

## **Committee: Licensing**

**Date: 4<sup>th</sup> September 2013**

Agenda item: 4

Wards: All

### **Subject: The designation of parts of the highway for the purposes of Street Trading**

Lead officer: Ian Murrell

Lead member: Cllr. Andrew Judge

Forward Plan reference number:

Contact officer: John Hillarby

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#### **Recommendations:**

- A. That committee resolves to designate the proposed street trading areas.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report relates to requests for licence street designations and summarises comments received through a consultation process with interested parties.

## **2 DETAILS**

- 2.1. The Street Trading Service has received four new applications from traders interested in utilising the highway for the purposes of street trading.

- 2.2. This report recommends the designation of four new trading pitches.

The areas:

- 1) An area of 3m x 1.9m outside Rocher Noir 221 London Road Mitcham CR4 2JD.
- 2) An area of 5m x 0.8m (revised) outside Cedar Merton High Street Wimbledon SW19 1BA.
- 3) An area of 9m x 1.1m outside Morden Food Centre 17-18 Morden Court Parade London Road Morden SM4 5HJ.
- 4) An area of 8m x 0.8m (revised) outside Aubaine 18 High Street Wimbledon SW19 5DX.

- 2.3. Street Trading is regulated by the London Local Authorities Act 1990 as amended.

- 2.4. All street trading is administered and regulated by the Council using this legislative framework. There are two types of street trading licence. A permanent licence that is valid for 1 year and a temporary licence valid from 1 day to 6 months to facilitate market trading and temporary events. It is unlawful to trade on the street without a valid street trading licence.

- 2.5. A one year Street Trading Licence can only be granted for areas designated as licence streets.
- 2.6. Merton licences specific locations (pitches) within a street rather than the street as a whole. The designation of specific locations on the street as opposed to the entire street gives greater control to the Council in regulating street trading and its impact on the environment. Licences are renewable annually.
- 2.7. Comprehensive regulations are in place to facilitate regulation and enforcement of street trading in the borough and provide a framework for all aspects of trade. These regulations are included for information as Appendix C.
- 2.8. Street trading licence fees for the year 2013-2014 are shown in Appendix D.

### **3 ALTERNATIVE OPTIONS**

- 3.1 Designations shall not be granted.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. The consultation process and consultees are defined by the London Local Authorities Act 1990.
- 4.2. A notice was placed in the Local Guardian newspaper advising the public of the consultation and requesting comments. A copy of the notice is included in Appendix A.
- 4.3. Notices were attached to street furniture in the immediate vicinity of the proposed areas.
- 4.4. As part of the consultation process comments were invited from both external and internal agencies such as, Metropolitan Police, Transport for London, LBM Highways and LBM Licensing. Local residents associations are also consulted as part a wider gauge on the impact on local users.
- 4.5. All Councillors were invited to make representations as part of the consultation.
- 4.6. **Ward Councillors Representations:** No representations received.
- 4.7. **Street Trading Service comments –**
  - 1) A temporary street trading licence has been in operation for two months outside Rocher Noir. The area has steel bollards that denote the area for designation and there is ample room for pedestrians to past unhindered. This satisfies concerns regarding clearance raised by our Highways Section. No objections have been received.
  - 2) The application from Cedar follows several discussions with the owner regarding placing tables and chairs on the highway. No temporary licence is in place. Due to the width of the pavement being reduced by the installation of inset parking bays, discussions were had with the applicant to reduce the area applied for. With Mr Ghnatos' agreement, it has therefore been proposed to reduce the area to 0.8m in depth from 1m. This will provide the required minimum footway clearance of between 1.5m and 1.8m. Concerns raised by Highways regarding A-boards are to be addressed as part of any

licence discussion and it will be requested they are place the board inside the licensed area.

3) The owner of Morden Food was very quick to apply for a licence once advised of the need. Although a busy footway on Fridays due to the presence of the large Mosque on London Road, there have been no reported issues with congestion and Transport for London have no objections as long as the remaining footway is left clear of any obstructions.

4) The application for Aubaine was originally submitted for the June Licensing Committee. At the meeting Councillors raised concerns regarding issues of space for pedestrians and congestion on busier shopping days. Since that time a temporary licence has been in effect to better gauge the impact of the tables and chairs in situ. Officers met with the owner and their solicitor on site to address these concerns. Additional highway information has been submitted in this report detailing the dimensions of both the requested section of the highway and the section directly opposite. This has been done for the purposes of a comparison. As detailed in Appendix B the designation if granted would leave the same highway clearance as the opposite side and in excess of the 1.5m – 1.8m required by our Highways Department. Due to the school holidays, there has been a reduction of foot traffic in the area but officers attended at various times during the day and witnessed passengers alighting from busy buses on both sides of the road. No congestion or obstruction issues were noted and no representation have been received.

#### **Financial, resource and property implications**

- 4.8. The cost of placing notices in the local Guardian is accounted for in the licence application procedures in place.
- 4.9. Regulatory and enforcement costs will be met from within the street trading budget.
- 4.10. These sites offer the potential to add significant funds to the Street Trading budget.

#### **5 LEGAL AND STATUTORY IMPLICATIONS**

- 5.1. Part III of the London Local Authorities Act 1990 (as amended), hereinafter in these implications referred to as the “Act”, regulates trading on the street and provides a statutory framework.
- 5.2. Unless provided for in the Act, Section 23 states that it is unlawful for a person to engage in street trading in any licence street within a borough unless the person is authorised to do so by a street trading licence or a temporary street trading licence.
- 5.3. Under section 21 of the Act a street trading licence means a licence granted for not less than 6 months and not more than 3 years. Regulations made by the London Borough of Merton pursuant to section 27(3) of the Act prescribe that these types of licences are only granted for up to a year. Temporary licences are defined as licences granted for a single day or such period as may be specified in the licence not exceeding 6 months.

- 5.4. It would also be unlawful for street trading to take place if the street or part of the street that is being licensed for these purposes have not first been designated by resolution as a “licence street” pursuant to section 24 of the Act.
- 5.5. Section 24(4) to (8) of the Act prescribes the consultation process which has to be carried out before a resolution can be passed to designate a licence street and this process has been carried out by the council. This includes the advertisement in a local newspaper, service of notice on the local Highway Authority, and receipt of the necessary consent from the local Highway Authority.
- 5.6. The officer recommendation in this report is for the committee to grant all of the designations. The Committee should decide to grant or refuse the designations after considering the officer recommendations, representations that have been made and all relevant facts before them.
- 5.7. Under section 24(3) if a borough council passes a designating resolution the designating of the street takes effect on the day specified in the resolution. This date must not be before the expiration of the period of one month beginning with the day on which the resolution is passed.
- 5.8. Under section 24(10) the borough council has to publish a notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks. Under section 24(11) the first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

## **6 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 6.1. It is important that the Council carefully considers all the representations made during the consultation process.

## **7 CRIME AND DISORDER IMPLICATIONS**

- 7.1. Enforcement and advisory visits will be made regularly to the premises to ensure compliance with licence terms and conditions. The police are consulted on all applications for designations.

## **8 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 8.1. Failure to discharge its duties under the Act and make proper regulations to control street trading could damage the Council’s reputation and expose it to the risk of judicial review.

