

LICENSING AND REGULATION COMMITTEE

16 February 2011

STREET TRADING

REPORT OF HEAD OF LEGAL SERVICES

Contact Officer: Howard Bone Tel No: 01962 848 552

RECENT REFERENCES:

CAB 2100 - Management of Winchester Market – 9 February 2011

EXECUTIVE SUMMARY:

Cabinet at its meeting of 9 February 2011 considered a report on the management of Winchester Market (CAB 2100 refers). It agreed various measures, including the purchase of new market stalls, and the principle of operating the market and various specialist markets over a wider area and on additional days. The primary objectives behind these changes are to attract additional pedestrian flow to the Town and enhance the attractiveness of the market as part of a vibrant streetscene, thereby assisting the local economy.

The regulation of street trading falls within the remit of this Committee, and this report recommends changing the legal controls over street trading to facilitate these addresses the legal issues

RECOMMENDATIONS:

- 1 That in accordance with Section 3 of the Local Government (Miscellaneous Provisions) Act 1982, the provisions of Schedule 4 of the Act (Street Trading)

be adopted with effect from 17 February 2011.

- 2 That notice be given in accordance with Paragraph 2 of Schedule 4 of the 1982 Act of the intention to pass a resolution to designate as consent streets those streets listed in Appendix 1 to the Report.
- 3 That a report be brought to a meeting of the Licensing and Regulation Committee on 28 March 2011 to consider any representations received in response to the notice, and including details of fee arrangements, policy matters, and any changes to the Scheme of Delegation, required.

LICENSING AND REGULATION COMMITTEE

16 February 2011

STREET TRADING

REPORT OF HEAD OF LEGAL SERVICES

DETAIL:

1 Introduction

- 1.1 At its meeting of 9 February 2011, Cabinet considered a report on the management of Winchester Market (CAB 2100 refers). A copy of the report is attached as Appendix 2 to this report, which sets out the background to the existing market operation, and the proposed changes, which include extending the trading area and operational days of the market. The recommendations in the report were agreed by Cabinet, and this report is the report referred to in Recommendation 5, to implement the necessary street trading controls.

2 Current Control of Street Trading

- 2.1 Street Trading is currently controlled under the Hampshire Act 1983. Section 7 of the Hampshire Act 1983 permits district councils in Hampshire to designate streets, and other areas such as off-street car parks, recreation grounds, parks, and other open spaces, the effect of which is to make it a criminal offence to trade without a licence from the district council. Trading from shop units is not affected.
- 2.2 In 1983 and again in 1990, the City Council designated a number of streets in the centre of Winchester and in the vicinity of the Cathedral (High Street) in Winchester under the Hampshire Act. There are currently 4 licences issued for street trading (the flower seller adjacent to St Maurice's Covert, a flower seller in Parchment Street, Hampshire Chronicle and the Big Issue. In addition, licences have been granted for events such as the Hat Fair, Mayfest, Christmas Lights, Firework Display, and the "First Thursdays" events recently promoted. The streets currently designated are set out in Appendix 1 to this report.
- 2.3 Following representations from Ward Members, the City Council designated various streets in the town centre of Alresford under the 1983 Act in 1999. One licence is in force for West Street for a food trader, but a one-day licence is also issued for the Watercress Festival.
- 2.4 The Head of Legal Services has delegated authority to issue licences, and the controls are enforced by the Licensing Section, as well as the Police. A person who is refused a licence has a right of appeal to the magistrates' court.

No prosecutions have been brought, as generally, unlicensed traders move on once the designation is drawn to their attention. The maximum penalty for an offence is £200.

- 2.5 The current controls have been operated to control street trading in the High Street. With the proposals to introduce formal market stalls into the High Street, it is necessary to review whether the existing legislation (Hampshire Act 1983) is appropriate.

3 Local Government (Miscellaneous Provisions) Act 1982

- 3.1 The City Council also has powers under the Local Government (Miscellaneous Provisions) Act 1982 to control street trading. The provisions apply across England and Wales, and to some extent are wider in scope than the Hampshire Act powers.

