

## Reports to Community & Environment Committee – 3 September 2015

### Report 1 - Palemon Best improvements and liaison with User Group

Please refer to updates in Town Clerk's report and the notes of the July meeting of the Palemon Best Users Group (attached).

Further to the Clerk's update report, the line marking of the football pitch is due to be carried.

The main discussion points from the user group meeting on 21 July were:

- Welcomed the recent installation of the new roundabout
- Local volunteers regularly tackle litter and dog fouling
- Appreciation for the work of town council staff in repairing and maintaining the site
- Police report of graffiti and ideas on how to tackle it
- The formation of a Palemon Best Users Group
- The repairs needed to the skatepark equipment
- Promoting use of the recreation ground

**Members views are invited** on the recommendations of the Palemon Best Recreation Ground User Group:

- i. Town council involvement in press release and any support for community events – ***Recommended at this stage for the town council to co-ordinate a press release and photo call, consider community events as plans evolve***
- ii. Arrangements for the User Group – ***Recommended that the council continues to support the formation of an independent user group if this is viable, otherwise continue with the open forum stakeholder type meetings currently held.***
- iii. Goal posts – these are currently being sourced based on safety compliant posts only. ***Members views are invited on whether nets should also be installed (a consideration when placing the order for the goal posts)***
- iv. Costings for a concrete skate park. It is not clear from the notes whether this was to be an action for community volunteers or from the town council. If officers are to follow this up, this would first need to be an agreed objective of the town council. ***Members views are invited on whether investigating a concrete skate park is to be a town council objective***
- v. Signs / posters to encourage responsible use of the site. ***Members view are invited.***
- vi. Arrangements for next meeting of the User Group – ***Recommended that the council arrange the next meeting for a date in October / November***

### Report 2 - Seagull complaints

The following complaints have been received directly by the town council this summer, to be taken into consideration alongside general complaints raised with staff and councillors, and general media coverage of this ongoing issue.

The first:

“My 4 year old son was sitting at the harbour’s edge, near the Sloop Inn, eating a pasty when a sea-gull swooped for the food in his hand and in doing so bit his finger, cutting it open. A plaster from a local chemist was sufficient to deal without the wound but it could, of course, have been a lot worse and he was extremely upset by the incident.

My concern is that there is a clear threat to public safety from seagulls of this nature (I observed similar swoops occurring every five minutes) and – evidently – insufficient efforts have made to address this problem. This problem cannot be eradicated entirely, but that should not deter from minimising the frequency of these incidents, and addressing particular well-known hot-spots.

Should we wait for a worse incident (a child to have an eye out from a peck at the face? Someone to stumble in surprise/fright at an attack and seriously injure themselves in a fall?) before sufficient \*preventative\* action is taken? I wouldn’t want that on my conscience, which is why I’m pursuing this. I’m aware that the birds have afforded a level of protection, but clearly this is trumped by a responsibility to protect the public – which is currently being neglected.

I would like the following to be explained:

What is being done to address this well-known, long-standing, serious problem?

How will the current, failing, approach be revised proactively, \*before\* a more serious incident occurs?

I hope you appreciate my concerns and can help. With other recent high profile cases, there is no better time to make a positive change in regards this issue for the sake of the ongoing safety of the public, and their enjoyment of St. Ives.”

The second:

“Had a lovely time in St Ives and surrounding areas.  
A huge issue you have are the seaquills. They are constantly attacking people on the beach and around the harbour for food. Kids are been frightened when they swoop. People are trying to hurt them with anything they have in their hands to keep them away.  
What impression does this give to foreign tourists?  
They need culling before it gets any worse.”

#### Previous actions taken by the town council

The following initiatives have been implemented previously by the town council:

- Playing of a seagull distress call from speakers mounted on a van driving in the harbour area – the success of this was short lived as the gulls learn that there is no actual danger and return to the area. Some reports of people not liking the noise of the distress calls being played.
- Flying hawks in the harbour area – again this can be effective until the gulls learn that there is no real risk. We have been advised that the gulls can also become complacent about hawks and groups of gulls may attack back.
- Wheelie bins were introduced by Penwith District Council to ensure that rubbish is properly contained.
- Egg pricking – carried out by the town council at no charge to residents. People notified the council of nests on their properties, addresses were provided to a contractor who carried out two rounds of egg pricking per annum. This was carried out with a budget allocation of the town council. The service was stopped after further investigation into the licence permitting such action, and clarification that egg pricking should only be carried out after all means of deterring the birds from

nesting had been carried out. The scheme would have been too onerous to seek and verify such declarations from householders. When the scheme was withdrawn, advice was provided to householders on the steps they can take to deter gulls nesting, and then the contact details for pest control companies should deterrents not work.