## **9 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix A – Public Consultation Notice
- Appendix B - Plans and photographs of proposed areas
- Appendix C – Street Trading Regulations
- Appendix D – Street Trading Licence Fees
- Appendix E – Representations

## **10 BACKGROUND PAPERS**

- 10.1. None.

## Appendix A

### LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

#### PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council is seeking to designate 4 areas (hereinafter referred to as "the street") as licence streets where street trading will be permitted by the Council subject to obtaining a Street Trading Licence, and 1 licence application for an existing area.

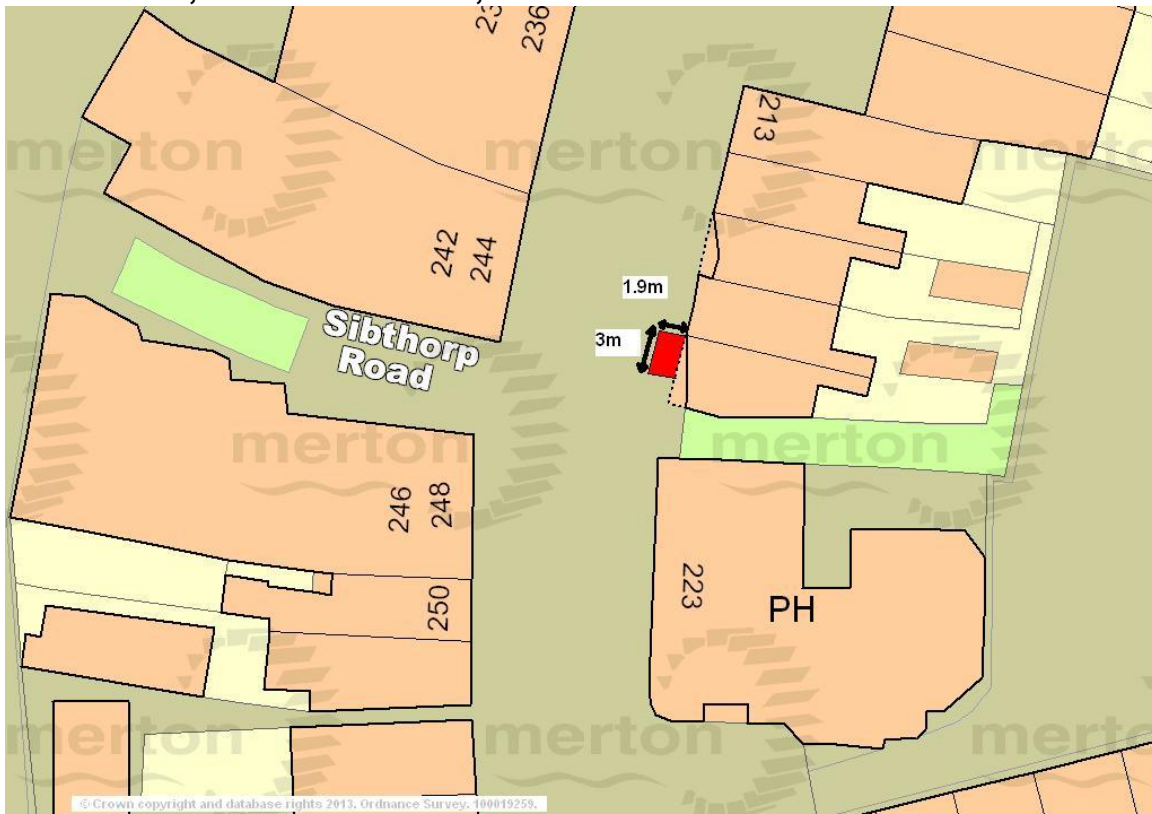
- 1) An area of 3m x 1.9m outside Rocher Noir 221 London Road Mitcham CR4 2JD. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 6.30am – 9pm Monday to Sunday inclusive. **Reference DR.2013.007.**
- 2) An area of 5m x 1m outside Cedar Merton High Street Wimbledon SW19 1BA. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 12pm – 12am Monday to Sunday inclusive. **Reference DR.2013.008.**
- 3) The Council has been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs outside Café Rosi 8 Leopold Road Wimbledon SW19 7BD 8am – 11pm. Monday to Sunday inclusive. **Reference DR.2013.009.**
- 4) An area of 9m x 1.1m outside Morden Food Centre 17-18 Morden Court Parade London Road Morden SM4 5HJ. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of fruit and vegetables on the designated site 7am – 11pm Monday to Sunday inclusive. **Reference DR.2013.010.**
- 5) An area of 9.7m x 0.8m outside Aubaine 18 High Street Wimbledon SW19 5DX. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 10am – 11pm Monday to Sunday inclusive. **Reference DR.2013.005.**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Trading Standards, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 22<sup>nd</sup> August 2013. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

