

## **Licensing and Regulatory Panel**

### **Tuesday 22 September 2020**

A Licensing & Regulatory Panel will be held remotely on Tuesday 22 September at **10.00am**, and available for the public to watch via the Warwick District Council [YouTube channel](#).

Membership: Councillors Boad, A Dearing and Murphy

Substitute Members: Councillor Redford substituting for Councillor A Dearing and Councillor Leigh-Hunt substituting for Councillor Murphy

### **Agenda**

#### **1. Appointment of Chairman**

To appoint the Chairman of the meeting.

#### **2. Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

#### **3. Application for a Street Trading Consent that is contrary to adopted Policy**

To consider a report from Health and Community Protection **(Pages 1 to 14)**

Published Monday 14 September 2020


General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 456114

E-Mail: [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk)

For enquiries about specific reports, please contact the officers named in the report. Details of all the Council's committees, councillors and agenda papers are available via our website on the [Committees page](#)

The agenda is available in large print on request,  
prior to the meeting, by telephoning (01926)  
456114

	<b>Licensing &amp; Regulatory Panel 22</b> <b>September 2020</b>	<b>Agenda Item No.</b> <b>3</b>
<b>Title</b>	Application for a Street Trading Consent to trade outside the hours set out in Warwick District Council's Street Trading Policy.	
<b>For further information about this report please contact</b>	Kathleen Rose 01926 456703 kathleen.rose@warwickdc.gov.uk	
<b>District Ward the Application is in</b>	Kenilworth	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>		
<b>Background Papers</b>	WDC Street Trading Consent Policy Local Government (Miscellaneous Provisions) Act 1982	

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Democratic Services Manager & Deputy Monitoring Officer	14/09/2020	Graham Leach
Head of Service	08/09/2020	Marianne Rolfe
<b>Consultation &amp; Community Engagement</b>		
The application was duly consulted upon with the relevant responsible authorities		

## 1. Summary

- 1.1 Warwick District Council, as the Licensing Authority, has received a valid application for a Street Trading Consent for a trailer selling hot food to trade outside the permitted hours set out in the policy.

## 2. Options Available to the Panel

- 2.1 Members are asked to consider the information contained in this report and decide whether the application for a Street Trading Consent for Mr Killian Marshall, should be granted and, if so, whether the consent should be subject to any additional conditions.

The following options are available to Members:

**Option 1** - Grant the consent as requested;

**Option 2** - Grant the consent with amended hours and/or added conditions, or;

**Option 3** - Refuse the consent.

### 3. Details for Consideration

- 3.1 Warwick District Council have designated every street within the District as a Consent Street. Any person who wishes to expose goods for sale anywhere the public have free access must apply for a Street Trading Consent.
- 3.2 The Council's Policy permits trading between the hours of 06:00 and 18:00. However, any trading outside these hours may be approved by the Council's Licensing and Regulatory Committee.
- 3.3 Mr Marshall has submitted an application for a Street Trading Consent to sell hot food. The consent, if granted will permit him to trade from a fixed pitch on Bird Road, Warwick, Warwickshire, CV34 6TB.
- 3.4 The hours applied for are shown in the table below:

	Trading hours
Monday	No trade
3.5 Tuesday to Friday	10:00 to 22:00
Saturday and Sunday	17:00 to 22:00

- 3.6 A copy of Mr Marshall's application form and photographs of the trailer are attached as appendix 1.
- 3.7 A site map and a satellite photograph of the immediate area is attached as appendix 2.
- 3.8 A copy of the conditions attached to a Street Trading Consent are attached as appendix 3.
- 3.9 Details of the procedure adopted by the Licensing Committee for Panel Hearings have been supplied to the applicant. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

