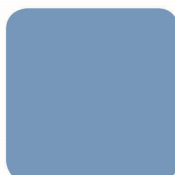
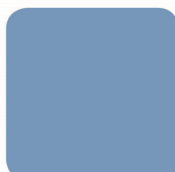




# Draft Street Trading Policy

## April 2017



Images courtesy of Stuart Walker Photography and [www.sjstudios.co.uk](http://www.sjstudios.co.uk)

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## 1.0 Introduction and purpose

- 1.1 Carlisle City Council (“the Council”) has adopted the provisions of Schedule 4, of the Local Government (Miscellaneous Provisions) Act 1982, (“The Act”) for Street Trading which allows for the regulation of street trading within the district.
- 1.2 In formulating this Street Trading Policy the Council has had regard to the Regulators Compliance Code and in particular how it might support or enable economic growth for compliant businesses whilst protecting existing businesses, local amenity, the vulnerable and the environment.
- 1.3 This Policy will be applied to the whole of the district of Carlisle and every street within has been designated as a consent street to assist in consistency of decision making and enforcement. It follows therefore that street trading, within the consented areas may be regarded as an acceptable activity by the Council provided it is located where it makes a positive contribution, complements existing premises based trading, adds interest, diversity and consumer choice to the area; and does not adversely affect safety or local amenity.
- 1.4 The Council has detailed consent areas within the district (Appendix B) where street trading is deemed acceptable subject to the appropriate permissions.**
- 1.5 Before you can trade in any street you will need to obtain a Consent Permit from the Council’s licensing team. It is a criminal offence (punishable by a fine of up to a £1,000) not to do so.

## 2.0 Definitions

Within the terms of the Council’s Street Trading Consent Scheme, the following definitions shall mean:

**Authorised Officer:** An officer of the Council, authorised by it to act in accordance with the provisions of the Act.

**Consent:** Permit granted by the Council’s licensing team authorising the consent holder to trade on a designated street, in accordance with any conditions attached to the same.

**Consent Holder:** The legal person(s) or company who has been granted a valid consent by the Council.

**Consent Street:** Means a street in which street trading is prohibited without a trader being in possession of a valid Consent Permit issued by the Council’s licensing team.

**Mobile Street to Street Traders:** Means mobile traders such as, and including, ice-cream vans and mobile street to street vehicles; which move from street to street to trade for immediate custom, but do not stop for any substantial time. These types of businesses must have a mobile street trading consent to allow them to work within specific areas of Carlisle, unless deemed to be roundsmen.

**Mobile Structures:** Trading structures, which are potentially readily moveable from site to site.

**News vendor:** Seller of newspapers and magazines e.g. The Big Issue.

**Pedlar:** A pedestrian who goes to their customers rather than allowing them to come to the trader; trades as they travel rather than travels to trade. For the avoidance of doubt if a stall or barrow is set up and waits for people to approach rather than approaching them, then they require a street trading consent and are not a pedlar.

**Roundsman:** Someone who follows the round of their customers, taking orders and delivering earlier orders e.g. a milkman.

**Static Mobile Structures:** Trading structures which are not built as a permanent fixed building, but is a structure located in a fixed position, but is potentially still moveable.

**Street:** The term 'Street' includes any road, footway, or other area (or part of) to which the public have access without payment (includes car parks, lay-bys, private roads, industrial trading estates; private land - this includes potential access, that is the right to access, rather than just actual use); and any service area as defined in section 329 of the Highways Act 1980.

**Street Trader:** Means a trader who requires a Consent Permit to trade or who has such consent.

**Street Trading:** The selling, exposing or offering for sale of any article in any street. Only those items specifically permitted by the street trading consent can be sold by the consent holder. For clarity, this means no living thing shall be sold on any street; nor the sale of any second hand electrical goods, counterfeit goods, DVDs or similar merchandise.