- Schools poster competition and display of the posters around the town, particularly in takeaway outlets – awareness raising locally and for customers. (This was revived last year, remaining posters distributed this year too)
- Signs in the harbour area and at car parks, to warn of the seagull nuisance. (Signs had been ordered this year – understood to be some crossover on this with St Ives BID)
- Seagull Advice Leaflet – distributed from the Guildhall and Visit St Ives Information Centre, also published on the town council website – still available.

#### Current action taken by the town council:

The town council currently has the approach of educating and raising awareness through:

- signs
- posters
- advice leaflet available in print and via the website
- letters distributed to problem areas to set out responsibilities for containing rubbish in a way that does not attract vermin or gulls.

#### Other organisations

In considering this matter, the role of others can also be considered, eg Cornwall Council as the authority responsible for environmental health, and nationally those setting the legislation which sets out what actions may be taken.

It can be noted that there is the potential for partnership working with St Ives BID on this matter as one of their aims is also to address the seagull nuisance problem in St Ives.

#### Legislation

The principal legislation dealing with the control of birds is the Wildlife and Countryside Act 1981. Generally, it is illegal to capture, injure or destroy any wild bird or interfere with its nest or eggs. The penalties for disregarding the law can be severe.

Egg pricking or removal of eggs and nests may be justified where deterrents to nesting have been tried, and where there is a risk to health / safety. However, we have received advice from a gull expert that steps to reduce a seagull population are often negated by the fact that gulls from other areas will fill any gaps in the population that may be created when the area as a whole remains attractive to gulls. These steps are most effective for the householders / property owner concerned to take away the particular nuisance that a nest may cause an individual (eg when gulls swoop those using a garden path when protecting their nest).

Since the withdrawal of the egg pricking service we've received no / minimal representations from householders to request that the service be resumed.

For the more pressing issue of people being swooped by gulls taking food, then it is perhaps the case that the focus should continue to be on educating and awareness.

**Members views are invited.** It is suggested that the next step might be to convene a working group to consider options available, and possibly arranging to meet with Cornwall Council officers / St Ives BID representatives to explore all options for tackling seagull nuisance.

### Report 3 - Option for the town council to run the admin for bands and choirs on West Pier

Having heard from a local brass band that they would not be able to play on West Pier after this year, the Clerk has established with the Harbour Master that this is due to reductions in the administrative staffing at Cornwall Council. Bookings for the Pier used to be carried out by the Open Spaces team and have now become the responsibility of the Harbour who do not have the administrative basis to accommodate this work.

There are potentially two options to pursue, if it is agreed that bands etc should be able to continue to play on the Pier:

- an events option, with either the town council or another organisation being able to rent a space ear year to hire out to bands to cover the hire cost. This would mean a financial commitment at the start of each year and speculation on the income to be generated.
- an administration service option, eg the town council could carry out the bookings function, make a small charge to bands to cover the cost of electricity (to be forwarded to the harbour authority) and administration charge (to be retained by the town council).

If Members agree that bands should continue to be allowed to play at West Pier, then the second option would be recommended for the town council. Whilst not likely to be an income generating venture, it should be possible to provide the service with costs covered by the administrative fee charged.

**Members views are invited.**

### Report 4 - Street Marshal Scheme – update on the trial scheme to date

The Street Marshal scheme was started in the first week of July and has been carried out every Friday and Saturday night since then (the trial is running to the end of September). The scheme has been supported by the Police (with positive feedback and financial support) and the reports back have advised that feedback has been positive on the evenings that they have been on patrol.

The detailed weekly reports have been submitted each week by the marshals, and have been forwarded to the Mayor and Chairman of C&E Committee.

The patrols have included regular visits to trouble spots, helping individuals who are distressed and / or drunk, checking licensed premises to ensure that people are not outside with glasses / bottles, and generally being a first port of call for people out in the town, and able to help to address any potential problems at an early stage.

