

**MONMOUTHSHIRE COUNTY COUNCIL
REPORT**

SUBJECT:	Application for an Annual Block Street Trading Consent for Usk Town Centre
DIRECTORATE:	Chief Executives
MEETING:	Licensing and Regulatory Committee
Date to be considered:	3rd May 2016
DIVISION/WARDS AFFECTED:	All Wards

1. PURPOSE:

- 1.1 To consider an application for a Block Street Trading Consent to trade in Usk Town Centre. (Application and Plan attached to this report as Appendix A and Appendix B respectively)

2. RECOMMENDATION(S):

It is recommended that:-

- 2.1 Members consider and determine the application form attached to this report as Appendix A.

3. KEY ISSUES

- 3.1 An application was received on 13th April 2016 from Mr Phillip Mungeam, on behalf of Usk Markets and Festivals Committee for Usk Town Centre, which is attached to this report as Appendix A. The application request is to trade on Sunday to Thursday between the hours of 09:00hrs until 18:00hrs and Friday to Saturday between the hours of 09.00hrs until 23.00hrs. The location and number of pitches requested in the application form for Usk Town Centre are as follows:-

- Twyn Square, Usk – Subject to road closure (2 pitches)
- New Market Street, Usk (4 pitches)
- Bridge Street, Usk (4 pitches)
- Twyn Square Car Park, Usk (12 pitches)
- Owain Glyndwr Field, Maryport Street, Usk (2 pitches)
- Maryport Street, Usk – park area next to number 3 (2 pitches)
- Sitting Area Outside Coop (2 pitches)
- Legion Car Park, New Market Street, Usk (2 pitches)
- Conigar, riverbank next to Usk Bridge (4 pitches)
- Car Park in Twyn Square (18 pitches)

The total pitches requested for Usk Town Centre is 52 pitches.

- 3.2 The applicant has further stated that if the consent is granted he will ensure pitch holders will comply with the Council's conditions for the consent. The applicant has stated within Section 2 of the application form that each person requesting a pitch will be required to complete an "Application for a Day Market Pitch", which will be issued by Usk Markets and Festivals Committee, attached as Appendix C.

- 3.3 The application was forwarded to the consultees (Appendix A), these being Heddlu Gwent Police, Monmouthshire Planning Department, Monmouthshire Environmental Health Department and the Local Ward Member. No objections were received on this application.

3.4 Section 13 of the Street Trading Policy adopted by this Authority on 9th February 2016 states;

An Authorised Officer will approve the application if it:-

- Meets the criteria and
- There are no reasonable and appropriate objections.

And further states, "Except where objections are received for safety reasons the Head of Regulatory Services can determine the application or defer the matter to the Licensing and Regulatory Committee."

The Head of Regulatory Services has decided in this instance to defer the matter to the Licensing and Regulatory Committee for a decision, due to the application being a new application for a permanent consent, which will include a number of pitches with wider potential impact.

3.5 Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Part III there is no right of appeal against the refusal to grant or renew a consent or against the revocation or variation of a consent.

3.6 As there is no statutory right of appeal the applicant has the right to seek judicial review. As a judicial review is largely about the decision making process, it is difficult to see how any judicial review application could be made, when the applicant understands the reasons for the Members decision. If reasons are not given then there is de facto denial of judicial review.

3.7 A District Council are under no duty to grant a street trading consent and need not specify statutory grounds for refusal. However in the case of R v The Mayor and Commonalty and Citizens of the City of London ex parte Matson, the Court highlighted the need for decision makers to give reasons in the interests of fairness and to enable judicial review proceedings to become available.