### 4. Policy Framework

#### 4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
<b>External</b>		
<b>Health, Homes, Communities</b>	<b>Green, Clean, Safe</b>	<b>Infrastructure, Enterprise, Employment</b>
<u>Intended outcomes:</u> Improved health for all Housing needs for all	<u>Intended outcomes:</u> Becoming a net-zero carbon organisation by	<u>Intended outcomes:</u> Dynamic and diverse local economy

met Impressive cultural and sports activities Cohesive and active communities	2025 Total carbon emissions within Warwick District Council are as close to zero as possible by 2030 Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
<b>Impacts of Proposal</b>		
The street trading policy recognises that Street trading can provide people with a flexible way of working and helps to meet the demands of the public where and when that demand arises. Warwick District Council recognises the valuable contribution that street trading can make to the local culture and economy, and the service that street traders provide to residents of the district, some of whom are unable to travel to centralised shopping centres.	None	The Council is also committed to improving the support provided to small businesses, ensuring there are no unnecessary burdens placed on them and they are provided with sufficient advice to enable them to operate successfully.
<b>Internal</b>		
<b>Effective Staff</b>	<b>Maintain or Improve Services</b>	<b>Firm Financial Footing over the Longer Term</b>
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
<b>Impacts of Proposal</b>		
None	None	None



## WARWICK DISTRICT COUNCIL

### APPLICATION FOR A STREET TRADING CONSENT

#### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Data protection: We will use the information supplied by you and/or obtained on your behalf for the purpose of licensing and enforcement. This information may be used internally and shared with other bodies administering public funds to prevent and detect crime and fraud and to apprehend offenders. Information held about you will not be released to other third parties unless it is shown that they are entitled to the information by law.

#### **THIS FORM WILL BE RETURNED IF YOU HAVE NOT COMPLETED ALL OF THE QUESTIONS IN FULL**

Name of consent holder : Killian Marshall

Address of consent holder : [REDACTED]

.....

.....

.....Contact Tel No.: [REDACTED].....

Date of birth: [REDACTED] National insurance Number : [REDACTED].....

Have you ever been refused a street trading consent in this, or any other area?

(Answer Yes or No) .....No..... If yes, Which Area: .....

What items do you intend to sell: Thai Food.....

Where do you intend to sell them? (Where is your pitch?) Bird Road, Heathcote Industrial Estate, CV34 6TB

.....

#### **State the days and times you wish to trade**

Monday \_\_\_\_\_ to \_\_\_\_\_

Wednesday 10 \_\_\_\_\_ to 10 \_\_\_\_\_

Friday 10 \_\_\_\_\_ to 10 \_\_\_\_\_

Sunday \_\_\_\_\_ to \_\_\_\_\_

Tuesday 10 \_\_\_\_\_ to 10 \_\_\_\_\_

Thursday 10 \_\_\_\_\_ to 10 \_\_\_\_\_

Saturday 10 \_\_\_\_\_ to 10 \_\_\_\_\_

Vehicle registration number (if trading from a vehicle) .....

If selling food, are you registered with Environmental Health? Yes ..... (Answer Yes or No)

(If No, please request a registration form)

(If Yes) Which Local Authority are you registered with?

....Warwick.....

If selling food, what food hygiene qualification do you hold? Level 2.....

Name of Business/Vehicle owner: YimThaiWarwick LTD

Address of Business/Vehicle owner: Ibid home address

.....

.....

..... Contact Tel No.: [REDACTED]

Date of Birth: .....ibid..... National Insurance Number: ...ibid.....

Signature: Killian J Marshall. Date: 28/8/20

Print Name: KILLIAN JOHN MARSHALL

## Declaration and Signature

Please tick

☐

I understand that this application will be considered by the Licensing Team, Warwick District Council and that if granted, I shall comply with any lawful condition under which the Street Trading Consent is granted.	X
I have enclosed a current passport style photograph of myself.	X
I have enclosed a current Basic DBS Certificate (not more than 1 month old)	X
I, as the consent holder, will be in regular attendance at the trading site together with a duly authorised assistant (if applicable).	X
I have attached completed details forms for each additional employee/assistant.	X

I declare that all the information given is true to the best of my knowledge. If any information is subsequently found to be untrue or incomplete, any consent granted may be suspended pending a full investigation of the matter.