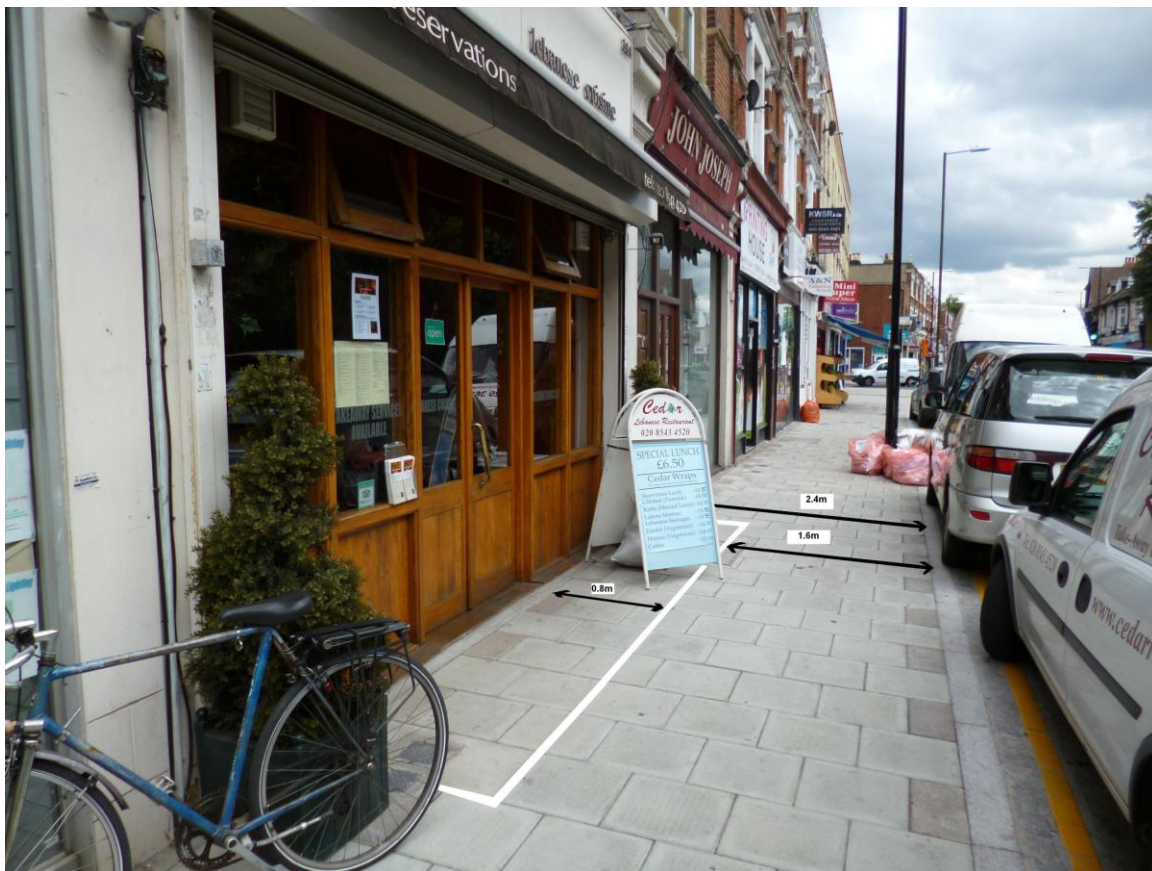
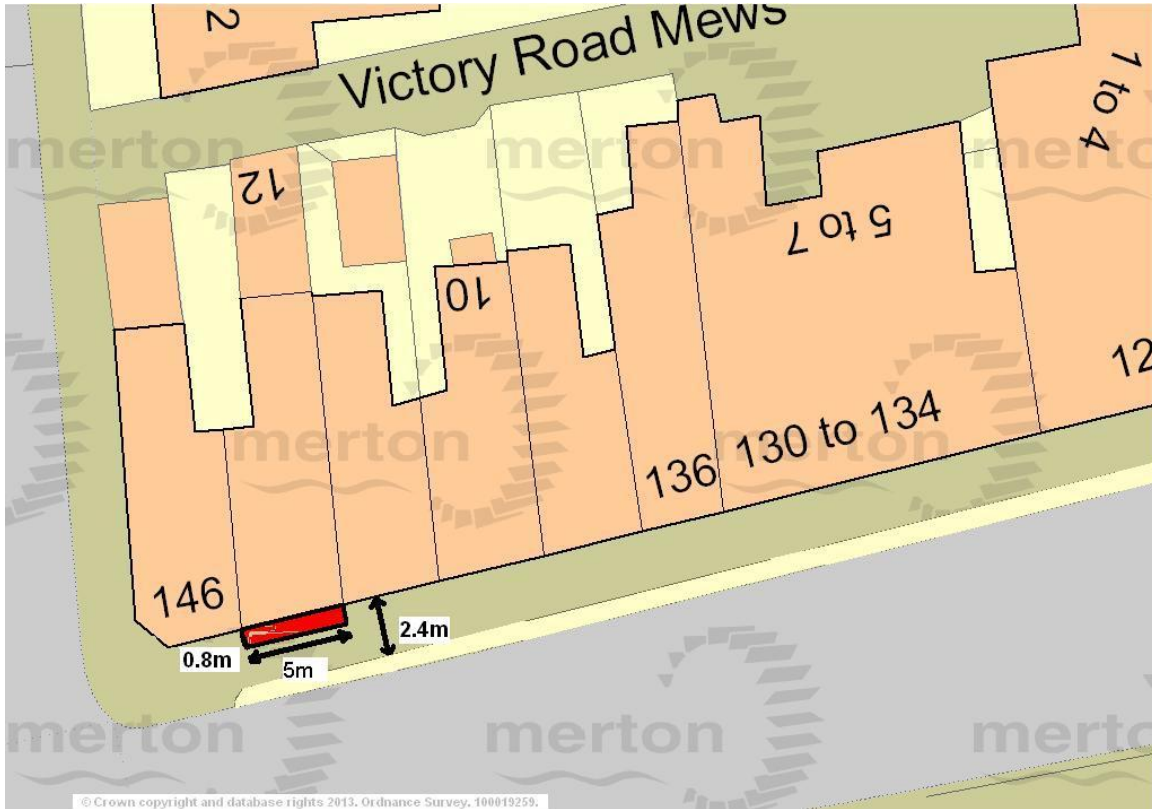
Dated this the 25<sup>th</sup> July 2013

**Appendix B**

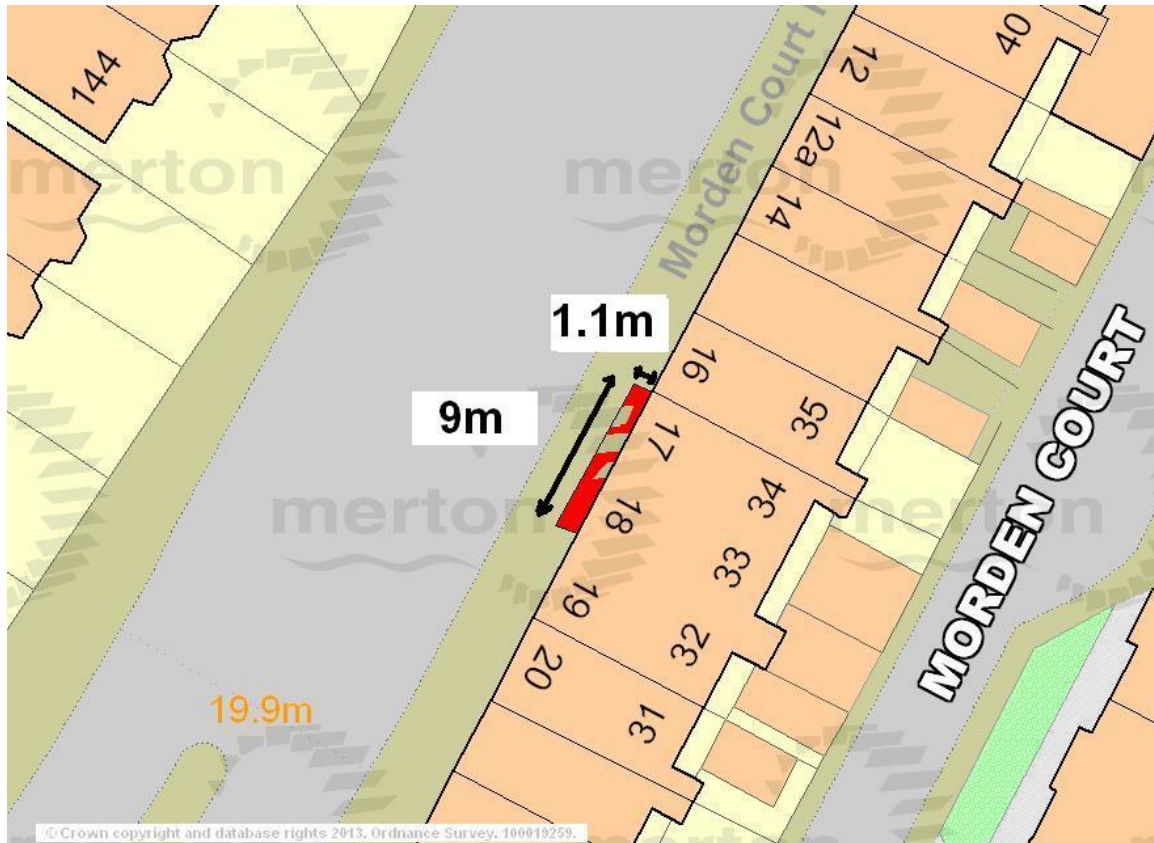
**Rocher Noir, 221 London Road, Mitcham CR4 2JD.**



