

Report of the Head of Policy, Partnerships and Property

WELLINGBOROUGH MARKET AND STREET TRADING ARRANGEMENTS

1 Purpose of Report

- 1.1 To bring forward proposals for delivering improvements in market and street trading activities.

2 Executive Summary

- 2.1 This report follows a report presented to the Committee on 20th January 2010 and incorporates recommendations of the Market Review Working Group established by this Committee to review six of the original recommendations in that report

3 Appendices

Appendix 1: Revised Market Regulations

Appendix 2: Amendment to Street Trading Regulations

Appendix 3: Response from consultation with traders on the Friday Market

Appendix 4: Summary of public responses

Appendix 5: Plan of street trading pitches

4. Proposed Action:

- 4.1 **The Committee is invited to RESOLVE that the Council continue with the current arrangement for consultation with market traders.**
- 4.2 **The Committee is invited to RESOLVE that Officers be instructed to consider the feasibility of relocating the stalls in Pebble Lane to Orient Way and providing additional parking spaces on Market Square.**
- 4.3 **The Committee is invited to RESOLVE that Market Regulations be amended as set out in the Appendix 1 to this report**
- 4.4 **The Committee is invited to RESOLVE that the Street Trading Regulations be amended as set out in Appendix 2 to this report and the necessary steps taken to remove those street trading pitches identified for removal on the plan attached as Appendix 5 to the report.**
- 4.5 **The Committee is invited to RESOLVE that provided the 3 Street Traders identified in paragraph 6.34 of the report of 20th January agree to and abide by the proposed control measures and the revised regulations then they may continue to be granted Consents to trade in the street.**
- 4.6 **The Committee is invited to RESOLVE that proposals be brought forward under the Environmental Protection Act 1990 for the regulation of the distribution of leaflets in the town centre.**

5 Background

5.1 A report on the market was presented to the Development Committee in January 2010. The Committee resolved to set up a working group to further consider the following six recommendations in the original report:

- PROPOSAL: Appointment of a new permanent strategic consultative body
- PROPOSAL: Amendment to Market Regulations
- PROPOSAL: Mandate to enforce certain Market Regulations
- PROPOSAL: Retention of 3 Street Traders
- PROPOSAL: Amendment to Street Trading Regulations
- PROPOSAL: Adoption of powers to control the distribution of leaflets

5.2 The Market Review Working Group (MRWG) was constituted with Cllrs G Lawman (elected chairman), Warwick, Timms and MaGuire. Meetings supported by Officers were held on 10th February, 24th March and 20th May 2010.

6 Discussion

6.1 **PROPOSAL: To appoint a permanent strategic consultative body.**

- (a) Having considered the matter the MRWG would recommend that the Committee does not proceed with the original proposal, which was to broaden the present market consultation arrangement to include representatives of other parties with an interest in town centre retail and trading activity. The MRWG is of the view that such an expansion could result in duplication of activity by bodies such as the Town Centre Partnership.

6.2 **PROPOSAL: To commission a strategic options review.**

- (a) This matter in the original report to Committee was not formally referred to the working group but the MRWG did consider some longer-term options during the course of its deliberations.
- (b) As a result of these deliberations the MRWG would request that the Committee instruct Officers to consider the feasibility of relocating the stalls in Pebble Lane to Orient Place and providing additional parking spaces on the Market so as to enable the top end Pebble Lane to be made vehicle free.
- (c) The MRWG also decided to canvas views of the existing market traders and this was actioned by questioning traders on one Friday market. It should be noted that traders on other general markets and the Tuesday market have not been consulted. The responses are set out in appendix 5 to this report
- (d) There has not been any specific consultation with businesses on the locale. A wider consultation of business and the public was mooted and will be carried out at the appropriate time
- (e) Eight people responded by email to an article in the Evening Telegraph which requested public opinion on the market. Those responses are set out in appendix 6 of this report.
- (f) Officers propose to consider and implement such suggestions as are

feasible and viable within existing operational means and budgetary provision.

6.3 PROPOSAL: Amendment to Market Regulations.

- (a) This was considered by the MRWG and no specific recommendations for further amendment have arisen other than for greater clarity around the issues of parking by traders in possession of disabled parking permits and traders use of specialist display equipment

6.4 PROPOSAL: Mandate to enforce certain market regulations.

- (a) This matter was considered by the MRWG which concluded that as the market regulations already contain arrangements for enforcement and the proposed revised regulations address particular concerns there is no need to seek a specific resolution to this effect. The MRWG asked Officers to adopt a commonsense and pragmatic approach to enforcement.

6.5 PROPOSAL: Retention of three street traders.

- (a) This was considered by the MRWG which determined to recommend the proposal and suggested matters to consider for controlling the activity to improve the conduct of street trading:
- To require the flower trader to decorate his metal racks in line with the proposed street trading colour scheme and reduce the extent of spread
 - To require that the bag trader be restricted to using an approved form of gazebo(s) with no make-shift stalls and to reduce the extent of spread
 - To investigate the potential for the fruit & vegetable trader to have a permanent fixed stall so as to improve appearance

6.6 PROPOSAL: Amendment to Street Trading Regulations

- (a) This was considered by the MRWG which determined to recommend approval with the addition of arrangements for the control of banners. The MRWG also proposed the removal of certain pitches. These are shown hatched on the plan at Appendix 5.
- (b) The MRWG also felt that it would be helpful if clear guidance as to what is and is not acceptable could be given to persons proposing to erect advertising banners. The issue of banners is being considered in detail by the Built Environment service and proposals will be brought forward for consideration in due course. In the meantime greater publicity will be given to the regulatory regime attaching to banners so that persons proposing to erect banners know what is required of them and the constraints they face.

6.7 MARKET TRADING POSITION

- (a) The position at the end of 2009/10 shows that the net cost to the Council of operating the market decreased by some 12%, from £62,092 in 2008/9 to £54,461. This is a result of efforts made to reduce expenditure, which more than offset the 3.75% fall in income over the period (from £97,401 to £93,750). Given the difficult economic climate and the continuing national

decline in markets to have maintained income at near 2008/9 levels is pleasing.

