

## Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Licensing Sub Committee		
MEETING/ DECISION DATE:	Thursday 6 <sup>th</sup> December 2018	Agenda Item Number	
TITLE:	Application to create a Street Trading Pitches (141 – 148) New Orchard street Bath		
WARD:	Abbey		

### AN OPEN PUBLIC ITEM

#### List of attachments to this report:

**Annex A** – Copy of Application

**Annex B** – Copy Highway consultation notice – displayed on New Orchard street and delivered to adjacent premises and circulated to standard consultees

**Annex C** – Copy of current Street trading Consent

**Annex D** – Copy of the Street Trading Policy

**Annex E** – Copy of the Standard Street Trading Conditions

**Annex F** – Copy of the objections to the application

**Annex G** – Copy of support representation

## 1 THE ISSUE.

- 1.1 An application has been received from Simon Deane to create a Street Trading pitch in New Orchard Street Bath. This street is currently in use by Jimmy Deane's fruit and vegetable stall, albeit in a different part of the street. A copy of the consultation notice is at **Annex A**
- 1.2 The application has arisen as a result of work being carried out by Metro Bank, necessitating a temporary relocation of the stall, within the vicinity, and to ensure public safety during the construction work. This application also seeks to safeguard the area to ensure trading can continue in the vicinity should there be future development.
- 1.3 Jimmy Deane's have been trading in Bath for 14 years and trading from its current location in New Orchard Street since 2010. A copy of their current Street trading Consent is **Annex C**

## 2 RECOMMENDATION

- 2.1 That the Licensing Sub Committee determines the application.

### 3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 There are no resource implications arising from this report. The costs of processing licences and regulatory investigations are covered by the fees charged for licenses.

### 4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 In accordance with Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act), Bath and North East Somerset Council have adopted Schedule 4 of that Act. In accordance with that Schedule, the Council has designated all Streets/Highways within the Authority as "consent streets". This means that street trading is prohibited, subject to legal exemptions, without first having obtained a street trading consent from the Council.
- 4.2 This application has been brought to the committee as objections have been received from interested parties.
- 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 from Simon Deane
- 5.2 The pitch size is for 8 gazebos each with a maximum size of 3m x3m.
- 5.3 The type of stall to be used will be gazebos
- 5.4 Notification of the application (**Annex B**) was posted in New Orchard Street and copies hand delivered to all nearby retail premises on 29<sup>th</sup> October 2018 giving persons until midnight on 19<sup>th</sup> November 2018 to submit any objections. The application was also published on the Council's website.
- 5.5 Paragraph 7(2) of Schedule 4 to the 1982 Act provides that subject to sub-paragraph (3) the Council may grant consent if they think fit.

Sub-paragraph (3) provides that a street trading consent shall not be granted:

(a) To a person under the age of 17 years; or

(b) For any trading in a highway to which a control order under Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.

- 5.6 Paragraph 7(4) of Schedule 4 to the 1982 Act provides that when granting or renewing a Street Trading Consent the Council may attach such conditions to it as they consider reasonably necessary.

Bath and North East Somerset Council has standard Street Trading conditions (attached at **Annex E**) which are applicable to all Street Trading Consents issued by the Council.

- 5.7 Each application for a Street Trading Consent will be considered in line with the Council's current policy on Street Trading (attached at **Annex D**).

5.8 A plan of the area is included (**Annex B**).

5.9 Objections were received (**Annex F**). The grounds for the objection are:-

That the stall is likely to cause nuisance, annoyance or inconvenience to pedestrians and neighbouring properties due to lack of space and the potential to spread unrestriced across the area.

5.10 A representation in support of the application was received (**Annex G**)

## 6 RATIONALE

6.1 As objections have been received, the Licensing Sub Committee must determine the application.

## 7 OTHER OPTIONS CONSIDERED

None

## 8 CONSULTATION

8.1 In accordance with the current Bath and North East Somerset Street Trading Policy, the Licensing Service consulted with Avon and Somerset Police, the Council's Highways team, Property Services, Environmental Services, Development Control, Ward Councillors and adjacent premises. A copy of the consultation document is attached (**Annex D**).