Cedar Merton 144 Merton High Street Wimbledon SW19 1BA

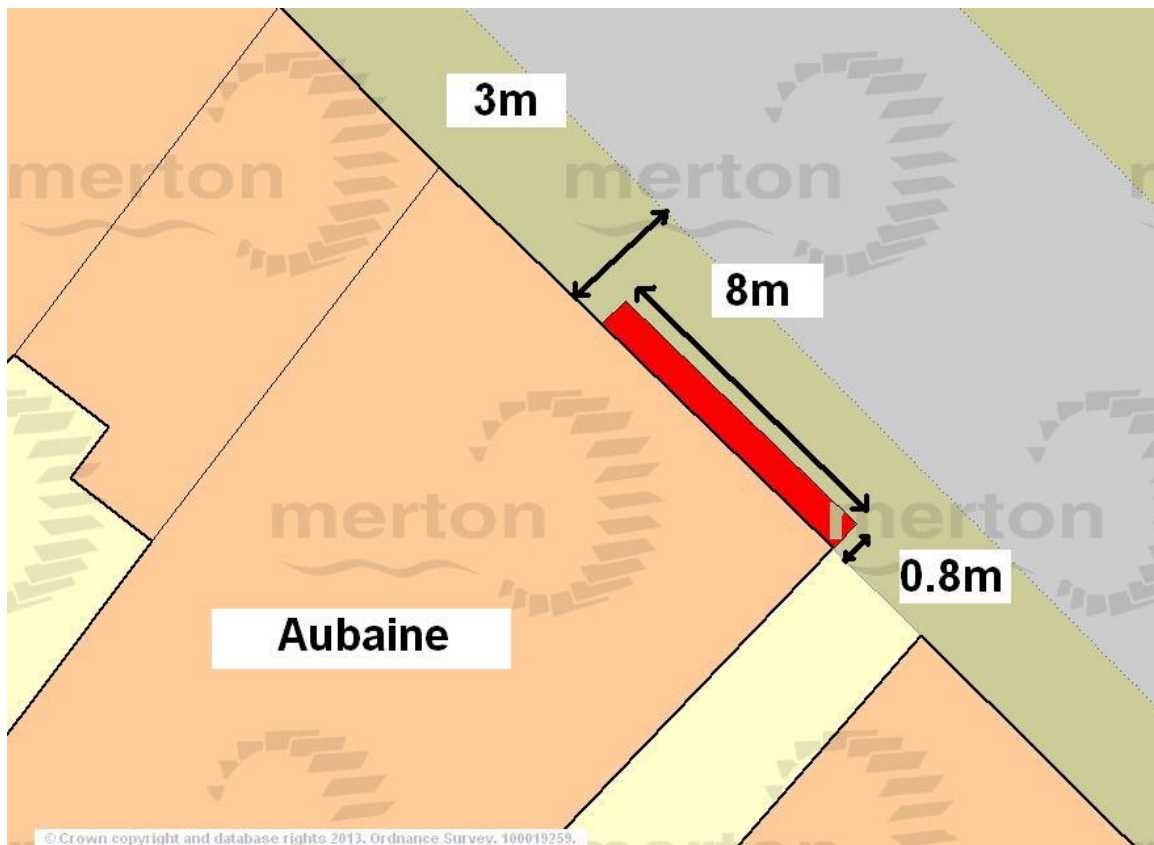


Morden Food Centre 17-18 Morden Court Parade London Road Morden SM4 5HJ





**Aubaine 18 High Street Wimbledon SW19 5DX.**



**Plan showing other premises with street trading licences on High Street.**





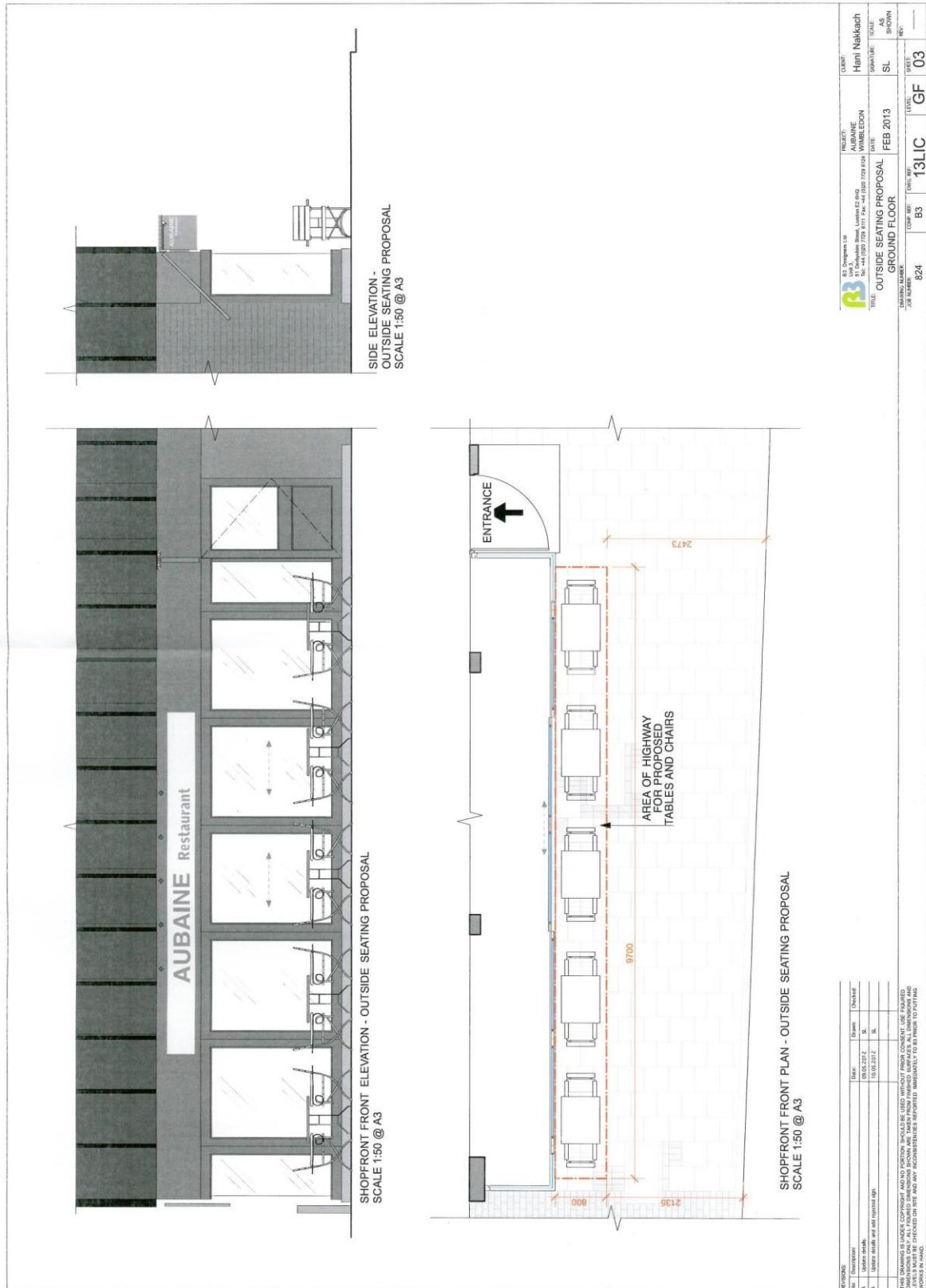
**Bus stop outside Strada on opposite side of High Street**



**Example from Aubaine showing clearance for pushchairs**



Original plans sent for area before resizing



## Appendix C

### REGULATIONS MADE BY THE LONDON BOROUGH OF MERTON PURSUANT TO SECTION 27(3) OF THE LONDON LOCAL AUTHORITIES ACT 1990 PRESCRIBING STANDARD CONDITIONS APPLICABLE TO STREET TRADING LICENCES.