4. REASONS

4.1 To determine the application for a Block Street Trading Consent for Usk Town Centre.

5. RESOURCE IMPLICATIONS

5.1 All Licensing fees and charges are recovered on a cost recovery basis.

6. WELLBEING AND FUTURE GENERATIONS IMPLICATIONS

6.1 The 'Future Generations' template is attached as Appendix D.

7. CONSULTEES:

Heddlu Gwent Police
Planning Department, Monmouthshire County Council.
Environmental Health Department, Monmouthshire County Council
Local Ward Member

8. BACKGROUND PAPERS:

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 Part III
Monmouthshire Street Trading Policy, approved 9th February 2016

9. AUTHOR:

Linda O’Gorman
Principal Licensing Officer

CONTACT DETAILS:

Tel: 01633 644214

Email: lindaogorman@monmouthshire.gov.uk

APPENDIX A



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
APPLICATION FOR A BLOCK STREET TRADING
CONSENT

1. APPLICANT DETAILS	
Full Name:	Phillip Mungeam
Current Residential Address:	[REDACTED]
Telephone Number:	[REDACTED]
Mobile Number (optional):	[REDACTED]
Email (optional):	[REDACTED]
Date of Birth: (DD/MM/YYYY)	[REDACTED]
National Insurance Number:	[REDACTED]
Are you entitled to work in the UK	Yes
Do you have any unspent convictions? (If yes please state details)	No
Have you previously had any Street Trading Consent revoked or surrendered? (If yes please state details)	No

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2. TRADING DETAILS	
Please state number of pitches	62 max. on any one day
Address of the precise location of where the pitches will be located: (Please include names of streets)	<p>Twyn Square, Usk (2) – subject to road closures.</p> <p>New Market Street, Usk (4)</p> <p>Bridge Street, Usk (4)</p> <p>Twyn Square Car Park, Usk (12)</p> <p>Owain Glyndwr Field, Maryport Street, Usk (2)</p> <p>Maryport Street, Usk (park area next to No. 3 (2)</p> <p>Sitting Area Outside Coop(2)</p> <p>Legion Car Park, New Market Street, Usk (2)</p> <p>Conigar, river bank next to Usk Bridge (4)</p> <p>Car Park in Twyn Square (18)</p>
Do you have permission from the owner of the land where you wish to trade? (If yes please ensure that you submit a copy of the written permission)	No
Please provide contact details for the owner of the land: (Please include name, address and telephone number)	Monmouth County Council
Please provide details of the type of articles which you propose the pitches will sell:	<p>Local Produce inc. Breads, Pies, Pastries, Cakes, Preserves, Oils, Vinegars, Fruit, Vegetables, Plants and Flowers, Meat, Fish.</p> <p>Local crafts inc. pottery, jewellery, prints and paintings. Wooden goods, needlecraft, knitted and fabric goods.</p> <p>Vintage goods inc. china and clothing.</p> <p>Other goods deemed appropriate in line with street trading policy and conditions.</p>

<p>Please provide details on how you will ensure compliance of pitch holders with the Council's Street Trading Conditions. (Use a separate sheet if necessary). See enclosed Monmouthshire County Council's Street Trading Policy.</p>	<p>Individual stall holders will be required to complete the Usk Market and Festival Committee's "Application for Day Market Pitch" (attached) which has been designed with the County Council's Street Trading Conditions in mind.</p> <p>Compliance with all conditions set out in the "Application for a Day Market Pitch" will be verified and confirmed prior to consent being granted.</p> <p>Market setup and trading to be checked daily by a Nominated Usk Markets and Festival Committee member</p>

3. TYPE OF CONSENT BEING APPLIED FOR	
<p>Please state which type of street trading consent you wish to apply for: (Please note that first time applications for Block Street Trading Consents will take a maximum of 60 days to be determined and</p>	<p>Block Annual Street Trading Consent</p> <p style="text-align: center;">✓</p>

will normally be heard at the Licensing and Regulatory Committee for determination)	
Are there any other consent holders in the vicinity? (If yes please give further details)	No

