

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Licensing Sub Committee		
MEETING/ DECISION DATE:	Tuesday 4 th March 2014	Agenda Item Number	
TITLE:	Application to vary a Street Trading Consent to include the cooking and selling of hot food in Southgate Place / Brunel square.		
WARD:	Abbey		
AN OPEN PUBLIC ITEM			
<p>List of attachments to this report:</p> <ul style="list-style-type: none"> Annex A – Copy of Application Annex B – Copy of the Street Trading Policy Annex C – Copy of the Standard Conditions Annex D – Site Plan of Southgate Place Annex E – Photographs of Southgate Place Annex F – Copy of the Highways Notice Annex G – Letter of objection to the application Annex H – Supporting Statement from applicant Annex I – Copy of the Consultation email 			

1 THE ISSUE.

1.1 An application has been received from the Current Street Trading Consent holder (Simon Pullen) to vary the Consent to include the cooking and sale of Hot Food in respect of the Street Trading Pitches within Southgate Place. This is to commence on its renewal from 01/04/2014. The current Consent does permit this provision in all other parts of the complex.

2 RECOMMENDATION

2.1 That the Licensing Sub Committee determines the application.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 As the application is for a renewal there are no fees chargeable for this process. The costs will be borne through the monthly fees paid for in the Street Trading Consent.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 Bath and North East Somerset Council have adopted Schedule 4 Local Government (Miscellaneous) Act 1982. All Street / Highways within the authority are designated as "Consent Street" under this Act requiring permission before any street trading can take place.
- 4.2 This application has been brought to the committee as it represents a significant change from the current Consent and an objection has been received.
- 4.3 When making a decision consideration needs to be given to the Human Rights Act 1998.
- 4.4 An Equalities Impact assessment (EqIA) has been completed. No adverse or other significant issues were found.

5 THE REPORT

- 5.1 An application has been received to vary the Street Trading Consent on its renewal commencing 1st April 2014. See Annex A
- 5.2 The variation is to include the cooking and selling of hot food from the 6 Street Trading Pitches they currently have Consent for in Southgate Place / Brunel Square.
- 5.3 The current Consent does not include the cooking or selling of hot food in SouthGate Place, although it allows for it everywhere else in the Southgate complex.
- 5.4 A copy of the current Street Trading Policy is attached at Annex B
- 5.5 A copy of the Standard Conditions are attached at Annex C
- 5.6 A plan of the area is included at Annex D
- 5.7 Photographs of the area are attached at Annex E
- 5.8 A Highways Notice of the application was placed in a prominent position in Southgate Place on 20th January (Annex F). The application was also placed on the Council's website.
- 5.9 An objection has been received from a resident of Philip House overlooking Southgate Place. The grounds for the objection allege that the cooking/selling of Hot Food will cause odours that would be able to be smelt in her flat and cause a nuisance to her, the presence of food will attract more Gulls. Copy of the letter is attached at Annex G
- 5.10 A supporting statement has been received from the applicant. Copy attached at Annex H

6 RATIONALE

- 6.1 As an objection has been received the Licensing Sub Committee must determine the application.

7 OTHER OPTIONS CONSIDERED

- 7.1 None

8 CONSULTATION

- 8.1 In accordance with the current Bath and North East Somerset Street Trading Policy, the Licensing Service consulted with the Police, the Council's Highways Department, Property Services, Environmental Services, Development Control Services, Ward Councillors and adjacent premises. A copy of the Consultation email is attached at Annex I
- 8.2 The report has not been sent to the Trade Unions because they would have no involvement in this application.

9 RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	Andrew Tapper, Licensing Officer. Tel: 01225 477533
Background papers	None.
Please contact the report author if you need to access this report in an alternative format	

Annex A

From: Simon Pullen [mailto:simon.pullen@southgatebath.com]
Sent: 15 January 2014 14:51
To: Licensing
Cc: Samantha Hughes
Subject: RE: Street Trading Pitch 130 - 135 - Renewal (14/00355/STTRAD)

Yes please, continue.

