

BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY COMMITTEE

Meeting, Thursday 8th March, 2018
at 2.00 p.m. (Drawing Room)

A G E N D A

PART ONE

1. To note any items which the Chairman considers to be of an urgent nature.
2. To receive notice from Members who may wish to move any delegated matter non-delegated and which will be decided by a majority of Members present and voting at the meeting.

3. Admission of Public and Press

To consider whether the public and press should be excluded from the meeting during consideration of any of the items on the agenda.

4. Declarations of Interest.

To receive declarations by Members and/or co-optees of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.

5. Apologies for Absence/Attendance of Substitute Members.
6. To confirm the Minutes of the meeting held on 25th January, 2018 (copy attached) and the special meeting held on 21st February, 2018 (TO FOLLOW).

FOR DECISION

- (D) 7. Application for Street Collection Permit.
- (D) 8. Application for removal of a condition on a Street Trading Consent.

**NOTE (D) - Delegated
(R) - For Referral to Council**

Membership of Committee

Councillors Callister (Chairman)
Seward (Vice-Chairman)
Biggins
Barlow
Cassells
Derbyshire
Gill
Heath
W. McClure
Proffitt
L. Roberts
Wall

For queries regarding this agenda, please contact:

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Published: 28th February, 2018

BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY COMMITTEE

Meeting: Thursday 25th January, 2018
at 2.00 p.m. (Drawing Room)

PRESENT:- Councillors Seward (Vice-Chairman), Barlow, Derbyshire, Proffitt, L. Roberts and C. Thomson.

Officers Present:- Graham Barker (Principal Environmental Protection and Licensing Officer), Jennifer Curtis (Senior Licensing Officer), Jane Holden (Acting Principal Legal Officer), Sharron Rushton (Democratic Services Officer).

Legal Representative:- Paul O'Donnell (Local Authority Retained Solicitor)

40 – Apologies for Absence/Attendance of Substitute Members

Apologies for absence were received from Councillors Callister (Chairman), Biggins, Cassells and Wall.

Councillor C. Thomson had substituted for Councillor Biggins for this meeting only.

41 – Minutes

The Minutes of the meeting held on 7th December, 2017 were taken as read and confirmed.

REFERRED ITEMS

THE FOLLOWING MATTERS ARE REFERRED TO COUNCIL FOR DECISION

42 – Review of Hackney Carriage Stands in the Borough

The Senior Licensing Officer submitted a report advising Members that at Licensing Regulatory Committee on 7th September, 2017 they had agreed the proposed Hackney Carriage Stands outlined in a report, subject to any representations and/or objections received during the consultation period.

An amended schedule of Hackney Carriage Stands following consultation with Cumbria County Council was attached as an appendix to the report.

A Local Authority could adopt areas on streets or private land as stands for hackney carriages under Section 63 Local Government (Miscellaneous Provisions) Act 1976 (“the Act”). Prior to appointing stands the Act required:-

1. the Local Authority to obtain the consent of the Highway Authority (Cumbria County Council);
2. give notice to the Chief of Police;
3. publish a notice of proposal in the local newspaper; and

4. log and consider any objections or representations received within 28 days of the first publication.

Cumbria County Council had given consent to appoint the Hackney Carriage Stands as proposed, with the exception of the new stand on Market Street, Dalton-in-Furness.

The Chief of Police noted the Council's intentions to appoint the Hackney Carriage Stands but made no objection.

A notice of proposal was placed in the North West Evening Mail on Friday 3rd November, 2017 providing a 28 day consultation period, running until Friday 1st December, 2017.

In addition to the consultation required by law, the schedule had been advertised on the Council's website and a global email sent to all drivers, operators and proprietors of whom the Council held a valid email address.

On 13th November, 2017 support was received from a representative of the Furness Taxi Trade Association Secretary.

Dalton Town Council was also notified of the intended rank locations and made a representation.

Barrow Borough Councillor and Dalton Town Councillor Wendy Maddox made a representation.

A total of 6 representations were received from residents living in close proximity of the proposed rank location on Market Street, Dalton-in-Furness. Concerns included the potential for increased noise levels, the lack of existing parking and questioned the current need for a rank in Dalton.