#### DEFINITIONS

In the Regulations unless the context otherwise requires, the following expressions shall have the same meanings that appear in Section 21(1) of the London Local Authorities Act 1990 as amended.

**'Receptacle'** includes a vehicle or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adopted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service.

**'Street'** includes:-

- (a) any road or footway;
- (b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;
- (c) any part of such road, footway or area;
- (d) any part of any housing development provided or maintained by a Local Authority under Part II of the Housing Act 1985:

**'Street Trading'** means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

**'Street Trading Licence'** means a Licence granted under the Act and valid for the period specified therein being not less than six months and not more than three years.

**'Temporary Licence'** means a Licence granted under the Act valid for a single day or for such period as may be specified in the Licence not exceeding six months.

#### THE FOLLOWING ARE THOSE DEFINED BY THE COUNCIL

**'The Act'** means the London Local Authorities Act 1990 Part III as amended.

**'The Council'** means the London Borough of Merton.

**'Advertisement'** means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of, advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

**'Assistant'**

(a) means a person employed by, and acting under the directions of a Licence Holder to assist him/her about the business of the stall, whether for reward or not and includes a person directed solely or otherwise to transport the Licence Holder's stall.

(b) where a Licence is granted outside a catering establishment or shop premises; 'assistant' shall also include any other employee, manager, secretary, director, partner,

supervisor or the like who may from time to time or full time be involved in the street trading activity including those engaged in the completion of a transaction within the premises.

**'Authorised Officer'** means any officer of the Council authorised in writing by the Council's Director of Environment and Regeneration to carry out any function under the Act or these Regulations acting within the terms of such authorisation.

**'Awning'** includes a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall and includes parasols provided to tables outside catering establishments.

**'Catering Establishment'** means any premises used for the retail sale of food or drink for consumption on the premises, where the Council has licensed a site for tables and chairs to be provided for customers' use on the street.

**'Child'** means a person under compulsory school leaving age as in the Education Act 1996 or successor and includes a baby/child of pre-school age.

**'Goods'** means any goods, wares, or merchandise displayed for sale at a stall or Licensed Site.

**'Harassment'** includes but is not limited to:-

- (a) Violence or threats of violence towards any person;
- (b) Abusive or insulting words or behaviour;
- (c) Damage or threats of damage to property belonging to another person;
- (d) Writing threatening, abusive or insulting graffiti;
- (e) Any act or omission calculated to interfere with the peace or comfort of any person or to inconvenience such person;
- (f) Refusal to serve or permit access to a stall, licensed site, premises or services.

**'Licence'** means a valid Street Trading Licence or a valid Temporary Licence.

**'Licence Holder'** means any person who is licensed for street trading under Part III of the London Local Authorities Act 1990 as amended.

**'Licensed Site'** means a place in any authorised street at which street trading may be engaged in by a Licence Holder, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

**'Loading and Unloading'** includes stocking or replenishing goods at a Licensed site, vehicle or receptacle.

**'Refuse'** includes empty and discarded receptacles and any waste material.

**'Stall'** means the structure for which the Council grants a Licence for goods or services to be displayed thereon or from which services are provided.

**'Street Furniture'** includes seating facilities provided by the Council for public use, bollards, stanchions, railings, the walling of flower beds and any structure owned by a statutory undertaking or the like.

**'Undressing the Stall'** means removing goods and receptacles and any other things thereon in part or in whole or dismantling or adjusting any part of the stalls' structure.

**'Approved Street Festivals'** means those street festivals whereby the Council may issue temporary Street Trading Licences.

**'Displays Outside Shop Premises'** means where the Council has granted a Licence to display goods from a stall or licensed site on the footway immediately outside the shop premises.

**'Refreshment Stalls'** includes coffee stalls and those selling foodstuffs capable of immediate consumption.

**'Traditional Stalls'** includes those licensed to sell garments, hardware and raw foodstuffs.

## **GENERAL**

The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act. The stall, trade, business, activity etc. shall comply and be conducted in a manner that conforms with other relevant legislation enforced by the Local Authority or other Agencies. These include General Health and Safety, Food Safety, Trading Standards and Fire Prevention and Highways Regulations.

## **INFORMATION**

(i) Headings inserted in these regulations are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.

(ii) Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified.

(iii) These conditions may be dispensed with or modified by the Council in any individual case by means of a Licence Variation in accordance with the statutory requirements.

(iv) If a trader wishes any of the terms of a Licence to be varied or the Council's agreement under these rules, application must be made in writing to the Council in accordance with the statutory requirements.

(v) These regulations replace the regulations previously approved by the Council.

## **1. INSURANCE**

(a) The Licence Holder shall take out third party insurance cover with a minimum liability of at least two million pounds.

(b) In respect of Licences granted for the display of goods outside shop premises and tables and chairs outside catering establishments this may be incorporated in an insurance policy of the business.

(c) Satisfactory evidence of such insurance must be produced to the Council before a Licence will be granted or renewed.

(d) Evidence of such insurance shall also be produced by a Licence Holder on demand to an Authorised Officer of the Council or a Police Officer.

## **2. DAYS AND TIMES**

A Street Trader shall only engage in Street Trading on the days of the week and during the times specified in the Licence or otherwise authorised by the Council except that there shall be no trading on Christmas Day. Markets do not operate on Sundays and Public Holidays.

## **3. DISPLAY OF NAMES**

Licence Holders except in respect of displays of goods outside shop premises and tables and chairs outside catering establishments shall prominently display a sign with their surname or family name and licensed Site or Licence Number on the stall. Additionally they may exhibit a trading name or title.

## **4. CHARGES AND FEES**

(a) Charges for a Street Trading Licence shall be payable to the Council annually in advance. A Street trading licence will be valid for 12 months. Fees and charges will be set by the Council from time to time. In making any payment the Street Trader shall ensure that the appropriate invoice and account numbers are recorded.

(b) Charges for a Temporary Licence shall be payable each day in advance or for such periods as shall be specified in the Temporary Licence. An Authorised Officer shall decide the charges in accordance with the rates set by the Council from time to time.

(c) A Street Trader shall pay all charges for any Licence in force that has been issued at his request whether or not he engages in Street Trading.

(d) In accordance with Section 32(1) of the Act a fee shall be paid for the grant or renewal of a Street Trading Licence, but not a Temporary Licence, and for any variation of a Licence at the request of the Street Trader.