**The Council:** Carlisle City Council.

## **3.0 Legal and Exemptions**

### **3.1 Exemptions**

The following street trading activities are exempt from the requirement to obtain a prior consent from the Council:

- Trading by a person acting as a pedlar under the authority of a pedlar's 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 an enactment or order.
- Trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- Trading as a news vendor (providing certain operating conditions are met).
- Is carried on at premises used as a petrol filling station; or
- Is carried on at premises used as a shop or in a street adjoining premises so used and as part of the business or shop.
- Selling things, or offering or exposing them for sale, as a Roundsman.

Please note that it has been established in law that street trading controls apply to mobile ice cream sales as they are not roundsmen and therefore need consent to operate in Carlisle.

### **3.2 Charitable Street Trading Permits**

The Council issues permits for charitable street collections. Persons may be permitted in any street or public place to collect money or sell articles for the benefit of charitable or other purposes. Collections cannot be held in any street or public place unless a permit has been obtained.

An application form and further guidance for such a permit can be obtained from the Council's Licensing team.

It is not intended that this Policy should apply to those who are simply promoting services or events within the area. Each application will be considered on its own merits so that individual circumstances may be taken into account and exceptions may be made to this policy where appropriate.

### 3.3 Occasional Consents

Trading at one off events to which the public have access, without payment, such as outdoor school fetes, community fundraising events, carnivals, or other non-profit making events; where such events would be run for the benefit of the community and as such any financial gain is re-invested in the community will be deemed not to require consent.

However, any commercial trader attending such an event will be required to hold an occasional street trading consent and give a minimum of 14 days' notice of the application.

### 4.0 Process

The Licensing Manager [acting under the authority of delegated powers], will use the criteria listed below to assist in determining any street trading consent applications.

Any representations made about the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made. Please allow a minimum of 14 days for the consultation process.

Each case will be assessed on its own merits.

4.1 Street trading consents **will not normally be granted** where there is one or more of the following:

- Public Safety: Where the location of the proposed activity presents an unacceptable risk to the public for instance in terms of road safety, obstruction, fire hazard etc. The term "public" includes the trader, any staff or visitors together with customers and anyone else using the street.
- Where any proposed trading is within 50 metres of a school entrance.
- Avoidance of Nuisance: Trading must not present an unacceptable risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from council officers, other enforcement officers and the police shall be taken into consideration.
- Prevention of Crime and Disorder: The street trading activity should not present a risk to good public order in the locality in which it is situated. This may for example be an issue in respect of applicants wishing to trade at later hours. Observations and comments from Police will be taken into consideration.

- Suitability of the trading unit: Both internally and externally the unit should be of a good quality design, safe construction and not adversely affect the amenity of the locality. The Council expects a high standard of presentation and appearance from its street traders. Tables or stalls used for street trading shall not normally be more than four metres in length and one metre in width. No items shall be placed on the floor or within half a metre of it. Bread trays/baskets or similar containers must not be used to provide storage, shelving, support or display for goods; and items placed next to the stall or table must be immediately adjacent to it.
- Needs of the Area: The adequacy of other trading outlets will be taken into consideration in relation to:
  - The presence of like outlets already existing in the immediate locality (50 metres) of the proposed street trading site.
  - The general needs of a locality, should no comparable outlets exist.
  - Where there is uncertainty as to whether there is a genuine need for the trader's business then the applicant may have to demonstrate to the Council the need for the proposed trading activity. Potential applicants should note that the licensing team are unlikely to approve street trading within the car parks, green spaces, industrial estates or the City Centre except those areas highlighted in appendix B.

4.2 Consent holders may be asked to move their trading position from time to time, if it is considered necessary to do so by the Council.

4.3 Compliance with legal requirements: The proposed street trading activity should be carried out from a trading unit that complies with all the relevant legislation.

The vehicle, van, trailer, stall, unit or other device to be used for the proposed street trading activity may require inspection by an authorised officer of the Council before the issue of any street trading consent. This will particularly be the case where food and health & safety officers need to inspect trailers from which it is proposed to sell food items.