Copies of all representations received during the consultation period were attached as an appendix to the report.

Barrow Borough Council had met all the requirements of Section 63 the Local Government Miscellaneous Provisions Act 1976 and could now appoint the Hackney Carriage Stands.

RECOMMENDED:- To agree to remove the proposed stand located in Market Street, Dalton-in-Furness and refer the amended schedule to Executive Committee for appointment by Full Council.

The meeting closed at 2.20 p.m.

LICENSING REGULATORY COMMITTEE		<u>Part One</u> (D) Agenda Item 7
Date of Meeting:	8th March, 2018	
Reporting Officer:	Principal Environmental Protection and Licensing Officer	
<p>Title: Application for Street Collection Permit</p> <p>Summary:</p> <p>An application has been made to the Licensing Authority for a Street Collection Permit on behalf of The Royal British Legion, Poppy Appeal 2018, the dates requested are Saturday 3rd to Saturday 10th November 2018, this requires Members to exercise their powers to hear applications to vary any limitation or term imposed on a consent, licence or permission, in accordance with Minute No. 1.3 (ii) of the current allocation Policy for street collections/flag days.</p>		

1. The Application

An application has been made to the Licensing Authority for a Street Collection Permit from Saturday 3rd to 10th November 2018 (inclusive) by Mr S. Crowhurst, on behalf of The Royal British Legion, Poppy Appeal 2018, attached at **Appendix 1**.

The application outlines the organiser's intention to carry out street collections including the offerings of poppies from trays and collection of monies in sealed receptacles throughout the week, leading up to Remembrance Day.

2. Background

The Police, Factories and (Miscellaneous Provisions) Act 1916 allows local authorities to make regulations regarding street collections, where and conditions under which, persons may collect money or sell articles for the benefit of charity "or other purposes"

The current allocation policy for street collections/flag days was determined by Minute No. 150 (1990/91) and Minute No. 80 (1993/94) of the Licensing Sub-Committee as follows:-

- a) That it be adopted as policy that once a particular date had been allocated to a charity, no further application from other charities for the same date would be permitted.
- b) No organisation would be granted more than one collection date in each calendar year.

- c) That preference would continue to be given to charities that use money collected locally.
- d) That no more than 50 street collection permits will be granted in a calendar year, such permits to be for collection days either on Fridays or Saturdays. No mid-week collections to be allowed.
- e) Organisations must comply with the Borough of Barrow-in-Furness Street Collection Regulations and submit a statement of accounts following their street collection in order for similar applications to be considered in future years.
- f) Minute No. 1.3 (ii) resolves to vary current general allocation policy to enable the Sub-Committee and/or the Panel to receive applications for additional collections in cases of special celebrations relevant to individual charities from time to time.

3. Representations

The Licensing Authority consults on all street collection permits with Cumbria Constabulary.

At the time of writing this report, there have been no objections from consultees.

The applicant has been invited to attend today's Committee.

4. Options

The options available to members are;

- a) To grant the Street Collection Permit for selected dates; Saturday 3rd to 10th November 2018 (inclusive).
- b) To grant the Street Collection Permit for one day;
- c) To refuse to grant the Street Collection Permit;

5. Recommendation

It is recommended that members **GRANT** the Street Collection Permit on the selected dates; Saturday 3rd to 10th November 2018 (inclusive), for following reasons;

1. There are no other street collection permits granted for the dates requested.
2. There are no other street collection permits allocated for The Royal British Legion Poppy appeal in 2018.

3. To date there are only 3 other street collection permits allocated from a maximum of 50, for 2018.
4. Members have the delegated authority to vary any limitation or term imposed on any consent, licence or permission.

6. Considerations

(i) Legal Implications

A street collection permit is required by any person to collect, in a street or public place within the Borough, money for the benefit of charitable or other purposes. The Council's Street Collection Regulations made under powers contained in The Police, Factories, (Miscellaneous Provisions) Act 1916 regulate such collections. Any person who collects money or otherwise acts in contravention of the Council's Regulations with regard to street collection is liable to a fine.

There is no statutory right of appeal against the refusal of a street collection permit but a licensing authority's decision could be challenged by application to the High Court for a review of the decision (Judicial Review).