- (b) The trading position remains fragile but since the start of the current financial year two additional permanent traders have been recruited.

7 Legal Powers

- (a) Local Government (Miscellaneous Provisions) Act 1982 grants power to make regulations and fee charges for trading in Consent Streets.
- (b) The Food Act 1984 grants power to make regulations and fee charges for Markets

8 Financial and Value For Money Implications

- (a) Termination of 3 street traders would lose £3,900 of income if implemented.

9 Risk Analysis

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
Taking no action in respect of seeking to improve the Market.	The Market could decline and trading collapse with the likelihood of significant financial loss.	High probability.	Continue to take action to improve the trading position on the Market.
Taking no action to improve street trading.	The street remains unattractive and may dissuade investment in regeneration.	Low.	Enhance management of the trading regulations.
Taking no action in respect of regulation of leaflet distribution.	Continuation of annoyance to town centre visitors and increase in the litter problem.	Medium.	Introduce regulatory controls.

10 Implications for Resources

- 10.1 The various measures will have a reduction impact in the longer term.

11 Implications for Stronger and Safer Communities

- 11.1 An improved market could bring benefits to the local community by way of social and economic improvement.

12 Implications for Equalities

- 12.1 Proposals are not sufficiently advanced to require an impact assessment

13 Author and Contact Officer

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14 Consultees

S Wood, Head of Built Environment

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15 Background Papers

Notes of the Market Review Working Group.

Consultation submissions.

Borough Council of Wellingborough

DRAFT Wellingborough Market Regulations 2010

In this copy, additions and amendments to the current regulations are in bold italic. Explanatory footnotes will not appear in the final version

June 2010

Wellingborough Market: Rules & Regulations

The Borough Council of Wellingborough (the Council) holds the Market Charter rights to hold a market within the Borough on Wednesday and under statutory powers has authorised markets to be held on other days.

The operation of markets and the conduct of all those trading is governed by the rules and regulations for the time being as periodically laid down by the Council.

No failure or delay by the Council in exercising any right, power or privilege under these rules and regulations shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege.

Glossary of Terms

- ◆ Market Days are those days designated from time to time by the Council.
- ◆ The Stall includes any fixture, fitting, place or space provided by the Council within the Market Area which is designated or used or intended to be used for the sale of goods or services. The definition of stall includes any mobile unit, trailer or adapted vehicle not provided by the Council, approved and authorised by the Market Manager within the Market Area.
- ◆ The Stallholder means any person licensed by the Borough Council under these regulations or otherwise permitted to use a stall within the Market Area by the Market Manager.
- ◆ Goods include provisions, commodities and articles of whatsoever nature brought on to the Market Area for the purposes of retail sale **and includes services offered for purchase.**
- ◆ Vehicle includes any car, motor cycle, van, truck, lorry, cart, handcart, wheelbarrow or trailer used or designed for conveying goods to from and within the Market Area.
- ◆ The Market Area is the area defined by and known as the Market Square and includes Market Street, Pebble Lane, Whitehorse Yard and Orient Way, Wellingborough.
- ◆ Permanent Trader means any person licensed by the Council to trade on the Market on a regular basis and who has requested to be a Permanent Trader
- ◆ Casual Trader means any person licensed by the Council to trade on the Market and who has requested to be a Casual Trader
- ◆ Assistant means any person or persons employed, with or without remuneration, by the Stallholder to assist in the business conducted by the Stallholder. The Market Manager may request proof that the Assistant is a bona fide associate of the Stallholder before allowing the Assistant to trade from the stall.
- ◆ The Market Manager means the person designated from time to time to be on duty in charge of the market or in the absence of that person the Council's Head of Policy, Partnership and Property **or any successor to the duties of that post as they relate to the Market.**

1.0 General Provisions

- 1.1 The Council, its Officers and assistants shall not be liable by contract or otherwise for any loss of, or damage to property however caused and whether or not due to the condition of the Market Area or stall or equipment used from time to time in the Market Area.
- 1.2 The Stallholder shall indemnify the Council, it's Officers and assistants against any claims, expense, loss, liability or proceedings whatsoever in respect of personal injury to or death of any person or any

material or physical damage to property which may arise as a direct or indirect consequence of the Stallholder's business conducted in the Market Area or any act or omission by the Stallholder or his Assistants whether or not done or committed in the course of the Stallholders business.

- 1.3 The Stallholder is required to provide keep and maintain a policy of insurance with a reputable insurance company in respect of Public Liability Insurance for third party claims :
- 1.3.1 The Stallholder shall not be permitted to trade unless appropriate valid insurance cover is available.
- 1.3.2 The Stallholder shall produce upon demand to the Market Manager a copy of the insurance certificate and at all other reasonable times shall keep proof of insurance cover and make it available for inspection.
- 1.3.3 The minimum level of Public Liability insurance cover required is £2 million (two million pounds).

1.4 **Eligibility to Trade**

- 1.4.1 A licence to trade on the Market Area may be granted to any person satisfying the criteria set out below, subject to the proviso that the Council reserves the right to limit or restrict trading licences for any particular Market or trading day at the Market Managers absolute discretion.
- 1.4.2 Any person seeking a licence to trade will be required to demonstrate compliance with Regulation 1.3 above and provide adequate proof of insurance cover.
- 1.4.3 The applicant must be able to adequately demonstrate to the satisfaction of the Market Manager that he/she is a bona fide Trader.
- 1.5 The official date of commencement of any licence shall be the authorised first day of standing unless the licence shall arise as a consequence of any change in the Regulations made by the Council.
- 1.6 The Market Manager may in exceptional circumstances alter, vary or rescind any of these regulations in respect of a particular Stallholder or groups of Stallholders subject to any such alteration, variation or rescission being of a temporary nature in the best interests of the Market.