## **5. LICENCE AND INSPECTION OF LICENCE ETC.**

(a) Licence Holders shall produce their Licence for Inspection when requested to do so by an Authorised Officer of the Council or Police Officer.

(b) In respect of displays outside shop premises and catering establishments the Licence shall be exhibited within the premises in the safe vicinity of the entrance so that it can be seen by an Authorised Officer of the Council or Police Officer.

(c) Where the Council has issued a Certificate of Variation to a Licence that shall be produced and displayed with the Licence.

(d) All other Licence Holders in their absence shall ensure that the Licence is retained on the stall so that it can be produced by an assistant on demand to an Authorised Officer of the Council or Police Officer.

(d) If alcoholic beverages are consumed at a licensed site, the Licence Holder or Assistant shall produce on demand, where appropriate, licenses that are required by the Licensing Act 2003 to an Authorised Officer of the Council or Police Officer.

(e) Once issued to a Street Trader a Licence shall remain in force until the expiry date indicated therein or until revoked by the Council in accordance with the Act.

(f) Where, in accordance with Section 26 of the Act, the holder of a Street Trading Licence has nominated a relative as his successor and that holder dies then the nominated successor may continue to engage in Street Trading within the terms of that Licence for a maximum period of 28 days provided that successor pays any charges due.

(g) On the death or retirement through age or ill health of a Licence holder, the Council may issue a Licence to a nominated relative to trade from the Licensed Pitch shown in that Licence in accordance with Section 26 of the Act. For the purposes of Section 26 of the



Act a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half daughter of the former and shall be deemed to be so related notwithstanding that he is so related only through illegitimacy or in consequence of an adoption.

## **6. POSITION**

- (a) The Licence Holder shall only use the licensed site prescribed in the Licence (which may be marked or denoted on the ground by means of white lines, contrasting paving or other device by the Council) unless the circumstances under 6(e) shall arise.
- (b) The Licence Holder shall not cause or permit stalls, goods, receptacles; (except refuse containers under Regulation 16c) to project whether grounded or suspended beyond the licensed site or to be placed or to stand anywhere else in the street.
- (c) In respect of catering establishments, tables and chairs shall not be placed or used outside of the site defined in the Licence. This may be denoted by the Council marking the boundary by White Lines or other means.
- (d) The Licence Holder or Assistant shall inspect the licensed site whilst in use at least every hour to ensure that tables and chairs are not outside of the licensed area.
- (e) If the licensed site is obstructed by roadworks or other hazard the Licence Holder may consult an Authorised Officer of the Council or failing that a Police Officer in uniform and produce their Licence. Temporary trading elsewhere whilst the obstruction persists shall be at the discretion of the Officer consulted. The name of the Council Officer or the number of the Police Officer must be noted by the Licence Holder.

## **7. SIZE**

- (a) The Licence Holder shall not place or cause to be placed on the street, a stall that exceeds the dimensions prescribed in the Street Trading Licence.
- (b) Stalls shall not exceed the dimensions unless prescribed in the Street Trading Licence.
- (c) Market stalls shall not exceed 3 metres by 3 metres (10 feet by 10 feet) or other dimension as specified in the Street Trading Licence.
- (d) The dimensions of all stalls prescribed in Licences shall include any towing bar or bracket or the like that remains projecting from the stall whilst trading is being conducted.
- (e) Displays outside shop premises shall not exceed the size prescribed in the Street Trading Licence. The Council will take into account any private forecourt and the available depth of footway.
- (f) In respect of catering establishments the number of tables and chairs on the street shall not exceed the numbers prescribed in the Licence.
- (g) The sizes of tables and chairs and parasols shall not exceed those prescribed in the Licence.

## **8. PERMITTED GOODS AND SERVICES**

- (a) Only those goods or services specified in the Licence may be displayed, used, provided or offered for sale.
- (b) In respect of displays outside shop premises, cash registers, scales and other measuring devices shall be contained within the shop and not brought onto the street, licensed site or the stall.
- (c) No advertisement shall be displayed on a stall or licensed site which relates to any goods or services other than those offered for sale or provided on the stall or licensed site.
- (d) A Street Trader shall not cause or permit a nuisance to be created by noise or smell emitted from the Licensed Pitch or type of display.

## **9. DEALING WITH THE PUBLIC**

- (a) Licence Holders and their assistant shall ensure that the public are treated fairly and with courtesy.
- (b) Licence Holders are responsible to ensure that assistants are competent, courteous and helpful.
- (c) Admission or service shall not be refused to any person on the grounds of gender, race, ethnic origin or the grounds of sexual orientation.
- (d) The Licence Holder shall not use or permit any activity, omissions or practice in the conduct of the business that will cause harassment to any person on the grounds of their disability, skin colour, religion, gender, age, sexual orientation and so on.
- (e) The serving of customers shall not take place in the road.
- (f) A Licence Holder or assistant offering a service shall make clear the nature and cost of that service by way of a notice on the stall or within the licensed area.
- (g) All goods shall be clearly marked with a price, and where appropriate an indication of the unit quantity in which they are being offered for supply.
- (h) Where the licensed site is in the road or adjacent, scales and cash registers shall be placed on the stall at the furthest point from passing vehicular traffic.
- (i) The customer should clearly be able to view the goods being weighed, measured etc. before they confirm their intention to purchase.
- (j) In respect of goods selected by customers from displays outside shops the requirement in Regulation 8(i) shall be carried out within the shop premises.
- (k) A Licence Holder or assistant shall not use a megaphone or amplification equipment or a loud voice to shout out the price of goods etc. in order to attract customers.
- (l) Radios or other audio equipment shall not be used in or around the licensed site other than by written agreement of the Council.

## **10. RECEPTACLES & CONSTRUCTION OF STALL**

- (a) Only those receptacles approved by the Council shall be used by the Licence Holder and assistants. Stalls shall not be formed by the use of old milk crates and the like and other receptacles notified to the Licence Holder by letter.
- (b) Goods must not be placed directly on the street unless specified in the Licence.
- (c) Where the Council has licensed the display of bulky furniture or the like outside shop premises on the street a suitable trolley to remove the goods shall be maintained within the shop.
- (d) Stalls shall be constructed so as not to become unbalanced or otherwise unstable.
- (e) Stalls shall be maintained in good order and free from protruding nails or other hazards likely to cause injury or damage to a person or their clothing.
- (f) No stall, part of the stall, accessory, table or chair shall be used if it is likely to damage the street.
- (g) A Licence Holder or assistant shall not bolt or otherwise secure temporarily or permanently anything to the street or street furniture.
- (h) Sites licensed for the displays of goods outside shop premises shall not incorporate any form of seating facility, nor may any seating be used or provided by the Licence Holder or assistant immediately outside the licensed site or elsewhere in the street other than on a private forecourt associated with the business.
- (i) Other Licence Holders shall not provide or use any form of seating facility outside of the licensed site (other than street furniture provided by the Council for public use) unless they have the written consent of the Council. Such permission may restrict their use to the Licence Holder and assistants and prescribe the number of seats, their construction, size, and positioning together with other conditions.