Traders will need to ensure compliance with legislation and any Orders or Regulations including any subsequent revisions, for example:

- Food Safety Act 1990;
- Food Safety & Hygiene (England) Regulations 2013;



- Health and Safety at Work etc. Act 1974;
- Environmental Protection Act 1990;
- Licensing Act 2003; (only if providing hot food or drink between 11pm and 5am)
- Town and Country Planning Acts;
- Road Traffic Acts;
- Trading Standards legislation;
- Traffic Restriction Orders: any conflict with traffic orders such as waiting restrictions or prohibition.

**Note: Prior to applying, the applicant must consult with Highways (Cumbria County Council) and Highways England as to whether any restrictions exist that might impact on their trading activity.**

- Planning Permissions and Consents: Whether this is in place.

Note: where a time limited planning permission is in place, the street trading consent is deemed to be revoked as soon as the planning permission lapses.

- Suitability of the applicant: Previous failures, without reasonable explanation to comply with relevant legislation, failure or neglect in paying consent to trade fees may result in a consent being refused, revoked or not renewed.

**The applicant will be required to provide proof that permission has been given by the landowner/manager for trading on their land which includes highways. Applicants should note that any fee for a concession by the landowner is separate from the fee which must accompany an application for a Street Trading Consent.**

- Market days: Street markets will take priority over consent holders.



## **5.0 Conditions, management and enforcement**

The Licensing Manager will keep a register of all the consents issued.

The Council's Regulatory Panel will consider revocations, refusal and appeals. Examples of typical Street Trading Conditions are specified in Appendix C.

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## 6.0 Appendices

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## 6.1 Appendix A: Order

### STREET TRADING ORDER

### CARLISLE CITY COUNCIL

### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

### SCHEDULE 4 RESOLUTION

The Council of the City of Carlisle hereby makes the following Order:

1. That **all streets** within the District of Carlisle City Council be designated under the above provisions. The Wards to which this order applies are specified in Schedule.
2. That the streets within the District of Carlisle be designated as “**consent streets**” meaning streets in which street trading is prohibited without the consent of the City Council.

The following are **NOT** Street trading for the purpose of the Act:

- a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871;
- b) 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;
- c) trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980;
- d) trading as a news vendor;
- e) trading which:
  - i) is carried on at premises used as a petrol filling station, or;
  - ii) is 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;
- f) selling things, or offering or exposing them for sale, as a roundsman;
- g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
- h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;

i) the doing of anything authorised by regulations made under Section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916.

