

HAMBLETON DISTRICT COUNCIL

Report To: Licensing and Appeals Hearings Panel
20 June 2017

From: Director of Law and Governance

Subject: **APPLICATION FOR STREET TRADING CONSENT
ANDY'S SNACKS, LEEMING BAR BUSINESS PARK**

Bedale 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 Hilary Aurelius and Adam Pyplacz trading as Andy's Snacks.

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 initially received by the Licensing Team on 30th January 2017. Following a request for further information relating to the proposed location, the applicant produced a map and two photographs on 31st March 2017. The application form is attached at **Annex A** along with the map and photographs.

3.2 The applicant seeks to authorise the sale of food and drink from a mobile catering unit between the hours of 8am and 3pm on Monday to Friday.

3.3 On 4th April 2017, 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 Five of the consultees have objected to the grant of the consent and the objection notices are attached at **Annex B**.

4.2 On 2nd June 2017, the council received some additional comments from North Yorkshire County Council's Highways Team and these are attached at **Annex C**.

4.3 In general, the objections relate to concerns over congestion, littering, obstruction, visibility of traffic, the lack of parking spaces and the existing provision of similar services.

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 D**.

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.

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**

REC'D 30 JAN 2017

Local Government (Miscellaneous Provisions) Act 1982

FES

RES

CX

ACK

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	HILARY AURELIUS
3	Address	44 BRANS DALE AVENUE DL7 8FY
4	Date of birth	3 RD NOVEMBER 1961
5	National Insurance No.	NY578301C
6	Telephone No.	07925 003587
7	Email address	centurionss@aol.com

PART B - SECOND APPLICANT DETAILS (IF APPLICABLE)

8	Name	ADAM PYPLACZ
9	Address	BALTIC HOUSE, SPIPER LANE, THIRSK YO7 1AM
10	Date of birth	03.12.1983
11	National Insurance No.	57 90 42 73 B
12	Telephone No.	07902707418
13	Email address	HARRY1983313131@GMAIL.COM

SECTION 2 - TRADING DETAILS

14	Street name of proposed location	
15	Town of proposed location	LEEMING BAR BUSINESS PARK
16	Please describe exactly where on the street the trading unit is to be located. Please include a site plan to illustrate the location.	ABOUT 300 yds AS YOU ENTER THE BUSINESS PARK ON THE LEFT
17	Mobile traders only - please list every street on which it is proposed to trade. Please include a map to illustrate the locations.	

18 Proposed dates for consent to be valid

All year round
 Specified dates*
 *Please provide specific dates below (if applicable)
5 MARCH 2017

19 Proposed hours for consent to be valid

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

20 Description of goods to be sold

BURGERS SAUSAGES CHIPS
 PANINI KEBABS TEA COFFEE
 CAKES SOFT DRINKS

21 Type of trading unit

Mobile catering unit
 Ice cream van
 Stall
 Barrow
 Cart
 Other

22 Please give further details about the trading unit.

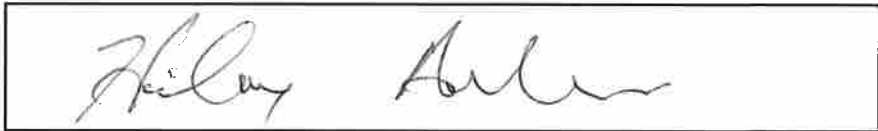
Height 2860 mm
 Length 6538 mm
 Width 1896 mm
 Colour WHITE
 Vehicle registration (if applicable) KX050SU
 Any other relevant information (please include photographs)


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.