8.2 The report has not been sent to the Trade Unions because they would have no involvement in this application.

## 9 RISK MANAGEMENT

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

## 10 ADVICE SOUGHT

The Council's monitoring officer (Director of legal & Democratic Services and Council Solicitor), Section 151 Officer (Chief Financial Officer) and the Head of Building control and Public Protection have had the opportunity to input to this report and have cleared it for publication.

<b>Contact person</b>	Ian Nash Public Protection Officer (Licensing). Tel: 01225 396719
<b>Background papers</b>	Local Government (Miscellaneous Provisions Act) 1982
<b>Please contact the report author if you need to access this report in an alternative format</b>	



**Ian Nash**

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**Subject:** FW: Request for Street Trading Pitch

**ANNEX A**

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

From: [cis@bathnes.gov.uk](mailto:cis@bathnes.gov.uk) [mailto:[cis@bathnes.gov.uk](mailto:cis@bathnes.gov.uk)]

Sent: 18 October 2018 17:27

To: Licensing

Subject: Request for Street Trading Pitch

A request for a street trading pitch was submitted as follows:

Name: Charlene Deane

Address: Colts Green End, Badminton Road, Old Sodbury, BS37 6LR

Phone:

Email:

NI No:

DoB:

Trading Name: Jimmy Deane's Fruit, Veg & Salad Ltd

Pitch: New pitch location in New Orchard Street - please see attached documentation.

Goods: As an existing street trader in this location we have proven to provide fresh produce to the local community, businesses and visitors of Bath. We promote quality and affordable choice to the consumer in a market already dominated by the large supermarkets. We sell items loose, plastic free, with personal service and advice. For more information please see attached company profile to see how we bring value to the area.

Times: Mon - Sat 07.00 - 17.30

Type: Pop up gazebo - see attached documentation.

Attachments:

[https://www.bathnes.gov.uk/sites/default/files/webform/company\\_profile\\_2018.pdf](https://www.bathnes.gov.uk/sites/default/files/webform/company_profile_2018.pdf)

Declaration:

I am over 17 years of age.

I understand the Street Trading Policy and shall abide by it at all times.

I understand the Street Trading Conditions and shall abide by them at all times.

I understand that the Consent may be revoked at any time.

I confirm that I have permission from the landowner to trade in this location.

I understand that other Council departments e.g. Tourism, Leisure and Culture, Open Spaces, Commercial Estates, Property Services and Highways may have an interest as landowner and may restrict use at certain times, either temporarily or permanently.

The information I have given in this application is true.

Submitted on Thursday, 18 October 2018 - 5:27pm

Application Ref. 18/02969/STTRAD

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982****JIMMY DEANE'S PITCHES 141 - 148 NEW ORCHARD STREET BATH BA1 1QC**

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.

Due to the work recently carried out by MetroBank this stall holder has been relocated to a temporary position within the vicinity to enable the safety of the public during the construction work. We would like to safeguard this area to ensure the stall holder can continue trading in the event of any future development.

<b>Name of each applicant</b>	Mr Simon Deane
<b>Trading times</b>	Monday from 07:00 to 17:30 Tuesday from 07:00 to 17:30 Wednesday from 07:00 to 17:30 Friday from 07:00 to 17:30 Saturday from 07:00 to 17:30
<b>Articles for sale</b>	Fruit and Vegetables
<b>Stall type</b>	Market stall with green and white awning