- 3.2 The 1982 Act provisions are adoptive, by resolution of the Council.

- 3.3 The 1982 regime has three types of streets:-

- a) consent street;
- b) licence street;
- c) prohibited street

- 3.4 Trading in consent streets requires the consent of the district council. Paragraph 7 of Schedule 4 to the Act sets out the procedure for applying for such consent. Written applications are required, and conditions may be attached which the Council considers reasonably necessary. These conditions can be varied by the Council at any time. Consents can include consent to trade from a stationary van, etc., or a portable stall. Consents can be granted for up to twelve months, and can be revoked at any time. Subject to the usual procedural remedy of judicial review, the Council can grant or refuse the licence as it thinks fit, and an applicant has no right of appeal against conditions imposed, or a refusal of an application.

- 3.5 Trading in licence streets is restricted to holders of a licence from the Council. Paragraph 3 of Schedule 4 to the Act prescribes a procedure for applying for licences. A written application must be submitted, and photographs may be required. Unlike the consent procedure, applications for street trading licences must be granted unless the Council considers a specific ground is made out. These grounds are limited, and include inadequate available space, adequate traders in shops for the same type of goods, failure to pay fees, or unsuitability of an applicant. Again, reasonable conditions can be imposed. If the Council proposes to not grant an application, or to grant in terms other than those proposed in the application, the applicant must be given an opportunity to make representations on the matter. An aggrieved applicant may appeal to the magistrates' court.

- 3.6 Trading in prohibited streets is unlawful, and an offence. Traders also commit offences if they trade in a consent street or licence street without the necessary consent/licence, or if they breach the terms of any conditions imposed. All offences are punishable by a fine of up to £1000.
- 3.7 Councils can charge such fees as they consider reasonable for street trading licences or consents. Differing fees can be determined to take into account the duration of the consent, the street where trading is authorised, and the description of articles in which the holder is authorised to trade.
- 3.8 The provisions of the 1982 Act are more flexible than those set out in the Hampshire Act 1983. Adopting the 1982 Act will therefore allow better control over the extended market. In terms of whether to designate streets as consent or licence streets, Members will appreciate that the regime for licence streets is significantly more detailed and controlled than that for consent streets. Licence streets are less flexible for the local authority, in that applications for licences must be granted unless legally specified grounds can be made out, and an applicant can appeal to the magistrates' court. It is therefore considered that the designation of streets as consent streets, rather than licence streets, is appropriate in this situation.

4 Legal Processes Required

- 4.1 A resolution of the council (in this case, a resolution of the Licensing and Regulation Committee) is required to adopt the Act. Once the Act has been adopted, streets can be designated by further resolution.
- 4.2 No notice is required of a resolution to adopt the Act. Before a resolution to designate a street is passed, notice of the intention to pass the resolution must be published in a local newspaper, and also served on the Police and the highway authority (Hampshire County Council). The notice must contain a draft of the resolution and state that representations relating to it may be made in writing to the Council within a specified period (not less than 28 days after publication).
- 4.3 It is proposed that the resolution adopting the Act be passed at this meeting, and that notice be then published of the intention to pass a resolution designating the streets already designated under the Hampshire Act as consent streets. Any representations can then be considered at the meeting of this Committee on 28 March 2011, and the decision on whether or not to pass the resolution can then be considered, taking into account any such representations.
- 4.4 The report to the Committee on 28 March would cover matters such as fees to be charged, any delegation arrangements required, and policy matters.

5 Policy Issues and Current Licences

- 5.1 It is intended that the existing policy in respect of Alresford will be maintained, namely that no more than one street trader be permitted at any one time in

West Street, New Alresford, between 6.00pm and 10.30pm, and that no permits would normally be issued for any other designated streets.

- 5.2 In respect of the current licences in Winchester, the Big Issue and Hampshire Chronicle would not require licences as news vendors selling newspapers or periodicals are exempt from the controls. The licence for the flower seller adjacent to St. Maurice's Covert is still regularly used, although it is not operated directly by the licence holder. The other licence in Parchment Street is rarely used. These existing licences would lapse when the new controls are implemented, and the operators would be invited to apply for a licence to trade within the extended market area as described in CAB2100. Given the intention to enhance the operation of the market, it is recommended that licences should only be granted for operations within the designated market stalls, save for special events such as those described in paragraph 2.2 above.

