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## Cambridge City Council

### LICENSING SUB COMMITTEE

**To:** Councillors Blencowe, Reiner and Saunders

*Despatched: 4<sup>th</sup> May 2012*

**Date:** Friday, 11 May 2012

**Time:** 10.00 am

**Venue:** Committee Room 2 - Guildhall

**Contact:** Toni Birkin

**Direct Dial:** 01223 457086

### AGENDA

- 1 **APPOINTMENT OF A CHAIR**
- 2 **DECLARATIONS OF INTEREST**
- 3 **STREET TRADER APPLICATIONS 2012/13** (*Pages 1 - 20*)
- 4 **EXCLUSION OF PRESS AND PUBLIC**

It is recommended that the committee resolves to exclude the press and public for the whole hearing by virtue of paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006

- 5 **CONSIDERATION OF APPLICATIONS AND PRESENTATIONS**

## ***Information for the public***

## CAMBRIDGE CITY COUNCIL

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REPORT OF: Andy White, Markets and Street Trading Manager  
TO: Licensing Sub-Committee 11/05/2012  
WARDS: Market

### **Street Trading applications for 2012/13**

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#### **1 INTRODUCTION**

- 1.1 The Licensing Sub-Committee is asked to consider applications for Street Trading pitches Number 5 on Trumpington Road and Number 7 in Guildhall Place. These streets have been designated consent streets under the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 Street Trading Consents are valid for up to one year and they permit traders to sell items on the highway from an agreed space. The pitches offer affordable trading to local people and are highly sought after. There are 25 pitches in the City selling a variety of goods ranging from cold food, hot food and retail items.

#### **2. RECOMMENDATIONS**

- 2.1 To consider the applications for street trading pitches number 5 and 7 and to decide to which trader the consent should be granted.
- 2.2 To grant a consent to trade to the successful applicants for one year from 1st June 2012 until 31st March 2013 subject to the Council's standard conditions and subject to signing the appropriate documentation.

#### **3. CONSIDERATION OF APPLICATIONS**

3.1 There are two applicants for Pitch No.5 and two applicants for Pitch No. 7. Detailed guidance on the approved criteria for deciding between the applications and how members should approach their decision is set out in Appendix A. The guidance has been provided in advance to the applicants.

3.2 One of the approved criteria is not considered in the detailed guidance. This is described as:

“Local person – whether the trader is local and employs local people.”

All applicants satisfy this criterion and so it is not necessary to consider it further. The officers have some reservations in any case about whether this is a legitimate consideration and it will be considered as part of the review of street trading mentioned in the guidance note.

3.3 As part of the hearing there will be an opportunity for each applicant to give a 10-minute presentation on their business proposal. As each applicant knows of the assessment criteria set out in the Guidance Note at Appendix A, their proposal should be focused on how and why they meet the criteria.

3.4 The Council’s Street Trading Scheme Code of Practice for Design of Stalls and Style of dress is set out at Appendix B. This code sets out the criteria for the design of stalls to be used on the consent pitches allocated to traders operating within the City and indicates the standards of dress which are acceptable. The applicants will be asked to submit details of their existing or proposed stall to the Council prior to the Sub-Committee hearing and officers will advise the Sub-Committee whether the stalls meet or would meet the Council’s guidelines.

3.5 The Guidance Note at Appendix A sets out details of the retail offers adjacent to each pitch.

3.6 At the hearing, the Sub-Committee will be provided with copies of the application forms submitted by the applicants for each pitch

#### **4. Applicants for each pitch**

4.1 As indicated in the guidance, members need to assess the applications against the agreed criteria. Applicants have been sent the criteria and, as mentioned, will be expected to use their presentations

to explain how they meet the criteria. However, the following summary information is available about each applicant.

## **4.2 Pitch 5**

- 4.2.1 Mr T Coppolaro (Ice Cream)  
Existing trader 18 years  
Two complaints were received on 11<sup>th</sup> April 2011 and 15<sup>th</sup> June 2011 but after investigation neither of them were found to be substantiated.  
No history of non-compliance with Environmental Health requirements.
- 4.2.2 Mr Mahmut Atay (Ice Cream and Soft Drinks)  
Not an existing trader  
No history of non-compliance with Environmental Health requirements.

