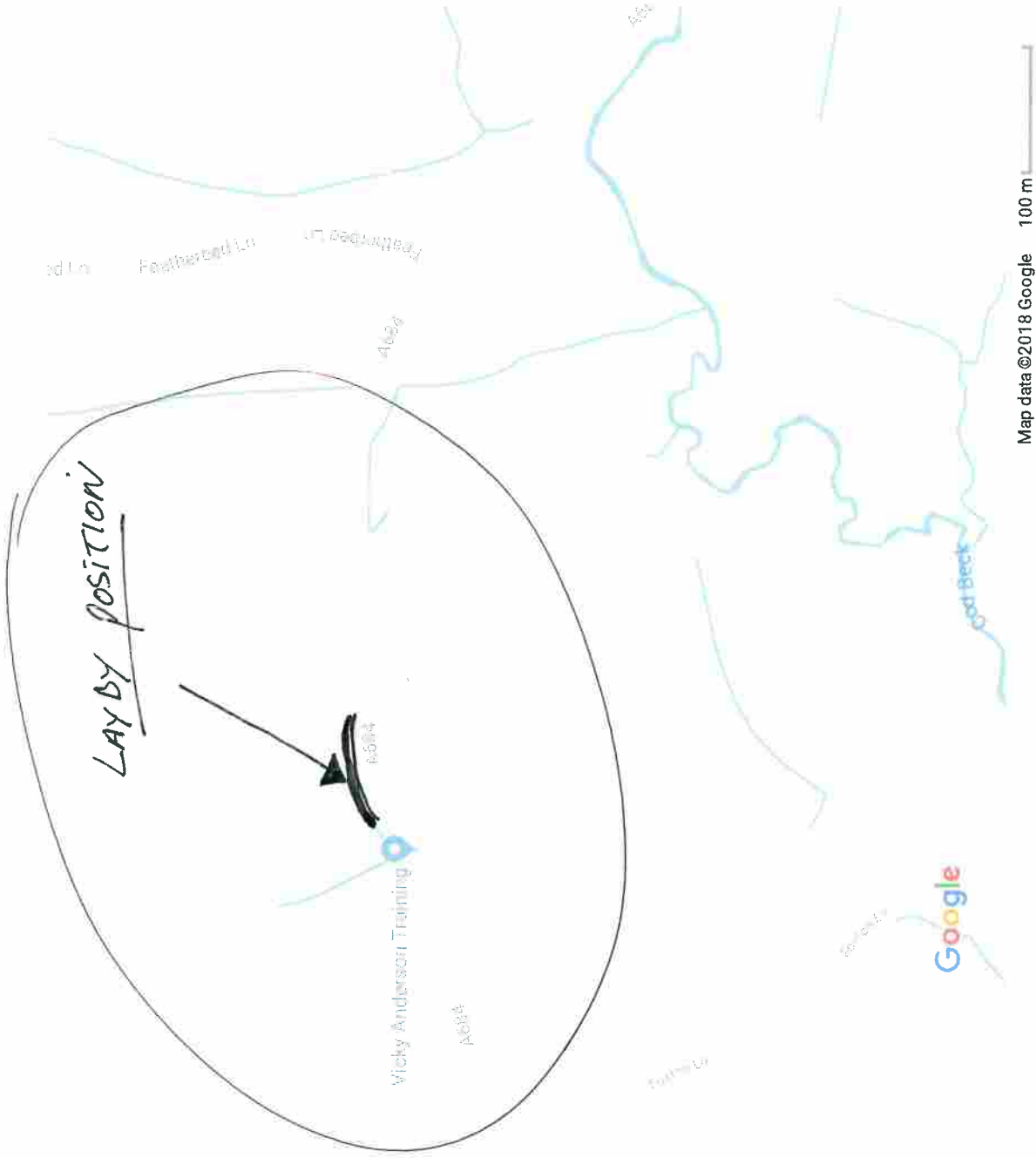
Please call the Licensing Section on 01609 767079/767017 to arrange an appointment if you wish to return this form in person.

This authority is under a duty to protect the public funds it administers, and to this end, may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing and administering public funds for these purposes.