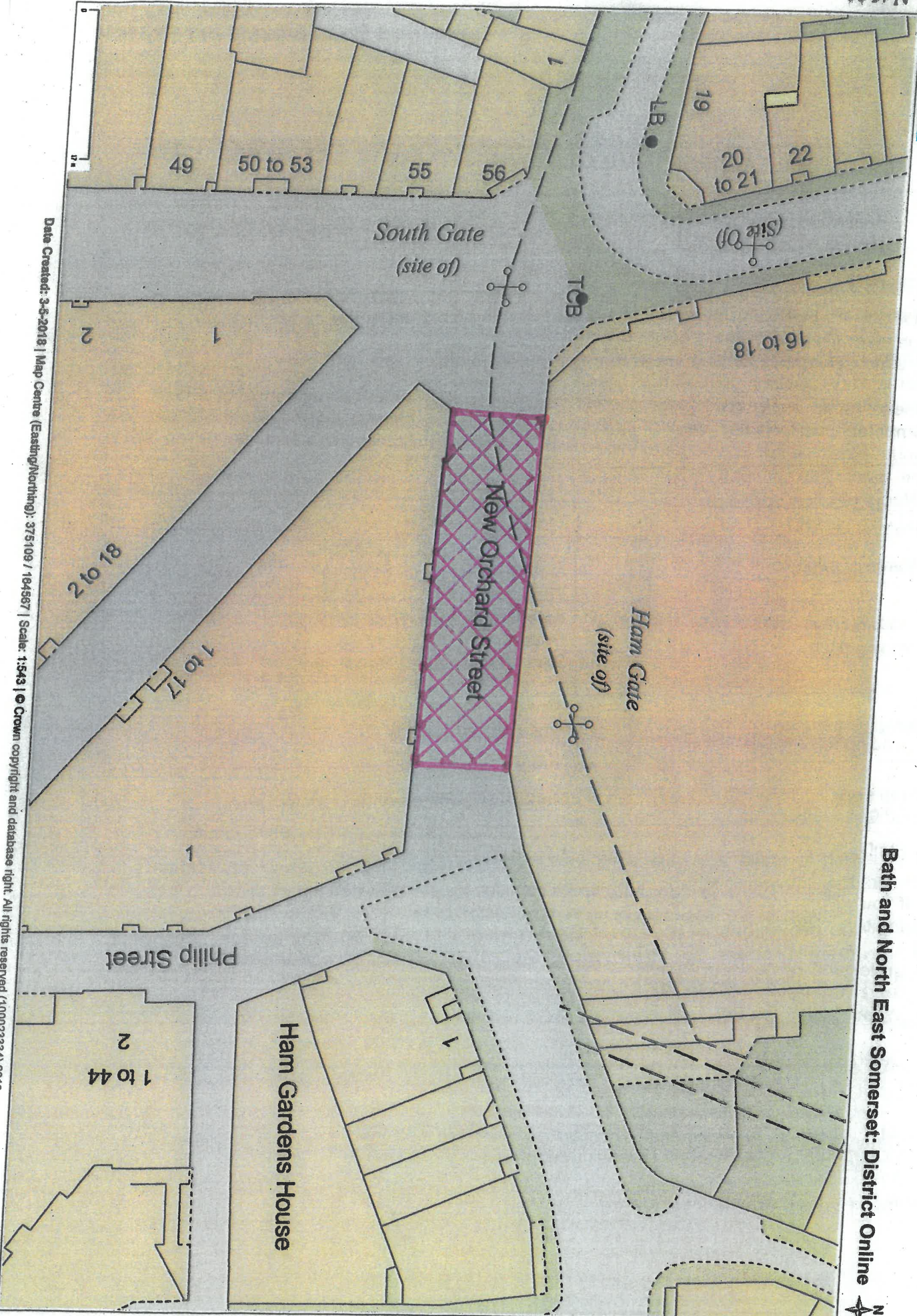
If you wish to make any objections to the Council regarding the above application you should do so in writing to the undersigned by .

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 29 October 2018

*Cathryn Brown*

Cathryn Brown  
Environmental Protection and Licensing Manager  
Licensing Services  
Bath & North East Somerset Council



Bath and North East Somerset: District Online



Date Created: 3-5-2018 | Map Centre (Easting/Northing): 375108 / 164987 | Scale: 1:543 | © Crown copyright and database right. All rights reserved (100022241 2018)

ANNEX B



**Bath & North East  
Somerset Council**

Ref. 18/00842/STTRAD

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

## STREET TRADING CONSENT

**Jimmy Deane's Fruit, Veg & Salad Ltd**

**BATH & NORTH EAST SOMERSET COUNCIL** being the Licensing Authority under Schedule 4, Paragraph 7 of the above Act hereby grant a Street Trading Consent to:

**Mr Simon Deane**

of:

to trade at:

**Temporary Relocation Due To Metro Bank Building Work  
New Orchard Street  
Bath**

on the following days/hours:

**Monday from 07:00 to 17:30  
Tuesday from 07:00 to 17:30  
Wednesday from 07:00 to 17:30  
Friday from 07:00 to 17:30  
Saturday from 07:00 to 17:30**

in the articles of the following description: **Fruit and vegetables**

Pitch Size: **8 stalls**

Vehicle Registration:

This Consent is granted subject to the general conditions relating to Street Trading Consents and to any special condition(s) set out overleaf. The approved stallholders are also listed overleaf.