**Members views are invited** on the operation of the Street Marshals scheme during the trial period and initial views on whether this would be beneficial to continue in future years.

#### Report 5 - Definitive Footpath applications

There are currently three applications for modifications to the definitive footpath map for the Lelant area – WCA55, WCA552 and WCA568. They have different placings in the order of priority for determination by Cornwall Council.

A supporter of the applications has sent in the following suggest which they request to be supported by the town council:

“It however occurred to me after reading the info below that it would not be going over old ground to enquire if CC would save money to deal with the three together on the basis that WCA658 would move up and not WCA 551/552 moving down. It will be a waste of council tax money for officers not to group them together as having put the evidence together I can state that about 80% of the extensive supporting evidence is the same for all three applications. They would not have looked at it, only stored it without taking this into consideration. The consequence of their numbering is that CC staff would need to re-read the same material all over again two years down the line after the first two footpaths were dealt with in three years time, (10-11 years after the application was originally made if we are lucky).”

This has been raised with the relevant officer at Cornwall Council who has advised that:

“We currently prioritise DMMO applications by priority and in date order that they were received in line with the Revised Policy Statement 2006. WCA 551 & 552 are currently positioned at 27 & 28 on the priority list and WCA 568 is currently positioned at 47 on the same list. We have to determine applications in line with the Council’s policy. If there were exceptional circumstances as to why applications should be considered at the same time, this would be a decision made by the Natural Environment Manager with delegated decision making powers.”

**Members views are invited** on whether the town council agrees to support the request for the three footpath modifications listed to be determined at the same time (ie WCA658 to move up the priority list).

#### Report 6 - Good Friday Consols Boating

This item is included as the Council has agreed to take on responsibility for the annual Good Friday boating at Consols Pool. Looking ahead, **Members views are invited** on how this will be approached (ie appoint a working group to lead on this?)

This is also an opportunity to invite updates from any Members who have had previous involvement with the former Consols Pond Association on any matters which the Council may need to be aware of, in readiness for preparations for next year’s event.

Report 7 - Re-mapping of St Ives (accessibility) (Councillor Armstrong)

The re-mapping of St Ives project has previously been supported in principle by the town council and has moved forward at a pace partially dictated by the time that community volunteers are able to put to it.

Councillor Armstrong has offered to volunteer time to the Remapping St Ives project and if this is approved by the town council as a town council contribution to the project, then it will help to formalise the arrangement.

**Recommended** - that the town council agrees that Councillor Armstrong will be acting on behalf of the town council when carrying out her voluntary duties with the Remapping St Ives project.

Report 8 - Sewage problem – Porthrepta Road, Carbis Bay (Councillor Lait)

A request has been received by a resident of Carbis Bay for the town council to support local residents calls to South West Water to remedy the problems which result in an overflow of sewage through the drains resulting in horrendous conditions for a number of householders. A copy of the letter to be circulated at the meeting.

**Recommended** – that the Council contact South West Water to call on them to remedy the situation in Carbis Bay as soon as possible.

Report 9 - Street Trading Review – Cornwall Council consultation

The consultation document has been previously circulated to Councillors and is appended to this report for ease of reference.

The item had been included on the agenda for consideration and at the time of writing the report it has been established that this consultation was previously considered by the Planning Committee in April 2015 with the agreed response being: RESOLVED - to write Cornwall Council with a strong objection to the consultation, this would be a step in the wrong direction, St Ives Town Council strongly support local businesses who pay full business rates. This would cause major health and safety issues in St Ives with the narrow streets there would be a pedestrian highway conflict.

As there are a number of review questions put, Members may wish to elaborate more fully on the consultation response, with views in line with the objection originally submitted (bearing in mind the rule on not considering the same matter twice within a 6 month period). This opportunity to elaborate on the original consultation response is suggested in view of the level of complaints regarding street trading, signs, etc over the summer months of 2015.

**Members views are invited.**

Report 10 - Bollards on Wharf Road – correspondence received

This report is presented for Members' information. A letter was received from a trader on Wharf Road setting out their reasons for siting their A Frames in an attempt to stop vehicles encroaching towards their shop, and concerns at lorries parking.

Highways were contacted and have advised that the bollards outside the shop are sufficient and so A Frame boards are not needed for the protection of customers. They have also given assurances at the methods used in the collection of A Frames from Wharf Road.