1.7 **Applications for Permanent or Casual Trading Status**

Any trader wishing to become a permanent trader must comply with the following:

- 1.7.1 The applicant if they are or were a Casual Trader shall have conducted themselves in accordance with these regulations and have complied with the regulations in full.
- 1.7.2 Applications for Permanent Trader status are allocated subject to availability of stalls on the Market day or days involved, and the best interests of the market at the absolute discretion of the Market Manager and having regard to the applicant's record of conduct.
- 1.7.3 A Permanent Trader may request to be reclassified as a Casual Trader

Any new trader wishing to stand:

- 1.7.4 Should report to the Market Manager's Office on the Market day between 0700 and 0800 hours.
- 1.7.5 Will be required to satisfy the Market Manager regarding the competency to trade and legitimacy of the proposed trade
- 1.7.6 Produce evidence of insurance (Reg 1.3)

- 1.7.7 Provide full personal particulars for completion of the day licence ***including proof of identity and address***
- 1.7.8 Pay the daily licence fee in advance

Allocation of stalls to Permanent Traders where reasonably possible will take account of the traders' wishes for a particular position and also to be in the same position on each market throughout the year. However, this may not be possible due to operational circumstances and in the best interests of running a viable and vital market. Stalls not occupied may be allocated to any other trader. When status as a Permanent Trader lapses, the stalls may be reallocated to any other trader.

The Market Manager will allocate casual stalls between 0700 and 0800 hours. The allocation of casual stalls will be undertaken at the discretion of the Market Manager in the interests of the Market, other traders and the public.

The Council does not guarantee casual stalls will be allocated at any Market.

Casual Traders should not bring goods on to the Market Area or set up on a stall until they are licensed, the fee is paid and authorised to do so by the Market Manager.

Casual Traders enjoy a daily licence to trade and therefore should not assume that previously allocated casual stalls will be available.

1.8 Change of Stallholder Status & Details

The Stallholder is required to notify the Market Manager as soon as possible of any changes of address or personal circumstance affecting their trading licence.

2.0 Payment of Fees

- 2.1 All fees, tolls and charges from time to time levied for the use of stalls by the Council are to be paid on demand.
- 2.2 If the appropriate fee is not paid for any particular market day or days at the commencement of trading, the Council reserves the right to demand that the Stallholder vacates the stall and remove their goods from the Market Area.
- 2.3 If the appropriate fee is not paid for any particular market day the right to trade ***may at the absolute discretion of the Council¹*** be withdrawn and the licence revoked.
- 2.4 Permanent Traders are required to pay their fees in advance on ***a four-weekly²*** basis. If the fees are not paid in accordance with Regulation 2.1, Regulation 2.2 will be applied.
 - 2.4.1 If the non-payment arises from a genuine error or omission, the Stallholder may be reinstated at the discretion of the Market Manager.
 - 2.4.2 If any fees or arrears shall be unpaid after 10 days of having fallen due under these provisions all outstanding monies shall incur interest on a daily basis at the rate of 5% above the base rate of Midland Bank plc. ***An administrative charge of £25 shall be applied in respect of any cheque, direct debit or standing order that is not honoured on presentation***
 - 2.4.3 In all regards the Council's decision will be final and binding on the parties.

3.0 Market Hours

¹ Previously 'will'. Change made as the previous provision was unworkable.

² The previous requirement was monthly. Having a four-weekly cycle simplifies the invoicing procedure and enables more traders to set up direct debit or standing order arrangements

- 3.1 The Trading Hours shall be from 0830 to 1700 hours on each Market Day or during such times as the Market Manager may from time to time direct.
- 3.2 The Stallholders must not bring goods on to the Market Area prior to 0530 hours nor allow goods to remain on the Market Area after 1800 hours or during such times as the Market Manager may direct. Access for setting up is at the Market Managers discretion but will be no less than 1 hour prior to the Market Trading Hours.
- 3.3 If a Permanent Trader fails to occupy his/her allocated stall by 0800 hours on any Market day, the Market Manager may offer the use of the stall for the day on a casual basis to another trader in accordance with the provisions for allocating casual stalls.
- 3.4 The Market Manager may exercise reasonable discretion and without prior notice cancel the market on any given day and the Council shall not be liable for any loss incurred as a result of the cancellation or make any refund. ***This includes cancellation due to inclement weather. If a market is not held by virtue of the day being a public holiday then no charge shall accrue. A cancelled market does not adversely affect the calculation of any loyalty bonus.***
- 3.5 The Stallholder or his/her Assistants must occupy the stall at all times during the trading hours.

4.0 Vehicles

- 4.1 All vehicles of Stallholders and Assistants and delivery tradesmen must be removed from the Market Area during the Market Hours. This includes parking bays designated for Disabled People save where the Stallholder or Assistant is the holder of and displays a valid disabled persons parking badge issued under the national scheme or any successor scheme.
- 4.2 For the purpose of packing up and leaving, stallholders are not permitted to bring vehicles on to the market before 1600 hrs as regards Pebble Lane or before 1500 hrs as regards the remainder of the market.
- 4.3 Stallholders whose vehicles are found to be causing an obstruction of the highway ***or the market*** will be asked to remove the obstruction. Offences will be treated as a breach of the regulations and will fall subject to the disciplinary procedure. ***For the avoidance of doubt this includes obstruction at the top end of Pebble Lane.***
- 4.4 Parking is provided for Stallholder's vehicles as follows
 - 4.4.1 Vans & Large HGV vehicles may use designated spaces in Jackson's Lane public car park subject to availability and subject to regulations and charges in force at the time. The Council reserves the right to withdraw this concession at any time on a temporary or permanent basis.
 - 4.4.2 Cars and light vans may use any other public car park subject to regulations and charges in force at the time ***but not any spaces on the market square***

5.0 The Employment of Young People

- 5.1 Stallholders are required to comply with the provisions of the Children & Young Persons Act 1933, the Education Act 1944-48, the Employment of Children Act 1973 and any other local bylaws relating to the employment of children. This includes compliance with the Northamptonshire County Council Bylaws made in accordance with Section 236(10) of the Local Government Act 1972.
- 5.2 The stallholder shall not employ any person under the age of 13 years. Employed includes assisting in the trade or occupation even where the child receives no monetary reward and includes any child related to the Stallholder.

6.0 General Conduct

- 6.1 The Stallholder will bound by these Regulations and if found to be in breach of the Regulations would be subject to the disciplinary procedure defined under the Regulations.