4. TRADING DATES AND TIMES	DAY	TIMES From/To
Please give details of day and times in which you wish to trade: (Trading in Alcohol will require an additional licence under the Licensing Act 2003, as will Hot Food and Drink after 11p.m. up to 5a.m.). If a day consent please state the date you require : _____	Monday:	9am – 6pm
	Tuesday:	9am – 6pm
	Wednesday:	9am – 6pm
	Thursday:	9am – 6pm
	Friday:	9am – 11pm
	Saturday:	9am – 11pm
	Sunday:	9am -6pm

5. FEES	
10% Administration Fee (See attached notes for fees payable – this fee is non refundable)	£700.00 The full payment is required within 21 days of written acceptance from Monmouthshire County Council or an invoice will be arranged if requested by the applicant to enable direct debit payments. The street trading consent will not be issued until the fee has been paid in full or an invoice has been issued to the applicant.

6. ADDITIONAL DOCUMENTATION
<p>To apply for a Street Trading Consent you MUST submit the following documents to support your application</p> <ul style="list-style-type: none"> • 10% of the full fee • Copy of Ordnance survey map of at least 1:1250 scale, clearly showing the proposed site position by marking the site boundary line with a red line. Available online including from www.planningportal.gov.uk/planning/applications/plans (Google or bing style maps are not acceptable) • Written permission from the land owner (If applicable) • Proof of Food Registration (If applicable). Information available at

<http://www.monmouthshire.gov.uk/food-safety/food-premises-registration/>

- Licence under the Licensing Act 2003 (if applicable)
- One Passport-type photograph of the applicant.

7. DECLARATION

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

A person who engages in street trading in a consent street without being authorised to do so or being authorised by a consent, trades in that street

- From a van, cart, barrow or other vehicle, or
- From a portable stall.

Without first having been granted permission to do so contravenes a condition imposed shall be guilty of an offence. It shall be a defence for a person charged with such an offence to prove that he took all reasonable precautions and exercised due diligence to avoid commission of the offence. Any person who in connection with an application for a consent makes a false statement which he knows to be false in any material respect, or which he does not have reason to believe to be true, shall be guilty of an offence.

PLEASE NOTE: The Council's Licensing Committee is, with specific exceptions, a public forum. Not all applications require consideration by the Committee. Where our processes, as defined by relevant legislation, policies and guidance, require your application for a licence/permit/consent to be considered by the Licensing Committee, the identifying details you provide in your application may appear on documents which are considered by the Committee and are therefore available to the public. The personal information you provide will be used only for purposes related to the assessment of your application and future management of any licence/permit/consent granted. If you believe there is a legitimate reason for non-publication of your personal data, please provide those reasons with your application so that they can be considered in advance of preparation of Committee papers.

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 or administering public funds for these purposes. For further information, see [NFI information on MCC website](#) or contact the Audit Manager on 01633 644258

I declare that I have read and understood the Standard Conditions and any additional conditions which may apply. I believe that all of the above particulars are correct and to the best of my knowledge. I understand that the 10% administration fee I pay will not be refundable if the application is withdrawn or if the consent is granted and I do not take it up.

Applicant Sign: 

Print Name:

Date: 10/09/16

GENERAL

Where an application has been approved the following also will be required prior to the issue of Street Trading Consent:-

- **An original copy of a certificate of insurance covering the street trading activity for third party and public liability risks up to £5million.**
- **Copies of gas, electrical safety certificates for each equipment and recent records of periodic inspection reports.**

The Street Trading Consent will specify the location, times and days for which it is valid and the type of goods to be sold. Consent Holders must follow the terms of their Street Trading Consent. Failure to do so may result in the Street Trading Consent being revoked or not renewed, or in a prosecution.

The granting of a Street Trading Consent does not in any circumstances exempt the Consent Holder from the need to obtain any other licence or permission that may be required or from obligation to comply with all other general or local legislation. There may be additional costs involved in obtaining these additional licences or complying with other legal requirements.