Signature of applicant	Date
Killian.J.Marshall	28/8/20

### You must submit the following with the application

Where the proposed street activity is from a **fixed position**:

- A completed and signed Street Trading Consent Application Form.
  - The full fee as appropriate. – Paid Online
  - A recent Basic Disclosure Certificate (DBS) for the applicant (not more than 1 month old) – Check Below
  - A copy of a map of at least 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line.- Same as previous year
  - A photograph of the proposed site. – Same as previous year
  - Three colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity. (Front, Back and Side views) – Attached further down in Document
  - A passport sized photograph of the applicant.- Same as previous year
  - An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks. – Attached
  - Permission from the land owner – Public road
  - Where food will be sold a copy of the Food Hygiene Certificate for the applicant. – Previous year still applicable- Shannon Walsh Certificate included in document
- Please let me know if anything else is needed.

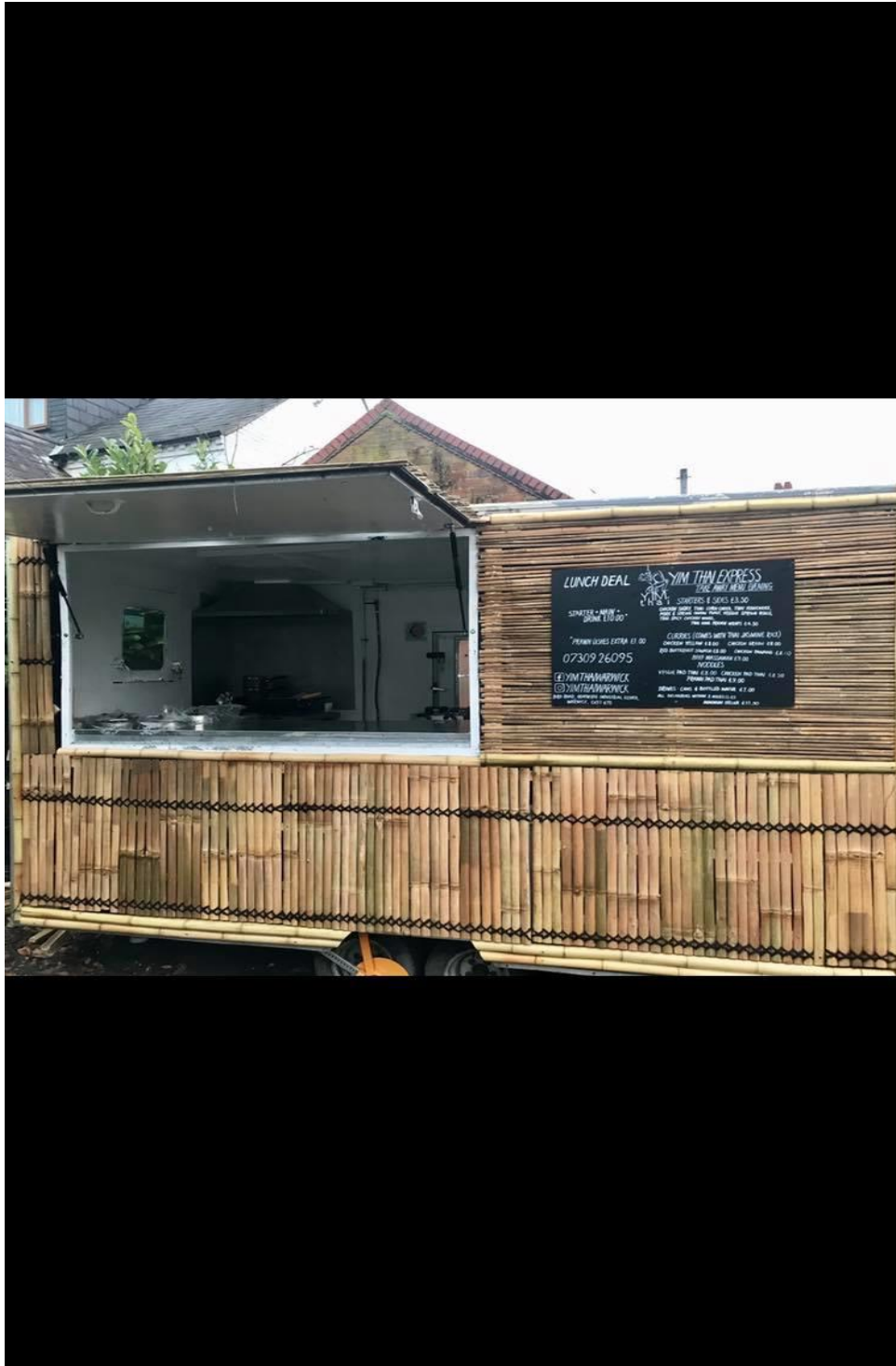
Where the proposed street activity is from a **touring vehicle**:

- A completed and signed Street Trading Consent Application Form.
- The full fee as appropriate.
- A recent Basic Disclosure Certificate (DBS) for the applicant (not more than 1 month old).
- A passport sized photograph of the applicant.
- Three colour photographs of the van, barrow, cart etc. that will be used for the street trading activity. (Front, Back and Side views)
- An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks.
- An original copy of the V5 for the vehicle.
- An original copy of the certificate of insurance that covers the applicant to drive the vehicle.
- Where food will be sold a copy of the Food Hygiene Certificate for the applicant.

DBS: Website Link:

- <https://www.apply-basic-criminal-record-check.service.gov.uk/view-e-result/employer>
- Last six digits of certificate: [REDACTED]
- One time code: [REDACTED]

New photos of Trailer (Back of trailer same as previous year) :









## Certificate of Achievement

This certificate is awarded to

**Shannon Walsh**

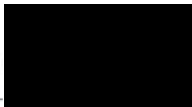
Who has successfully completed the online  
training course and assessment in:

### Level 2 - Food Safety and Hygiene for Catering

An Introduction to Food Safety & Hygiene • Impact of Food-Borne Illness •  
Understanding Food Law • Food Safety Hazards & Contamination  
• Food Preservation, Storage & Temperature Control • Personal Hygiene •  
Hygienic Premises & Equipment • HACCP & Summary