- 6.2 Stallholders, and their Assistants, are expected to conduct business in a proper courteous and orderly manner to the satisfaction of the Market Manager.
- 6.3 The Stallholder shall ensure compliance by their employees and Assistants of these regulations and the licence to trade.
- 6.4 The Stallholder, their employees and Assistants shall comply with the reasonable directions of the Market Manager or his authorised deputy. Failure to comply will be treated as a disciplinary matter.
- 6.5 The Stallholder must be actively engaged in the business and in trading from the stall.
- 6.6 No persons other than the Stallholder or their Assistants shall use the stall or sell or offer for sale any goods from the stall.
- 6.7 The stall should not be used for any other purpose or business whatsoever other than that described within the licence to trade.
- 6.8 The use of obscene language, physical abuse, threatening behaviour or any act or conduct, which may cause injury, anxiety or offence to other Stallholders, Market Officers or members of the public, is strictly forbidden. Abusive or discriminatory behaviour of a racist or sexist nature is also strictly forbidden. Such behaviour shall be regarded as a gross breach of the Regulations.
- 6.9 Any act, including shouting, which is performed to a degree or extent, which is likely in the opinion of the Market Manager to be a nuisance or annoyance to other traders or the public, is forbidden. Stallholders shall not act in any way, which may cause persons to obstruct the gangways.
- 6.10 The use of radios, tape recorders, record players or the production or reproduction of music may be permitted in connection with, but not limited exclusively to, music related business of the Stallholder at the absolute discretion of the Market Manager.
- 6.11 The Market Manager may request any Stallholder to remove from display any article(s) which in his opinion, or that of any duly authorised officer of the Council, is unlawful to sell or is likely to be offensive to members of the public at large or could bring the Council in to disrepute, whereupon the Stallholder shall remove such articles immediately and desist from offering them for sale henceforth. In the event of the stallholder refusing to remove such article(s) from display, or removing them but returning them to display subsequently, the Stallholder shall render himself/herself liable to instant dismissal from the Market subject to the disciplinary procedure appearing hereunder.
- 6.12 Goods may not be offered for sale by wholesale or auction.
- 6.13 The hawking of goods for sale is prohibited.
- 6.14 The Stallholder shall comply with and ensure that all Assistants comply with all relevant Statutes, Statutory Instruments, Local Acts, Bylaws and Common Law in the conduct of the business.
- 6.15 The Stallholder should ensure that all goods offered for sale comply with Regulation 6.14 above and are of suitable quality.
- 6.16 ***No person shall be permitted to smoke whilst standing on a stall where food is sold.***
- 6.17 ***Vehicles must only be driven by someone licensed to do so and must observe a speed limit of 5mph on the market and hazard lights must be used. Reversing shall be kept to a minimum.***

7.0 Conditions Relating to the use of Stalls

- 7.1 The Stallholders may only use those specific stalls allocated to them by the Market Manager under the licence to trade.
- 7.2 The Stallholder must display at all times whilst trading in the Market Area a prominent sign of a type approved by the Market Manager stating legibly the business name of the Stallholder.

- 7.3 No sign shall be displayed on the stall other than a sign connected with the business of the Stallholder. The sign may not be displayed without the prior approval of the Market Manager. Any such sign should comply with the Trades Description Act and shall not be misleading or offensive to the public.
- 7.4 All goods for sale must be clearly marked and priced. ***It must be made clear to potential purchasers whether or not the goods are new or used.***
- 7.5 ***Subject to regulation 7.7*** all goods for sale must be stored, exhibited or exposed for sale within the confines of the stall.
- 7.6 No goods may be hung from the front of the stall or be allowed to encroach into the public gangways of the Market.
- 7.7 End displays ***and specialist display equipment necessary to display the articles for sale to best effect and which cannot reasonably be accommodated within the confines of the stall may be used³ only with the express consent of the Market Manager. Permission will not be granted in cases where in the opinion of the Market Manager the use of such display equipment is proposed as an alternative to the hire of additional stalls because of the quantity of articles to be displayed.***
- 7.8 Stallholders are responsible for the control, collection and removal of waste arising from their stall in such a manner as may from time to time be prescribed by the Council and for the cleanliness of the stall during and at the close of the Market. Spilled liquid material must be suitably cleaned up. ***Stalls must be left clean upon departure from the market. An administrative charge of £10 shall be made to each trader who fails to leave the stall in a clean state.***
- 7.8.1 Stallholders are required to remove all general rubbish from the stall to the bins or containers provided by the Council in Angel Lane ***Stallholders should note that it is illegal to deposit commercial waste into street refuse bins and Stallholders found doing so will be subject to the Disciplinary Procedure.***
- 7.8.2 Stallholders are required to separate and remove clean cardboard waste that can be recycled from the stall to the designated area of bins provided by the Council in Angel Lane
- 7.8.3 Stallholders are required to co-operate in such other separation of waste as is reasonably possible for any other recycling scheme.
- 7.8.4 Stallholders are required to separate and make their own arrangements for the disposal of: waste raw meat, fish, eggs and their by products, asbestos containing materials, oil, vehicle tyres, gas bottles, batteries, electrical goods, fluorescent tubes and the like must not be deposited in the Councils waste receptacles⁴.***
- 7.8.5 Stallholders must not use the Councils' facilities for the general dumping of unwanted stock. Traders of fresh food may however dispose of unwanted or spoiled stock or stock that would spoil before the next market, subject to any authorised surcharge.
- 7.9 The Stallholder shall ensure that no goods, boxes, crates or similar articles, no trucks, trolleys or like vehicles and no litter shall be left or deposited in any gangway, open area, public highway or private property. Stall extension by way of extending canopies, sheets or gazebos are not permitted.
- 7.10 The Stallholders shall ensure free, unrestricted and unobstructed passage through the Market Area during Market Hours by the public.
- 7.11 Neither the Stallholder, nor his/her Assistants, shall remove or interfere with any property of the Council whatsoever, either at the stall occupied or any other stall.

³ An example is garment hanging rails

⁴ This is a general tidying of this clause to identify more clearly waste which cannot be disposed of to landfill

7.12 The driving, nailing, screwing, stapling or other fixing of any device into Council property is strictly forbidden. Temporary brackets and fittings belonging to the Stallholder may be permitted subject to the consent of the Market Manager and proper compliance with Health & Safety legislation.