DATED THIS *(Day)* DAY OF *(Date)* 2017

Signed

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## **SCHEDULE**

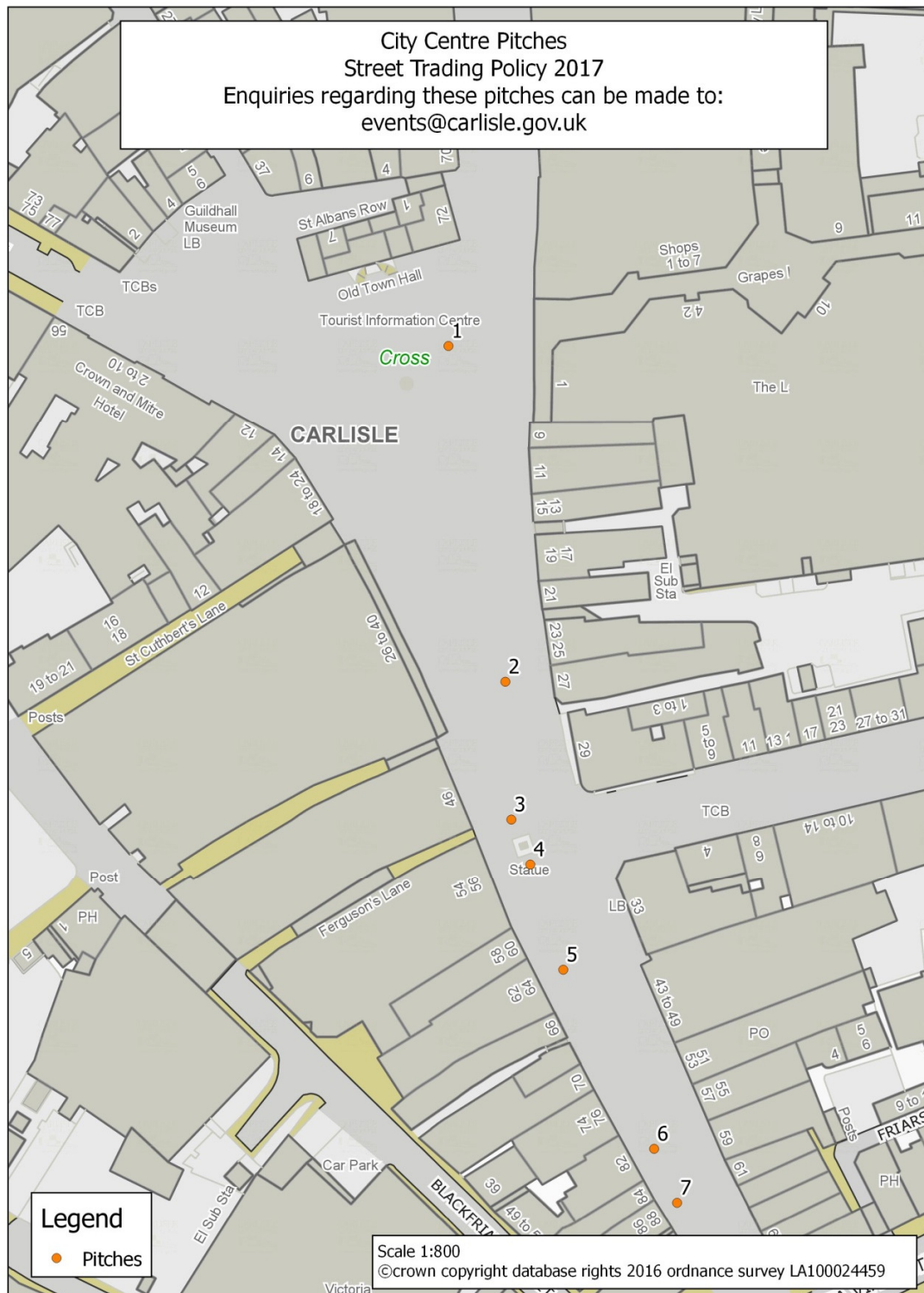
### **THE WARDS TO WHICH THIS ORDER APPLIES**

The following Carlisle City Council wards:

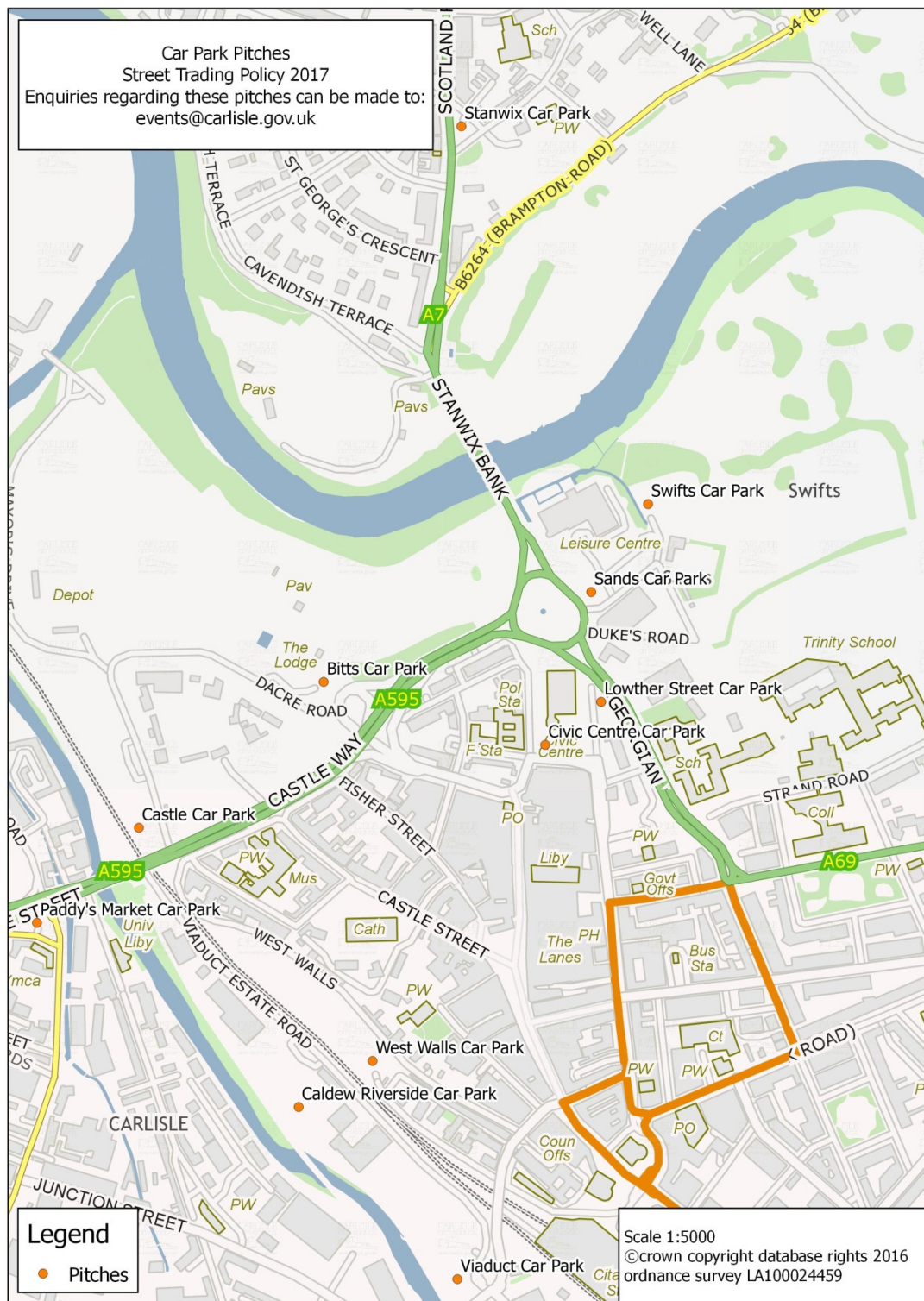
- Belah
- Belle Vue
- Botcherby
- Brampton
- Burgh
- Castle
- Currock
- Dalston
- Denton Holme
- Great Corby and Geltsdale
- Harraby
- Hayton
- Irthing
- Longtown and Rockcliffe
- Lyne
- Morton
- St Aidan's
- Stanwix Rural
- Stanwix Urban
- Upperby
- Wetheral
- Yewdale.