Kind Regards

Simon

From: Andrew Tapper
Sent: 10 January 2014 11:08
To: 'Simon Pullen (Simon.pullen@southgatebath.com)'
Subject: Street Trading Pitch 130 - 135 - Renewal (14/00355/STTRAD)
Importance: High

Dear Simon

Your Street Trading Consent is due for renewal on 1 April 2014. If you would like to continue trading with the addition of selling hot food in Southgate Place as well can you please confirm that so I can commence the Consultation process to make the necessary changes?

The fees will remain the same at [REDACTED] per calendar month and as per our previous conversation. I will send a separate message in due course with the information so arrangements can be made through your accounts department for this to do set up.

No application form is required for this renewal, but please check the following information we have for you is correct and advise us of any changes.

Street Trading Policy

1 Purpose

1.1 The Council's street trading policy is to create a street trading environment which complements premises-based trading, is sensitive to the needs of residents, provides diversity and consumer choice, and seeks to enhance the character, ambience and safety of local environments.

2 What is Street Trading?

2.1 Street trading means selling, exposing or offering for sale any article in a street. The term 'street' includes any road, footway or other area to which the public have access without payment.

2.2 Bath & North East Somerset has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 for the whole of its area and has designated all streets in the area as 'consent streets' for street trading purposes.

2.3 The effect of this designation is that street trading in any street is prohibited, subject to legal exemptions, without first obtaining a street trading consent from the Council.

3 Exemptions from the need to obtain a Consent

3.1 Some types of trade are legally exempt from the need to obtain a street trading consent. These include:

- a person trading under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- trade carried out by roundsmen e.g. milkmen
- trade carried on at a petrol filling station

4 Street Trading Consents for which fees are not payable

4.1 Bath & North East Somerset will not require the payment of fees for the following street trading activities:

- fetes, carnivals or similar community based and run events
- non-commercial or charitable events
- farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people)
- sales of articles by householders on land contiguous with their homes

5 Site Assessment

5.1 The Council will identify suitable 'pitches' for street trading and will maintain a map showing their location.

5.2 Consents may also be issued to mobile artists who sketch or paint, sell their own work and move from location to location.

5.3 In determining whether to create a street trading pitch the Council will have regard to:

- any effect on road safety, either arising from the siting of the pitch or from customers visiting or leaving
- any loss of amenity caused by noise, traffic or smell
- existing Traffic Orders e.g. waiting restrictions
- any potential obstruction of pedestrian or vehicular access
- any obstruction to the safe passage of pedestrians
- the safe access and egress of customers and staff from the pitch and immediate vicinity

6 Consultation

6.1 Before a new pitch is created the Council will consult and seek written observations from:

- occupiers of premises immediately adjacent and opposite
- ward councillors
- parish or town council
- Avon & Somerset Constabulary
- Development Control (B&NES)
- Highways (B&NES)
- existing holders of street trading consents in the immediate area

The Council will also consider any responses received in relation to public notices on the highway.

6.2 Any objection from consultees will be assessed against the criteria in 5.3 above and may be referred to the appropriate Sub Committee for determination.

6.3 Any proposed change to standard conditions (see 10.1 below) will be consulted with consent holders and others, if relevant.

7 Nature of Goods and Trading Hours

7.1 The nature of goods which may be sold from any pitch will be specified in the consultation process. Any subsequent substantial change will be subject to the level of consultation in 6.1 above.

7.2 The Council would not normally grant a consent for the sale of goods or services which conflict with those provided by nearby shops.

7.3 Goods will normally consist of craftwork, fresh flowers, ice cream or soft drinks. Other types including services will be considered on a pitch by pitch basis and have particular regard to local needs shopping, product/ service diversity and balance.