OTHER CONSIDERATIONS:

6 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

- 6.1 The matters in this report will assist in achieving the objective of a vibrant local economy in Winchester, promoting the Town for visitors and shoppers.

7 RESOURCE IMPLICATIONS:

- 7.1 The implementation costs consist of the costs of a newspaper advertisement, and the officer time to consider representations and prepare the report to the next Licensing and Regulation Committee.

8 RISK MANAGEMENT ISSUES

- 8.1 The necessary legal steps, including the requirement to publicise the intention to designate streets and consider any representations made in response, will be followed.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 – Streets currently designated in respect of Street Trading.

Appendix 2 – CAB 2100 – Management of Winchester Market – 9 February 2011.

Appendix 1 – List of Streets**WINCHESTER**

Middle Brook Street between High Street to North Walls

High Street between Westgate and City Bridge (including “The Broadway”)

Market Street

Market Lane

Paternoster Row

The Square

Simonds Street

St Swithuns Street etween Simonds Street and Kingsgate Street

College Street

Great Minster Street

Parchment Street for a distance of 137 metres (150 yards) from High Street

All other roads joining High Street for a distance of 46 metres (50 yards) from High Street

Friarsgate from junction with High Street to its junction with Upper Brook Street

Upper Brook Street from its junction with High Street to its junction with North Walls

St Georges Street from its junction with Middle Brook Street to its junction with Jewry Street

Tanner Street and Silver Hill

Jewry Street

ALRESFORD

East Street,

West Street,

Ladywell Lane,

The Dean,

Station Road,

Station Car Park,

Station Approach,

Jacklyns Lane (between West Street and the Railway Arch),

Pound Hill,

Winchester Road,

Mill Hill and

The Soke.

CABINET

9 FEBRUARY 2011

MANAGEMENT OF WINCHESTER MARKET.

REPORT OF HEAD OF ESTATES

Contact Officer: Kevin Warren. Brian Bottriell. Steve Goodwin. Tel No: 01962
848528

RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

The report considers the future of the main Winchester market in the light of the current economic climate.

It also assesses the scope for enhancing the City's image as a centre for speciality markets, with the aim of creating a stronger proposition for both local shoppers and Winchester's many visitors alike to generate new footfall and increased trading opportunities for businesses in the City Centre.

The potential to maintain income is considered together with the general management of City Centre markets by the granting of a management agreement to appointed agents.

RECOMMENDATIONS

- 1 That an incentive based management agreement be entered into for a period of one year from 1 May 2011 with Southern market Traders Co-operative Ltd (SMTC) for the management and operation of the Weekly, Art and Antiques

Markets and that a direction be made under Contracts Procedure Rule 2.4a accordingly.

- 2 That the Head of Estates be authorised to conclude negotiations for the detailed terms of a management agreement with SMTC, based on the terms set out in the report and the exempt Appendix 3.
- 3 That the purchase of 40 “pop up Gazebos” to replace the existing outdated heavy steel framed stalls be agreed.
- 4 That the contract with the existing Stall Erectors be terminated.
- 5 That the principle of operating a Weekly Market over the areas shown on plan A 1 and A3 or A4 and specialist Sunday markets over the areas shown on plan Plans A1, 2 and 3 or 4 be agreed, and a report be made to the Licensing and Regulation Committee to implement the necessary street trading controls to facilitate this on a permanent basis.
- 6 That pending the adoption of the new street trading controls, road closure orders be made under the Town Police Clauses Act 1847 to allow markets to be run on an experimental basis on the land identified in plan A1 for a weekly market every Wednesday and for speciality markets over plans A1, 2 and 3 or 4 for the speciality markets.
- 7 That the revised Market Revenue Budget be agreed in accordance with the details set out in the report from the date that the new market arrangements are authorised.
- 8 That the new market Rules and charges set out in Appendix 2 be adopted with effect from 1 May 2011.
- 9 That the recommendations in the exempt Appendix 3 be approved.