(ii) Risk Assessment

Not Applicable

(iii) Financial Implications

None identified

(iv) Key Priorities or Corporate Aims

None identified

(v) Equality and Diversity

Not Applicable

(vi) Other Human Rights

Not Applicable

(vii) Health and Well-being Implications

None identified

Background Papers

Nil.

THE ROYAL BRITISH LEGION POPPY APPEAL 2018**POLICE, FACTORIES ETC. (MISCELLANEOUS PROVISIONS ACT) 1916 STREET COLLECTIONS**

In pursuance of Section 5 of the above act, I hereby apply for a permit authorising me to promote the collection of which particulars are given below:-

Barrow Borough Council
Regeneration & Community Services Environmental Health
24 Duke Street
BARROW IN FURNESS, Cumbria LA14 2LD

- 1) Name, Address & Date of Birth of Applicant: Mr Shane Michael Crowhurst
The Poppy Appeal
Royal British Legion Village
Aylesford, Kent ME20 7NX
Telephone: 01622 717172
DOB [REDACTED]
- 2) Name & Address of Secretary: Details as above
- 3) Director of Finance: Daniel Oppenheimer
- 4) Name & Address of Bankers: Lloyds, Cox's and King's Branch, 1st Floor, P O Box 1190,
7 Pall Mall SW1Y 5NA,
- 5) Name & Address of Auditors: Deloitte LLP, 2 New Street Square, London EC4A 3BZ
- 6) Proposed Date & Time of Collection: 3rd to 10th November 2018 8 a.m. to 8 p.m.
- 7) District in which collection will be made: Throughout the whole of the Council's administrative area.
- 8) Has a permit ever been refused? No
- 9) Is a House to House collection being held? Yes, please see attached letter with details
- 10) Charity Registration No. Registered Charity 219279
- 11) Will a request be made for privately owned places? Yes, on receipt of permit from your authority.
- 12) Nature of Collection: Offer of Poppies from trays and collection of monies in sealed receptacles.
- 13) Objections of Organisation: To safeguard the welfare, interests and memory of those who are serving or who have served in the Armed Forces.
- 14) Disposal of receipts: Proceeds less administrative expenses and costs of poppies, are used for the benevolent funds of the Royal British Legion
- 15) Are remunerations to be paid from proceeds? No
- 16) Is an application being made in other & Council areas? Yes, to all Metropolitan, District & Borough Councils in England & Wales.

Date 18th January 2018

Signature: [REDACTED]

LICENSING REGULATORY COMMITTEE		<u>Part One</u> (D) Agenda Item 8
Date of Meeting:	8th March, 2018	
Reporting Officer:	Licensing Officer	
<p>Title: Application for removal of a condition on a Street Trading Consent</p> <p>Summary:</p> <p>The Licensing Authority has received an application for a street trading consent for a stationary mobile catering unit, to be sited off the A590 (Walney Road) on Ormsgill Lane, Barrow-in-Furness.</p> <p>If Members decide to grant this application they will have to remove a condition on the consent which restricts the time in which street traders can remain in a particular area.</p>		

1. Purpose of Report

The Licensing Authority has received an application for a street trading consent from Mr Jason McCullough.

Mr McCulloughs application is for a stationary catering van to be sited off the A590 (Walney Road) on Ormsgill Lane, Barrow-in-Furness. This site has previously been used for street trading in July 2015.

It is Mr McCulloughs intention to sell fast food (Breakfast buns, Hot dogs, Burgers, snacks and soft drinks etc.), between 6am and 6pm. Such stationary trading contravenes Condition 12 which is attached to street trading consents:-

“The Trader must operate his/her business on a mobile basis and can therefore stop for only 10 minutes in any section of a street and thereafter must move into a different street and must not then return to the same section of that street that day.”

Removal of this condition is required if Members decide to grant the consent.

A copy of the application, insurance, photographs and map showing the area in which Mr McCullough has applied to trade is attached at **Appendix 2**.

2. Background

Barrow Borough Council operates a consent scheme for street trading. Trading within the Borough is prohibited without obtaining the consent of the Council.

Consents are issued subject to a set of standard conditions and can be granted for a period not exceeding 12 months. Mr McCullough has applied for a 12 month Street Trading Consent.