7.13 No liquid waste is to be poured into gulleys or drains in the Market or the Highway.

7.14 Electrical Connections:

7.14.1 The Stallholder may only connect lighting units, which comply with the **appropriate** British Standards to the power outlets. In making the connection, the Stallholder must ensure that the lighting socket is properly sealed at the end of each Market to avoid electrical accidents and minimise risk of injury from electrocution.

7.14.2 Electrical heating equipment such as kettles, fan heaters and electric fires must not be connected to the power outlets.

7.14.3 Connections of electrical appliances may be permitted for display purposes but only with the permission of the Market Manager.

8.0 Non Occupation of Stalls by Permanent Traders

8.1 Non-occupation of the stall for reasons other than certified sickness must not exceed two consecutive weeks in any calendar year, except in exceptional circumstances and only with the prior agreement of the Market Manager.

8.2 Up to a maximum period of four weeks may be taken each year for holiday. Such holiday shall be notified to the Market Manager before absence.

8.3 If a stall is unoccupied for two consecutive weeks without notification of illness or holiday, the status as Permanent Trader may be revoked and the stall offered to alternative Stallholders through the casual allocation system.

8.4 Throughout all periods of absence the Stallholder will remain fully liable for the fees due in respect of the stall.

8.5 Throughout all periods of unauthorised absence the Stallholder will remain fully liable for the fees due in respect of the stall until the licence to trade is revoked or surrendered.

8.6 The onus falls to the Stallholder to notify the Market Manager of any anticipated absence.

8.7 The Market Manager may use discretion in relation to absences due to unforeseen circumstances.

9.0 Transfer of Stalls

9.1 The licence to trade is personal to the Stallholder and therefore can not be assigned or transferred to any other person.

9.2 In exceptional circumstances, the Council may issue a licence to trade to a new applicant in respect of an established stall where the Council is satisfied that a genuine sale of the retail business has been completed.

9.3 The underletting of stalls is strictly prohibited.

10.0 Resignation from the Market

10.1 The Market Manager is authorised to accept resignations in writing

11.0 Disciplinary Procedure

- 11.1 Any Stallholder found to be in breach of these Regulations and failing to comply with the directions of the Market Manager will face
- 11.1.1 For the first offence, a verbal warning requesting compliance with the Regulations
- 11.1.2 For a second subsequent offence within 12 months, a written warning setting out the immediate remedy required and seeking an undertaking as to future conduct.
- 11.1.3 A third offence within 12 months will result in the withdrawal of the licence to trade and exclusion from the Market.

These sanctions are without prejudice to any other right or remedy the Council may have whether by virtue of these regulations or otherwise

- 11.2 ***If in the opinion of the Market Manager the breach of these regulations is sufficiently serious as to justify suspension immediate or otherwise he*** may suspend a Stallholder's licence to trade for up to four weeks to enable investigation of alleged breach of the Regulations. During this period of suspension the Stallholder will lose their right to stand, and their stall will be allocated under the casual trader procedure until the investigation is completed. The Council shall not be liable for loss of trade or any consequential losses suffered by the Stallholder during the period of suspension.
- 11.3 The ***Market Manager*** may downgrade status of a stallholder from Permanent Trader to Casual Trader (so far as it applies to charges and benefits) if the breach of regulations relates to a matter which adversely affects the Council's costs of operating the market.
- 11.4 A warning or disciplinary action applies equally to all stalls held on all Market days stood and without distinction.
- 11.5 Appeals
- 11.5.1 Upon service of a notice of exclusion or status downgrade, the Stallholder may lodge an appeal in writing to be left at or sent to the Head of Policy, Partnership and Property, Council Offices, Swanspool House, Doddington Road, Wellingborough, Northants, NN8 1 BP.
- 11.5.2 The notice of appeal should be served within 7 days of the notice and set out clearly the grounds for appeal.
- 11.5.3 The Head of Policy, Partnership and Property shall make a decision within two weeks thereafter.
- 11.5.4 The appellant will be entitled to a personal hearing, but will have no right to cross-examine other witnesses or testimony presented, unless directions to the contrary are given by the Head of Policy, Partnership and Property.
- 11.5.5 The decision of the Head of Policy, Partnership and Property is final and binding on the parties.

Borough Council of Wellingborough

**DRAFT Street Trading: Consent Streets
Regulations**

June 2010

In this copy, additions and amendments to the current regulations are in bold italic. Explanatory footnotes will not appear in the final version

BOROUGH COUNCIL OF WELLINGBOROUGH

STREET TRADING: CONSENT STREET REGULATIONS

1.
 - (a) The Street Trading Consent may only be used by the Consent Holder (which expression where appropriate includes joint holders of this Consent **and any person employed or otherwise engaged by him to assist him in his trading**) for the pitch specified in the Consent or such other pitch as agreed by an authorised officer of the Council.
 - (b) The Consent Holder and any person employed by him to assist him in his trading shall produce the Consent on demand when so required by an authorised officer of the Borough Council of Wellingborough, the Northamptonshire County Council or by a Police Officer.
 - (c) No failure or delay by the Council in exercising any right, power or privilege under these regulations shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege.
2. The pitch may be used 7 days per week unless restricted by the Consent and subject to restrictions specified within the Consent.
3.
 - (a) Only goods or services specified in the Consent may be sold from the pitch specified in the Consent unless a variation is agreed in writing by an authorised officer of the Council
 - (b) Only stalls, vehicles, barrows, kiosks or containers and ancillary umbrellas and gazebos, tables and chairs specified in the Consent may be used on the pitch unless a variation is agreed in writing by an authorised officer of the Council
 - (d) Only vehicles and equipment appropriate for the Category stated on the Consent and in accordance with Appendix 1 shall be used on the pitch.
 - (e) 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.
4. The Consent granted by the Council is personal to the Consent Holder and is not transferable. Where the Consent Holder is an employer, these Regulations will apply to all employees.
5. Fees are payable in accordance with the Councils' authorised scale of charges approved from time to time. All fees shall be paid before first using the pitch. Annual and quarterly fees may be paid monthly in advance in equal instalments **but the Consent Holder remains liable for the whole contract period even if trading ceases.**
6. No nuisance or annoyance shall be caused by the Consent Holder or any of his/her employees to persons using the street, occupiers of nearby residential or commercial premises or otherwise. **The Consent Holder shall comply with all reasonable requests of an authorised officer of the Council in connection with abating nuisance or annoyance. The decision of an authorised officer of the Council as to what constitutes a nuisance or annoyance shall be final.**
7. **The Consent 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.**
8. The Consent Holder shall comply with all legislation **and Codes of Practice both statutory and voluntary** relevant to the conduct of the business in which he/she is engaged and ensure that any vehicle used by him in connection therewith is in a roadworthy condition and where necessary taxed and insured.