Certificate Number: V39I-NKMW-TDG8-S0DD

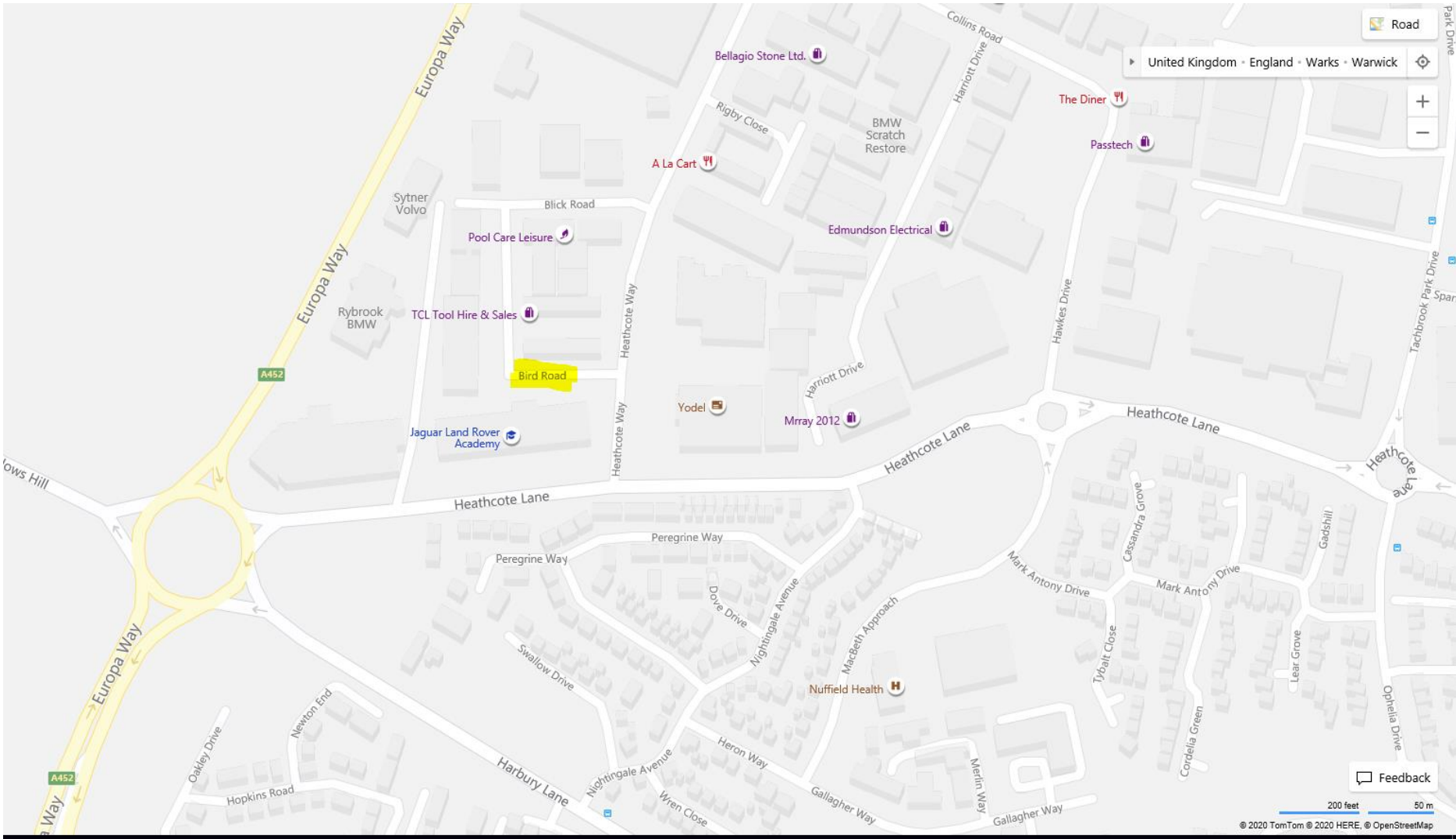
Date: 23-Aug-2020

Signed: 

Hannah Brindle, Director (Virtual College)



Appendix 2







## Appendix 3

### General Conditions

#### Definitions:

**Street Trading** – the selling or exposing or offering for sale any article (including a living thing) in a street

#### Street

- a) any road, footway, beach or other area to which the public have access without payment; and
- b) a service area as defined in section 329 of the Highways Act 1980

**The Council** – Warwick District Council

**Authorised Officer** – an Officer employed by Warwick District Council and authorised by the Head of Service (Health and Community Protection) in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982

#### Consent Details

1. A copy of the consent must be displayed prominently on the unit at the street trading site.
2. The consent holder shall not sell any type of food, goods or merchandise other than those specified in the consent.
3. The consent holder shall not trade outside the time and days permitted by the consent.
4. The consent holder shall not trade within the consent area other than at the location permitted by the consent.
5. Touring consent holders shall not trade from the same location for more than 15 minutes (or until queuing customers have been served) at any one time. There is to be no return to any location within 2 hours of previous trading.
6. The consent is personal to the consent holder and shall not be assigned or transferred to another person or company without the appropriate notification of such transfer. (See application for consent transfer.)
7. The consent holder shall produce the consent if required to do so by a police officer or authorised officer at the time.
8. The consent may be revoked by the council at any time for non-compliance with conditions, or surrendered by the consent holder at any time.
9. The Consent Holder may employ another person to 'assist' with trading but shall be expected to be in attendance at the site in order to remain in control of trading for the majority of trading hours.
10. Nothing in these conditions shall excuse the consent holder from any legal duty or liability and the consent holder shall indemnify the council in respect of all claims, actions or demands arising from the consent except where due to the Council's own negligence.

#### General Conduct

11. The consent holder shall not trade in such a way that is likely to cause obstruction of any part of any street or public place.
12. The consent holder shall not trade in such a way that is likely to cause an injury to any person using the street or place.
13. The consent holder shall not trade in such a way that is likely to cause damage to any property in the street or place.