This Order shall come into operation on the *(day)* day of *(date)*

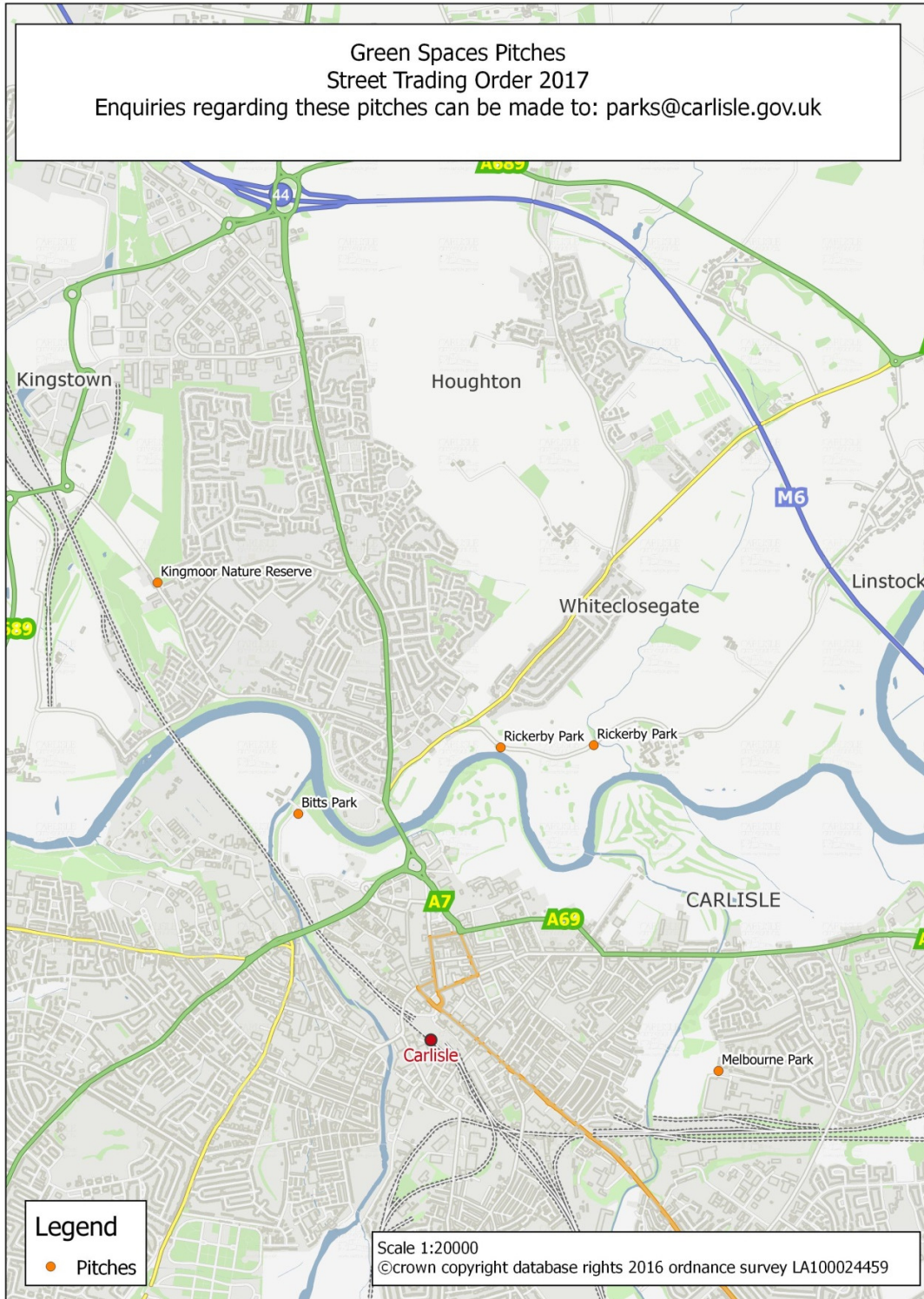
## 6.2 Appendix B: Maps of potential pitches for consent