It is the obligation of the Consent Holder to familiarise themselves and their employees with this legislation. The council may revoke a Street Trading Consent for any failure to comply with any other general or local legislation.

A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent, but it may be surrendered to the council at any time.

The Council reserves the right to revoke a Street Trading Consent at any time without compensation.

Please send completed application to:-

Licensing Section
Monmouthshire County Council
The Melville Centre
Pen-y-Pound Road
Abergavenny
NP7 5UD

Telephone: 01873 735420

Email: licensing@monmouthshire.gov.uk

Street Trading Fees

Type of Street Trading Consent	Full Fee	10% Admin Fee
Block Annual Street Trading Consent (Please invoice 'Usk Town Council, Sessions House, 43 Maryport Street, Usk. NP151AD	£700	£70
Block Street Trading Consent	£122 per day	£12.20

Payment can be made as follows:-

cheque/postal order should be made payable to Monmouthshire County Council and returned to, Licensing Section, Monmouthshire County Council, Melville Theatre, Pen-y-Pound, Abergavenny, NP7 5UD.

If you wish to pay by BACS you may do so by using the following information (quoting your licence number as a reference)

Bank: Barclays Bank plc

Sort Code: 20-18-15

Account Number: 13996565

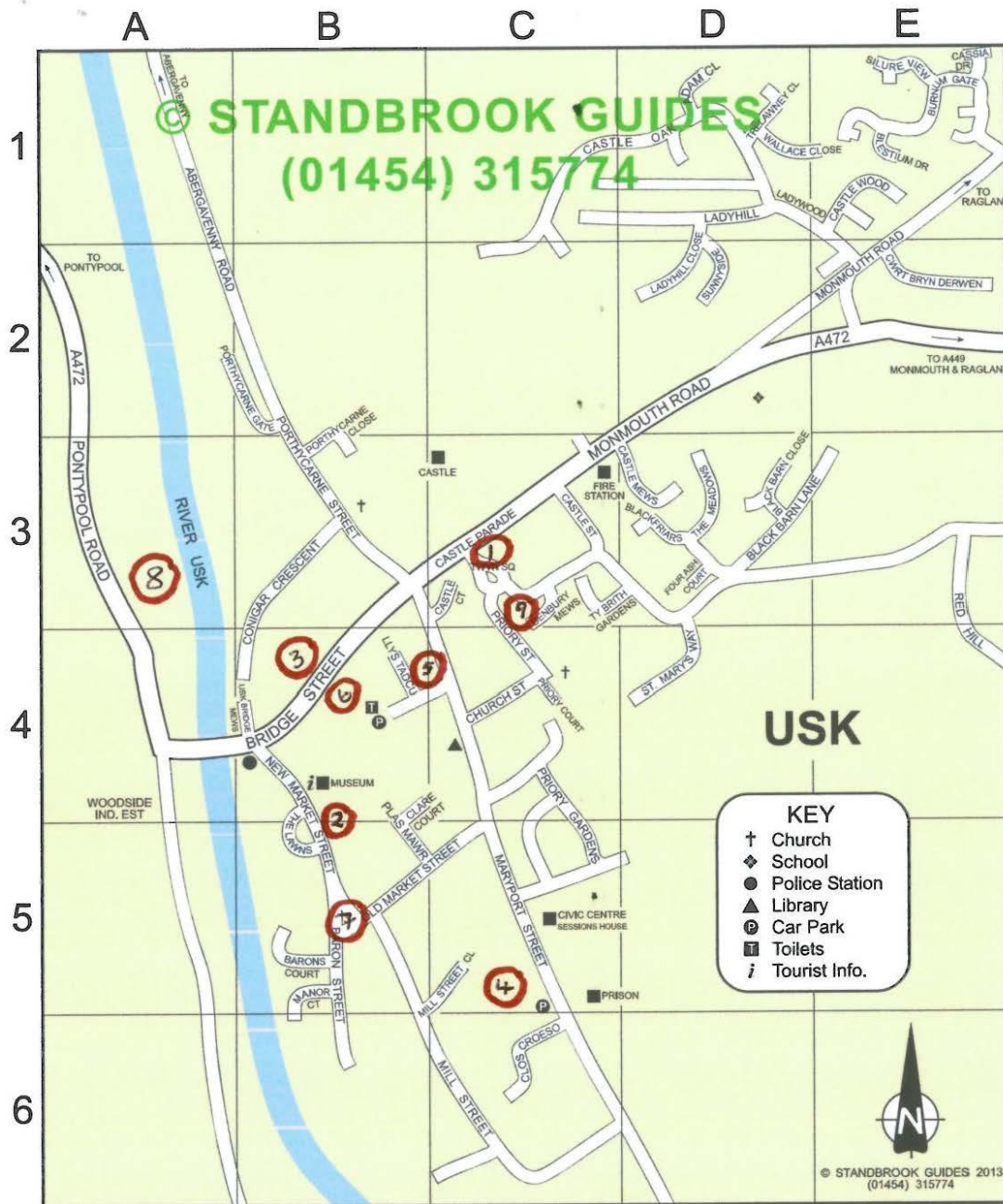
Account Name: Monmouthshire Main ACC

(If you do pay by BACS you will need to inform the licensing office that the payment has been made, you can do so by emailing licensing@monmouthshire.gov.uk quoting your licence number)