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

27	Signature of first applicant	
28	Name (please print)	HILARY AURELIUS
29	Date of signature	30.1.17

30	Signature of second applicant	
31	Name (please print)	ADAM PYPLACZ
32	Date of signature	30.01.2017

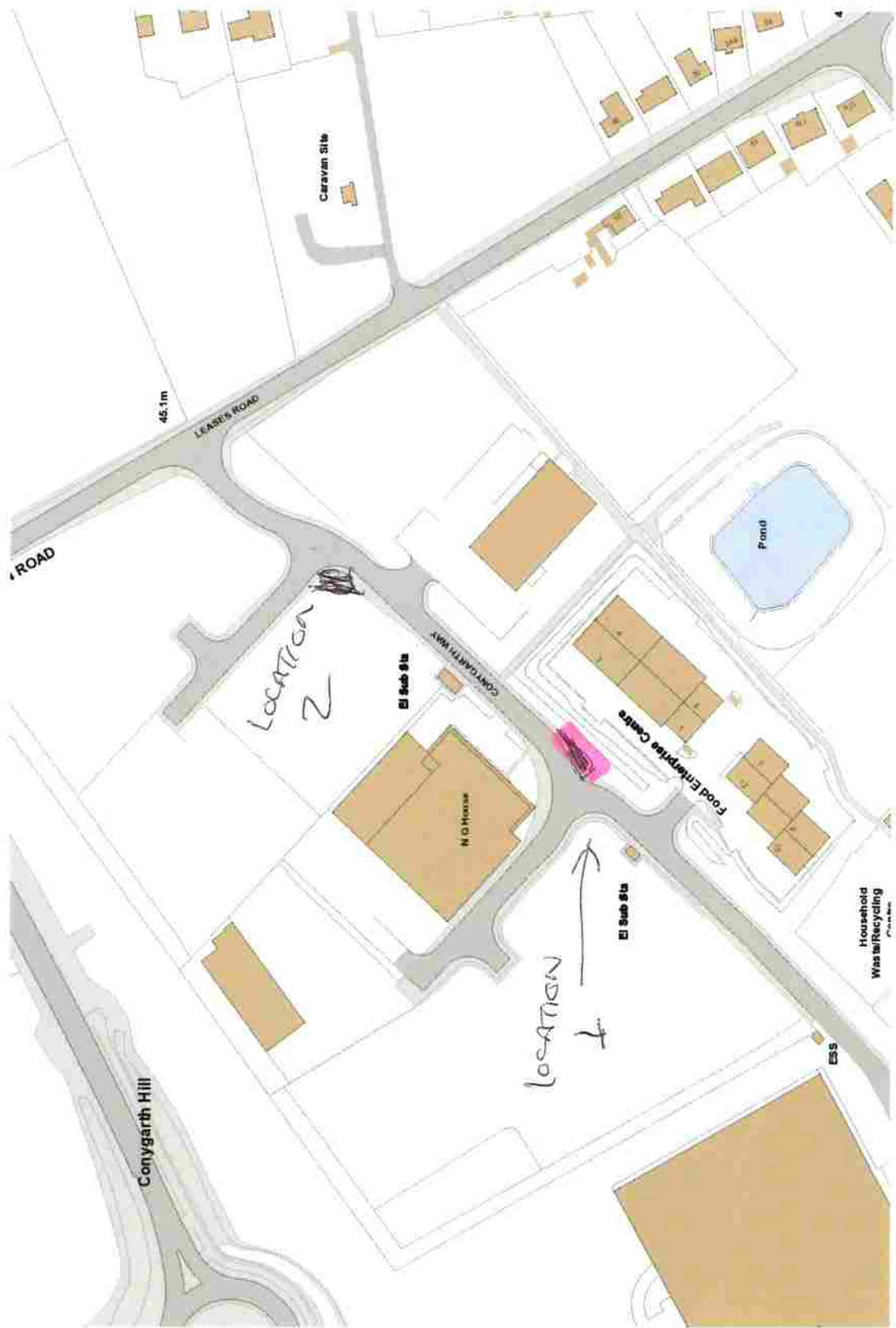
Please call the Licensing Section on 01609 767079/767017 to arrange an appointment if you wish to return this form in person.

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:





Simon Fisher

From: Judith Turner
Sent: 04 April 2017 14:18
To: Licensing Team; NY Police; NYCC - Highways; Planning; Econ Dev; Environmental Health Technical Support; Clive Thornton; Cllr Carl Les; Cllr John Noone; Cllr Michael Barningham
Subject: RE: Street Trading application

Hello

I am very much against this application for the following reasons:

- The road is extremely busy with HGVs going to the businesses on the park and lots of traffic from staff so the addition of a catering unit will only add to this
- There are significant problems with overnight lorry parking and littering on this estate and this will only add to the problems
- The unit will potentially obstruct visibility for traffic – it is opposite a junction in location 1
- Permission has not been sought from Hambleton District Council to locate the unit in either position, both of which are in the Council's ownership
- Catering units traditionally attract more traffic by customers using the facility and there is nowhere for any additional traffic to park
- The comments apply to location 1 and 2
- There is already a catering unit on the Leeming Bar Industrial estate that is a short walk away as are the services at Coneygarth

Kind regards
Judith

-----Original Message-----

From: Licensing Team
Sent: 04 April 2017 14:06
To: NY Police; NYCC - Highways; Planning; Econ Dev; Environmental Health Technical Support; Clive Thornton; Cllr Carl Les; Cllr John Noone; Cllr Michael Barningham
Cc: Licensing Team
Subject: Street Trading application

Good Afternoon

Please find attached a street trading application received yesterday in Hambleton Licensing.

Hilary Aurelius/Adam Pyplacz T/A Andy's snacks Coneygarth Way, Leeming Bar Industrial Estate
Mobile Catering Unit

If you have any objections to consent being granted, please contact us by 17.04.17

Kind Regards

Anita Huntsman
Senior Licensing Administration Officer
Legal Services
Ext. 7017

Simon Fisher

From: Cllr John Noone
Sent: 05 April 2017 10:41
To: Licensing Team
Cc: Cllr Michael Barningham; Cllr Carl Les
Subject: Re: Street Trading application

Hi All

We have an existing Catering Van on the Estate which is currently meeting the needs of local users. Therefore I would not support this application, on the grounds that traffic congestion would become a major problem. The existing business would also be put under pressure.

I see no reason to increase the number of catering Vans.

