

Appendix A – General Conditions that will normally be attached to Street Trading Consents

General conditions will be attached to all Consents detailing the Consent Holder's responsibilities.

The general conditions may include provisions to ensure:

- maintaining public safety;
- preventing nuisance;
- generally preserving the amenity of the locality;
- limitations on the days and the hours when Street Trading is permitted;
- the goods which may be sold;
- the size of the trading pitch; or
- any other relevant matter.

Additionally, conditions may be attached which relate specifically to the type of Consent granted. These conditions may include special controls or be drawn from relevant sections of the following Appendices:

- a) General Conditions
- b) Motor Vehicle Conditions
- c) Fixed Site Conditions
- d) Food Related Conditions
- e) Gas Safety Conditions
- f) Bonfire Night Plan
- g) Public Service and Charitable Use of Lewes and Newhaven Precinct Conditions
- h) Use of Petroleum Conditions

In addition the following Appendices provide guidance to be used in considering applications and Consent implementation:

- i) Definitions
- j) Guidance on Criminal Offences
- k) Offences

Failure to comply with conditions may lead to prosecution, revocation or non-renewal of Consent.

Persons engaging in Street Trading without a Consent may be liable to prosecution.

Decisions regarding enforcement action will be made in accordance with the Council's Enforcement Policy.

THE GENERAL CONDITIONS

The Consent Holder shall:

1. only Trade on the days and between the times stated on the Consent. Trading will not generally be permitted between 23:00 and 07:00 hrs or on Christmas Day, Easter Sunday or on or around Bonfire Night;
2. only Trade in the position, and way described or Trade in the articles stated on the Consent;
3. not begin setting up more than 30 minutes before any trading start time in the Consent;
4. at the end of any trading day, remove from the highway all goods, receptacles, structures and any other objects associated with trading no later than 30 minutes after the time shown on any Consent;
5. ensure that all goods, receptacles, structures and any other objects associated with trading are easily and immediately removable in the event of emergency access being required;
6. when carrying on business relating to a Street Trading Consent, be sober, conduct him/herself, and ensure persons under his/her control conduct themselves, in a proper, civil and courteous manner and not use behaviour or language which could reasonably be seen as abusive, harassing or intimidating;
7. at all times conduct business and position all goods, receptacles, structures and any objects associated with trading, or used in connection with his/her business, in such a manner to prevent danger to persons trading or likely to be affected by trading;
8. ensure all risks in connection with the trading activity are assessed and reviewed periodically. Ensure any identified risk reduction measures are put in place. Risk assessments to be made available to an Authorised Officer of the Council for inspection.
9. at all times conduct his/her business in a clean and tidy manner;
10. make a copy of the Consent immediately available, upon request, to an authorised Officer of the Council or the Police;
11. if appropriate, ensure a current Gas Safety Certificate is valid for the trading activities throughout the period of trading. A copy of this Certificate is to be provided to the Council;
12. wear, and ensure any assistants wear, any identification badges issued by the Council at all times of trading;
13. allow access to, and comply immediately with, all reasonable directions given by the Council, its authorised Officers or Police Officers regarding any Street Trading.

Ensure a responsible person always is in attendance and available to receive such directions;