## **4.3 Pitch 7**

- 4.3.1 Mr I Verrecchia (Ice Cream)  
Existing trader 34 years  
No Complaints Received  
No history of non-compliance with Environmental Health requirements.
- 4.3.2 Mr Dan Strauss (Ice Cream)  
Not an existing trader  
No history of non-compliance with Environmental Health requirements.

## **5. CONSULTATIONS**

The Highways Authority have agreed a given area of the public highway in all the above mentioned Streets. The Conservation Section have confirmed that they are happy to assist the successful applicant in terms of colour and design of their unit.

## **6. OPTIONS**

- 5.1 The Sub-Committee may grant consent if they think fit. They may not grant consent to anyone under the age of 17. When granting consent the Council may attach such conditions to it as they consider reasonably necessary. The Council has standard conditions for street trading consents, which are set out at Appendix C.
- 5.2 Every application must be dealt with on its own individual merits, and, after consideration of the applications the options available in respect of each pitch are :
1. To grant the consent to the applicant;
  2. To reject the application;
- 5.3 The decision taken by the Sub Committee must be supported by reasons, take into account all relevant considerations and not take into account irrelevant considerations.
- 5.4 There is no right of appeal on the merits against the refusal to grant consent although a decision may be subject to legal challenge if not made lawfully.

## 6 CONCLUSIONS

The Sub Committee is requested to assess each application for pitch 5 and 7 against the other and to decide to whom the consent will be granted in accordance with the guidance in Appendix A.

## IMPLICATIONS

- (a) **Financial Implications:** The revenue will meet the cost of the supervision and administration costs from the street trading fees.
- (b) **Staffing Implications:** As above.
- (c) **Equal Opportunities Implications**  
A full Equalities Impact Assessment on Street Trading Policy will be undertaken as part of the forthcoming Street Trading Review.
- (d) **Environmental Implications: Nil - this proposal has no climate change impact.**
- (e) **Community Safety: None**

## APPENDICES

1. **Appendix A** - Street Trading Hearings for Pitch 5 and 7 - **Guidance for Members of the Licensing Sub-Committee and applicants**
2. **Appendix B** - Street Trading Scheme – Code of Practice for Design of Stalls and Style of Dress
3. **Appendix C** – **Standard conditions for street trading consents**

**BACKGROUND PAPERS:** The following are the background papers that were used in the preparation of this report:

4. Applications procedure
5. Schedule 4 Local Government (Miscellaneous Provisions) Act 1982: section 7 “Street Trading Consents”

To inspect these documents please contact Emma Thornton on extension 7464

The author and contact officer for queries on the report is Andy White on extension 7466 (or Emma Thornton on 7464).

Report file:

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## **Street Trading Hearings for Pitch 5 and 7**

### **Guidance for Members of the Licensing Sub-Committee and applicants**

#### **Background**

If more than one application is received for any one pitch a meeting of the City Council's Licensing Sub-Committee is convened to consider the applications. This Committee is made up of a panel of elected members who then assess the applications against set criteria.

Hearings were originally held on the 20th March for Pitches 5 and 7 as two applications were received for each pitch. However, after concerns that the guidance given by officers to members may have contained omissions which could have led to inconsistencies at the original hearing, fresh hearings have been organised for Friday 11<sup>th</sup> May.

This document sets out guidance to members of the Licensing Sub-Committee on how to apply the criteria and helps applicants to understand how their applications will be assessed. A copy of this Guidance Note is to be given to the applicants in question and the Licensing Sub-Committee may expect them to be familiar with it when they attend for the hearing of their application.

It should be noted that issues have been raised regarding the criteria the City Council applies when granting street trading consents, including the preference given to existing traders. A full review of the policy is being carried out in time for decisions on consents for 2013/14. The City Council will consult interested parties, including successful and unsuccessful applicants for consent, over the summer.

However applications for the 2012/2013 year remain to be considered in line with our current policy and assessment criteria.

#### **Format of the hearing**

As part of the hearing there will be an opportunity for each applicant to give a 10-minute presentation on their business proposal. As each applicant knows of the assessment criteria, further explained by this Guidance Note, their proposal should be focused on how and why they meet the criteria.

#### **Decision-Making**

Members of the Sub-Committee will then assess each application against the criteria as set out below. As there are two applicants for each pitch this necessarily entails assessing one application against the other.