You can also make a payment by telephoning our payments line on 01873 735420 (quoting your licence number as a reference).

APPLICANT CHECKLIST
Signed Street trading application form
10% Administration Fee
Copy of a map, site position marked by red line
Permission from the land owner (if applicable)
Food Registration (if selling food)
Licence under the Licensing Act 2003 (if applicable)
One passport type photograph of you

APPENDIX B



Abergavenny Road	A1	Castle Mews	D3	Four Ash Court	D3	New Market Street	B4	Silure View	E1
Aiam Close	D1	Castle Oak	D1	Four Ash Street	D3	Old Market Street	B5	St. Mary's Way	D4
Baron Street	B5	Castle Parade	C3	Ladyhill	D1	Plas Mawr	B5	Sunnyside	D2
Barons Court	B5	Castle Street	C3	Ladyhill Close	D2	Pontypool Road	A3	The Lawns	B5
Black Barn Close	D3	Castle Wood	E1	Ladywood	D1	Porthycame Close	B3	The Meadows	D3
Black Barn Lane	D3	Chepstow Road	E3	Liys Tadcu	B4	Porthycame Gate	B2	Trelawny Close	D1
Blackfriars	D3	Church Street	C4	Manor Court	B5	Porthycame Street	B3	Twyn Square	C3
Blestium Drive	E1	Clare Court	B4	Maryport Street	C5	Priory Court	C4	Ty Brith Gardens	D3
Bridge Street	B4	Clos Croeso	C6	Mill Street	C6	Priory Gardens	C5	Usk Bridge Mews	B4
Burnum Gate	E1	Conigar Crescent	B3	Mill Street Close	C5	Priory Street	C4	Wallace Close	D1
Cassia Drive	E1	Cwrt Bryn Derwen	E2	Monmouth Road	D2	Red Hill	E3	Woodside Ind. Est.	A4
Castle Court	C3	Denbury Mews	C3						

- (1) Twyn Square
- (2) New Market Street
- (3) Bridge Street
- (4) Owain Glyndwr Field
- (5) Maryport Street (Area next to No 3)
- (6) Seating area outside Co-op stores
- (7) Legion car park. Newmarket Street
- (8) Conigar walk area adjacent to River Usk
- (9) Car Park Twyn Square