This Consent shall continue in force from **12 July 2018** until **31 March 2019** unless revoked or surrendered.

**NON-PAYMENT OF FEE WILL INVALIDATE THIS CONSENT**

Granted on **12<sup>th</sup> July 2018**

by



Licensing Officer  
on behalf of the said Authority

**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 Head of Environmental and Consumer Services at Bath & North East Somerset Council 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 Head of Environmental and Consumer 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 Head of Environmental and Consumer 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 Head of Environmental and Consumer 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 office.
- 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 B

Bath & North East  
Somerset Council

# Street Trading Policy

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## 1 Purpose

- 1.1 Bath and North East Somerset Council understands that street trading is important to both the local environment and local economy. Street trading can provide vibrancy and interest to the local environment and an opportunity for small businesses to establish themselves and grow.
- 1.2 The Council's vision for Bath and North East Somerset is to create a street trading environment which:
  - complements premises-based trading
  - is sensitive to the needs of residents
  - ensures that public spaces become active spaces
  - provides diversity and consumer choice;
  - seeks to enhance the character, ambience and safety of local environments
  - promotes healthy eating
  - provides local food

## 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 has access without payment.
- 2.2 The Council 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.
- 2.4 Consents may also be issued to mobile artists who sketch or paint, sell their own work and move from location to location.
- 2.5 Street trading consents for buskers wishing to sell items associated with their performance (e.g. CD's) will be established

- 2.6 Consents may be issued to mobile vendors such as Ice Cream Traders to operate in specific locations outside of the central area of Bath.

### 3 Exemptions from the need to obtain a Consent

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 states that the following are exempt from the need to obtain Street Trading Consent:

- trading by a person acting as a pedlar under the authority of a pedlars' certificate granted under the Pedlars Act 1871
- anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order
- trading in a trunk road picnic area
- trading as a news vendor
- conducting a public charitable collection
- trade carried out by roundsmen e.g. milkmen
- trade carried on at a petrol filling station, and
- trade carried on at premises used as a shop or in a street adjoining premises so used and as part of the business of the shop

### 4 Pitch assessment

- 4.1 The Council will maintain a map showing the location of street trading pitches. This map is available on the Council's web site at [www.bathnes.gov.uk/services/business/street-trading](http://www.bathnes.gov.uk/services/business/street-trading)

- 4.2 The Council may from time to time identify new pitches for street trading and will consider applications for new pitches. In determining whether to create a street trading pitch the Council will have regard to:

- an overriding public interest
- any effect on road safety, either arising from the siting of the pitch, or 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; and
- the safe access and egress of customers and staff from the pitch and immediate vicinity
- any land owners permission which may be required from a private land owner or a relevant Council service e.g. Environmental Services (Open Spaces), Commercial Estates or Economic Regeneration

### 5 Application Process for a New Pitch

- 5.1 Before new pitches are created the Council will consult and seek written observations from:

- occupiers of premises immediately adjacent and opposite
- existing holders of street trading consents in the immediate area
- relevant ward councilors
- relevant parish or town councils

- Avon & Somerset Constabulary
- relevant Council Services including Development Control, Highways, Property Services, Environmental Services (Open Spaces), Commercial Estates, Trading Standards and Food Safety
- a relevant land owner
- any other stakeholder considered by the Council's Licensing Team to be relevant to the application

5.2 In addition to the above, public notices will be placed in a clearly visible location at the site of the proposed new pitch.

5.3 The Council will consider any responses received in relation to public notices and any objection from consultees will be assessed against the criteria in paras 1.2, 4.2 and Section 12 and may be referred to the appropriate Licensing Sub-Committee for determination.

5.4 Any proposed change to conditions attached to a consent will be in consultation with consent holders and others, as specified in 5.1 above, if relevant.

## **6 Application Process for an Existing Pitch**

6.1 When an existing or new pitch becomes available, the Council will publish details of the vacancy, inviting applications for the pitch. The details will be published on the Council's website.

6.2 Applications will be determined by the Licensing Manager. If no suitable application is received then the pitch will be re-advertised.

6.3 In situations where there are competing applications then the Licensing Manager will decide the most appropriate applicant in consultation with the Service Manager. The pitch will be offered to the applicant whose proposal is considered the most suitable for the particular location.