In carrying out their assessment for each pitch, it is a matter for the Sub-Committee how much weight they give to each criterion. The Sub-Committee is not bound, for example, to give the most weight to the fact that one

applicant is an existing trader of many years' standing (although it may do, depending upon its assessment).

What is important is that the Sub-Committee reaches a reasoned decision which explains why, overall, one application has been preferred over the other, following assessment against the published criteria.

### **The Assessment Criteria**

The published criteria appear in bold, with the guidance appearing in italics.

- **Existing Trader – number of years trading**

*Consideration should be given to the number of years an existing trader has been trading on a Council pitch, the level of investment they have made in their street trading pitch, and other related matters which the Sub-Committee considers are relevant. These may include, for example, the number of people they currently employ.*

- **Complaints/concerns – have there been any complaints or concerns received about a trader over the past year**

*Has the City Centre Management team received any complaints or concerns about an existing trader over the past year? If complaints have been received these would need to be put before the Sub-Committee with a summary of how these complaints were investigated and what the outcome was.*

- **Design of stall – Stall design meets with Council guidelines**

*In assessing the application please refer to the Council's **Street Trading Scheme – Code of Practice leaflet (January 1989)**. This provides that the Code is intended to "enhance the visual appearance of the street scene in the areas where street trading is carried on" and that "Stalls should enhance the visual appearance of the street rather than detract from it..."*

*If the Sub-Committee, in the light of the Code's intention, has concerns over an applicant's existing or proposed stall, it may wish to ask the applicant what enhancements or replacements they may be willing to undertake to alleviate those concerns, and then take their responses into account.*

*In addition the Sub-Committee should note the following Environmental Health considerations of the stall design:*

*For Enclosed Food Mobiles*

*The internal arrangements should be such that:*

- *There is suitable and sufficient hand washing facilities with hot water*
- *The work surfaces are impervious to water and readily cleansable*
- *There is sufficient compliant temperature controlled food storage facilities appropriate to the business*
- *The gas and electrical installations are certificated and deemed to be safe by a competent and suitably qualified engineer; any gas store cupboard should be outside of the food area*

*The external arrangements should be that the mobile is sufficiently weather and pest proof so as to not risk the contamination of the food*

*For Market-Stall or Street-Barrow type food mobiles*

*The stall should:*

- *Be covered to prevent the risk of matter falling on to the food*
  - *Ensure that the work surfaces likely to be in contact with the food should be impervious to water and readily cleansable*
  - *Ensure that any intrinsic storage food area should be able to be secured against the intrusion by pests*
  - *Ensure that if temperature controlled food is to be stored on the mobile, it is capable of maintaining the food in a legally compliant manner*
  - *Adequate hand washing facilities*
- **Types of goods sold - The goods sold do not conflict with other retailers within a certain area**

*Consideration should be given here to the adjacent retail offer to each individual pitch. The street trading offer should complement rather than compete directly with this. This criterion permits the Sub-Committee to undertake a qualitative assessment of the goods to be sold by each competing applicant, against those on sale in the adjacent area.*

*To assist both the Sub-Committee and applicants, the retail offers adjacent to each pitch, may be characterised as follows:*

***Pitch 7 - At the front of the Guildhall***

*Adjacent retail offer includes the 7-day a week Market and retail units in Market Street. Don Pasquale sell ice cream from one of his restaurant windows but this is a relatively new development of his business and began long after ice cream street vendors have been located in the Market Square area. There are no other ice cream traders on the Market or in any of the retail units in the surrounding streets.*

**Pitch 5 – on the corner of Benet St and Trumpington St**

*Adjacent offer includes clothing, galleries and restaurants. One of the cafes on Kings Parade also sells ice cream but this café opened long after an ice cream street vendor had been based in this area.*

- **Hygiene record if applicable- all food regulations have been adhered to in the past and will do so in the future**

*The applicant will need to demonstrate that they have*

- *Registered with their Home Local Authority*
- *That all food handlers have received adequate food safety training appropriate to their job role; ideally, the manager should be trained to Level 3 and non-managerial staff should be trained to Level 2*
- *That the food business has a legally compliant Food Safety Management System ( e.g. Safer Food, Better Business)*
- *That if there is a history of non-compliance, it has been addressed and accepted by the Enforcing Officer, or that the food business is in the process of addressing the issues in circumstances where the Enforcing Officer has not considered the defect too severe so as to prohibit the food business from trading.*