14. report any change that occurs in the particulars and information contained in the application for the Consent, such as a change of address, to the Licensing Authority within 72 hours of it occurring;
15. indemnify the Council against all claims, liabilities, actions, demands and expenses whatsoever in respect of, or in any way arising out of any Consent to Trade granted by the Council and shall, without prejudice to the foregoing, maintain in force at all times with a reputable insurance company approved by the Council a valid Public Liability Insurance Policy to a minimum value of £1,000,000 (one million pounds) and shall provide, on request, and to the satisfaction of the Council, the insurance certificate and evidence of full premium payment. If the Consent to Trade is terminated by the Council for any reason the Council shall accept no liability for financial or other loss of the Consent Holder;
16. ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle;
17. ensure that they comply with the requirements of the Council's guidance document on the safe use, handling, storage and transportation of Liquefied Petroleum Gas (LPG) used in mobile catering units or similar units, see Appendix B and E;
18. ensure all stalls and vehicles are provided with adequate and appropriate fire extinguishers, which shall be regularly serviced and certified accordingly. Where there is a potential ignition source present, including cooking facilities, a 2kg dry powder extinguisher which complies with the standards set out in BS 5423: 1987 must be provided. Where hot fat/oil cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly; and
19. ensure cooking and heating appliances are positioned well clear of tent, walls and roofs. Where bottled gas is to be used the Appendix B and E of the conditions for LPG should be followed as appropriate. Cylinders should stand outside any tent, or similar structure, and should be handled and changed only by persons fully conversant with the supplier's instructions. Precautions should be taken to prevent tampering with cylinders or valves, and to prevent cylinders (and associated pipework) being damaged or falling.
20. fully utilise the consent and be present on consent days and times without good reason. Failure to utilise the consent will result in a written warning and further occasions will result in the consent being revoked.

The Consent Holder shall not:

1. under any circumstances, Trade within the areas defined green on the map in Appendix F **or, without specific Consent**, within the boundaries of the Lewes Town on Bonfire Night - November 5th or the preceding Saturday if November 5th falls on a Sunday;
2. cause obstruction or danger to people using the street. In particular, not block access for disabled people, disabled parking or force disabled people to use inappropriately surfaced areas.

3. place, store, sell, expose or offer for sale any article outside any specified trading area;
4. sell, expose or offer for sale goods similar to and in direct competition with fixed businesses or other Consented Traders within 100 metres;
5. trade close to the boundaries of hospitals or care premises (within 250 metres) or schools (500 metres);
6. permit any person to assist in trading unless the details of that person have been supplied to in writing and approved by the Council;
7. sell, display or wear merchandise or items which are likely to cause offence or distress to any other person or which would be deemed an offence under any other legislation. The Licensing Officer should be consulted if doubt exists on whether article/material could be considered offensive, his/her decision is final;
8. place or display advertisements or other notices in the immediate area of the trading site without the approval of the Council;
9. place any furniture or equipment in the immediate area of the premises other than as permitted by the Consent;
10. transfer any Consent or dispose of any Consent to any other person;
11. cause any nuisance or annoyance to persons using the street or to the occupants of any properties in the vicinity. No amplification equipment shall be used unless authorised by the Council;
12. leave rubbish or other waste arising from trading activity, or allow it to be left or accumulate, on or around any Consent site. Removal and disposal of rubbish must be to the satisfaction of the Council - this may require a special collection to be arranged and relevant details to be provided;
13. use any device for the generation of electricity, light or heat without the Council's permission.

The following section to be removed to an Appendix see Appendix H

Any Trader using any device for this purpose must complete a documented Risk Assessment, submit the Risk Assessment with their application, and must keep the Risk Assessment at the site where trading is taking place. The Assessment must be available to an authorised Officer of the Council on demand.

The Risk Assessment must address at least the following matters:

- a) the position and siting of the device;
- b) the storage container for fuel for the device;
- c) the labelling of the fuel container;
- d) the number, type and maintenance of fire extinguishers at the site;
- e) the provision of fire blankets; and/or
- f) the prevention of hazard or nuisance from fumes or noise.