CABINET

9 FEBRUARY 2011

MANAGEMENT OF WINCHESTER MARKET

REPORT OF HEAD OF ESTATES

DETAIL:

1 Introduction and Background

- 1.1 Winchester has always been home to markets, and their history is entwined with the City's cathedral heritage. Markets are considered to be a vibrant element of any destination's shopping and leisure offer, as they have the potential to draw new or regular shoppers to the City. This generates footfall in the centre which in turn creates business opportunities for other shops, eateries and businesses.
- 1.2 The popular Hampshire Farmers' Market has provided an excellent platform for local producers to sell direct to the public. Originally taking place on the 2nd Sunday of each month, it expanded to two Sundays a month (2nd and 4th) at a time when other farmers' markets had plateaued or were in decline. It has continued to be the flagship market for Hampshire Farmers' Market, and has been a key driver for wider Sunday opening in Winchester.
- 1.3 Following the trialling of French markets by the City Council's tourism service some years ago, the market concept was taken up by Winchester Cathedral's enterprises team, which now very successfully runs a continental-style Christmas market each December. It has also organised speciality food and drink fairs and an art, craft and design market each year. These are in keeping with the wider shopping offer of the city, but provide additional incentives for local people and visitors to come into town. This line-up has been very successful, demonstrating that the market culture is thriving given the right organisation and the right theme or products.
- 1.4 Planning for the Silver Hill redevelopment has included consideration of the development of the market 'offer' for Winchester, indicating a genuine local concern for the retention and indeed growth of the City's reputation for markets.
- 1.5 This report considers the benefits of developing Winchester's reputation for speciality markets, with the consequent contribution to the visitor economy, and also considers the implications for the Council's budget.

2 Winchester City Council's Market Operation

- 2.1 For its part, Winchester City Council runs a traditional market in Middle Brook Street trading on Wednesday, Thursday, Friday and Saturday each week. The

Friday and Saturday markets are reasonably well supported by traders, whilst the Bric-a –Brac market held on Thursday is declining and until recently trading on Wednesdays was also very sporadic.

- 2.2 In keeping with traditional markets throughout the country the Winchester market has been in gradual decline. Revenues have been falling for the past four years as detailed in the table below.

Year	Turnover
2006/7	£117,410
2007/8	£116,012
2008/9	£112,848
2009/10	£106,179

Fig 1 Annual Market Takings

The market is currently on target to produce a gross income of approximately £100,000 for 2010/11. The income received is offset by the cost of administering and running the market.

- 2.3 It has always been considered important to maintain a vibrant Winchester market in order to promote visitor footfall and to support the viability of the City Centre retail trade.
- 2.4 The City Council has previously employed its own market manager but when this post became vacant in January 2010, Southern Market Traders Co-operative Ltd (SMTC) were appointed on a temporary basis to undertake the daily management of the market and to advise on the possibility possible future development of the market.
- 2.5 SMTC are recognised market agents who currently run 15 markets in the South of England and have a membership of 450 traders. Recently the company have transformed the markets in Alton, Bitterne and Christchurch
- 2.6 SMTC have tried to increase trading in general and actively promoted a food and produce market on Wednesdays, traditionally a quiet day for trading. This initially proved very popular but has declined in recent weeks due to the perishable nature of the food offered and insufficient pedestrian footfall to make food trading sustainable.
- 2.7 The table below identifies the monthly number of stalls occupied on each of the four trading days for the period February to December 2010.