Consents are renewable on the expiry of the licence period, unless a trader ceases to exist trading.

Upon application in writing to the Council, as required by Paragraph 7 of Schedule 4 of The Local Government (Miscellaneous Provisions) Act 1982, the Council may grant consent if they think fit, and may attach such conditions to it as they consider reasonably necessary. These conditions are attached to this report at **Appendix 3**.

In considering similar street trading applications, for locations adjacent to the A590, Members have required the following condition to be placed on the consent:-

“Advertising boards must not be placed along the A590 or in any roadside location.”

3. Representations

As part of the application procedure the Licensing Authority is required to consult with the Local Planning Authority, Trading Standards, Cumbria Constabulary and Cumbria Highways.

Mr McCullough has not previously been an applicant, licensee or consent holder. He has registered his food business ‘*McMunchies*’ with Barrow Borough Council, Environmental Health Food Team.

At the time of writing the report no representations have been received from consultees.

Mr McCullough has been invited to attend the Licensing Regulatory Committee to make a representation in support of his application.

4. Options

Options available to members today are:

- a) Grant the street trading consent with an additional condition prohibiting the use of Advertising boards and approve the removal of condition 12; or
- b) Grant the street trading consent and approve the removal of condition 12; or
- c) Reject the application for a street trading consent.

5. Recommendation

It is the Officer's recommendation that members **GRANT** the street trading consent:

- for a period of 12 months;
- with an additional condition: Advertising boards must not be placed along the A590 or in any roadside location;
- and approve the removal of condition number 12.

6. Reasons for Recommendation

- a) Paragraph 7 of Schedule 4 of the Local Government Miscellaneous Provisions) Act 1982 allows the Council to grant consent if it sees fit to do so. The Council may impose conditions upon the consent.
- b) Paragraph 7(10) allows the Council to grant a consent for a period not exceeding 12 months
- c) Mr McCullough has applied for street trading consent in a street that is not prohibited.
- d) The consent would not be subject to any planning restrictions, as long as the catering unit was removed from the site at the end of each day.

7. Considerations

(i) Legal Implications

The street in question has been designated by the Council as a consent street for street trading purposes under Part III and Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

Paragraph 7 of Schedule 4 of the Local Government Miscellaneous Provisions Act 1982 allows the Council to grant consent if it sees fit to do so.

Paragraph 7(4) allows the Council to attach such conditions as they consider reasonably necessary.

Paragraph 7(10) allows the Council to grant a consent for a period not exceeding 12 months.

This application has met the requirements set out in Schedule 4, Local Government (Miscellaneous Provisions) Act 1982.

Other than Judicial Review there is no statutory right of appeal against the Council's decision.

(ii) Risk Assessment

Not Applicable

(iii) Financial Implications

Not Applicable

(iv) Key Priorities or Corporate Aims

None identified

(v) Equality and Diversity

The Licensing Authority has consistently brought businesses of this nature before the Licensing Regulatory Committee for decision for the removal of condition number 12 on street trading consents.

(vi) Other Human Rights

All applicants for a licence/consent have a right to a fair and public hearing.

(vii) Health and Well-being Implications

None identified

Background Papers

Nil.

APPLICATION FOR STATIC STREET TRADING CONSENT



NEW

RENEWAL

Licence number

Applicant Name MR JASON MCCULLOUGH

Trading as M' MUNCHIES CATERING

Address
.....

Email Address

Tel. No. Date of Birth

Vehicle/Trailer Registration No WFO3 DY9

Type of Goods Traded FOOD - BURGERS, breakfast buns etc

Area of Trading Frontworks 2017 Ormsgill Lane / A590 Slip Road

Please attach a plan and highlight where you wish to trade along with a photograph of your vehicle

Licence duration requested: 3 months 12 months

Offences: If you have been convicted of any driving or criminal offences please give full details, with dates, below. If answer is none, please indicate. Please include details of any cautions received.

NONE

Are there any prosecutions pending against you? YES/NO (please delete accordingly)

If YES, please provide details

Signed: Date: 06/02/18

One consent is issued in respect of one vehicle only.