## **7 Mobile Street Artists**

7.1 Mobile street artist consents may be issued to persons who sketch or paint and sell their own work and move from location to location.

7.2 Applicants for mobile street artist consents must give a minimum notice period of 48 hours to the Licensing Team in relation to their application.

## **8 Mobile Traders**

8.1 Any mobile trader e.g. ice cream vans, will require a street trading consent.

- 8.2 Before issuing a consent the Council will consult with relevant bodies, as specified in section 5.1, and will require details of the daily routes and times of the rounds.

## 9 Street Markets

- 9.1 The Council actively supports the provision of temporary street markets within the district and special consideration will be given to markets which are considered beneficial to the local area.
- 9.2 Applications for temporary street markets will be considered using the same criteria set out in Para 1.2 and in sections 4 and 5 of this policy.

## 10 Pitches for Buskers

- 10.1 The Council will issue Street Trading consents for use by buskers who wish to sell items associated with their performance (e.g. CD's).
- 10.2 Applications for pitches for buskers will be considered using the same criteria set out in Para 1.2 and sections 4 and 5 of this policy.

## 11 Pitches for Charitable Street Trading

- 11.1 The Council issues permits to enable charitable street trading. Charitable street trading must not be undertaken in any street or public place unless the Promoter has obtained a consent from the Council. The only exception to this is where the collection is exempt under schedule 4 of the 1982 Act (see section 3)
- 11.2 In relation to charitable street trading, the Council has a designated street trading pitch for this purpose at Kingston Parade, Bath. This pitch will be available to registered charities, or organisations demonstrating that they are a 'not-for-profit' organisation. Use of this pitch will be subject to the Council's standard street trading conditions.
- 11.3 The charity or organisation must obtain permission from the Principal Consent Holder responsible for the pitch at Kingston Parade whose details can be obtained from the Licensing Department.

## 12 Nature of Goods and Trading Hours

- 12.1 The nature of goods which may be sold from any pitch and the trading hours will be specified in the consultation process. Any subsequent application for a change in the nature or type of goods sold or the trading hours will require a further application and will be subject to the level of consultation as set out in section 5.1 above.
- 12.2 Until 1<sup>st</sup> April 2015, the Council will not normally grant a consent for the sale of goods or services which conflict with those provided by nearby shops or nearby street trading pitches. (After this date, changes to Schedule 4, Local Government [Miscellaneous Provisions] Act 1982 come into effect which promote open competition).



- 12.3 Goods will normally consist of craftwork, fresh flowers, fresh fruit and vegetables, ice cream or soft drinks. Other types of goods, including services, will be considered on a pitch by pitch basis and have particular regard to local needs, product diversity and balanced with other retailers in the immediate vicinity.
- 12.4 Street trading hours will normally mirror those of shops in the immediate vicinity. Extended trading hours will be determined on a pitch by pitch basis.
- 12.5 In the case of stalls selling hot food trading hours will be determined on a pitch by pitch basis.
- 12.6 Late night food traders operating after 11:00 pm will be subject to the requirements of the Licensing Act 2003 regarding the need for a Premises Licence. Greater consideration will be given to the impact on the night time environment and the possibility of crime and disorder on the streets as a result of the granting of a street trading consent.

### **13 Design and Appearance of Stall, Barrow, Van, Cart etc.**

- 13.1 The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.
- 13.2 The Council has a preferred set of standards of design and appearance that they wish to achieve for all street trading pitches based in the central area of Bath.
- All new applicants will be required to use an approved design unless a suitable alternative is agreed
  - All existing Consent Holders will be required to change to an approved design by 1st January 2017, or upgrade the whole or parts of their units, as appropriate
- 13.3 The condition of all pitches will be monitored regularly to ensure that the required standards are maintained.
- 13.4 All consent Holders trading in food products are required to be registered and inspected by the Council's Food Safety Team. Contact details of the Food Safety team can be found on the Council's website.
- 13.5 All consent Holders are required to comply with relevant health and safety regulations including those relating to electrical and gas safety.