7.4 Street trading hours will normally mirror those of shops in the immediate vicinity. In the case of hot food takeaways trading hours will be determined on a pitch-by-pitch basis.

7.5 The design and appearance of the stall, barrow, van or cart etc. used must be agreed by the Council's Head of Environmental and Consumer Services.

8 Issue of Street Trading Consents

8.1 Street trading consents will normally be issued for a period of three months. Consents for shorter periods may be issued for block bookings for the purpose of organised street markets and for mobile street artists.

8.2 Consents will be issued for a minimum of six days per week, unless the applicant can provide an alternative scheme acceptable to the Head of Environmental and Consumer Services.

8.3 Fees for consents must be paid in full in advance. In the case of renewals, payments must be made on a quarterly basis and be due on or before the following dates:

- 1 January
- 1 April
- 1 July
- 1 October

8.4 Failure to maintain payments as above may result in the consent not being renewed.

8.5 Where a consent has expired the pitch will become subject to paragraphs 8.6 and 8.7 below.

8.6 When an existing or new pitch becomes available, the Council will publish a notice inviting applications for the said pitch. The notice will be carried by one or more of the following: local newspaper, local radio, Council website; it may also be carried by other local publications.

8.7 Applications will be determined by the Head of Environmental and Consumer Services in consultation with the Executive Members for Economic Development & Environment and for Community Safety, Housing and Consumer Services. Each pitch will be offered to the applicant whose proposal is considered most suitable for the particular pitch. If no suitable application is received the pitch will be re-advertised.

8.8 A consent cannot be issued to a person under the age of 17 years. An application may be refused if the applicant is unsuitable to hold the consent by reason of having been convicted of an offence or for any other reason.

9 Fee Structure

9.1 The fee structure will primarily reflect pitch location, trading days and hours. Other matters to be taken into consideration will include local needs shopping.

9.2 The Head of Environmental and Consumer Services in consultation with the Executive Member for Community Safety, Housing and Consumer Services has delegated authority to set fees and to annually review the fee structure.

10 Conditions and Enforcement

10.1 Standard conditions will be attached to every street trading consent detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality.

10.2 Specific conditions will also be attached such as the days and hours when street trading is permitted, the goods which may be sold and the size of the pitch.

10.3 Failure to comply with conditions may lead to revocation or non-renewal of a consent.

10.4 Persons trading without a consent and who are not exempt (see 3.1 above for examples) will be the subject of enforcement action in accordance with the Environmental and Consumer Services Enforcement Policy. This will include any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the Act.

11 Social Inclusion

11.1 The Council will, where possible, give priority to the provision of consents to disabled persons and to those from minority ethnic groups.

12 General

12.1 Through its tourism service and by other means, the Council will seek opportunities to promote street trading activities.

12.2 This policy will complement and inform other Council initiatives including those on street markets and life in the public realm.

12.3 This policy will be the subject of periodic monitoring and review.

12.4 This policy will inform the detailed conditions attached to every street trading consent.

12.5 This policy will be applied in a manner which is consistent with the Council's equalities policies

Annex C

STREET TRADING CONSENT - GENERAL CONDITIONS

- 1 The holder of this Consent (which expression where appropriate includes joint holders of this Consent) and any person employed by him to assist him in his trading, shall produce it on demand when so required by a Police Officer or a duly authorised officer of the Bath & North East Somerset Council.
- 2 The holder shall return this Consent to the Bath & North East Somerset Council immediately on revocation or surrender of the Consent.
- 3 The holder shall not trade otherwise than strictly in accordance with this Consent.
- 4 The holder shall notify the Assistant Director Environmental Services at Bath & North East Somerset Council, 9-10 Bath Street, Bath BA1 1SN immediately of any convictions or proceedings arising out of the use or enjoyment by the holder of this Consent.
- 5 The holder shall not cause any obstruction of the street or danger to persons using it and shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any persons lawfully using the street and shall not park any such van etc. on the footway or verge of the street.
- 6 The holder shall not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent, save as varied by a special condition of this Consent.
- 7 The holder shall not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the previous consent in writing of the Assistant Director Environmental Services for the time being of the Council.
- 8 The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
- 9 The holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
- 10 The holder shall not place on the street any furniture or equipment other than as permitted by the Consent 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.
- 11 The holder shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
- 12 The holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but he may surrender it at any time.
- 13 The holder shall observe and comply with any directions in relation to the use of the street given by the Assistant Director Environmental Services or the Director of Property and Engineering Services for the time being of the Council.