- **Equal opportunities- due consideration has been given to equal opportunities**

*The applicant is asked to demonstrate how they take equalities into consideration with their service provision. For example, how would they look after a customer with a sight or speech impairment?*

- **Local person – whether the trader is local and employs local people**

*This is one of the City Council's published assessment criteria. However, legal advice is that it may be an impermissible matter to take into account, and the Sub-Committee is advised not to do so. In the instant cases, in any event, each set of competing applicants are local, and it is considered this criterion would not make any difference.*

In order to help members of the Sub-Committee in assessing each application they will have copies of the following in support of each application:

- The application forms for each pitch
- A copy of the Council's **Street Trading Scheme – Code of Practice leaflet.**

- A map illustrating the location of Pitches 5 and 7
- Where applicable - an update from Environmental Health on each applicant's hygiene record (if they are an existing business already supplying food to the general public).

**Emma Thornton – 26th April 2012**  
**Head of Tourism and City Centre Management**  
**Cambridge City Council**

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STREET TRADING SCHEMECODE OF PRACTICE FOR DESIGN OF STALLS AND STYLE OF DRESSPurpose

The code is intended to set out criteria for the design of stalls to be used on the consent pitches allocated to traders operating in the city and to indicate the standards of dress for operators which are acceptable. The code of practice is intended to enhance the visual appearance of the street scene in the areas where street trading is carried on, taking into account the surrounding buildings. At the same time it must maintain appropriate standards of food hygiene and assist in maximising income for stallholders.

Background

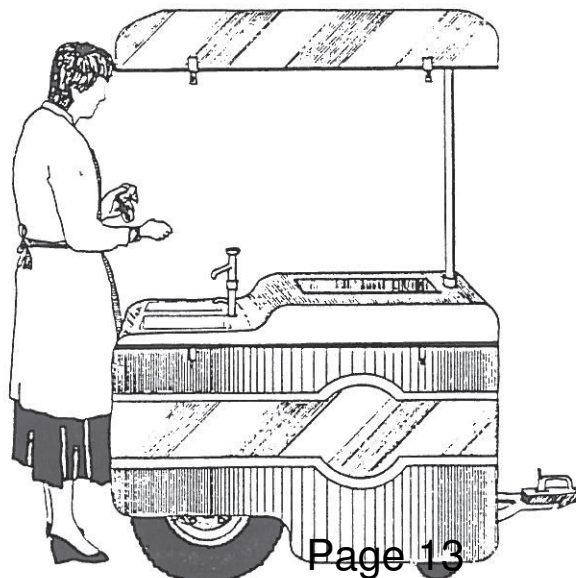
The Street Trading scheme was originally operated on the basis of a trial period of six months from March 1988. The Council's Licensing Panel agreed that the scheme should continue beyond the trial period and that a code of practice should be prepared. A meeting of traders was consulted on the proposal in September 1988 and this was in broad agreement with the production of such a code, realising that there were a number of benefits which could accrue.

Stalls

- 1 Stalls should enhance the visual appearance of the street rather than detract from it by being constructed in a suitable style and of appropriate materials.