Feb-10	34	12	63	97	206
Mar-10	131	17	50	82	280
Apr-10	88	16	92	97	293
May-10	70	11	82	100	263
Jun-10	86	29	63	97	292
Jul-10	74	34	99	91	298
Aug-10	59	23	81	79	242
Sep-10	73	40	84	77	274
Oct-10	52	29	81	95	257
Nov-10	56	30	78	69	233
Dec-10	89	50	109	44 *	292

Fig 2 Monthly Stall Occupancy n.b. * only three trading days

- 2.8 In order for this market to thrive, the market operators propose that an extension into the lower end of the High Street between Middle and Upper Brook Street should be considered. This would provide good footfall for those stalls located in the High Street and a visual link back to the stalls in Middle Brook Street.
- 3 Recent Developments.
- 3.1 Trial markets were held in the High Street using temporary road closure orders under the Town Police Clauses Act on 6 days in December 2010. A maximum of 18 stalls were erected in the street and these were positioned in such a way as to allow for the passage of delivery vehicles and the heavy seasonal pedestrian flows. Gaps were left between the stalls so as not to inconvenience shoppers wishing to access the shops or to restrict their visibility to pedestrians. The trial was originally proposed for three days, but proved so successful for traders that it was extended to six days.
- 3.2 The adjoining shop keepers were kept informed of the proposals and there appeared to be a very significant footfall, which must have been of benefit to their businesses. Sensitive positioning of stalls ensured that direct competition with adjoining shops was avoided. Service vehicles making deliveries and collections were escorted through the site by the Market Manager and were able to do so during the authorised hours without difficulty. The trial demonstrated that up to 20 stalls might be accommodated on the street.
- 3.3 SMTC, with support from the Council, have promoted a monthly Art and Design market on the third Sunday of the month. This market commenced in June 2010 and initially attracted 20 traders. At subsequent markets the take up of space has vastly increased with 70 traders offering their products for sale at the markets held in September and November 2010. There is now a waiting list for stalls as it is not possible to fit any more into the available space.

- 3.4 The success of this market is mainly due to the fact that the Council have been able to extend stalls into the pedestrian area of the High Street from Marks and Spencer to the Market Street junction. The Market has been advertised locally by the Council and by using colourful standard size "gazebo style" stalls provided by SMTC it has succeeded in attracting additional footfall into the City Centre which in turn has resulted in other High Street outlets now opening on a Sunday for trading.
- 3.5 Following on from the success of the Art Market, it is now proposed to trial an Antiques and 20th Century Collectables market on the 1st Sunday of every month commencing April 2011 for 10 months. It is hoped that this new venture will be as successful as the Art and Design Craft market has proved to be. The market will attract further footfall into the City, ensuring that there will usually be a market taking place on a Sunday in Winchester.
- 3.6 It is therefore proposed to extend the traditional market onto the area shown on plan A1 and to operate the speciality Sunday markets over the area shown on plans A1, 2 and 3, or 4 (depending on the traders preference) at Appendix 1. Members' approval is sought to the proposed extension to the market trading areas.

Practical Implications

- 4.1 Legal: Currently, street trading is regulated in Winchester under the Hampshire Act 1983. This requires the consent of the Council for trading within specified streets, including Middle Brook Street and High Street. However, it is considered that the street trading provisions in the Local Government (Miscellaneous Provisions) Act 1982 would be more appropriate to control the operation of an extended market as is proposed in this report.
- 4.2 Street trading is a regulatory activity, falling within the terms of reference of the Licensing and Regulation Committee. Reports will be taken to a special meeting of the Licensing and Regulation Committee in February and March 2011 to review the existing street trading controls, and the proposals for the new market will be taken into account in this review. This would recommend the adoption of the 1982 Act, the designation of the relevant streets as Licence or Consent Streets, and delegated powers to officers to set fees and arrange for the relevant consents to be issued to traders.
- 4.3 Civic: There are three Councillors' processions from the Guildhall to the Cathedral and back, on the three 'Civic Sundays'. If these processions were to be maintained in their current form it will be necessary for the market manager to help escort the processions through the High Street on the following dates in 2011:- 22 May, 9 October and 13 November.
- 4.4 In addition, the Council stages (on average) one military parade each year. Such an event would almost certainly require closure of the High Street market for that day. However, as there is no advance timetable as to when these events are held, the power to allow the Council to close the market for

this purpose - without any claims for compensation from the traders - would need to be included in the necessary agreements.