- 14 The holder shall keep his trading position and the immediately adjacent 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 daily period of use under the terms of this Consent.
- 15 The holder shall provide at his own cost and expense litter bins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items if required by the Assistant Director Environmental Services, and remove them and their contents at the end of each daily period of use under this Consent.
- 16 The holder shall retain with any van, cart, barrow, other vehicle or stall included within this Consent any water used or waste produced until the end of each daily period of use under this Consent and then remove it and dispose of it elsewhere, and in particular shall not deposit any such waste near or into any street drain or channel.
- 17 The holder shall indemnify and save harmless the Council and their agents, servants and workmen from and against all proceedings damages claims or expenses in respect of an injury (including personal injury) which may be sustained by the Council 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 Consent.
- 18 This Consent may be revoked by the Council at any time and the Council shall not, in any circumstances whatsoever, be liable to pay any compensation to the holder in respect of such revocation.
- 19 The Consent holder or any person employed by him to assist him in his trading shall **at all times** wear the identification badge issued by Bath & North East Somerset Council whilst trading from the pitch. The badge shall be worn in a conspicuous position on the upper body.
- 20 The holder shall return the identification badge(s) to the Bath & North East Somerset Council immediately on revocation or surrender of the Consent.
- 21 All street trading fees are due quarterly in advance on 1 January, 1 April, 1 July and 1 October each year.

Notes:

- 1 Street trading in a consent street without a Street Trading Consent, or from a van, cart etc. not specifically permitted by a Consent, or contravening certain conditions attached to a Consent, amounts to an offence for which proceedings may be instituted.
- 2 A Street Trading Consent does not confer immunity from the provisions of any Street Parking Places Order or General Traffic Restriction Order. In case of doubt about the effect of any such Order, enquire at the Environmental and Consumer Services, 9-10 Bath Street, Bath BA1 1SN .
- 3 The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