### 6.3 Appendix C: Street Trading Consent: Example of Conditions

#### CITY OF CARLISLE

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

#### TERMS AND CONDITIONS ATTACHED TO A CERTIFICATE OF STREET TRADING CONSENT

1. This Street Trading Consent is issued to cover a stationary van/portable stall/barrow or other vehicle.
2. Street Trading Consent Certificates are granted for a maximum of 12 months only but may be revoked at any time. The Council also reserves the right to vary these conditions at any time by serving notice in writing.
3. Trading is only permitted in streets designated as "Consent Streets". Permission shall be sought from the land owner before trading.
4. Trading is not permitted which gives rise to an obstruction on the street or danger to persons using it, or causes nuisance or annoyance (whether to persons using the street or otherwise).
5. All vehicles covered by this certificate are to be mechanically sound and hold a current MOT Certificate and Motor Insurance Policy. The trader should also be covered by a Public Liability Insurance.
6. All vehicles and storage premises must be inspected and approved by the Council's Food and Public Protection Team under the relevant statutory provisions and all personnel should comply with the relevant code of practice regarding personal hygiene.
7. The vehicle and storage premises must be maintained at all times in the same conditions as when inspected and passed. Failure to comply with this directive will result in the Street Trading Consent Certificate being instantly revoked.
8. No musical chimes or horn may be used to advertise wares after 1900 hours or before noon and at any other time only in accordance with the relevant code of practice.

9. No street trading is allowed 50 metres of any school or place of education between the hours of 0730 and 1700 Monday to Friday except on the days designated by the Director of Education as school holidays.
10. The Council must be advised, in writing, within seven days of any conviction for motoring or other offences. Failure to comply may result in the certificate being revoked.
11. Street trading is only permitted during hours allowed by law for the sale of the intended wares. The vehicle will cease to trade once the hour has been reached that it becomes illegal to sell any of the intended wares.
12. Vehicles and storage premises are to be made available for inspection on the request of an officer of the City Council or an officer of the law in the execution of their duties.
13. Trade waste shall be stored and disposed of responsibly and in compliance with trade waste legislation. Failure to correctly dispose of trade waste may result with any costs incurred by the Council being recharged to the trader.
14. Any applicant found to have given false information, or does so after a Certificate of Street Trading Consent has been granted, may have his certificate suspended or revoked.
15. The Certificate of Street Trading Consent plate, issued by the Council, must be clearly displayed on the rear or near side of the vehicle.
16. The trader may at any time surrender this consent to the Council and it shall then cease to be valid.
17. The trader may employ any other person to assist them in their trading without a further consent being required.
18. 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.
19. Where this consent is granted for a trailer, the towing vehicle shall remain with the trailer at all times when positioned on the highway.



## 6.4 Appendix D: Application form and guidance



# Application for street trading

## How will we use your information?

We will use the information you supply to provide an appropriate, timely and effective service. We may share the personal information between our services and partner organisations, such as the police and other government bodies. We will do so when it is of benefit to individuals or for the purpose of preventing and detecting fraud. Read our privacy notice at [www.carlisle.gov.uk](http://www.carlisle.gov.uk)

## Application details:

<b>Type of application</b>	<input type="checkbox"/> New	<input type="checkbox"/> Renewal
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<b>Applicant's full name</b>	
<b>Applicant's permanent address</b>	
<b>Phone number</b>	
<b>Email address</b>	

## Trading details:

<b>Site address for trading</b>	For renewals, this must be the existing site address:
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<b>During which hours do you intend to trade on each day?</b>	Monday	Tuesday
	Wednesday	Thursday
	Friday	
	Saturday	Sunday

<b>Articles to be sold</b>	
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## Vehicle details:

<b>Make and model</b>			
<b>Registration number</b>			
<b>Will vehicle be moved between trading periods?</b>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

## Enclosed with this application

The following **must** be enclosed with this application – please confirm each item is enclosed:

Photograph of the applicant	<input type="checkbox"/>
Photograph of the vehicle	<input type="checkbox"/>
Site location plan, for Category A traders only <b>- see guidance notes</b>	<input type="checkbox"/>
Consent from the land owner	<input type="checkbox"/>
Copy of the vehicle's current MOT certificate	<input type="checkbox"/>
Copies of electrical and gas safety records, as applicable	<input type="checkbox"/>
Public Liability Insurance	<input type="checkbox"/>
Correct fee <b>- see guidance notes</b>	<input type="checkbox"/>

Guidance notes can be found at [www.carlisle.gov.uk](http://www.carlisle.gov.uk)

### **Incomplete applications will be returned and not processed.**

Street trading consents are not transferable and they cannot be sold or sublet. The hours of trading, location of trading and products sold cannot be changed during the course of the consent. Consent is only valid for the applicant and the vehicle specified on the application.