For guidance please be aware of the following:

- Fuel must be stored away from the stall in a container of a type approved under the Petroleum Spirit (Motor Vehicles) Regulations 1929 or Petroleum Spirit (Plastic Containers) Regulations 1982. All petroleum spirit, or other highly inflammable liquid used in connection with the device, must be stored in a metal container with a secure leak-proof cap not exceeding 10 litres or a plastic container not exceeding 5 litres capacity.
 - The container to be labelled “Petroleum Spirit Highly Inflammable”.
 - The container shall be stored securely and remote from sources of ignition.
 - Where there is a potential ignition source present, including cooking facilities, a 2kg dry powder extinguisher, which complies with the standards set out in BS 5423: 1987 must be provided. Where hot fat/oil cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly.
 - Use of the device should not cause fume or odour nuisance.
14. use oil burning appliances for lighting, heating or cooking. No naked flames, including candles, should be used;
 15. sell or display articles such as firearms, replica firearms, knives, tobacco or fireworks;
 16. bring pets or other animals to the trading site without written permission from the Council;
 17. sell or offer goods for sale as ‘seconds’, soiled or damaged, unless a clear notice is displayed stating this; or
 18. make any excavations or indentations of any description whatsoever in the surface of the highway or fix any equipment of any description on or in the street surfaces.
 19. trade in either Newhaven or Lewes pedestrian precincts on a day when another community activity is scheduled to take place. The consent holder shall be notified at least 28 days prior to the event by the Licensing Officer. There shall be no more than 4 of these such occasions per year.

The Council reserves the right, if it considers it to be reasonably necessary, to alter or amend these conditions at any time.

Any Consent is issued without prejudice to any other statute, bye-law or regulation. A Consent does NOT override any regulations regarding planning, parking, food hygiene, obstruction, noise nuisance etc.

APPENDIX B - Motor Vehicle Conditions

1. Any vehicles and trailers used for the purposes of Street Trading shall be removed from the highway when the Consent is not in operation.
2. Any motor vehicle used for the purpose of Street Trading shall at all times be in a roadworthy condition and have the relevant and up to date documents i.e.

insurance, tax and MOT to make the use of that vehicle on a road legal. These documents will be produced by the Consent Holder to any Police Officer or authorised Officer of the Council.

3. Delete this paragraph - A Trader shall not leave his vehicle in the street in which he trades, except in approved parking spaces. Loading and unloading shall be carried out as quickly as possible and the vehicle removed immediately on completion. All parking restrictions in any street must be strictly adhered to by the operator.
4. Where the Trader trades from a stationary vehicle, that vehicle shall, in all respects, comply with the Road Vehicles (Construction and Use) Regulations 1986. Motor vehicles shall be capable of their own propulsion and shall not be towed into trading positions.
5. All vehicles shall be provided with adequate and appropriate fire extinguishers which shall be regularly serviced and certified accordingly.
6. The Trader must not park or site their vehicle within 500 metres of any school; 250 metres of any hospital or care premises or within 20 metres of any road junction.
7. Delete this paragraph -The Trader shall not station any vehicle so as to be in direct competition, in terms of goods sold, with fixed businesses within 100 metres.
8. The Trader must not trade from a point within 100 metres of an existing Trader of a similar nature without the consent of the Council.
9. The Trader shall comply with Appendix D and E relating to use of LPG and sale of food as appropriate.
10. The Trader shall retain with his vehicle or stall or other mode used for trading, any water used or waste produced until the end of each period of trading on each day of such trading and then remove it or dispose of it appropriately elsewhere and, in particular, shall not deposit any such waste near or into any street, drain or channel.
11. The Trader's vehicle must not obstruct the free flow of pedestrians or traffic at any time.
12. The Trader must not park, or site their vehicle, on a classified road or prohibited area at any time.
13. The Trader must comply with all reasonable instructions given by Officers from the Council, Police and/or Highways Authority regarding the initial location and relocation of sites and other such related matters. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.
14. The appearance of vehicles must not be detrimental to the existing properties in the area in which the vehicle is stationed.
15. All goods shall be displayed on the vehicle and no freestanding racks or displays are permitted.