APPENDIX C

Usk Markets & Festivals Committee

Application for Day Market Pitch

Surname of Applicant (BLOCK CAPITALS) (Mr//Ms/Mrs/Miss) _____		
Forename(s) _____		
Current Address: _____ _____		
Tel No: _____	Mobile No: _____	Email: _____
Trading Name: _____		
Pitch Location: _____		Ref. No: _____
Council Stall(s): _____	Council Tables: _____	Power supply required: Yes/No
Alcohol Licence Required YES/NO		If Yes, Checked Licence in place by (initials):
Electrical Safety Certificates/Periodic Inspection Reports		Checked by (initials):
Own power supply: Yes/No	Gas Safety Certificates	Checked by (initials):
Traders own Stall:	Length:___ Width___ Height:___	Condition checked by (initials)
Trading from vehicle: Yes/No	Reg No: _____ Length:_____ Width_____ Height:_____	
Date of Trading: _____	Hours of Trading: _____ to _____	
Names and Addresses of Assistants: _____ _____ _____		

APPLICANTS DECLARATION

- a) I declare to the best of my knowledge and belief, the answers given are true.
- b) If a day market pitch agreement is granted I undertake to pay the appropriate fee and comply with the conditions attached to the agreement and also comply with applicable legislation and to any orders made thereunder. I understand that failure to comply by me or any of my assistants employed by me, with or without payment, will render both me and my assistants liable to prosecution and may result in the revocation of my agreement.

APPLICANTS ARE ADVISED THAT TO MAKE, KNOWINGLY OR RECKLESSLY, A FALSE STATEMENT OR OMIT ANY INFORMATION FROM THIS APPLICATION IS A CRIMINAL OFFENCE.

DATE ____/____/____	Signature of applicant_____
DATE ____/____/____	Signature of applicant_____
OFFICE:	
Current Insurance Certificate checked	Checked (initials)
Risk Assessment received	Checked (initials)
Food Stalls	
(a) Evidence of Level 3 Food Hygiene Rating Scheme provided. (b) Proof of Registration with appropriate Local Authority as Food Business (c) Trader issued with a copy of Monmouthshire County Council’s “outdoor Events in Monmouthshire – Guide for Food Traders” and “Event Check List”	Confirmed (initials)
Day Market Pitch authorised: _____ Date _____	

Usk Markets & Festival Committee

Day Market Pitch Conditions

Introduction

The following conditions shall apply to all traders/stall holder applicants and have been designed to ensure compliance with the policies and priorities of Usk Markets & Festival Committee and the terms of the Block Street Trading Consent granted by Monmouthshire County Council's Licensing and Regulatory Committee on 3rd May 2016.

Standard Conditions for all traders/stall holders

General Conditions

1. The holder of this market pitch/stall Agreement (hereinafter referred to as 'the trader', which expression where appropriate, includes joint holders of this Agreement) and any person employed by him/her to assist him/her in his/her trading shall produce it or a photocopy of it on demand when so required by a Police Officer or a duly authorised officer of Usk Markets and Festivals Committee (hereinafter referred to as 'the Committee')
2. A market pitch/stall does not relieve the Trader, or any person employed to work on the stall, of any obligation to comply with all other general or local legislation and conditions.
3. A Trader shall not assign, underlet or part with his interest or possession of this market pitch/stall agreement.
4. Under the terms of this agreement no person under the age of 18 shall engage in street trading activities.
5. Trading may only take place on the days and during the times specified in the market pitch/stall agreement.
6. Traders shall not trade outside the designated trading area.
7. The Trader shall pay the market pitch/stall agreement fee determined by the Committee.
8. The Trader shall at all times maintain a valid insurance policy covering the street trading activity for third party and public liability risks up to £5 million and must produce a valid certificate for this insurance at any time on the request of an authorised officer of the Committee.
9. The sale of the following goods are not permitted firearms and replica firearms, knives, offensive weapons and replica weapons, tobacco products, fireworks, articles that would typically be sold in sex shops, animals and legal highs. This list is not exhaustive and the Committee has the right to refuse the sale of any goods.