14. The consent holder shall not trade in such a way that is likely to cause a nuisance or annoyance to persons using the street or public place, or to occupiers of premises in the vicinity. Noise from equipment must not be persistently audible in nearby residences.
15. The consent holder shall not trade from a vehicle parked in the lay-by outside the Royal Pump Rooms, the Parade, Leamington Spa, or in the entrance to the park opposite.
16. Applicants who wish to operate within the district **must** obtain a Basic Disclosure Certificate from Disclosure Scotland. A DBS check will have to be completed every year, or more frequently, at the discretion of the Council

### **Protection of Young People**

17. Street trading will not normally be authorised within 50 metres of any entrance or exit to a school or nursery or within a designated conservation area. (The distance from the entrance to a school or nursery may be extended where issues of public safety are raised during the consultation of the application).
18. No child aged 16 or below shall be engaged in or employed to undertake any street trading under a consent issued by the Council.

### **Noise Nuisance**

19. The consent holder shall not use any device for the reproduction or amplification of sound; or any device or instrument to attract vendors to the stall/vehicle/trailer by sound. Ice cream vans may use a chime only in accordance with the Code of Practice on Noise from Ice Cream Van Chimes etc. 1982.

### **Visual Appearance**

20. Any vehicle/stall/trailer used by the consent holder in the course of trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council. A high standard of presentation and appearance will be expected.

### **Health & Safety**

21. The use and storage of LPG will comply with the requirements of the Health and Safety at Work etc. Act 1974 and any Fire Authority requirements.
22. Where any LPG or electricity is used then suitable fire extinguishers must be provided and maintained in a satisfactory condition.
23. The consent holder shall at all times maintain a valid third party public liability insurance policy to the value of £5,000,000 and shall produce a valid certificate of insurance at any time.
24. The consent holder will not be permitted to erect additional awnings, tents or other structures at the site without permission.

### **Advertisements / Signage**

25. Advertisements must not be placed outside the perimeter of the trading site or affixed to any street furniture - e.g. lamp posts, road signs, fences, bollards.

### **Waste Management**

26. The consent holder shall provide and maintain adequate refuse receptacles for litter and shall remove all litter in the trading vicinity; suitable arrangements must be in place for the disposal of commercial waste. The consent holder shall be responsible for any damage to the highway resulting from the trading activity.
27. The consent holder must prevent the deposit in any street of solid or liquid refuse and shall not discharge any water (except as may be necessary for cleansing) to the street surface or to the surface water drains. The surrounding area shall be kept clean and tidy including the necessary washing of street surfaces.

### **Additional Requirements for Food Operations**



28. When street trading includes the provision of food, the Food Business Operator (FBO) must ensure that any van/barrow/vehicle or stall is sited, designed, constructed and kept clean and maintained in good repair and condition as to avoid the risk of contamination, in particular by animals and pests. Any food handler must keep a high degree of personal cleanliness, shall wear suitable protective clothing and have received suitable hygiene training. In addition the FBO shall ensure that:-

- a) appropriate facilities are available to maintain adequate personal hygiene (including facilities for the hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities)
- b) surfaces in contact with food are to be in a sound condition and be easy to clean and, where necessary, to disinfect. This will require the use of smooth, washable, corrosion-resistant and non toxic materials, unless the food business can satisfy the Authorised Officer that other materials used are appropriate.
- c) adequate provision is to be made for the cleaning and, where necessary, disinfecting, of working utensils and equipment
- d) an adequate supply of hot and/or cold potable water to be available
- e) where foodstuffs are cleaned as part of the business operation, adequate provision is to be made for this to be undertaken hygienically
- f) adequate arrangements and/or facilities for the hygienic storage and disposal of hazardous and/or inedible substances and waste (whether liquid or solid) are to be available
- g) adequate facilities and/or arrangements for maintaining and monitoring suitable food temperature conditions are to be available
- h) foodstuffs are to be so placed as to avoid the risk of contamination so far as is reasonably practicable

Furthermore, the consent holder must put in place, implement and maintain a permanent procedure based on the HACCP principles.

**Any person who engages in street trading in a designated consent street unless authorised by the Council under the provisions of Schedule 4, Local Government (Miscellaneous Provisions) Act 1982 commits an offence and is liable, on conviction, to a fine not exceeding £1000 per offence i.e. for each day of trading without consent.**