16. Delete as repeat of General Conditions “Traders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.”

The following conditions apply to ice cream vans and any other vehicle from which food will be sold using a chime or loudspeaker:

1. The chime or loudspeaker should only be operated between 12:00 and 19:00 hrs.
2. The chime or loudspeaker is fixed to a vehicle used for the conveyance or sale of perishable food.
3. The chime or loudspeaker is used solely for informing members of the public that goods are for sale.
4. The chime or loudspeaker is not operated in a way as to give rise to unreasonable annoyance to persons in the vicinity.
5. The volume of the chime, or music, must be carefully adjusted so as to avoid distortion of the sound.
6. The noise level from a chime or loudspeaker should not exceed LA_{max} 80 dB (at 7.5 metres) in any direction. This may need to be reduced in narrow streets.
7. The chime or loudspeaker must not last more than twelve seconds and not be used more frequently than once every two minutes or more than once when the vehicle is stationary at a selling point.
8. The chime or loudspeaker should not be played more often than once every two hours in any one length of street i.e. within 500 metres.
9. The chime or loudspeaker should not be played when in sight of another van (whether moving or stationary) which might reasonably be taken to be in the street for trading purposes.
10. Chimes and loudspeakers should only be played as often as is necessary to let customers know the commodity is for sale from the vehicle.
11. The chime or loudspeaker should not be played within 50 metres of any hospital (or similar institution), of a school during school hours or of a place of worship on a recognised day of worship.
12. At all times the provisions of any relevant Code of Practice on the use of chimes or loudspeaker shall be observed.

APPENDIX C – Fixed Site Conditions

1. The Consent Holder shall ensure that sufficient sanitary accommodation is available for both the Consent Holder and assistants when operating at a static site.

APPENDIX D – Food Related Conditions

1. The Consent Holder, if intending to sell food from a stationary vehicle/stall shall operate from a purpose made vehicle/stall constructed and managed so as to comply with the relevant hygiene regulations currently in force and any subsequent changes to those regulations. There must be an up to date registration of the food business with the Council.
2. All hot food vans/trailers are required to comply with current legislation on fire safety, see Appendix E. Where gas cylinders are used an annual Gas Safety Certificate shall be required to ensure the safety of all gas cooking and heating equipment. A fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food.
3. All hot food vans/trailers are required to carry a basic first aid kit.
4. The Consent Holder shall ensure that litter checks are carried out regularly in the vicinity of the trading area and litter attributed to the activity is collected and disposed of to the satisfaction of the Council.
5. A Consent Holder selling food shall at all times comply with any Food Hygiene Regulations in force at that time, and when required by the Council or its Officers, shall produce appropriate Food Hygiene Training Certificates for relevant food handlers.
6. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
7. Odour from any flue used for the dispersal of cooking smells serving the site shall not cause nuisance to the occupants of any properties in the vicinity.

It is recommended that any flues for the dispersal of cooking smells shall either:

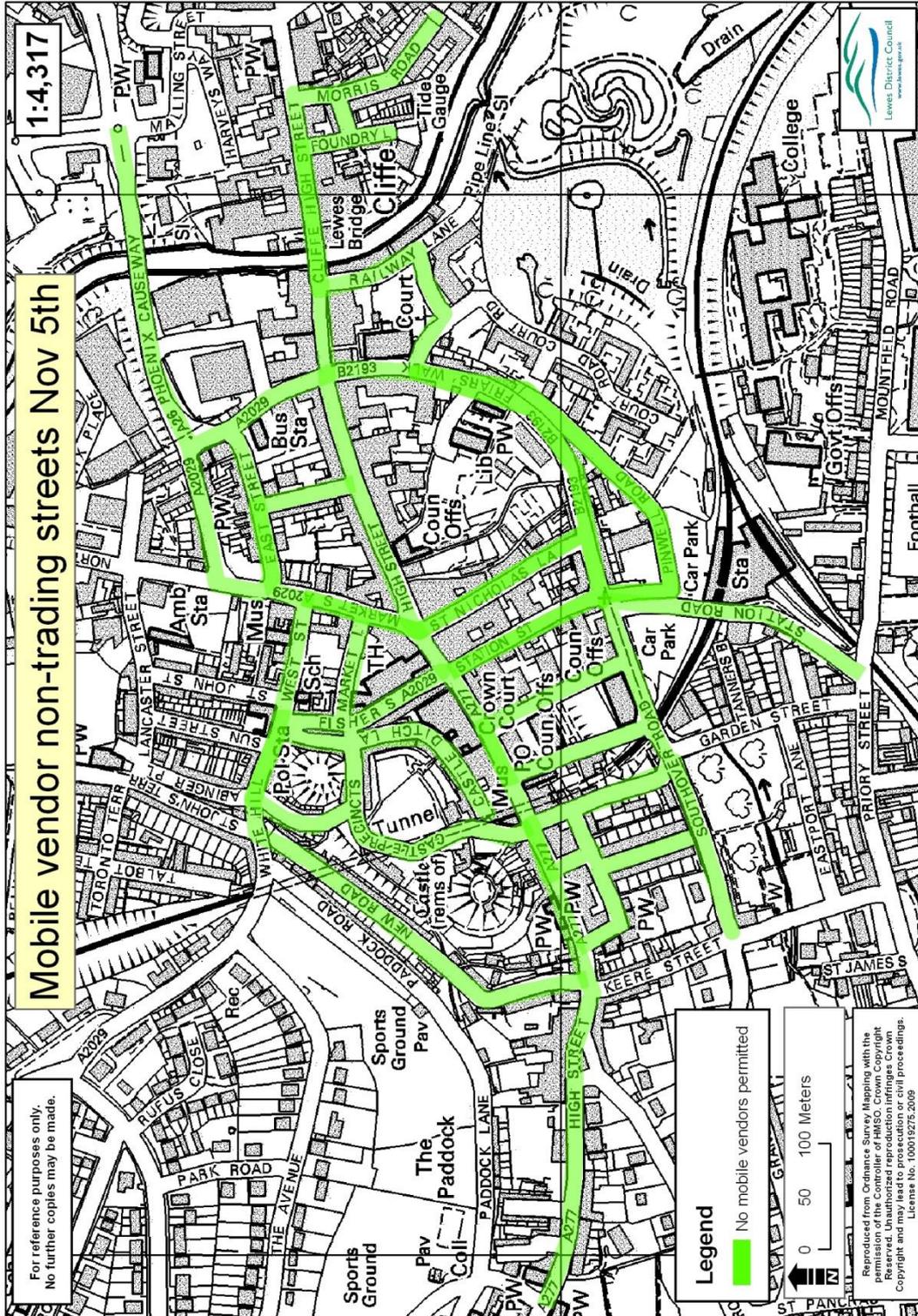
- i. terminate at least 1 metre above the ridge height of any building in the vicinity, with no obstruction of upward movement of air; or
 - ii. have a method of odour control such as activated carbon filters, electrostatic precipitation or inline oxidation.
8. The Food Hygiene Rating Scheme score must be visibly displayed at all times when trading. Traders are expected to achieve a score of at least “3”.

APPENDIX E - Gas Safety Related Conditions

1. Gas appliances, including pipework, should be installed and regularly serviced and maintained by a competent person (Gas Safe registered for LPG). A current Gas Safety Certificate to be submitted with each application and to be maintained throughout the period of trading.