## **11. ROOFING OF STALLS ETC.**

- (a) The distance between ground level and any support of the roof, awning or supports of the stall or goods suspended from any of these, shall be at least 2.4m unless otherwise specified in the Licence.
- (b) A Licensed Street Trader shall not permit the awning or roof of the stall to project outside the area of the pitch, save as provided in Regulation 11(c).
- (c) The awning or roof of a stall may project over the footway for a distance not exceeding 0.6 metres from the boundary of the pitch unless otherwise specified or restricted by a further condition of the Licence.
- (d) The roof or awning shall be safely constructed and must not shed water over customers or passers by.
- (e) No awning other than a parasol may be used as part of a stall for displays outside catering establishments.
- (f) A Street Trader, or his Assistant, shall immediately remove any Awning on the instruction of an Authorised Officer or a police constable and shall, in any case, remove any Awning outside the permitted hours for Street Trading.

## **12. ELECTRICITY SUPPLY ETC.**

- (a) The only connection between stalls in the street and other premises shall be for the purposes of electric lighting and power for the operation of electronic scales, measuring equipment and cash registers and the testing of electrical goods or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. No connection shall be made with any other stall.
- (b) Where the Council provides an electrical supply system to the stall, the trader shall pay to the Council upon demand the installation costs and for the supply and maintenance of the service and equipment.
- (c) All electric power supplies shall have the appropriate consent from the Council before seeking installation from the Electricity Board.
- (d) All electrical wiring and components shall comply with the basic Electricity Board Specification and be earthed and insulated accordingly.
- (e) All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.4 metres from the footway surface, and 5.1 metres from the surface of the roadway.
- (f) Any suspended lighting shall be safely protected and shall not expose the public, Licence Holder or assistants to any form of risk.
- (g) In respect of displays outside shop premises and catering establishments, mains electrical power may be supplied from the permanent premises to the trading area providing that all equipment and wiring shall be placed, installed, maintained and operated in accordance with the provisions of the Health and Safety at Work, etc. Act 1974 and all other relevant Regulations.
- (h) In all such cases an automatic circuit breaker must be installed within the premises between the point of supply and the equipment in the trading area.

## **13. GENERATORS**

- (a) Electrical generators shall not be used at displays outside shop premises and catering establishments.
- (b) When mobile electrical generators are permitted they shall be so positioned that:-
  - (i) they do not present a danger to the public, and
  - (ii) they do not present a fire or similar hazard risk to the stall or goods displayed thereon, or to persons engaged on or about the stall, and

- (iii) they do not cause any noise or fume nuisance, and
- (iv) any inflammable fuel is stored away from the stall in a container and position approved by the Council.
- (c) Heat producing equipment shall be so placed within the licensed site as to offer maximum safety to the public. The position of any equipment in relation to other goods and materials shall be agreed with the Council in writing.

#### **14. LOADING AND UNLOADING**

- (a) Any cart, barrow, trolley or similar conveyance owned or hired by the Licence Holder or assistant shall not be used except for the purpose of loading, unloading and transporting goods.
- (b) Loading and unloading shall be restricted to twenty minutes and resumption shall not occur until a further hour has elapsed.
- (c) Loading and unloading must not be continually interrupted by the serving of a customer.
- (d) The cart, barrow or trolley or similar conveyance used for replenishing or moving goods shall be stored on the Licence Holder's vehicle or at the storage facilities or in respect of displays outside shop premises within the shop premises and not on the street.
- (e) Loading or unloading shall be abandoned for any duration ordered by an Authorised Officer of the Council or Police Officer if in their opinion the activity obstructs pedestrian flow or causes any other form of obstruction or nuisance.
- (f) The Licensed Street Trader or his assistant shall not use a vehicle for loading or unloading at or near the licensed site unless it can lawfully be there.
- (g) Licence Holders or assistants shall replenish displays outside shop premises from stocks held within the shop premises and not directly from any vehicle.
- (h) A Street Trader, or his Assistant, shall ensure that there is no undue obstruction of vehicular or pedestrian traffic whilst re-stocking the Licensed Pitch or loading and unloading Goods or other articles used for or in the course of Street Trading. When, in the opinion of an Authorised Officer or a police constable, there is likely to be undue obstruction of vehicular or pedestrian traffic the Street Trader, or his Assistant, shall immediately cease re-stocking, loading or unloading and within 15 minutes clear any Goods or other articles used for or in the course of Street Trading or for re-stocking, loading or unloading from any position in the Street other than within the Licensed Pitch.
- (i) A Street Trader, or his Assistant, shall not place, keep or use a vehicle at or near his Licensed Pitch in contravention of any legal parking or loading restrictions nor shall a Street Trader, or his Assistant, place, keep or use a vehicle at or near his Licensed Pitch which does not display a current disc showing that any road tax, or similar, has been paid.

#### **15. REMOVAL OF STALLS ETC.**

- (a) Licence Holders and their assistants shall remove stalls, goods, tables and chairs and anything else under their control as directed for so long as may be necessary.
  - (i) In the event of an emergency and this shall include any public demonstration, congregation or disorder in the area, whether or not instructed by an Authorised Officer of the Council or Police Officer;
  - (ii) In the exercise of the Council's powers and duties which include the maintenance of the licensed site, to enable its re-marking and to check whether the stall is capable of being removed in accordance with these Regulations and
  - (iii) To enable statutory undertakings to maintain their services;
  - (iv) In order to accommodate customers confined to wheelchairs outside catering establishments the Licence Holder or assistants shall remove any surplus chairs, for the time being, to the place of storage

- (b) Stalls, goods, tables and chairs etc. shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within 30 minutes of the time prescribed on the Licence for the end of trading on that day.
- (c) A Licence Holder electing to cease trading before the time denoted in the Licence shall remove the stall, goods, tables and chairs at that time to the place of storage.
- (d) A Licence Holder in respect of shop premises shall remove the stall(s) and goods on the cessation of trading and before closing the shop premises.
- (e) Where at an approved Street Festival the stall is hired or provided by the organiser or the agent, the Licence Holder shall be responsible for its erection, suitability, stability, dismantling and safe and prompt removal.
- (f) A Licence Holder upon production of Proof of Ownership may claim from the Council within 14 days of it coming into the Council's possession and without penalty (providing that it is not otherwise this subject of Legal Proceedings or a Seizure Order) anything that:-
  - (i) not being within a licensed site was removed by an Officer of the Council because in their opinion it was a hazard or the like to the public;
  - (ii) otherwise came into the Council possession and was identified as possibly being associated with the activity of Street Trading.

## **16. PROVISION OF STALL BY THE COUNCIL**

- (a) The Licence Holder shall use any stall provided by the Council.
- (b) Where the Council provides, (lends, hires or lets) the stall, the Licence Holder shall be responsible for its care and safe custody and must not wilfully or otherwise cause to it any damage.
- (c) The stall must either be on the licensed site, in the storage unit or in the course of being transported to and fro. It shall not be used for street trading or any other purpose elsewhere.
- (d) The stall when not in use shall be placed within the storage unit provided by the Council.
- (e) The Licence Holder shall secure the unit by the use of padlocks or other locking devices approved by the Council.
- (f) The Licence Holder shall keep the storage unit free from accumulations of refuse.
- (g) The Licence Holder shall make the storage unit available for inspection by an authorised Officer of the Council and to enable its general maintenance.