## 14 Issue of Street Trading Consents

- 14.1 An application for a street trading consent or the renewal of such a consent shall be made, in writing, to the Council. Applications can be e-mailed to the Council at: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk) .
- 14.2 Consents will not normally be issued for a period of less than six days per week, unless the applicant can provide an alternative scheme acceptable to the Council.
- 14.3 Where a consent has expired the pitch will become subject to paragraphs 14.4 and 14.5 below.
- 14.4 When an existing or new pitch becomes available, the Council will publish a notice inviting applications for the said pitch on its website.
- 14.5 Applications for an existing pitch will be determined by the Licensing Manager or other authority delegated by the Council. Each pitch will be offered to the applicant whose proposal is considered most suitable for the particular pitch. If no suitable application is received then the pitch will be re-advertised.
- 14.6 Any application received by a person less than 17 years of age will be considered by taking into account the provisions contained in the Children and Young Persons Act 1933 and the Children and Young Persons Protection at Work Regulations 1998.
- 14.7 An application for an existing pitch may be refused or revoked if the applicant is found to be unsuitable to hold the consent by reason of having been convicted of a relevant offence, or for any other reason.
- 14.8 The issue of a street trading consent will not normally be delayed where other approvals, permits, licences are required by other departments or statutes except in the case where advice is required from the Council's Food Safety and Health and Safety teams.

## 15 Fee Structure

- 15.1 The Council may charge such fees as it considers reasonable having regard to pitch location, the size of the Pitch, trading days, hours and the description of goods offered for sale.
- 15.2 The fees will be reviewed and set on an annual basis and any variation advertised by notice in a local newspaper.
- 15.3 Fees for consents must be paid in full in advance:
- in the case of Direct Debits, on a monthly basis
  - all other methods, three months in advance

- 15.4 Failure to maintain payments as above may result in the consent not being renewed. Where a payment is not made by the due date the Council may charge an administration fee as determined by the Licensing Manager. This will include cheques or Direct Debit requests that are not honoured.
- 15.5 The Council cannot guarantee that pitches will be available every day and accepts no liability for the loss of earnings in relation to street trading consent holders or their employees.
- 15.6 In the event of roadworks, utility or service repairs and other genuine circumstances that affect the use of any pitch, the Licensing Manager will consider appropriate refunds on a case by case basis, provided a written request has been made by the consent holder.

## **16 Street Trading Consents for which fees are not payable**

- 16.1 The Council 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); and
  - sale of articles by householders on land contiguous with their homes

## **17 Conditions and Enforcement**

- 17.1 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.
- 17.2 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.
- 17.3 Failure to comply with conditions may lead to revocation or non-renewal of a consent.
- 17.4 Persons trading without a consent and who are not exempt (see 3 above for examples) will be the subject of enforcement action in accordance with the Council's Enforcement Policy. Copies of the Enforcement Policy can be obtained from the Council's Licensing team or website.
- 17.5 The consent Holder is required to obtain and maintain their own Public Liability Insurance to a minimum of £5m. This will be required to be produced for inspection before any consent is issued and on demand when requested by an officer of the Council.

## **18 Equality**

- 18.1 The Council is committed to equality of opportunity and believes that the diversity of the community is a major strength which contributes to the social and economic prosperity of the area.
- 18.2 The Council commits to ensure that no resident of, or visitor to, the area or other person associated with the Council is treated inequitably or in an unlawful or unjustifiably discriminatory manner.
- 18.3 The Council will take positive steps to stop any unfair/unlawful discrimination, and will carry out positive action where discrimination is found.

## **19 General**

- 19.1 Through its tourism service and by other means, the Council will seek opportunities to promote street trading activities.
- 19.2 This policy will complement and inform other Council initiatives including those on street markets and the public realm.
- 19.3 This policy will be the subject of periodic monitoring and review.
- 19.4 This policy will inform the detailed conditions attached to every street trading consent.
- 19.5 This policy will be applied in a manner which is consistent with the Council's equalities policies.

## Street Trading Policy Conditions

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### Standard Conditions (attached to each Street Trading Consent)

1. The holder of this Consent (which expression where appropriate includes joint holders of this Consent) and any person employed to assist on the Pitch shall produce the Consent on demand when so required by a Police Officer or a duly authorised officer of Bath & North East Somerset Council (the Council).
2. The holder shall return this Consent to the 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 Council's Licensing Team at Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG immediately of any convictions or cautions obtained 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 reproducing 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 or in relation to Consents relating to buskers.
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 consent, in writing, of the Council's Licensing Manager.
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 they must maintain the same in a clean and tidy condition and not place them so as to cause any obstruction.