Office Use Only

S5012 Street Trading
£350.00

Receipt No: ZZSTCO0160877 ~~£300~~ £350.00 060618



(Heading Easterly)

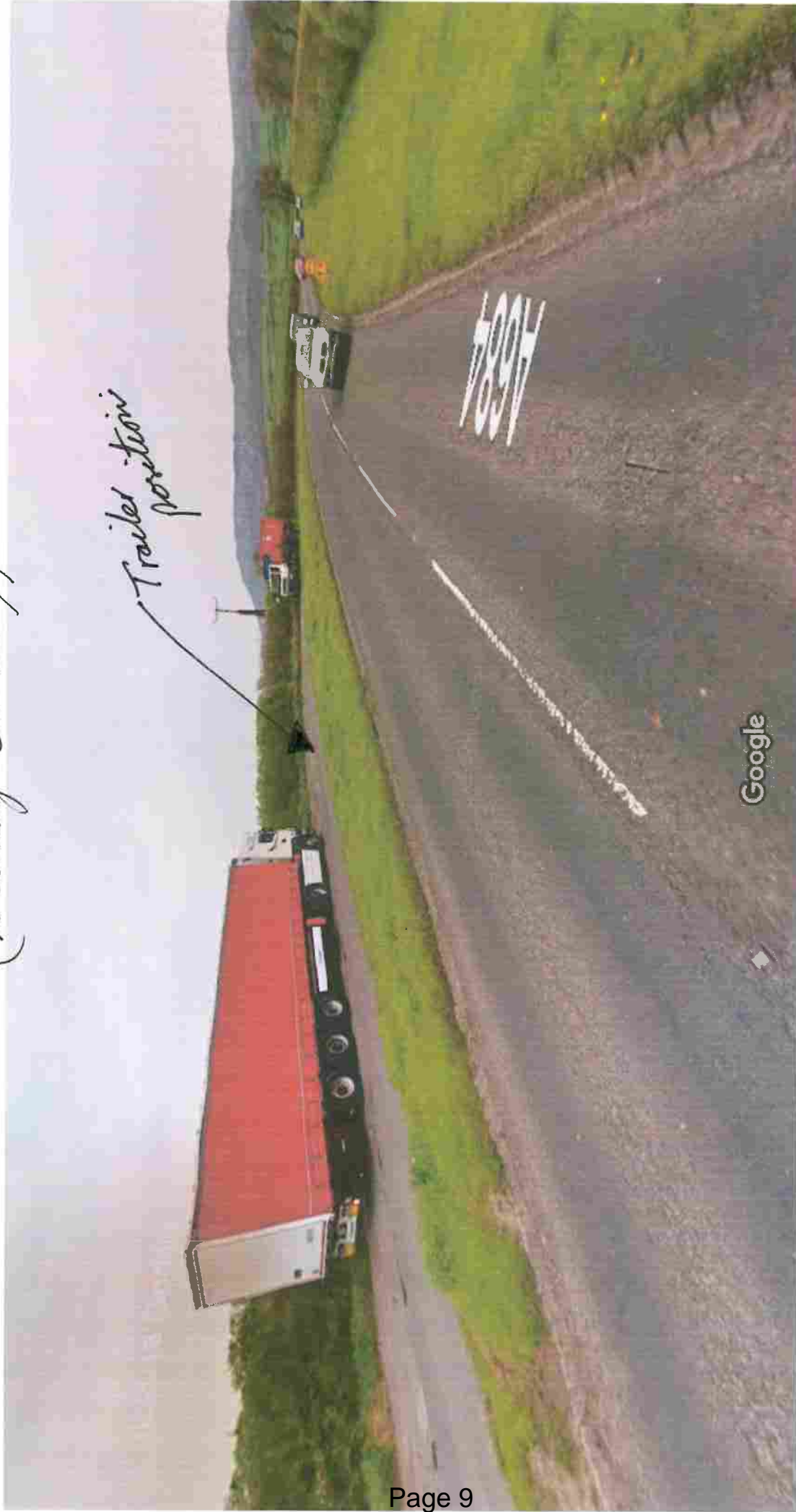


Image capture: Apr 2017 © 2018 Google



E-mail

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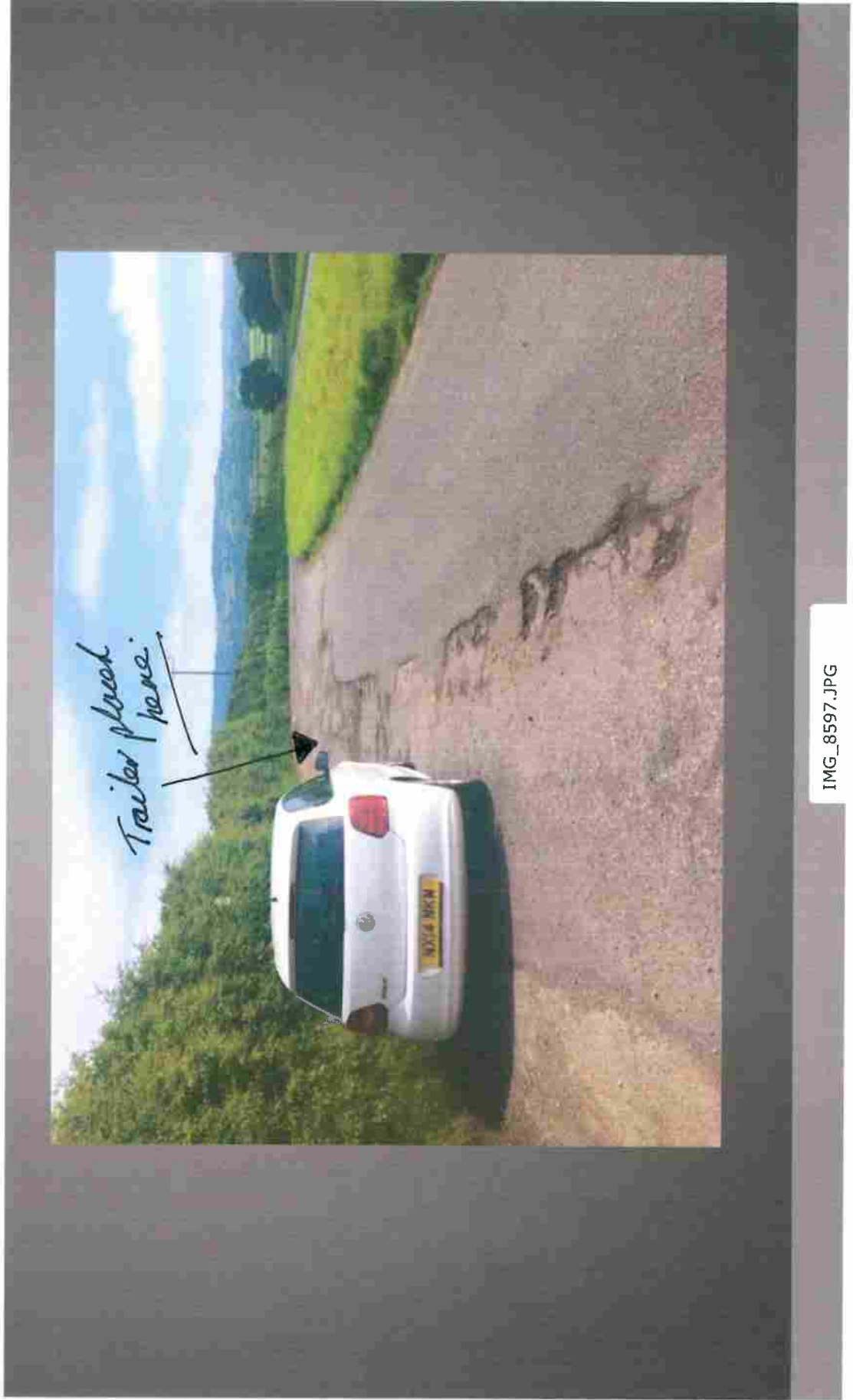
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About us



(Dimensions) 9'x6'x6.6" (colour) white



(condition) very good.

patio furniture will be placed next to
the trailer (Taken away with trailer
when leaving)



From: Stuart Grimston <Stuart.Grimston@northyorks.gov.uk> on behalf of Area2 Thirsk <Area2.Thirsk@northyorks.gov.uk>
Sent: 20 June 2018 11:11
To: Licensing Team
Cc: Area2 Thirsk
Subject: Re: Street Trading Application - A684 Layby near Ellerbeck
Attachments: scanned-Anita Huntsman-20180606100829.pdf

Dear Anita,

Re: Street Trading Application - A684 Layby near Ellerbeck

I write in connection with the above matter.