(Where alcohol is to be sold, no sale will be permitted to anyone under the age of 18. The trader will also be required to obtain separate prior permission under the Licensing Act 2003.

10. The trader not cause any obstruction of the street or nuisance or danger to persons using it and shall not permit persons to gather around him/her or any vehicle, stall or other mode used in connection with the trading so as to cause a nuisance, or danger to any persons lawfully using the street.
11. The trader shall not do or suffer anything to be done in or on the street which in the opinion of the Committee may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the Committee or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
12. The trader shall indemnify and save harmless the Committee and their agents, servants, contractors and workmen from and against all proceedings, damages, claims or expenses in respect of an injury to a third party or damage to property which may be sustained by the Committee or any person or persons body or company whatever arising out of or in any way connected with his trading and the provision of facilities under this agreement.
13. The trader shall not make any excavations or indentations of any description whatsoever in the surface of the street or places or fix any equipment of any description in the said surface.
14. The trader shall not place on the street any advertisement, furniture or equipment other than as permitted by this agreement and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.
15. If a stationery vehicle is used in connection with the street trading, any exhaust fumes therefrom shall be discharged vertically into the atmosphere, and oil drip trays shall be placed thereunder so as to protect the surface of the street.
16. Other than street trading primarily involving the sale of ice cream, no electronic amplifying equipment shall be used.
17. A trader trading in hot foods shall at all times carry on the vehicle a 4.5 kilo Dry Powder Fire Extinguisher.
18. Where the trader trades from a stationery vehicle, that vehicle shall in all respects, comply with the Motor Vehicle Construction and Use Regulations. Motor vehicles shall be capable of their own propulsion and shall not be towed into trading positions.
19. The trader will vacate the pitch upon request, and for as long as necessary to enable highways inspections, repairs to street works and highway improvements to be undertaken, or if the pitch is required to facilitate temporary traffic and/or pedestrian management arrangements. No compensation will be paid to the trader for lost trading days as a result of the above or for any loss of business as a result of unforeseen occurrences on the highway network.
20. The siting of the street trading vehicle or stall shall not impede the access of emergency vehicles. The street trading activity shall not obstruct any street furniture, signs or lighting.
21. Where the mode of trading is from a stall, the construction and size thereof shall be subject to the approval of the Committee.

22. The trader shall keep his vehicle or stall or other mode used for trading, and trading location and the immediate area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each period of trading each day of such trading.
23. The trader shall provide at his own cost and expense, litter bins or similar receptacles for the deposit of litter resulting from his street trading activities and remove them and their contents at the end of each period of trading on each day of such trading.
24. 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 lawfully elsewhere, and in particular shall not deposit any such waste near or into the street, drain or channel.
25. The trader shall comply with all requirements of the Committee in respect of street trading.
26. No street trading shall be undertaken in breach of food hygiene, health and safety, public health or planning legislation and the requirements of Monmouthshire County Council shall be complied with in respect of such matters.
27. The use of generators is not permitted, unless permission has been specifically granted by an Authorised Officer of the Committee.
28. The trader shall not assign, underlet or part with his interest or possession under this agreement or any part thereof.
29. This agreement may be revoked by the Committee at any time and the Committee shall not in any circumstances whatsoever be liable to pay compensation to the holder in respect of such revocation.
30. Monmouthshire County Council may vary, amend or add to the conditions of this agreement at any time.
31. Where however, planning permission is required in respect of the trading activities covered by this Consent, and such permission has not been obtained, this Consent shall not entitle the Consent holder to carry out such trading activities during any period required to be covered by such planning permission (to carry out such trading activities in such circumstances will be a criminal offence).
32. The Consent holder must obtain planning permission, where it is required, in respect of the trading activities covered by this Consent. Failure to do so will result in the Consent being revoked.
33. Traders and their employees should have access to suitable and sufficient sanitary accommodation at all trading times.
34. Traders and their employees shall not trade under the influence of any illegal or intoxicating substance.