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, statutory or common-law 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 they 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 any duly authorised officer of the Council.
14. The holder shall keep the 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 their own cost and expense litter bins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items 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. The Consent Holder shall arrange their own Public Liability Insurance for a minimum value of £5M.
19. 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.
20. The Consent holder or any person employed by them to assist them on the Pitch shall at all times wear the identification badge issued by the Council whilst trading from the pitch. The badge shall be worn in a conspicuous position on the upper body.
21. The holder shall return the identification badge(s) to the Council immediately on revocation or surrender of the Consent.

## 22. Street Trading Fees

All street trading fees are due in advance:

- i. Where fees are paid by cash or cheque then they need to be paid before the

1 January, 1 April, 1 July and 1 October each year unless;

- ii. The Consent Holder has in place arrangements to pay the street trading fee by monthly Direct Debit installment whereas the Consent will be renewed on an annual basis commencing on 1 April.
- iii. Failure to maintain Direct Debit payment as above may result in the consent being revoked or not renewed.
- iv. Where the payment fails to be made by the due date the Council may charge an administration fee as determined by the Licensing Manager.

**Notes:**

- 1. Street trading in a consent street without a Street Trading Consent, or from a van, cart etc., not specifically permitted by 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 unless an exemption has been specifically approved. In case of doubt about the effect of any such Order, enquire at Licensing Services, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG. Any abuse of a specifically approved exemption may lead to the privilege being withdrawn for all traders.
- 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 they 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 they know to be false in any material respect, or which they do 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.



**From:** Allison Herbert  
**Sent:** 05 November 2018 11:18  
**To:** Ian Nash  
**Cc:** 'Guy Henderson'; Cleo Newcombe-Jones; Mark Minkley; Bob Goodman (Cllr); Paul Myers (Cllr); Christian Mead  
**Subject:** Street Trading Consent Ref. 18/02969/STTRAD

Dear Ian

Thank you for your request regarding the 8 pitches currently located at Pitch 141 – 148, New Orchard Street, Bath, BA1 1QC. – reference above.

Further to a discussion within the public realm steering group about the previous version of this application, I have copied my response to Cllrs Myers and Goodman.

The Bath BID would like to object to this licensing application on the following grounds:

We are not sure from your diagram exactly where you propose to position the 8 stalls. The diagram would appear to allow the stall to locate across the entirety of New Orchard Street. We assume that some sort of pedestrian access will be maintained. Please confirm that this is the case.

We believe that it is impossible for the stall in that location to avoid finding itself in contravention of point 11 in the B&NES Street Trading Conditions below:

*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, statutory or common-law 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.*

It is not reasonable to assume that a stall which has permission to extend across the entire length and width of New Orchard Street with no apparent constraints will not cause nuisance, annoyance, inconvenience or damage to any of the neighbouring premises occupiers or owners or indeed to the public at large.

The BID's comments relate to a number of issues:

1. Location – New Orchard Street

The adopted **B&NES Public Realm and Movement Strategy** makes reference to New Orchard Street in particular

"A consistent approach to the treatment of all the connecting routes will complement the approach proposed for the key routes that form the lattice. This will include the phased replacement of concrete paving with natural stone, the *introduction of bespoke street furniture products*, and a de-cluttering programme to enhance their visual appeal.

The principal connecting routes to be improved are:

East–West connecting routes

\_Bennett Street

\_Green Street

\_Saracen Street

\_Trim Street

\_Bath Street

\_Beau Street

\_Abbeygate Street

***\_New Orchard Street"***

New Orchard Street has a bike parking installation and some benches. It is my understanding that bike parking is already fully occupied in the city, and it would be unhelpful to lose any of it. Could you confirm that these stalls will not have a detrimental impact on the ability of the city to make full use of the bicycle parking. Would

you mind confirming with your colleagues from the Breathe Campaign whether these bike racks are part of their plans to ensure that the city keeps moving once the new measures to discourage car use are brought in.

Will the benches also be protected in the choice of site for these stalls? There is a serious shortage of public benches in the city, we would object to the loss of any public seating.

## 2. Pedestrian Access

We would draw your attention to the Conservation Area Design recommendations for street furniture:

There should be a minimum clear width of 2 metres between the edge of the chairs and the kerb. 'Clear width' is the width available for pedestrians either on a footway or a shared surface between the area being used for tables and chairs and any other obstruction eg trees or street furniture.