Regards
John Noone

Sent from my iPad

> On 4 Apr 2017, at 14:06, Licensing Team <licensingteam@hambleton.gov.uk> wrote:
>
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> Kind Regards
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> Anita Huntsman
> Senior Licensing Administration Officer Legal Services Ext. 7017
>
>
>
> <scanned-Anita Huntsman-20170404135920.pdf>

Simon Fisher

From: Cllr Michael Barningham
Sent: 05 April 2017 20:27
To: Licensing Team
Cc: NY Police; NYCC - Highways; Planning; Econ Dev; Environmental Health Technical Support; Clive Thornton; Cllr Carl Les; Cllr John Noone
Subject: Re: Street Trading application

All.

I have to agree with John and Judith that this location is not suitable and the estate is already served by a catering van and no need for another. This road is already subject to congestion and litter issues and will only be made worse with this trader.

Mike Barningham

Sent from my iPad

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>
> <scanned-Anita Huntsman-20170404135920.pdf>

Simon Fisher

From: Cllr.Carl Les <Cllr.Carl.Les@northyorks.gov.uk>
Sent: 05 April 2017 23:29
To: Cllr Michael Barningham; Licensing Team
Cc: NY Police; Area2 Thirsk; Planning; Econ Dev; Environmental Health Technical Support; Clive Thornton; Cllr Carl Les; Cllr John Noone
Subject: RE: Street Trading application

I agree that there is no need in this location for further provision which would lead to more congestion on a busy access road, Carl Les

-----Original Message-----

From: Cllr Michael Barningham [<mailto:CllrMichael.Barningham@hambleton.gov.uk>]
Sent: 05 April 2017 20:27
To: Licensing Team <licensingteam@hambleton.gov.uk>
Cc: NY Police <NYPLicensing@northyorkshire.pnn.police.uk>; Area2 Thirsk <Area2.Thirsk@northyorks.gov.uk>; Planning <planning2@hambleton.gov.uk>; Econ Dev <economicdevelopment@hambleton.gov.uk>; Environmental Health Technical Support <EnvHealthTechSupp@hambleton.gov.uk>; Clive Thornton <Clive.Thornton@hambleton.gov.uk>; Cllr Carl Les <cllr.carl.les@hambleton.gov.uk>; Cllr John Noone <CllrJohn.Noone@hambleton.gov.uk>
Subject: Re: Street Trading application

All.

I have to agree with John and Judith that this location is not suitable and the estate is already served by a catering van and no need for another. This road is already subject to congestion and litter issues and will only be made worse with this trader.

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> <scanned-Anita Huntsman-20170404135920.pdf>
Access your county council services online 24 hours a day, 7 days a week at www.northyorks.gov.uk.

Simon Fisher

From: Clive Thornton
Sent: 06 April 2017 12:10
To: Licensing Team
Subject: RE: Street Trading application

Licensing

I do not support this application.

I echo Judith Turner's comments.

Regards

Clive Thornton
Corporate Facilities Manager
Hambleton District Council
Tel: 01609 767052 (direct line)
Fax: 01609 767228
Email: clive.thornton@hambleton.gov.uk
Website: www.hambleton.gov.uk
Please consider the environment – only print this email if absolutely necessary

-----Original Message-----

From: Licensing Team
Sent: 04 April 2017 14:06
To: NY Police; NYCC - Highways; Planning; Econ Dev; Environmental Health Technical Support; Clive Thornton; Cllr Carl Les; Cllr John Noone; Cllr Michael Barningham
Cc: Licensing Team
Subject: Street Trading application

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Mobile Catering Unit

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Kind Regards

Anita Huntsman
Senior Licensing Administration Officer
Legal Services
Ext. 7017

Simon Fisher

From: Judith Turner
Sent: 02 June 2017 08:44
To: Licensing Team
Subject: FW: Street Trading Application - Coneygarth Way, Leeming Bar

Please see below from Highways

Thank you
Judith

-----Original Message-----

From: Stephen Mason [mailto:Stephen.Mason@northyorks.gov.uk] On Behalf Of Area2 Thirsk
Sent: 01 June 2017 11:53
To: Clive Thornton; Area2 Thirsk
Cc: Judith Turner; Jayne Charlton
Subject: RE: Street Trading Application - Coneygarth Way, Leeming Bar

Dear Clive

Having reviewed the applicants proposed locations for the vehicle I would ask that this application is refused for the following reasons;

- 1.The vehicle is likely to obscure forward visibility and obscure sightlines at the Junction
- 2.The construction of the footway is not designed to accommodate vehicles of this nature passing over or manoeuvring on the footway.
- 3.The business is likely to attract parking on or near to the Junctions this would affect forward visibility.

The points above are detrimental to highway safety however if the applicant can offer contrary evidence through a road safety audit I am willing to review my decision.

Yours sincerely

Steve Mason
Maintenance Manager
Highways North Yorkshire
Area 2 - Thirsk

Ext. 7819
Tel. 01609 797819



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.