2. Cylinders should be fitted with automatic cut-off valves and be protected from tampering.
3. Cylinders must be stored upright so that they cannot fall and be positioned away from heat and ignition sources.
4. Gas storage compartments in trailers or stalls must have complete half an hour fire protection. Access to the compartment must be from the outside of the unit and there should be adequate ventilation at high and low levels.
5. The cylinder must be secured in an upright position and be securely fastened during transit.
6. All gas pipes and fittings should be to the correct British Standard for LPG and kept as short as possible with appropriate crimp or compression fittings (not slip-on fittings).
7. All gas pipes should be protected from abrasion or mechanical damage (armoured if subject to temperatures over 50° C)
8. Flexible gas piping must be checked regularly and replaced if damaged or worn.
9. All gas appliances must be fitted with a flame failure device and be adequately ventilated.
10. All fryers should be fitted with an automatic high temperature-limiting device (operates at a fat temperature of 250° C or lower).
11. Suitable warning signs indicating: '**Caution – LPG**'; and '**Highly Flammable**' and should be clearly displayed.
12. People who change the cylinders should be properly trained and a safety notice on how to connect and disconnect the LPG bottles should be displayed in the gas compartment.
13. Cylinder valves and gas appliances must be turned off when not in use.

APPENDIX F - Bonfire Night Non-Trading areas



APPENDIX G - Conditions for Public Service or Charitable activity in Lewes and Newhaven Precincts

In addition to the General Conditions the use of the precincts is subject to the following:

1. As a general rule stalls, units, vehicles or displays should be positioned in the widest parts of precincts and obstruction reduced as far as possible.
2. All vehicles, unless an agreed part of the activity/event and in the agreed position, must be removed from the precinct.
3. The granite paving area of the Lewes precinct is able to be used only by activities, units, displays, stalls or vehicles that can be cleared immediately in the event of need for emergency access.
4. The “blue brick” area of Newhaven High Street shall be kept clear and not be used without express consent of the Council.
5. Public rights of way must be maintained as far as reasonably practicable.
6. Emergency access routes to be maintained clear to the satisfaction of the Council or Emergency Services.
7. Amplification is not permitted unless with prior permission from the Council

APPENDIX H - Use of Petroleum

- 1) Any Trader using any petroleum fueled device must complete a documented Risk Assessment, submit the Risk Assessment with their application, and must keep the Risk Assessment at the site where trading is taking place. The Assessment must be available to an authorised Officer of the Council or the East Sussex Fire and Rescue Service on demand.

The Risk Assessment must address at least the following matters:

- A) the position and siting of the device;
 - B) the storage container for fuel for the device;
 - C) the labelling of the fuel container;
 - D) the number, type and maintenance of fire extinguishers at the site;
 - E) the provision of fire blankets; and/or
 - F) the prevention of hazard, nuisance from fumes or noise.
- 2) For guidance please be aware of and implement the following, as applicable:
 - Fuel must be stored away from the stall in a container of a type approved under the Petroleum Spirit (Motor Vehicles) Regulations 1929 or Petroleum Spirit (Plastic Containers) Regulations 1982.

- All petroleum spirit, or other highly inflammable liquid used in connection with the device, must be stored in a metal container with a secure leak-proof cap not exceeding 10 litres or a plastic container not exceeding 5 litres capacity.
- The container to be labelled “Petroleum Spirit Highly Inflammable”.
- The container shall be stored securely and remote from sources of ignition.
- Where there is a potential ignition source present, including cooking facilities, a 2kg dry powder extinguisher, which complies with the standards set out in BS 5423: 1987 must be provided. Where hot fat/oil cooking facilities are provided a fire blanket should be provided and so positioned as to allow the blanket to be withdrawn easily and quickly.
- Use of the device should not cause hazard, fume or odour nuisance.

APPENDIX I - Definitions

“Advertisement” - means any word, letter, model, sign, placard, board, notice, whether illuminated or not, the nature of, and employed wholly or partly for the purposes of: advertisement, announcement or direction and includes hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

“Awning” - means a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall.

“Assistant” - means a person employed by and acting under the directions of a Trader to assist him/her about the business of the stall and whose name and address has been notified to the Council.

“Bonfire Night” - November 5th or the preceding Saturday if this falls on a Sunday.

“Consent Holder” - the person granted a Consent by the Council to undertake Street Trading.