The correspondent has been advised of the advice from Highways and it is understood that the matter has now been settled. This is brought to Members' attention as it was originally raised as a request to the council.

Report 11 - Neighbourhood Plan – update

An update report may be provided by Councillor Lait and/or the Community Link Officer.

## **Appendix**

### **Cornwall Council - Street Trading Review**

A review of street trading is necessary to achieve unification of the regulation of street trading in Cornwall and to comply with the European Union Services

Directive (EUSD). Some of the current designations are out of date and non-compliant with the EUSD.

It is envisaged many areas will benefit from a change in designation to allow event based trading and promote economic activities in some areas which are currently prohibited.

Cornwall Council's Licensing Service has already undertaken an initial consultation exercise with Cornwall Councillors, Town and Parish Councils and internal Cornwall Council Services to consider proposals for a street trading review across Cornwall. Full details of the internal consultation including the relevant Committee Reports and Minutes are available at this link:

<https://democracy.cornwall.gov.uk/ieListDocuments.aspx?CIId=601&MIId=6255&Ver=4>

Having taken into account the views from the internal consultation the Council are now undertaking a formal public consultation.

We would now like to hear the views of all those who are affected by issues relating to the regulation of street trading.

In order that your views can be taken into account as part of this review, this document has been prepared to provide information relating to street trading and to incorporate the consultation questions.

It would be appreciated if you would consider and respond to the specific questions (numbered 1 to 13) outlined in this document.

Please return by email to [licensing@cornwall.gov.uk](mailto:licensing@cornwall.gov.uk) or by post to Licensing Service, Cornwall Council, Chy Trevail, Beacon Technology Park, Bodmin PL31 2FR

This consultation runs until **10 November 2015**.

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### **What is Street Trading?**

Street trading is the selling or exposing or offering for sale of any article (including a living thing) in a street.

Street trading does not include offering a service, for example, hair braiding, face painting, henna tattoos etc.

### **What is the definition of Street?**

Street includes any road, footway, beach or other area to which the public have access without payment and a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.

## **How can Street Trading be regulated?**

Councils can choose to regulate street trading in their area by adopting Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The legislation can be found at:-

<http://www.legislation.gov.uk/ukpga/1982/30/schedule/4>

Cornwall Council adopted the legislation in 2010 and resolved that street trading in Cornwall would be regulated by way of 'consent' streets or 'prohibited' streets.

## **Why does Cornwall Council choose to regulate street trading?**

The Council regulates street trading so that they can decide where to allow street trading and can properly manage the environmental and safety implications for example, obstructions, overcrowding in streets, escape from/access to premises causing public safety issues, nuisances such as smells, noise and litter.

## **What does a 'Consent' street mean?**

A street in which street trading is prohibited without the consent of the Council.

## **What does a 'Prohibited' street mean?**

A street in which street trading is prohibited at all times.

## What options for the regulation of street trading are being considered?

There are two options being consulted on:-

1. *Designate the whole of Cornwall, being the area regulated by the Council, as a street trading '**consent**' area.*

This option would provide a consistent approach as all street trading would require the Council's consent apart from specified exemptions (see questions 4 to 8 below relating to exemptions).

or

2. *Designate the whole of Cornwall as a street trading '**consent**' area, with specific '**prohibited**' areas set within it.*

This option would require all street trading conducted within Cornwall to be licensed by the Council with the exception of those areas that are prohibited and apart from specified exemptions (see questions 4 to 8 below relating to exemptions).

This option would also provide a consistent approach, although any prohibited areas must be justified in order to comply with the EU Services Directive.

Although both options would mean the whole of Cornwall is designated as either '**consent**' or a combination of '**consent and prohibited**' streets, it is intended that the policy would specify exemptions for certain activities and/or specific areas (see questions 4 to 8 below).

Question 1

**Do you agree the whole of Cornwall should be designated as 'consent' with specified exemptions?**

**Which 'prohibited' areas are being considered?**

Highways have indicated that, apart from some specified formal (larger) laybys which are suitable for trading, they would prefer, on the grounds of public safety, that street trading is *prohibited* from all A and B roads where the maximum speed limit exceeds 30mph.

The Licensing Act Committee, however, are concerned that a blanket policy ban on A and B roads would not be appropriate.