Checklist of documents to submit:-

- Site Plan of trading area
- Photo of Vehicle and/or trailer
- Vehicle insurance
- Minimum £5 million Public Liability Insurance

A FEE IS PAYABLE UPON GRANT OF APPLICATION

Office Use Only:

Receipt No			Date to Consultee	Date returned and comments
Fee Paid		Police check		
Date Received	6/2/18 ^	Trading Standards check		
Officers Initials	SO ^	Highways check		
£5m Public Liability Insurance seen	✓SO	Food Vehicle Inspected		
Site Plan	✓SO	Expiry Date		
Photos of Vehicle/Trailer	✓SO	Flare Ref		



Public and Products Liability Certificate

Name of Policyholder: **Mr Jason McCullough T/as McMunchies**

Business Type: **Mobile Catering Trailer**

Insurance Company: **Aviva Insurance Limited**

Policy Number: **[REDACTED]**

Date of Commencement of Insurance: **6th February 2018**

Date of Expiry of Insurance: **5th February 2019**

Type of Cover: **Public & Products Liability**

Limit of Indemnity: **£5,000,000**

Subject to the Terms, Conditions and Exceptions of the full Aviva Policy wording

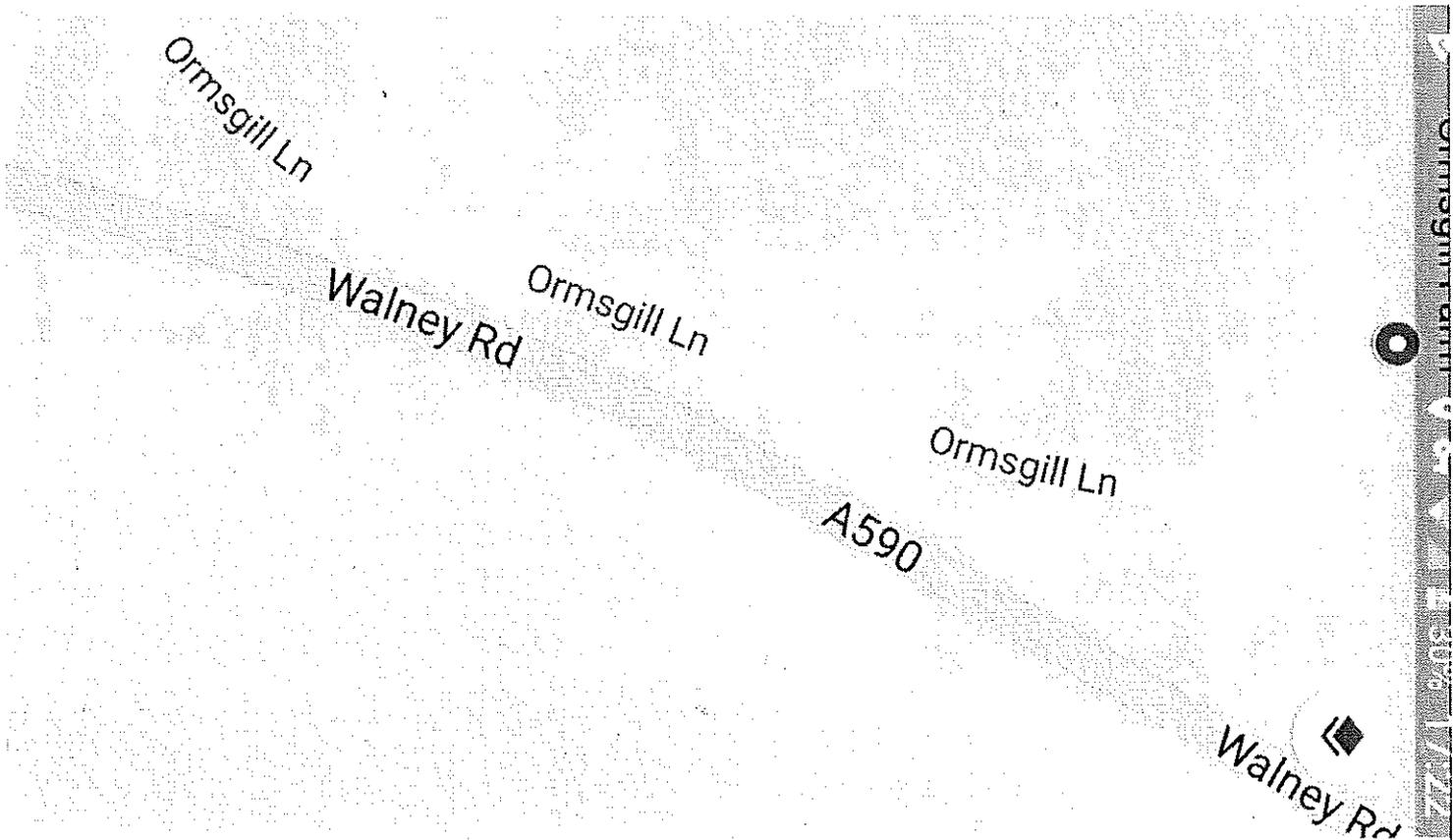
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Giles Insurance Consultants