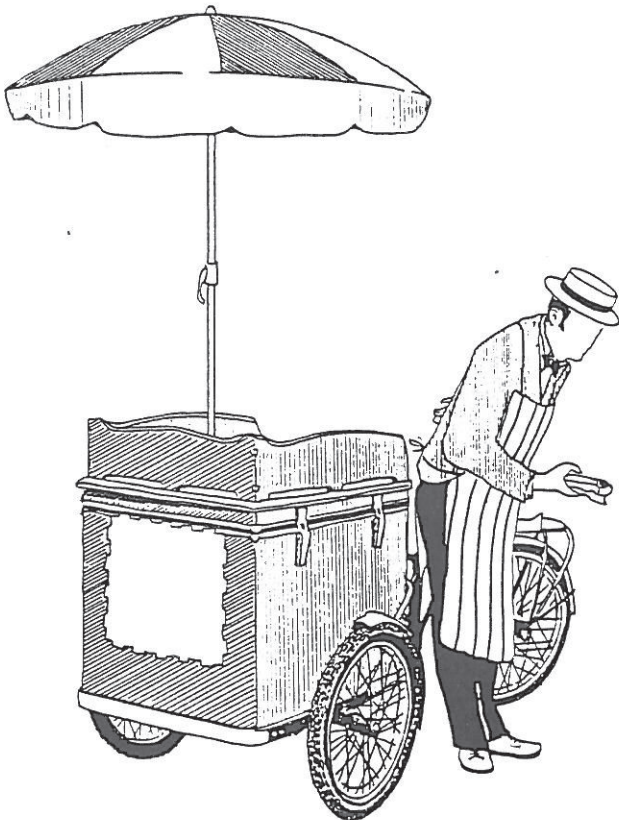
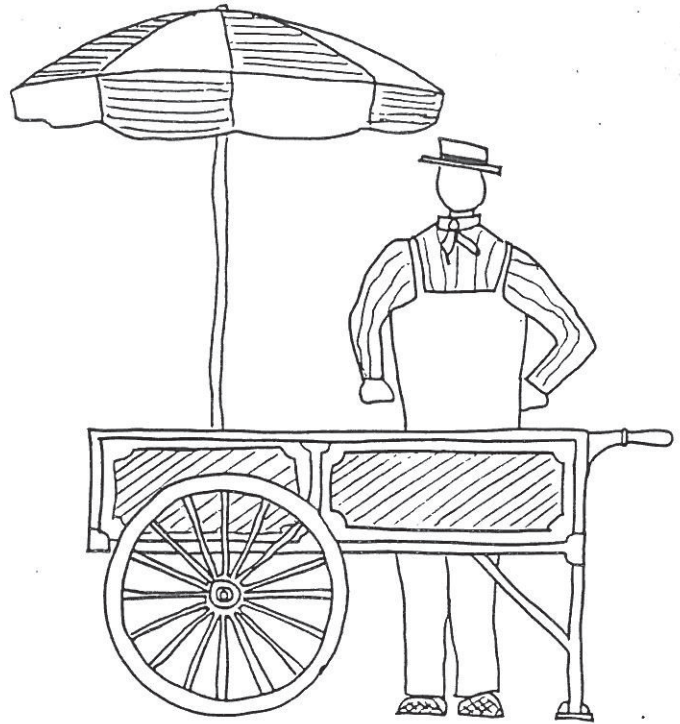
Examples of acceptable designs include:

- (a) Modern, simple, functional stalls with umbrellas, canopies or striped awnings.



(b) Traditional or 'period' type handcarts, barrows or tricycles.

Barrow



Tricycle



- 2 Advertising material should be limited to the name of the stall, the type of product sold and a simple price list. Ad hoc pictures and advertisers slogans should be avoided, as should untidy handwritten signs.
- 3 All food stalls must be constructed of materials which are smooth, impervious and capable of being easily and effectively cleaned so as to comply with the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations. Examples of materials which comply with this requirement are stainless steel, laminated plastic and, in certain circumstances, gloss painted and varnished hardwood.

### Dress

- 1 The style of dress worn by stall operators should be chosen to compliment the style and period of the stall.
- 2 Overclothing should always be smart and clean. Operators of food stalls should ensure that sufficient changes of clothing are provided so as to enable them always to have overclothing which is clean. Personal cleanliness is also important and persons employed at food stalls are required to keep themselves clean.

### Advice

It is recommended that persons intending to apply for a consent pitch should contact the Street Trading Officer to discuss the nature of their intended trade and the proposed style of stall and dress. This should assist in preventing expenditure on stalls and equipment which would be unacceptable.

### Summary

The Code of Practice is intended to guide stallholders and applicants for consent pitches as to the type of stall and dress which the Council is looking to promote as a means of regulating the street scene in the historic centre of the city. It is not intended to exclude any design which does not fall within the examples given. However, one of the considerations which the Licensing Panel will have in allocating pitches is whether applicants can demonstrate that their stalls and dress conform to the Code. Applicants for the prime, central locations are advised that design of stalls is one of the main criteria which will be taken into account.