The applicant for consent must also be the food business operator.

## Declaration

I agree to comply with the “Conditions for Street Trading Consents” included within the “Street Trading Policy” published at [www.carlisle.gov.uk](http://www.carlisle.gov.uk)

I have enclosed all required photographs and documents, as indicated above.

I agree that if I change vehicle during the course of this consent, I will notify Carlisle City Council’s licensing team and apply to transfer the consent to my new vehicle.

I understand that if I do not comply with the terms and conditions of any consent issued, the consent may be revoked or not renewed.

I understand that if any of the above factors change, my street trading consent will be revoked immediately and I may be prosecuted for trading without a valid consent.

<b>Applicant’s signature</b>	
<b>Print name</b>	
<b>Date</b>	

Form to be returned to:

**licensing team, Carlisle City Council, Civic Centre, Carlisle, CA3 8QG**



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## Carlisle City Council - street trading consent

### Application guide for mobile street traders

Street trading is selling, exposing or offering for sale any article or living thing in a street.

Mobile street traders must apply for and be granted street trading consent by us before they trade in Carlisle. Traders without consent will be liable to prosecution.

We cannot grant a pitch or a particular trading space. It is the street trader's responsibility to get permission or consent from the landowner before applying for street trading consent from us.

### Guidelines

The guidelines below set out our standards for deciding and enforcing street trading in Carlisle.

They are not a full statement of the law on street trading consent.

You should refer to legislation or seek legal advice for further information.

In relation to trading, the law defines:

- **street trading** as "the selling or exposing or offering for sale of any article (including a living thing) in a street"
- **a street** as "any road, footway, beach or other area to which the public have access without payment" and "an area of land adjoining, or in the vicinity of, a special road, being an area in which there are, or are to be, provided service stations or other buildings or facilities to be used in connection with the use of the special road"
- **consent** as giving the holder permission to trade at a specified location, providing the vehicle is legally parked.

### Categories

Category	Description
<b>A</b>	Static vehicle operating 1 to 7 days a week, between 7am and 5pm
<b>B</b>	Mobile vehicle remaining on any one site for less than one hour in any 24 hour period
	Replacement vehicle plate during consent period

Go to [www.carlisle.gov.uk](http://www.carlisle.gov.uk) to check the current fee for each consent category.

For Category A consents, your application must include a site plan - scale 1/500 - showing where the vehicle is situated in relation to other premises.

### **Payment**

Payment must be in full at the time of application. You can pay by:

- credit or debit card - call 01228 817200; or

### **Advertising your application**

Applications for new street trading consents must be advertised as part of the application process. We will display a notice at the location giving details of your application.

### **Who we consult**

We will invite the following to comment on your application:

- Cumbria Police
- Cumbria Fire and Rescue Service
- Highways England
- Ward councillors
- Cumbria County Council's highways team
- Environmental Health
- Any other potentially affected party.

### **Planning permission**

You may need planning permission if you wish to trade from a particular plot of land. It is your responsibility to check with our planning department before applying for a street trading consent.

### **Parking restrictions**

Traffic orders such as waiting restrictions must be complied with at all times. We may give consent for a vehicle to trade from a specific site but this does not give staff or customers permission to park or use the road in breach of any waiting or traffic restrictions.

If you have chosen a site close to double yellow lines or a parking permit zone, you, your staff and your customers must park your vehicles legally elsewhere and walk to the trading vehicle.

If new traffic restrictions are applied to your trading site during the period of your Street Trading Consent, you will be given prior notice wherever possible.

Traffic restrictions will always take precedence over street trading consents. If new restrictions such as waiting or parking limits are introduced, you may apply to have your consent transferred to a new location.

### **Street Trading Policy**

The full policy can be found at [www.carlisle.gov.uk](http://www.carlisle.gov.uk)

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