Question 2

**Do you agree the whole of Cornwall should be designated as 'consent' apart from A and B roads being 'prohibited' as suggested by Highways?**

Question 3

**Are there any other streets where you think the Council should prohibit street trading and why?**

### **Are there any legal exemptions from requiring Street Trading Consent?**

Yes, these include the following which are exempt under the Act. Any designations the Council make will not affect these at all: -

- Pedlars
- Charter Markets
- Trunk road picnic areas
- News Vendors / selling periodicals
- Shops using their forecourt area as part of the business of the shop.
- Roundsmen
- Charity Stalls

### **Are there any other exemptions from requiring Street Trading Consent?**

Whichever option is decided upon, the Council can also decide that other trading activities do not require consent. For example, the policy could exclude the following from requiring Street Trading Consent: -

- Fetes, carnivals or similar community based, organised and operated events
- Car boot sales
- Honesty boxes
- Goods from working farms sold at the premises where they were produced
- Sales of articles by residential occupiers within the curtilage of their properties or land contiguous with it
- Approved markets/events
- Trading on beaches

Although the Council may specify certain exemptions such as those listed above in its policy, if there were any concerns, for example, in relation to public safety, the Council would reserve the right to make the final decision at a hearing of the Licensing Act Committee or Street Trading Sub-Committee if appropriate.

Question 4

**Do you agree that all of the above activities should be exempt from requiring street trading consent?**

Question 5

**Are there are any other activities which you consider should also be exempt from requiring street trading consent?**

**Can certain streets/areas be excluded from Street Trading regulation?**

It is proposed that streets within the control of the following Cornwall Council Services be excluded as those services will regulate those areas themselves:-

- Environment Service
- Parking Services
- Harbour Authority

Question 6

**Do you agree that trading in areas within the control of the above services be exempt from requiring street trading consent?**

Question 7

**Are there are any other areas which you consider should also be exempt from requiring street trading consent?**

## **What about trading on private land?**

Private land to which the public have access without payment is included within the definition of 'street' and can therefore be regulated by the Council.

However, it is not necessarily the Council's intention to regulate street trading in all areas of private land.

The Council would suggest that private land which is immediately adjacent to controlled streets is regulated. For example, the Council may specify that designations will include "*all forecourts, roads, footways or other areas adjacent to the streets for a distance of 'x' metres.*" This would control a loophole for potential street traders to trade from private areas immediately adjacent to controlled streets.

### Question 8

**Do you agree private land should be exempt apart from immediately adjacent to controlled streets?**

**If so, what distance do you consider would be appropriate, e.g. 5, 10 or 15 metres from the public highway?**

## **How does the European Union Services Directive (EUSD) impact on Street Trading?**

The EUSD is intended to make it easier for street traders to set up anywhere in the European Union. In order to comply with the EUSD any requirement for street trading authorisation must be justified by an "overriding reason relating to the public interest" (ORRPI).

The refusal of street trading consent on the grounds that there are already enough traders in the street from other shops or other traders selling similar products is not compatible with the EUSD and can no longer be used.

## **What is meant by the term "overriding reason relating to the public interest" (ORRPI)?**

Examples given in the EUSD are public policy, public security, public safety, public health, protection of consumers, recipients of services and workers, combating fraud and the protection of the environment and the urban environment.

## **Are conditions attached to Street Trading Consents?**

The Council may attach conditions as they consider reasonably necessary, including conditions to prevent any obstruction of the street or danger to persons using it, or any nuisance or annoyance to any person. The conditions may also stipulate what traders may sell, exactly where and when they may sell and the fee they must pay.

Street trading is controlled to avoid obstruction and protect public safety, for example overcrowding in streets affecting escape from and access to premises. It also prevents noise, smells and nuisance and ensures any litter from street trading is removed from site.

The Council's proposed conditions are attached at Appendix 1.

Question 9

**Do you have any comments in relation to any of the conditions?**

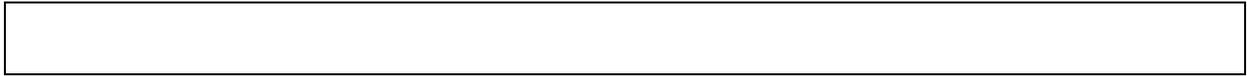
**What about one off local events and markets?**

Applications for street trading consents of a limited duration and for specific events and markets, for example Christmas Late Night Shopping, Farmers Markets, Made in Cornwall craft fairs etc, are currently considered independently from annual/seasonal applications and specific conditions apply to such consents.