In addition the recommendations propose that all shops are entitled to install a 660mm wide A board outside their premises. This would include MetroBank, Kurt Geiger and Fatface, who also have permission under their planning consents to have entrances onto New Orchard Street.

In support of our levy payers, we object to any stall being placed directly against a wall or shop front in any location in the city. Although the consultation does not specifically imply this, we assume that no stall would ever be placed against the wall or display window of a shop without their express permission (rather than their failure to complain). Blocking a window or an entrance to a shop would be regarded as causing damage or inconvenience to the occupiers of that property.

With the stalls in the centre of New Orchard Street, there will not be sufficient width to accommodate the stall (3m wide) the pedestrians (2m on either side) and the A boards (0.66m on either side). We therefore object to stalls in that location. Would you please provide me with the feedback from your colleagues in highways who are responsible for the safety of pedestrians.

## 3. Complements premises-based trading

The BID is of the view that any stall in New Orchard Street conflicts with premises based trading because of the lack of safe movement for customers of premises in that street (with reference to the recommended 2m width in the Bath Conservation Area Design recommendations).

## 4. is sensitive to the needs of residents

No objection

## 5. Public Spaces become active spaces

There are benches, trees and bicycle parking in New Orchard Street. The market stalls should not be given preferential access to the public open space to the detriment of the street furniture.

## 6. provides diversity and consumer choice;

This stall provides low cost fruit and veg which is not provided elsewhere. Therefore the BID has no objection to this particular trader, but would recommend that its location should be reconsidered.

## 7. seeks to enhance the character, ambience and safety of local environments

The BID is of the view that the location of this collection of 8 stalls is not appropriate. There may be an argument that 2 x 3m stalls would not create a significant block in terms of safety and ambience, but 8 would be viewed as over development of the public space.

The 8 proposed stalls do not appear to comply with the Southgate design guidelines on Page 10 of the B&NES Bath Conservation Area and design guide. Although only 'temporary' the proposal will enable the stalls to be in position on most days of the week and they should therefore be considered permanent in their impact

8. promotes healthy eating o provides local food - no objections

I have a number of comments regarding the pitch in question, which we recommend should be reconsidered rather than automatically approved by the licensing committee. If you are unable to provide evidence that New Orchard Street is wide enough to accommodate 8 stalls without a loss of amenity to pedestrians, cyclists and businesses in that area, please consider this email as an objection.

An additional point to consider in managing the pedestrian access around stalls across the city, Cathryn Brown, Cleo Newcombe Jones and myself have recently been reviewing new standard sizing for stalls in the city. It would seem sensible to implement the new 2m maximum recommendation as all pitches are renewed, rather than creating a further 12months of delay before we can be sure that pedestrians are safely accommodated.

I understand that you would like to safeguard this area to ensure the stall holder can continue trading in the event of any future development and also to ensure that the council continues to receive the income from the stall. As the BID, we would also like to safeguard this area to ensure that the retail premises in this location can continue trading successfully without having their access points and windows blocked by this stall or its customers. We also seek to ensure that pedestrians have a comfortable experience when using the pedestrian streets of the city centre.

Kind regards  
Allison Herbert  
Chief Executive  
The Bath BID Company

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Dear Ian,

I would also like to object to this proposal as drafted. I share Bath BID's concerns as outlined below, and consider it leaves too much flexibility which would result in detrimental impacts to the public realm and a reduction in the ease of movement along this street.

I think this could be resolved if the area designated for these street trading pitches was more tightly defined, reduced in scale from 8 pitches and if greater consideration to the location of existing street furniture was given. Perhaps the hatched area across the street could be replaced with an agreed fixed pitch location as for most other street trading consents?

Best wishes,

Cleo

Cleo Newcombe-Jones  
Project Coordinator - Waterways and Public Realm  
Environment & Design Projects Team  
Economy & Growth  
Bath & North East Somerset Council

**From:** Peter Turner (Cllr)  
**Sent:** 30 October 2018 10:45  
**To:** Licensing  
**Subject:** Re: Street Trading Consent Ref. 18/02969/STTRAD

After all that Jimmy has been through following Metro Bank I fully support this application

Best regards

Peter