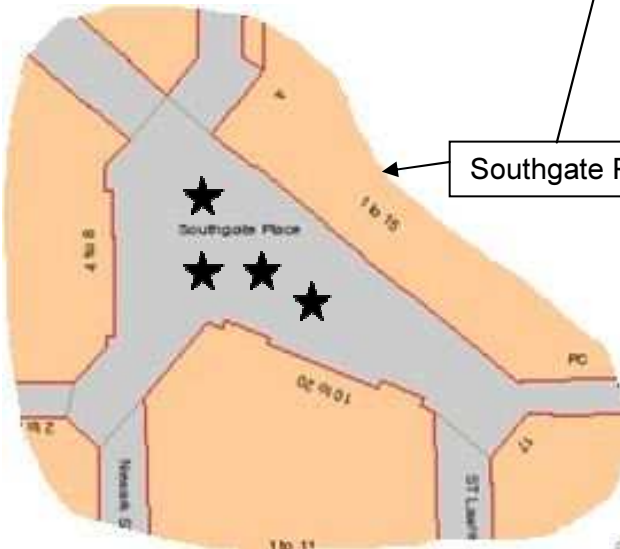
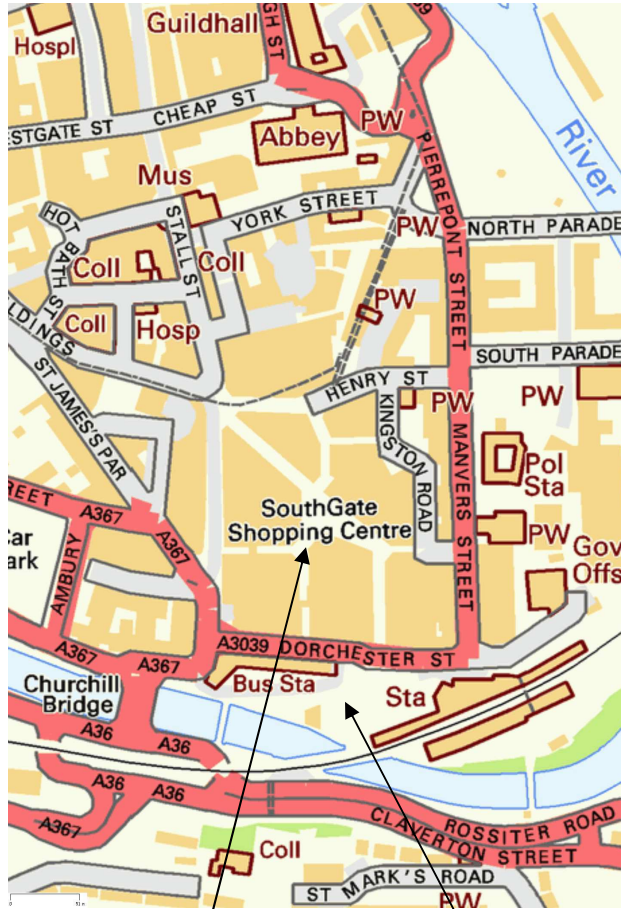
Schedule 4, Paragraph 10

- 1 A person who:
 - b engages in street trading in a consent street without being authorised to do so under this Schedule; or

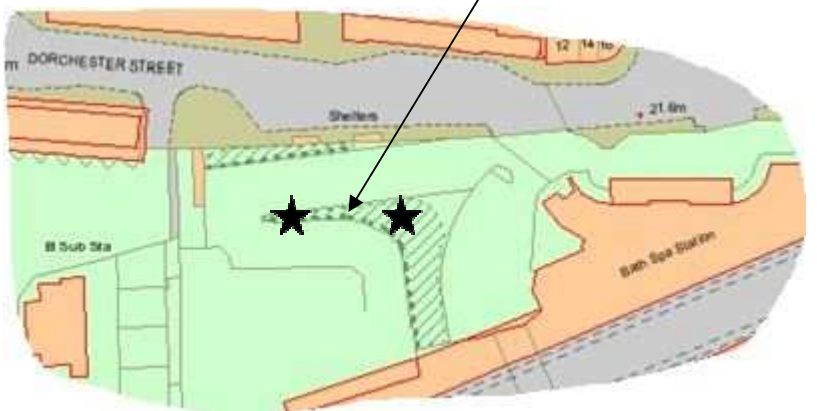
- d being authorised by a street trading consent to trade in a consent street, trades in that street:
 - (i) from a stationary van, cart, barrow or other vehicle; or
 - (ii) from a portable stall,without first having been granted permission to do so under paragraph 7 (8) (of this Schedule); or
- e contravenes a condition imposed under paragraph 7 (9) (of this Schedule),
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 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.

Annex D



Southgate Place



Brunel Square

Annex E

Southgate Place



Brunel Square



Annex F

Application Ref. 14/00355/STTRAD

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SOUTHGATE PLACE/BRUNEL SQUARE , BATH

NOTICE IS HEREBY GIVEN that an application has been made to Bath & North East Somerset Council for the grant of a Street Trading Consent at the above location.

Name of each applicant	Simon Pullen
Trading times	Every Day from 10:00 to 18:00
Articles for sale	range of goods and services over 6 pitches including Hot _ Cold Food, Clothing, accessories, flowers NB: This is a change from the previous Consent to include HOT FOOD
Stall type	6 Pitches of various sizes / design

If you wish to make any objections to the Council regarding the above application you should do so in writing to the undersigned by 10 February 2014.