This review could remove the requirement for 'approved' events/markets from requiring Street Trading Consent as these could be controlled by the event/market organiser.

Question 10

**Do you consider all approved markets and events should be exempt from requiring street trading consent?**



## **How much does a Street Trading Consent cost?**

It is proposed that the street trading fees are also reviewed as part of the overall review of street trading. Please click [here](#) to view current fees and charges.

Question 11

**Do you have any comments to make in relation to the fees?**

Question 12

**Do you have any other comments or suggestions on the regulation of street trading in Cornwall?**

Question 13

**Could you please indicate in what capacity are you responding to this consultation?**

- (i) Street trader who holds or has previously held a Street Trading Consent**
- (ii) Street trader who does not currently require a Street Trading Consent**
- (iii) Cornwall Councillor**
- (iv) Town / Parish Council**
- (v) Cornwall Council internal service**
- (vi) Member of the public**
- (vii) Other (please specify)**

**Where can I find more information?**

Further information on the current arrangements and details of how to apply for street trading consent are available on the Council's website at <http://www.cornwall.gov.uk/advice-and-benefits/licences-and-street-trading/street-trading-licence/>

**When does this consultation close?**

10 November 2015

## **How do I respond to the consultation?**

Please respond by email to:- [licensing@cornwall.gov.uk](mailto:licensing@cornwall.gov.uk)

Alternatively by post to:-

Licensing Service

Public Protection & Business Support (S1)

Cornwall Council

Chy Tревail

Beacon Technology Park

Bodmin

PL31 2FR

Thank you for taking the time to respond to this consultation.

All responses received will be considered by the Licensing Act Committee prior to any decision.

**STREET TRADING CONSENT CONDITIONS**

1. This consent shall not be assigned to any other person, firm or organisation.
2. A copy of the consent must be displayed on the stall/vehicle (NB the consent holder's home address can be blanked out if required on the display copy).
3. \*Any motor vehicle from which trading is permitted to take place shall be in a roadworthy condition and shall at all times be taxed, tested and insured, and a driver holding a full driving licence for the class of vehicle being used must be available within a reasonable period in the event that the vehicle is required to be moved.
4. The consent holder shall not contravene any Order made under the Road Traffic Regulations Act or the Town & Country Planning Acts and shall also comply with the provisions of the Highways Acts.
5. \*The consent holder must at all times comply in full with the Food Hygiene (England) Regulations 2006, guidance is available in the "Industry Guide to Good Hygiene Practice Markets and Fairs Guide", and any relevant legislation.
6. The consent holder must possess for the purposes of trading, sufficient public liability insurance cover.
7. The consent holder must keep any stall/vehicle from which trading takes place together with the immediate vicinity of the stall/vehicle, in a clean and tidy condition and where required, the consent holder must provide sufficient litter bin(s) for use by customers.
8. Advertisements must not cause any danger, obstruction or nuisance to customers or persons in the vicinity of the traders stall/vehicle.
9. This consent does not give any permission to any person or body to place posters, signs or any other advertising material within highway limits, or on street lighting columns, traffic signs and other street furniture. Traders are advised that any material should not be sited or displayed in a manner which obscures any highway sign or creates a safety risk or hazard to the use of the highway. Any material erected in contravention of these requirements is liable to be removed by the Highway Authority.
9. Any stall/vehicle used for the purposes of street trading shall not remain on site outside the hours as stated on the consent.
10. The consent holder shall not cause any obstruction to persons using the public highway or wishing to enter the site upon which they are trading.

11. The consent holder shall only use one mobile stall/vehicle for the purposes of street trading on each site, which must not exceed the size agreed in writing by the licensing authority.
12. The consent holder shall supply a copy of these street trading conditions to every person engaged in street trading.
13. The consent holder and any other persons engaged in street trading shall at all times offer full co-operation to an authorised officer of the council in their task of ensuring compliance with the above conditions.

\* where applicable

NOTE: IT IS MOST IMPORTANT THAT THE ABOVE CONDITIONS ARE STRICTLY COMPLIED WITH, AS ANY CONTRAVENTION MAY LEAD TO PROSECUTION AND/OR REVOCATION OR NON-RENEWAL OF THE CONSENT