RAO/CB

January 1989

CBIAAO



## Appendix C



### STREET TRADING CONDITIONS

1<sup>st</sup> APRIL 2012 TO 31<sup>st</sup> March 2013

**CONSENT HOLDER: xxxxxxxx**

**PITCH NO: xxxxxxxx**

**LOCATION: xxxxxxxx**

**DURATION: xxxxxxxx**

**FEE: xxxxxxxx**

1. This consent is valid for the period for **xxxxx** and no right to its renewal by the Council can be assumed or is implied.
2. Trading shall only take place between 9.00am and 8.00pm.
3. The consent holder(s) shall at all times comply with all statues, statutory instruments, regulations and by-laws. Particular attention should be paid to the requirements of the Health and Safety at Work Act 1974, The Food Safety (General Food Hygiene) Regulations 1995 and the Food Safety Act 1990.

4. The consent holder(s) or his/her/their business shall not cause any nuisance or annoyance to any other user of the highway, the occupier of any land or building, or the Council.
5. No recorded or amplified music or radio shall be played by the consent holder(s) or any employee at the stall to the annoyance of any member of the public, local resident or occupier of nearby premises.
6. No water, rubbish or waste material shall be discharged or deposited on the highway or any adjacent property or into any surface water inspection chamber or gully.
7. The consent holder's stall shall be kept in a clean, safe and well maintained condition, to the satisfaction of the Council and its authorised officers.
8. The consent holder(s) are responsible for:
  - The removal of their trade waste.
  - Consents holder(s) selling hot or cold food shall provide a bin to be removed and emptied into their trade waste at the end of the trading day, the bin to be approved by the Markets and Street Licensing manager.
  - A notice provided by the Council displaying information regarding litter will be displayed in a conspicuous place by the consent holder(s)
9. The consent holder(s) shall ensure that the stall is positioned wholly within the marked out area of the consent street to which this consent relates.
10. A notice issued by the Council stating the name of the consent holder(s), the number of the pitch and an address for complaints, shall be displayed in a conspicuous position on the stall at all times when trading is being carried on at the stall. The notice will remain the property of the City Council and must be returned upon revocation, expiry or surrender of this consent.
11. Any person engaged in or about the business of the stall either in the vicinity of the pitch to which this consent relates, or when travelling with the stall to or from that pitch, shall carry with them an identity card issued by the Council and shall produce the identify card and a copy of this consent when requested to do so by any Council Officer or any Police Officer. The identity card will remain the property of the City Council and must be returned upon revocation, expiry or surrender of this consent.
12. If the consent holder(s) or any employee is requested to move the stall by an authorised Council Officer or a Police Officer, he/she shall immediately comply with that request.
13. The consent holder(s) shall ensure that disabled people can be served at the stall.
14. The consent holder(s) may surrender this consent by written notice to the Head of Environmental Health & Protection.
15. This consent is personal to the consent holder(s) and is not transferable. This consent automatically determines upon the death of the consent holder(s), or in the event of any legal or physical incapacity substantially preventing the consent holder(s) from personally operating the stall to which it relates. The stall to which this consent

relates shall be operated only by the consent holder(s), with the assistance, where necessary, of any bona fide employee or member of the consent holder(s) immediate family. The rights conferred by this consent may not be assigned, sub-let or otherwise transferred, whether for value or not, and the consent holder(s) may not enter into any agreement whereby any other person is allowed to operate or assist in the operation of the stall to which this consent relates in return for a consideration calculated by reference to the income received by the operation of the stall.

16. No business other than that of the sale of xxxxxx shall be carried on at the stall.
17. Hot food stalls shall not sell goods which cause a nuisance by virtue of smell, in particular hot dog vendors are prohibited from cooking onions on the trading pitch. The consent holder shall cease the cooking of any item if so instructed. The Council attaches particular importance to this condition and failure to comply with these paragraphs will normally result in the consent being revoked.
18. Failure to comply with these conditions will put the consent holder(s) at risk of having the consent revoked and/or of prosecution.
19. The Council has the right to revoke this consent at any time. In particular, and with out prejudice to the generality of this right, the Council reserved the right to revoke this consent if in its opinion the consent holder(s):

- (a) regularly fail(s) to operate the stall to which this consent relates, or regularly fail(s) to operate the stall for the period in each week which it was indicated in the application for the grant or renewal of this consent that the stall would be operated;
- (b) cease(s) to be substantially active in the operation of the stall or to exercise complete control over the operation of the stall.

I have received the Street Trading Condition issued by Cambridge City Council and agree to abide by them. I understand that non compliance could result in my consent being revoked and/or prosecution.

Signed .....  
Date .....

Signed .....  
Date .....

Authorising Officer .....  
Date .....

City Centre Manager

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