9. The Consent Holder shall provide adequate receptacles for rubbish and shall after trading has ceased, remove all rubbish and litter from the site. No waste shall be disposed of in Street Refuse Containers.
10. All refuse and waste, whether liquid or solid shall be stored and disposed of in a proper manner. In particular, liquid waste shall not be disposed of into street gullies or onto the ground.
11. The Consent Holder shall comply with any reasonable requirements of the Council or any of its officers or of any police officer in relation to the siting or operation of his/her street trading business.
12. The Consent Holder shall comply (as and where applicable) with the Codes of Practice set out in Appendix 2 hereto.
13. The Street Trading Consent is granted for a fixed period. The Council may revoke the Consent at any time for breach of these regulations or the Consent terms or suspend the Consent as set out below and the Consent Holder may surrender the Consent at any time. In any case, the balance of the fee paid will not be refunded.
14. Use of a pitch may be suspended by an authorised officer of the Council to facilitate a Collective Event (large scale street event) but the Council shall use its best endeavours to offer an alternative suitable pitch within the town centre unless the authorised usage is incompatible with the event. **No refund of fee shall be payable.**
15. Use of a pitch may be suspended by an authorised officer of the Council if either the use of that pitch or the authorised usage needs to be suspended for the undertaking of statutory services, matters of health and safety or in the public interest.
16. The specified pitch will be reserved for the Consent Holder but the Council reserves the right to allow usage by another Consent Holder if it has not been occupied by 8.30am or such other regular trading times as has been previously notified to the Council or if the trader gives notice of suspending his usage for a specified period.
17. Use of a pitch may be suspended by an authorised officer of the Council if the Consent Holder without prior notice fails to trade on two consecutive days for which the pitch has been reserved and it will remain suspended until the Consent Holder gives at least 24 hours notice of intention to resume trade.
18. The Council shall maintain a register of Consent Holders, a plan of trading pitches and a diary of pitch reservations available for public inspection.
19. The Consent Holder shall notify the Council's **Head of Policy, Partnerships and Property or any successor to the duties of that post as they relate to street trading** immediately of any convictions or proceedings arising out of the use or enjoyment of the Consent.
20. Nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability, and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent.
21. The Consent Holder shall at all times maintain a valid Public Liability Insurance Policy in a sum not less than **£2m** to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
22. The pitch shall be set out by 9am with any vehicles removed and vehicles shall not be brought back into the street prior to 4pm **without consent of the Market Supervisor or in his absence another authorised officer of the Council.**
23. The Consent Holder shall not use any television, tape recorder or other device for the reproduction or creation of sound whilst trading which is audible beyond 5 metres from the site unless that is specifically permitted by the Consent terms..

24. The Consent Holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever except with the previous consent in writing from the Council.
25. Advertisements or other notices must not be placed outside the immediate area of the street trading site without the approval of the Council. The Consent Holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street, or place or fix equipment of any description in the said surface except with the previous consent from the Council in writing.
26. The Consent Holder shall keep his trading pitch and the immediate 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.
28. At all times the Consent Holder shall comply with the legislation in force. Particular attention, where appropriate, should be paid to the Health and Safety at Work etc. Act 1974, The Food Safety (General Food Hygiene) Regulations 1995 and the Food Safety Act 1990 and legislation relating to equalities.
29. A copy of the Consent, suitably protected against the weather shall be displayed in a prominent position on the pitch at all times when trading is taking place.
30. ***Use of a pitch may be suspended by an authorised officer of the Council if the fee has not been paid***
31. **An administrative charge of £20 shall be made for any cheque, direct debit or standing order not honoured on presentation**
32. ***An administrative charge of £20 shall be made for any pitch which is not left in a reasonably clean state at the conclusion of trading.***
33. ***If any fees or arrears shall be unpaid after 10 days of having fallen due under these provisions all outstanding monies shall incur interest on a daily basis at the rate of 5% above the base rate of Midland Bank plc***
34. Licences on an annual or quarterly basis shall have fees paid pro rata at the existing and any new rate if the period exceeds 31st March in any year

APPENDIX 1

Consent Fees Categories For Wellingborough Town Centre Consents

Category 1

a stall, kiosk, trailer, barrow or other trading premises less than 2 metres long (gross length) or person with or without goods, equipment and apparatus occupying a pitch less than 4 sq metres, which is removed at the end of each trading day.

Category 2

a stall, kiosk, trailer, barrow, van, vehicle or other trading premises between 2m and 3.5m long (gross length excl. draw bar) or person not trading food occupying a pitch between 2m sq and 10m sq or a motorised ice cream van and which is removed at the end of each day

Category 3

any stall, kiosk, trailer, barrow, van, vehicle or other trading premises more than 3.5 metres long (gross length excl. draw bar) or person not trading food occupying a pitch more than 10m sq and which is removed at the end of each trading day.

Category 4

Semi-static premises or apparatus not removed at the end of each day

APPENDIX 2

CODES OF PRACTICE

Summary of the Code of Practice on Noise from Ice Cream Van Chimes etc.

It is an offence to sound your chimes before 12 noon or after 7.00pm. It is also an offence to sound your chimes in such a way as to give reasonable cause for annoyance. A code of practice approved by the Government gives guidance on methods of minimising annoyance caused by your chimes. The main points of the code of practice are:-

Do Not Sound Chimes

1. for longer than 4 second at a time;
2. more often than once every 3 minutes;
3. when the vehicle is stationery;
4. when in sight of another vehicle which is trading;
5. when within 50 metres of schools (during school hours), hospitals and places of worship (on Sundays and other recognised days of worship);
6. more often than once every 2 hours in the same length of street;
7. louder than 80 dB(A) at 7.5 metres;
8. as loudly in quiet areas or narrow streets as elsewhere.