“Consented Street Trading Pitch”- means a pitch in any street authorised as a place at which Street Trading may be engaged in by a Street Trader, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

“Deemed Consent” – means that consent for street trading is deemed to have already been granted without the need for an application.

“The Council” - means the Lewes District Council and usually its Environmental Health Service.

“Goods” - means any goods, wares or merchandise for sale at a stall.

“Pitch Limits” - means the authorised ground markings defining the area within which a Street Trading stall is to be contained.

“Premises” - means any shop, house or block of flats behind or adjacent to the licensed pitch.

“Refuse” - includes any waste material.

“Stall” - means any structure used by a Trader for the display of goods, or in connection with his or her business and which occupies a licensed Street Trading pitch; and includes all goods offered or to be offered for sale and any additional structure or equipment used as part of the stall or business. This also included all rubbish or refuse created as a result of the business.

“Street” - any part of a street and includes any road, footway, beach or other area to which the public have access without payment.

“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 Consent” – means a Consent granted under the Act and valid for not more than three years. Please Note: The use of a street as a smoking area outside premises is not considered to be Street Trading. The Council will not therefore usually consider requests for Consent where the use is solely for these purposes.

“Trader” - means a person in whose name a current Consent is held authorising Street Trading.

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

“Vehicle” – includes any **trailer**, stall, barrow, cart etc., used in connection with trading.

Any other term not defined in these conditions shall have the same meaning as in the Local Government (Miscellaneous Provisions) Act 1982.

APPENDIX J - Guidance on Criminal Convictions and Street Trading

Each case will be decided on its own merits however, the Council may refuse to grant or renew a Street Trading Consent on any of the following grounds:

- (i) there has been a conviction/caution for an offence involving dishonesty, indecency, certain sexual offences, violence or drugs;
- (ii) there has been a conviction/caution for an offence under the relevant licensing legislation; or
- (iii) any other reasonable grounds.

If a period of imprisonment, community sentence or Court Order is imposed, the applicant must show a minimum of 3 years without further convictions from the end of imprisonment or sentence, not the reduced sentence.

A person with a current unspent conviction for serious crime need not be permanently barred from obtaining a Consent, but should be expected to remain free of conviction for

3 to 5 years, according to the circumstances, before an application is entertained. Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. However, the overriding consideration should be the protection of the public.

The following examples afford a general guide on the action to be taken where convictions are admitted:

Offences involving violence

It is imperative that applicants with convictions for offences involving violence are considered carefully. When applicants have convictions for causing grievous bodily harm, wounding or assault, or even more serious offences involving violence, at least five years should elapse before an application is considered.

Drug Related Offences

An isolated conviction for a drug offence, whether for unlawful possession only or involving the supply of controlled drugs, need not necessarily debar a candidate, provided the applicant has at least three years free of convictions or five years since detoxification if he/she was an addict.

Indecency Offences

Applicants with recent indecency offences, i.e. within the last 5 years, would normally be debarred.

Dishonesty

Convictions for isolated minor offences should not debar an applicant, but in cases involving serious theft or fraud at least three years should elapse before an application is considered. When offences of dishonesty have been accompanied by violence, it is suggested that at least five years should elapse before application.

APPENDIX K - Offences

The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

a) Schedule 4, paragraph 10

(1) A person who:

- (a) engages in street trading in a prohibited street; or
- (b) engages in street trading in a licence street or a consent street without being authorised to do so under this Schedule; or
- (c) contravenes any of the principal terms of a street trading licence; or
- (d) being authorised by a street trading consent to trade in a consent street, trades in that street—

(i) from a stationary van, cart, barrow or other vehicle; or

(ii) from a portable stall,

without first having been granted permission to do so under paragraph 7(8) above;

or

(e) contravenes a condition imposed under paragraph 7(9) above, shall be guilty of an offence.

(2) It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

(3) Any person who, in connection with an application for a street trading licence or for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

(4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.