Neil Giles Cert PFS, Cert CII

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**BARROW-IN-FURNESS BOROUGH COUNCIL
ENVIRONMENTAL HEALTH DEPARTMENT
TOWN HALL
DUKE STREET
BARROW-IN-FURNESS
CUMBRIA LA14 2LD**

STANDARD CONDITIONS ATTACHED TO THE ISSUE OF A STREET TRADING CONSENT

LICENCE NO: «refno»

1. This consent operates from the dates as shown on the attached Consent.
2. It is personal to (the Trader) and cannot be assigned or sublet.
3. The registration number(s) of the Trader's vehicle(s) is/are as the attached Consent. If the Trader changes any vehicle, or his address, the new registration number or new address shall be endorsed hereon.
4. The Trader's name and address shall be stated clearly on the nearside of the vehicle at the front and the vehicle shall not be used unless this name and address is the correct one for the Trader for the time being.
5. The Trader(s) vehicle(s) shall at all times be available for inspection, and in the case of food businesses the Trader shall at all times comply with the relevant food hygiene legislation currently the Food Safety (General Food Hygiene) Regulations, 1995 and in any event with any legislation affecting the same.
6. If the Trader's vehicle is to be under the control of a person other than the Trader personally, the name and address of such person shall be given to the Council, together with details of the relationship.
7. No Trader or his vehicle shall cause any nuisance and in particular shall not trade in any prohibited street, currently:

All those streets in the Town Centre of Barrow-in-Furness bounded by and including Ramsden Street, The Strand, Hindpool Road, Abbey Road, Duke Street, Hawke Street, Collingwood Street, Dryden Street, Station Approach and the main railway line, together with Thorney Nook Lane, Biggar Bank Road, Beach Crescent, Ocean Road between its junction with Biggar Bank Road and its junction with Carr Lane, Sandy Gap Lane, West Shore Road between Earnse Point and its junction with Cows Tarn Lane, the Coast Road from Rampside Road roundabout to the Borough boundary and Manor Road between its junction with Abbey Approach and its junction with Parkhouse Road.

Also, all the streets on Barrow Island, Rating Lane (from the junction with Abbey Road to the junction with Flass Lane), Manor Road (from the junction with Rating Lane to the junction with Abbey Approach), Croft Park Grove, Croslands Park (from the junction with Rating Lane to the roundabout in Croslands Park, Meadowlands Avenue, Highlands Avenue, Lesh Lane, Rising Side.

The pedestrianised areas of Dalton Road and Portland Walk are designated as 'Consent Streets' and to trade in these areas it is necessary to obtain a special consent which is granted by the Licensing Committee.

8. The Trader shall have the responsibility for the collection and removal of litter arising from his activities.
 9. The Council may amend the terms of this consent by seven days' notice in writing to the Trader at the above address. If the Trader wishes, he can terminate this consent at the expiry of such seven days' notice and claim a refund of the unexpired fee.
 10. This consent may be terminated immediately for breach of any of the conditions, and upon any termination (save as in Clause 9) no refund shall be made.
 11. The vehicle(s) shall at all times be in a roadworthy condition.
 12. The Trader must operate his/her business on a mobile basis and can therefore stop for only 10 minutes in any section of a street and thereafter must move into a different street and must not then return to the same section of that street that day.
 13. The trader must not operate his/her business after 8.00 pm each day.
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