Code of Practice for the use and/or of storage of liquefied petroleum gas in mobile shops, snack bars and stalls

Storage of L.P.G. Cylinders

1. If stored externally, these should be:
 - (a) sited on a firm standing.
 - (b) Fitted in an upright position with the valve uppermost in an upright stand or otherwise securely held.
 - (c) Protected from accidental damage or interference.
 - (d) So sited that the top is below the level of the stall openings, or 1 metre away from such openings.
2. If stored internally:
 - (a) Cylinder should be kept in a compartment that is gas-tight from the interior having half-hour fire resistance.
 - (b) The compartment should be sufficient to contain spare cylinders.
 - (c) The compartment should be positioned away from the service area.
 - (d) Access to the compartment must only be from the exterior of the vehicle and must be fitted with a lock.
 - (e) Compartment ventilation must be at both high and low levels.
 - (f) The compartment must be identified with a suitable sign conforming to BS 5378 1 1980, eg. '**L.P.G. HIGHLY INFLAMMABLE**'

3. The total quantity of L.P.G. available at a premises should not exceed 50kg.

Gas Pipes and Fittings

1. All ferrous pipework and fittings to be protected from corrosion. Non-ferrous pipes to be drawn copper or stainless steel with compression-type fittings.
2. No pipes to be run through box sections or cavities.
3. All joints and unions to be easily accessible.
4. Pipes to be securely fixed in position.
5. Flexible hoses to be as short as possible. Only hoses conforming to BS 3212 are to be used and should be changed every two years. All hoses should be secured with proper hose clips.
6. All valves and fittings to be tested with soapy water at regular intervals to ensure that they are gas tight.

Fire Extinguishers

1. A dry powder extinguisher conforming to BS 5423 1987 (for current extinguishers) or BSEN3 (for all new extinguishers) must be provided.
2. Extinguisher size to be determined using the following table:

Length of Vehicle	Extinguisher Capacity
Up to 3.5 metres long	1 x 2 kg
Between 3.5 and 4.5 metres long	1 x 4 kg
Over 4.5 metres long	1 x 6 kg

3. Extinguishers should be mounted on wall brackets approximately 1 metre from floor level and adjacent to the exit.
4. A competent person must service extinguishers at least once per year.

Ventilation

Ventilation in the vehicle or trailer must be sufficient to provide oxygen for gas burning appliances and to remove the products of combustion. This should be by means of permanent vents at high and low levels.

WARNING – ALL L.P.G. EQUIPMENT IS DANGEROUS UNLESS INSTALLED PROPERLY AND REGULARLY MAINTAINED BY COMPETENT PERSONS. PROFESSIONALLY QUALIFIED PERSONNEL SHOULD CARRY OUT ALL INSTALLATIONS AND MAINTENANCE. THE USE OF L.P.G. SHOULD BE TREATED WITH RESPECT AT ALL TIMES. ALL STAFF MUST BE TRAINED WITH REGARD TO PROCEDURES IN CASE OF FIRE.

APPENDIX 3

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.***
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.

APPENDIX 3

Summary of consultation responses from market traders and suggestions from the MRWG.

PROMOTIONAL ACTIVITY

- Advertise on BCW website.
- Wellibus to run trips from villages.
- Permanent display boards in town centre with traders name and business.
- Reduce rents for young/new traders.

MARKET AREA ALTERATIONS/IMPROVEMENTS

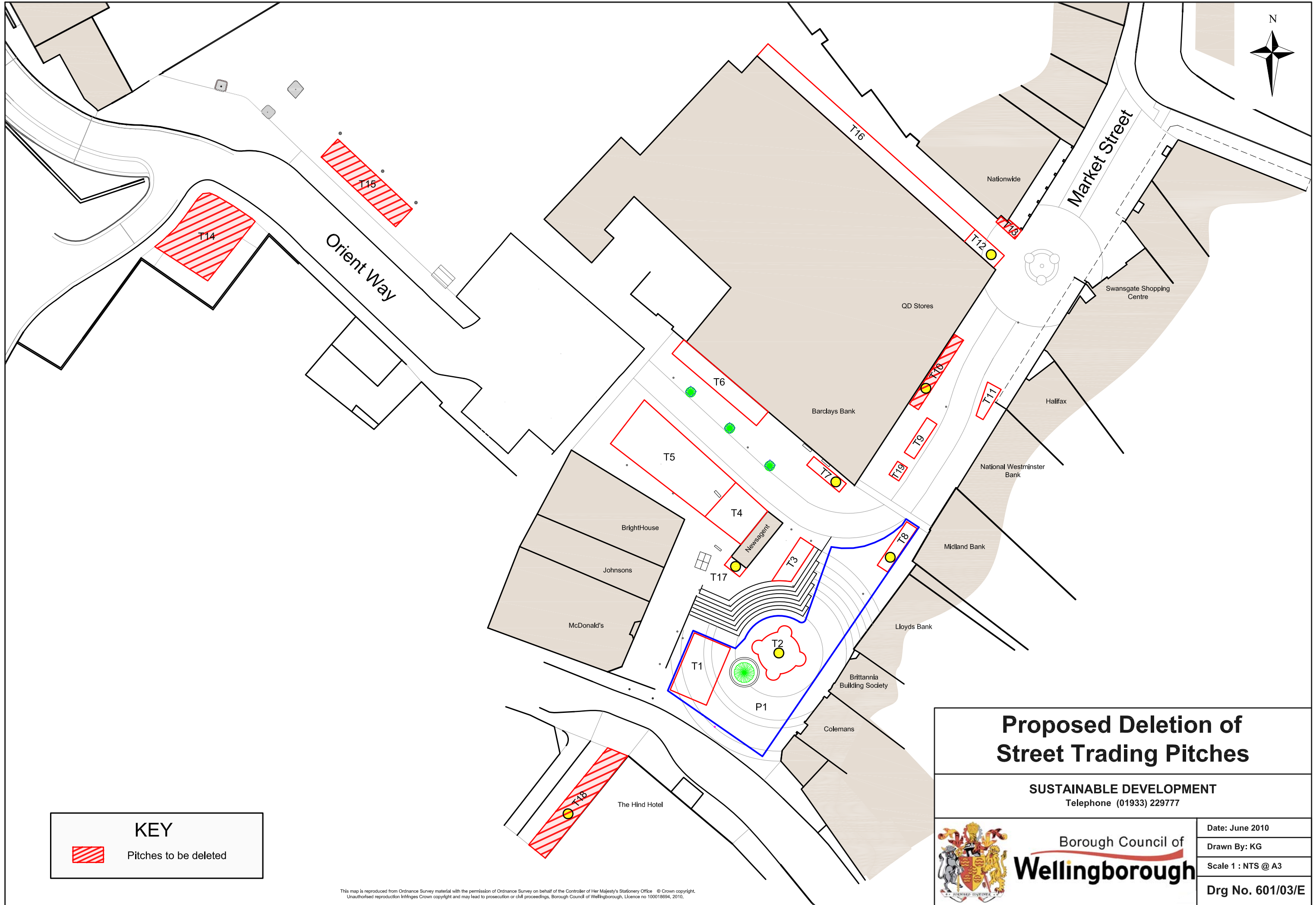
- Remove stalls to create parking.
- Remove trolley bay and bike rack.
- Move all stalls up to the main market.
- Provide stalls r/o Pagoda / side of Barclays.
- Action to tackle obstruction caused by taxi queue.
- Additional bollard to curb unauthorised parking on Event Area.
- Church to recommence use of bollards to prevent parking in churchyard.