- 4.5 **Presentation:** The existing stalls that are used in the daily market are of heavy steel framed construction with PVC roof coverings and are costly to erect and maintain. These are not considered attractive in design especially when the market is quiet and when several stalls remain vacant. The current cost of erecting and dismantling the stalls is £13,520pa (i.e. £260 per week.)
- 4.6 It is considered that the purchase of new colourful standard size market "pop up gazebo style" units will be less costly to erect as only those stalls required on a daily basis will need to be erected making the market scene more attractive and inviting to the general public. Additional stalls can easily be erected as and when required. The gazebos are currently used for the Wednesday food market and for the Art and Design market which is held on the 3rd Sunday of every month and these are provided by SMTC who charge stallholders an additional rent of £5 for the stall in addition to the pitch fee. There is considered to be a clear economic case for the Council to purchase such units for future use to increase pitch revenue. Under the proposed terms of the management agreement with SMTC, savings will also be made on erection costs of the current stalls which will no longer be used. The daily erection and removal of the gazebos is to be included in the agreed annual sum payable to SMTC.
- 4.7 It is proposed to purchase 40 such gazebo style stalls at a cost of £330 per unit totalling £13,200. This will be a sufficient number of stalls for most daily markets. However if additional stalls are required, such as for the Art Market, these can be hired from SMTC. If demand for market pitches increased such that the market managers regularly had to bring further stalls to the site, it is recommended in these circumstances that further stalls should be purchased. The gazebos could also be used for other markets or special events in which the Council is involved in the longer term.
- 4.8 **Management:** The management of the Market by directly employed staff is not considered to be appropriate. Contract management offers the Council access to economies of scale, the expertise, contacts and professionalism of an organisation specialising in market management. It is considered that the trials undertaken by SMTC have demonstrated that they are able to manage the Winchester market effectively. SMTC offer similar services to a number of local Councils including Alton, Christchurch, Eastleigh and Southampton. The Company have a Co-operative of Members giving them access to 596 traders. Given their expertise in market management, their local connections and the need to take prompt action, it is considered appropriate to offer the management contract directly to the company.
- 4.9 It is therefore recommended that the SMTC Management Co Ltd should be employed for a further period of a year to manage the expansion of the market into the High Street and to build on the trials already carried out. Consequently

it will be necessary to enter into a new formal management agreement with SMTC which will make them responsible for:

- Providing weekly account information including cash collection, banking cash, accounting for monies and compilation of performance statistics;
- Liaising with the Head of Estates to ensure that traders are issued with appropriate street trading permissions;

Setting up, taking down and storing stalls;

- Managing waste collection effectively with the objective of waste minimisation
- Letting stalls, managing stallholders and liaising with Environmental Health and Trading Standards Officers;
- Preparation of risk assessments;
- Working with the Council to effectively promote the markets;
- Revising and updating the market rules as necessary;
- The management of Sunday speciality markets for an additional fee.

4.9 The market terms and conditions have been updated in the light of current practise and these are attached at Appendix 2. Subject to Members approval the new rules will come into effect on 1 April 2011.

5 Financial Implications

5.1 Fees for the extended market would be set under the Street Trading legislation, which fall within the remit of the Licensing and Regulation Committee. Under the terms of the Local Government (Miscellaneous Provisions) Act 1982, the Council may charge such fees as they consider reasonable, for the grant or renewal of a street trading licence or consent.

5.2 Indicative fees are shown in Fig 3 below, for budgetary purposes. These fees are in line with the existing Winchester market fees, and other comparable markets elsewhere. They take account of the expenditure that the Council will incur as a result of extending the market, including the purchase of new stalls, the management fees of the market operator and other internal costs. A detailed scheme of fees will be drawn up once the new provisions have been adopted. The indicative fees are considered to be appropriate given the need to ensure that stalls, the number and variety of traders and the operation of the market as a whole, are of an appropriate standard so as to maximise the attraction of the market for shoppers.