The Highway Authority can provide the following comment relating to this proposal:

1. This lay-by is a redundant section of former carriageway, which has been left behind after local re-alignment of the A684. The lay-by functions effectively when traffic travelling eastbound (towards the A19) enters the lay-by using the western-most access and exits using the eastern-most access. However, should the western accesses to be used for both entry and exit movements we would have concerns regarding the visibility available in this location, which is a result of the crest of a 'hog' curve located to the west of this access. Vehicles leaving the lay-by from the western access, as well as those travelling westbound (towards Northallerton) and turning into this access, would not have the visibility available to them required under DMRB standards.

Kind regards,

Stuart

Stuart Grimston
Project Engineer
North Yorkshire County Council

Area 2 (Hambleton District) Highways Office Thirsk Industrial Park York Road Thirsk North Yorkshire
YO7 3BX



GENERAL STREET TRADING CONSENT CONDITIONS

1.0 CONDITIONS RELATING TO THE VEHICLE/STALL

- 1.1 The consent holder shall only trade from a vehicle/stall approved by the Council in writing and the consent shall only be valid in relation to a single vehicle/stall.
- 1.2 Any vehicle/stall used by a consent holder in the course of street trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council as to its construction, safety, appearance and any display of advertisements. A high standard of presentation and appearance will be expected.
- 1.3 The consent holder must not store and sell goods and merchandise outside the approved area of the trading site.
- 1.4 A copy of the Consent, suitably protected against the weather, shall be prominently displayed at the consent site to which it relates whilst trading is taking place so that it can be seen and read by persons intending to purchase any article.
- 1.5 The consent holder shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition.
- 1.6 Any vehicle/stall used for street trading must be readily removable at all times in the event of an emergency, or at any other time, be removed at the request of any officers of the emergency services or officer of the council.
- 1.7 The consent holder shall make such provisions as are necessary to prevent the deposit on any street of solid or liquid refuse and no discharge shall be made into any surface water drains.
- 1.8 The consent holder shall ensure that suitable fire extinguishers are immediately available at the street trading site if required by North Yorkshire Fire & Rescue Service or the Licensing Officer. If fire extinguishers are required they must be maintained in a satisfactory condition and regularly checked by a competent person or company.
- 1.9 The consent holder shall, at the request of the Council, present the vehicle/stall for inspection at such time and place as required by the Council.
- 1.10 The consent holder must have a valid insurance policy for public liability providing cover to a minimum amount of £2,000,000 and a certificate of this must be produced upon application.
- 1.11 The consent holder, if using LPG/Gas, must produce a current (i.e. within 12 months) Gas Safety Inspection Certificate for the relevant gas appliances and pipe work upon application and upon every renewal.

1.12 Evidence must be produced from a competent electrician of an inspection within the past 5 years of any electrical installation showing that it is safe and in a satisfactory condition.

1.13 The name and address of the consent holder shall be displayed conspicuously on the vehicle/stall.

2.0 CONDITIONS RELATING TO THE CONSENT HOLDER

2.1 The consent granted by the Council is personal to the consent holder and is not transferable. Where the consent holder is an employer, this consent will apply to named employees who have been previously notified to, and approved by, the Council. The consent may only be transferred to another vehicle, container or stall with the prior consent in writing of the Council.

2.2 Consent holders and authorised assistants must be 17 years of age and over.

2.3 The consent holder shall notify the Council in writing of any changes to their contact details.

2.4 Nothing in any Consent shall purport to grant to the consent holder any other licence or permissions required under any other Enactment or requirement and the consent holder is specifically advised to obtain such other approvals as may be required.

2.5 Nothing contained in these conditions shall relieve or excuse the consent holder or his employees or agents from any legal duty or liability and the consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from the consent.

3.0 CONDITIONS RELATING TO THE SITE

3.1 The consent holder shall trade only on the site as specified in the consent.

3.2 Outside of the permitted daily trading period, unless prior approval by the Council has otherwise been given not to do so, the consent holder shall remove the approved vehicle/stall from the consent site together with any and all objects or things of any nature whatsoever placed by the consent holder in the consent site (whether directly and ancillary to street trading or otherwise) which for the avoidance of doubt shall include (but shall not be limited to) planters, ornamental devices of any description, furniture, portable or other fencing, waste bins,

3.3 No signage, A boards or other such objects shall be placed on the highway or area surrounding the vehicle/stall without the appropriate authorisation. External tables and chairs may only be used upon written approval from the Council after first obtaining the appropriate highways permission from North Yorkshire County Council Highways Authority.

3.4 Any lighting provided at the consent site by the consent holder must be approved by the Council. If the trading site is located on, or adjacent to, the public highway, the lighting must also be approved by the Highways Authority. Strobe lights will not be used in any circumstances.