Under the provisions of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985, such objections will be made available for public inspection.

Dated 20 January 2014



Andrew Jones, Environmental Monitoring and Licensing Manager, Licensing Services, Bath & North East Somerset Council , Lewis House, Manvers Street, Bath BA1 1JG or email licensing@bathnes.gov.uk

Annex G

Bath And North East
Somerset Council

29 JAN 2014

Received

Address removed

Dear Sir,

Re: **Application for Street Trading Consent**
14/00355/STTRAD

I am writing to object to the granting of this application for a Street Trading Licence in respect of the above application to be allowed to sell hot food in Southgate Place.

I reside in Philip House and my living room and bedroom windows open on to Southgate Place. My reasons for my objection are as follows:-

The selling of hot food will necessitate cooking and these cooking smells will be smelt in my flat. The smell of cooking onions and hog roast are particularly distasteful and strong smells.

The presence of food in Southgate Place will attract more Gulls which birds are already a problem in Bath.

I have no objection to the other aspects of the application but the selling of hot food will cause a nuisance to me.

I am surprised to note that the previous consent did not include the sale of hot food as during December 2013 hot food was on sale at a stall in Southgate Place. Hot food as I understand the word hot includes freshly cooked and reheated food.

Yours faithfully,



Miss Sandra Wilcox

Annex H

From: Simon Pullen [mailto:simon.pullen@southgatebath.com]
Sent: 10 February 2014 13:58
To: Andrew Tapper
Subject: RE: Statement re Hot Food

Andy

For us here at SouthGate Bath, the ability to sell hot food is a valuable commodity and will help go a long way to fulfilling our aim of integration in the City. This is only as is allowed elsewhere in Bath and I believe adds to the overall feel of a World Heritage destination. Just to be clear, I don't want SouthGate Place smelling of food and I don't believe this would ever be the case and all we are asking is at a few key times/trading periods, the ability to be able to sell hot food within our ownership.

This wouldn't always be a weekly or even monthly thing, just to tie in with events such as The Bath Christmas Market, Great Bath Feast, etc. where this would be an asset to us, our retailers and the City. It would be more the warming or reheating of products/produce for customers on a cold day to help dwell time, warm them up and create a feel good factor to make their trip to Bath enjoyable if they didn't want a sit down meal.

I am responsible for 99 residential apartments within SouthGate Bath and over 150 residents and the majority think it's a good idea so I do hope this is given consent.

The last thing I want through this is for residents, tenants or members of the public to complain about any smell in SouthGate Bath and this is something we will closely monitor as we do everything else and in the 4 and a half years we have been open to the public, I haven't received a complaint. If you need any further information from me, please let me know.

Kind Regards

Simon

Annex I

From: Andrew Tapper
Sent: 20 January 2014 15:01
To: Manda Rigby (Cllr); Brian Webber (Cllr); Development Control; Trading Standards; Highways; 'liquorlicensing@avonandsomerset.pnn.police.uk'; Katie Wilson; Martin Baker
Subject: Application to change the current Consent of Street Trading Pitches in Southgate Place/ Brunel Square

Please find below details of a change to the current street trading consent under the Local Government (Miscellaneous Provisions) Act 1982. The current Consent does not include the sale of HOT FOOD which the applicant would now like to include commencing on 01/04/2014

Please forward any comments by 10 February 2014. If we do not hear from you by this date, we shall assume you have no objection to this consent being granted.

Reference No.	14/00355/STTRAD
Name of each applicant	Simon Pullen
Contact telephone number	01225469061
Pitch number and address of street trading pitch	Southgate Place & Brunel Square Bath
Trading Name	Southgate Place/Brunel Square
Trading days and times	Every Day from 10:00 to 18:00