## **17. REFUSE**

- (a) In respect of traditional sites the Licence Holder and assistants shall ensure that all refuse arising as a result of the activities shall be placed in suitable covered containers provided by the Licence Holder exclusively for that purpose.
- (b) Such refuse containers shall be kept as clean as is reasonably practicable.
- (c) Refuse containers shall be sited in a location agreed with the Council. They shall be emptied whenever necessary into any vehicle, container, compactor, or place provided by the Council for that purpose.
- (d) Licence Holders and their assistants, in respect of footway displays outside shop premises and catering establishments shall ensure that any refuse arising from the external activities is properly stored and disposed of as part of the shop business.
- (e) No refuse shall be allowed to accumulate or be placed in the street.
- (f) No vehicle shall be used for the storage of such refuse.
- (g) The Licence Holder shall produce on demand to an Authorised Officer of the Council, proof of a contract for the disposal of trade refuse.

(h) In respect of catering establishments the licence holder shall also remove from tables any used and discarded receptacles.

## **18. ATTENDANCE BY LICENCE HOLDER**

(a) Traditional Licence Holders must be in attendance throughout the whole or part of the day that the stall is set up for trading unless engaged on the following:-

(i) A meal break or visit to the toilet.

(ii) Sickness of short duration.

(iii) Hospital, dental or doctor's appointment.

(iv) Occasional attendance at the office of an accountant, tax inspector, bank or Council cash office.

(v) On holiday.

(vi) Or for any other sufficient reason that may be approved by the Council from time to time.

(b) In respect of displays outside shops and catering establishments the Licence Holders usual place of work shall be within the premises.

(c) At approved Street Festivals the Licence Holder shall be in attendance at the stall throughout the event save that prescribed in 18(a)(i).

(d) No Licence Holder shall sub-let the stall or any part of the stall or the licensed site, or install a manager to operate the Licence.

(e) A Licence Holder if required by an Authorised Officer and/or Solicitor to the Council shall furnish the Council with a Medical Certificate obtained at the Licence Holders own expense or other documentary evidence to support the reasons for any continual or repetitive absences.

## **19. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT ETC.**

(a) The Licence Holder shall notify the Council of the names of any assistants within seven days of their commencement. This shall be by letter or on a form prescribed by the Council.

(b) The Licence Holder shall give any other information regarding assistants as required by the Council.

(c) A Licence Holder shall not have as an assistant any child in the business of street trading including the putting out or stocking of receptacles, clearance of refuse, attending a stall or any related activity.

(d) A Licence Holder and assistant shall not bring or have care and control of a child whilst the business is being set up, operated or dismantled.

(e) The failure of an Assistant to comply with the conditions of the Street Trading Licence held by the employer shall be deemed to be a failure by the Licence Holder.

## **20. ADMINISTRATION**

(a) Licence Holders and assistants must give every reasonable assistance to Council Officers and their contractors in carrying out their duties.

(b) A Licence shall cease to have effect (*other than being revoked or having expired or on the death of the trader*) only upon it being surrendered by the Licence Holder in exchange for a written receipt at the Council's Trading Standards Office.

(c) A Licence Holder making application for the renewal of a Licence shall bring the completed application form and prescribed fee to the Council Officer by appointment. The three photographs prescribed in the Act if not already forwarded by the Licence Holder shall be handed to the Officer at this time.

(d) A Licence Holder having appeared before a committee of the Council where, although there were sufficient grounds to revoke the Licence it was decided to deal with the matter by way of a Warning Letter shall acknowledge receipt of the Warning Letter by signing and dating and returning one copy of the letter to the Council in the envelope provided within 21 days of its receipt.

(e) Licence Holders shall notify the Council in writing of any change of their title, name or home address as soon as it occurs.

(f) The sending of letters and Notices from the Council by the General Postal Service to the last notified address by the Licence Holder shall be taken by the Council as proper and good service of documents.

(g) All notifications (*excluding payments of weekly/monthly charges*) given by the Licence Holder to the Council shall be to the Council's address as it appears on the Licence or that subsequently amended and notified in writing to the Licence Holder.

## Appendix D

### **LONDON BOROUGH OF MERTON LONDON LOCAL AUTHORITIES ACT 1990 PART III (as amended) (STREET TRADING)**

**NOTICE IS HEREBY GIVEN UNDER SECTION 32 OF THE ABOVE NAMED ACT  
OF THE STREET TRADING LICENCE FEES FOR THE FORTHCOMING YEAR  
VALID FROM 1<sup>ST</sup> April 2013 – 31<sup>ST</sup> March 2014**

Unless otherwise stated all fees are for a period of 1 year.

New Street Trading Licence Application Processing Fee	£50
Renewal Licence Processing Fee	£25
Variation of existing Licence	£75
Market Trading Registration Fee	£25

#### Forecourt and Tables And Chairs Licence

Up to 1 sq m	£100
Over 1 sq m up to 6 sq m	£561
Over 6 sq m up to 12 sq m	£842
Over 12 sq m	£1,122
Over 18 sq m	£1,684

#### Forecourt, and Tables and Chairs Temporary Licence

where full application is being processed (per month)

Up to 1 sq m	£8.50
Over 1 sq m up to 6 sq m	£47
Over 6 sq m up to 12 sq m	£70
Over 12 sq m	£94
Over 18 sq m	£140

#### Other Pitches (for example catering van, individual pitch not on market)

£1,320

#### Market Fees (Temporary Licence per pitch per trading day)

Regular Market	£11.50
Casual Market Fee	£20.00

#### Specialist Market Fee (minimum ten stalls/pitches for up to 4 days or part thereof)

£500

#### Other Temporary Licences (up to 2 months in any year)

Daily	£51
Weekly	£255
Monthly	£1020

These fees are calculated to reflect the reasonable costs of the Council in administering street trading in the borough and include administration, regulation, enforcement and other costs incurred by the Council.



## **Appendix E Representations**

Steve Cooper - Principal Highway Safety Inspection Officer

1) Outside Rocher Noir 221 London Road Mitcham – This is opposite the entrance to the car park for the market traders, we do not think there will be a conflict but can this be checked and verified.

2) Outside Cedar 144 Merton High Street – The Property Number is missing from your schedule, the remaining available pedestrian footway is 1.4m and is therefore insufficient to accommodate this application. We could only support the application if the area was reduced to 0.8m in depth leaving a minimum 1.5m -1.6m clearance on the highway which must be maintained [sic]. They do have a large A-frame advert which does reduce the available footway width please can they be reminded to keep this against the shop front.

3) Outside 17-18 Morden Court Parade Morden - This is also Red-Route. Available footway width will be 1.9m which is not obstructed by post or trees and so would be acceptable. Traffic and Highways have no objection to this application.

4) Outside Aubaine 18 High Street Wimbledon – Remaining footway width is 2.2m and is only reduced by a single post at the Northern end of the premises, Traffic and Highways would only support this application if the Length is reduced to 8m from the Southern end of the premises to eliminate the reduced width issue at this post.

Hi David,

TfL have no issues with the application (4 [Morden Food]) but the remaining 1.9m must be kept free of obstructions i.e. A-boards.

Regards

**Stuart Dayman**

South Area Team  
Transport for London  
Roads Directorate  
Mob: 07545 200969

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