PUBLIC CONSULTATION SUMMARY OF COMMENTS

Responder	Opinion of Market Problems	Proposed Solution for Improvement	Comments
M Robson-Barr	<ul style="list-style-type: none"> • Wrong location • Stall charges hiked up • Site made permanent 	<ul style="list-style-type: none"> • Prominent location • Let traders park vans on the market • Close the ‘cheap shops’ and the pubs • More international market events 	<ul style="list-style-type: none"> • The future location of the market will be determined as part of the wider town centre regeneration • There is insufficient space on the market to accommodate all trader vehicles and consideration needs to be given to the proper operation of the market and the needs of the public • The Council has no powers to close competing businesses. • The Council and traders consider market charges to be reasonable • Efforts continue to be made to attract speciality/international markets
P Chatwyn	<ul style="list-style-type: none"> • Supermarket competition 	<ul style="list-style-type: none"> • Reduce stall rents • Close Pebble Lane stalls • International Market events • Encourage fresh food stalls • Reduce bureaucracy • More co-operation between BCW & traders 	<ul style="list-style-type: none"> • The Council and traders consider market charges to be reasonable • The future of Pebble Lane is being considered • Efforts continue to be made to attract speciality/international markets and fresh food stalls • The bureaucracy around the market is at the level required to meet legal obligations and ensure an orderly market • The Council has improved co-

			operation between itself and traders
T Welch	<ul style="list-style-type: none"> • Lack of stall holders • Stallholders spread out (to fill the gaps) • Poor quality goods • Markets are no longer the norm for shoppers 	<ul style="list-style-type: none"> • Relocate to Market Street • Cease sale of 2nd hand goods 	<ul style="list-style-type: none"> • The future location of the market will be determined as part of the wider town centre regeneration • It is not practicable to cease the sale of previously owned goods
R Jones		<ul style="list-style-type: none"> • Operate a night market • Buskers & entertainers • Concessions for beginners • Draw on the mix of cultures in Wellingborough • Invite farmers to cook sausages 	<ul style="list-style-type: none"> • The Council does not rule out any additional markets provided they do not impose any additional net revenue burden on the Council of affect adversely the amenity of the town centre • Provision already exists for street entertainers • Consideration will be given to a new-starters scheme as part of a wider package of incentives • Fresh food traders are able to offer samples provided they comply with all relevant food and public safety legislation.
J Clarke		<ul style="list-style-type: none"> • Reduce market by 50% & build a bus station on 50% 	<ul style="list-style-type: none"> • The future location of the market and public transport interchanges will be determined as part of the wider town centre regeneration
L Smith		<ul style="list-style-type: none"> • Relocate to Market Street 	<ul style="list-style-type: none"> • The future location of the market will be determined as part of the wider town centre regeneration

E Freund	<ul style="list-style-type: none"> • Out of sight 	<ul style="list-style-type: none"> • Demolish QD Stores • Ensure traders do not block Pebble Lane with goods 	<ul style="list-style-type: none"> • Any development affecting the site of QD stores and other traders will be determined as part of the wider town centre regeneration
C Draper		<ul style="list-style-type: none"> • Market Loyalty Card • Archway/sign at Pebble Lane • Large sign/feature in Orient Way • Market signage around the town • Remove Pebble Lane graffiti • Close Pebble Lane stalls • Farmers market • Larger Bric-A-Brac market • Specialist markets • Entertainment/events • Seasonal/event markets • Coach trips from other towns • Café/bar with outside seating • Visual improvement to buildings around market square • Clearer visual route • Remove stalls from inside Swansgate • Remove stalls from Market Street • Increase the variety – e.g. Grimsby Fish Trader. 	<ul style="list-style-type: none"> • Consideration will be given to a new-starters scheme as part of a wider package of incentives • Consideration is being given to improved signage and marketing generally • The future of Pebble Lane is being considered • The Council does not rule out any additional markets provided they do not impose any additional net revenue burden on the Council of affect adversely the amenity of the town centre • Efforts continue to be made to attract speciality/international markets • Provision already exists for street and other entertainers • The Council cannot require the removal of stalls from the Swansgate Centre



KEY

 Pitches to be deleted

Proposed Deletion of Street Trading Pitches

SUSTAINABLE DEVELOPMENT
Telephone (01933) 229777



Borough Council of
Wellingsborough

Date: June 2010
Drawn By: KG
Scale 1 : NTS @ A3
Drg No. 601/03/E

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