- 3.5 It is the applicant's responsibility to ensure that the site they are applying to use is suitable and they have a legal right to trade. No responsibility will be accepted by the Council for persons found to be trading from unsuitable or illegal sites.
- 3.6 No damage shall be caused to the public highway as a result of the street trading activity taking place and the consent holder shall reimburse the Council's costs in repairing any damage caused.
- 3.7 The consent holder will be responsible for keeping the area surrounding the vehicle/stall in a clean and tidy condition.
- 3.8 The consent holder, where relevant, shall ensure that the whole of the lay-by and adjacent verge/footpath (but not the carriageway) to a distance of 10 metres be kept free of litter and refuse at all times whilst resident.
- 3.9 The consent holder and the vehicle/stall must comply with all relevant road traffic and highways legislation. Possession of a Consent does not override parking restrictions or other traffic regulations.
- 3.10 No consent holder shall trade at his/her authorised location on dates when road closure directives are in place for special events otherwise than with the permission of the organisation applying for the closure order.
- 3.11 There may be times when the permitted area will be unavailable due to utility, maintenance or construction works. This is a normal function of the Highways Authority and utility companies and will not, therefore, be subject to compensation although every reasonable effort will be made to identify an alternative site during such occasions.

4.0 CONDITIONS RELATING TO THE OPERATION OF THE ACTIVITY

- 4.1 A street trading consent holder ("the consent holder") shall not trade outside the time and days permitted by the street trading consent ("the Consent").
- 4.2 The consent holder shall not sell any type of food, goods or merchandise other than that specified in the Consent.
- 4.3 There shall be no sale of goods that are likely to conflict with those provided by nearby shops and premises.
- 4.4 The consent holder shall not hold any auction or like sale.
- 4.5 No live animal or bird shall be permitted to be sold from any stall or vehicle, etc.
- 4.6 No advertising is permitted other than on the stall or vehicle. The fixing of signs or marking of the highway or street furniture is specifically prohibited.
- 4.7 The consent holder must provide adequate refuse storage adjacent to the sale area. The storage must be of a substantial construction, waterproof and animal proof. The trade waste must be removed at the end of each working day or if the amount of refuse warrants it, when the container is full, whichever is the sooner. Public litterbins are not to be used.

- 4.8 The vehicle/stall shall not be left unattended at any time and shall always be supervised by a person over the age of 17 years.
- 4.9 No poster, advertisement, signage or decoration of an unsuitable material or nature shall be displayed, sold or distributed on or about the vehicle or premises. For example, any material in breach of the Obscene Publications Act 1959, any material that is considered indecent, scandalous, offensive or likely to be harmful to any person likely to purchase it. Material may also be considered unsuitable if it is of such a nature as to distract motorists on the highway.
- 4.10 The consent holder shall not allow the sale of offensive weapons including imitation firearms, firearms, airguns, swords and crossbows, etc.
- 4.11 The consent holder shall conduct their business in such a manner so as to ensure that they do not:
- (a) cause a nuisance to the occupiers of adjoining properties;
 - (b) cause an obstruction to the vehicles or pedestrians in the street;
 - (c) cause a danger to occupiers of adjoining property or to other users of the street;
 - or
 - (d) cause annoyance or inconvenience to the users of the street
- 4.12 No process or operation shall be carried out which would give rise to a nuisance by reasons of noise, vibration, smoke or smell.
- 4.13 No trading of hot food or drinks shall be permitted before 5am or after 11pm unless a Premises licence has been granted in respect of the Licensing Act 2003. A Premises Licence is required for each consent area that a trader seeks to operate from.
- 4.14 With regard to special events and markets the consent holder must comply with all the conditions.
- 4.15 The consent holder shall comply with all legislation relevant to the conduct of the business in which they are engaged.
- 4.16 The consent holder or any person employed by them shall not use any loudspeaker, whistle, horn, bell or other audible method to attract custom, provided that this shall not apply to the use of loudspeakers on vehicles during the permitted hours of 12 noon to 7 p.m. in accordance with the Code of Practice on noise from ice-cream van chimes etc in England 2013 made under Section 62 of the Control of Pollution Act 1974.
- 4.17 The consent holder shall comply with any reasonable requirements of the Council or any of its officers or of any police officer in relation to the siting or operation of their street trading business.

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