5.3 The revised Market arrangements will result in the potential to increase the number of stalls as follows:

	Wednesday		Thursday		Friday		Saturday	
High St	18	£40	8	£20	18	£40	18	£40
M B St	15	£30			25	£35	30	£35
Total	33	£1,170	8	£160	43	£1,595	48	£1,770

Fig 3 – Stall No's and Potential Income

- 5.4 A realistic assessment of take-up of stalls might assume 65% average occupancy which would suggest an annual income of £152, 588. Income from fees would be paid into the Markets Cost Centre and would be offset by the expenditure incurred in operating the market, as set out in Exempt Appendix 3.
- 5.5 It is worth noting that the Thursday Bric-a-Brac market is not cost effective to operate currently. Given the limited number of stalls being let, the success of the Art Market and the proposal to open an antiques market, it is questionable whether the Thursday market will be able to continue in its current form over the longer term. Consideration will be given with the market manager as to how to improve the viability of the Thursday market.
- 5.6 It is proposed to pay SMTC a management fee for the weekly markets based upon a fixed initial fee and an incentive payment assessed on income generated from the weekly and the speciality markets. The details of the fee arrangements are set out in the exempt Appendix 3.
- 5.7 For the Art Market and Antiques and Collectables markets, if the Council were to purchase 40 Gazebos, it would be necessary for SMTC to provide up to 30 others if the available market pitches were fully sold. A flat rate management fee would be charged for each stall erected, for ease of calculation. The details of the fee structure to be paid to SMTC for Speciality Markets are set out in Exempt Appendix 3. The Pitch fee for Arts and Antiques and Collectables Markets will be £40 per stall.

6 HAMPSHIRE FARMERS MARKET

- 6.1 The Farmers Market is operated separately by Hampshire Farmers Market Ltd. When the market was set up in 1999, the initial aim was to support six markets a year over a three year period at a cost to the Council of £11,000 per annum. However, the market was so successful in Winchester; it soon began operating 23 Markets a year. In 2002 the market became a limited company with the aim of establishing itself as a self sustaining company run by the farmers themselves.
- 6.2 In 2009 the Council began to move the charges made to the Farmers Market onto a more commercial footing. The charges were restructured over a four

year period and this year they would rise to £24,050 a year, (approximately £13 per stall.) The Council wishes to support local producers and has done much to build direct relationships with growers, farmers and brewers through its work in delivering the LEADER rural funding programme. Discussions continue with Hampshire Farmers Markets to ensure the continued success of the Winchester Farmers market. The Farmers Market have been invited to consider trading from the High Street pitches to replicate the layout of the other speciality markets and to move out of the car park. This does pose some difficulty for the Farmers as many of their traders require access to electricity, which is not currently available in the High Street.

7 SUMMARY

- 7.1 The provision of a market in Winchester has always been considered important as part of the retail package which attracts shoppers and visitors to the City which in turn supports other local traders.
- 7.2 Traditional Markets are in decline nationally, but recent trials have shown that with the correct siting in Winchester, the market should be successful. The provision of specialists markets as part of a vibrant street scene is considered essential to halt further decline and attract additional pedestrian flow to the City.
- 7.3 New attractive and easy to erect stalls are regarded as essential in order to achieve an immediate impact to attract increased footfall and to maintain and increase revenue.
- 7.5 The provision of the additional market trading area in the High Street for an extension of the markets will provide additional pedestrian footfall in this area which will benefit not only the food market but other High Street retail outlets.
- 7.6 The proposed market arrangements would result in revisions to the revenue budget, although increased costs are expected to be offset by income growth.

8.0 OTHER CONSIDERATIONS:

SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

- 8.1 The proposals outlined in the report will maintain and enhance the vibrant economy of Winchester, and its attraction to shoppers and other visitors, whilst ensuring that the Council's budget position is not adversely affected.
- 8.2 A performance related management agreement with SMTC is considered will make the best use of its financial resources and improve the efficiency of the service delivery whilst retaining overall control of the market operations.
- 8.4 Any future proposed Silverhill development proposals will have an impact on the final location of the market but the proposed arrangements in this report are to be made with such a future development in mind.

9 RESOURCE IMPLICATIONS:

- 9.1 The project will require input from the Head of Estates, Estates Officers, the Head of Legal Services, Environmental Health Officers, the Car Park Manager and HCC Highways.
- 9.2 Other than officer time, the immediate resource implications are in respect of the initial purchase of 40 Gazebos at a cost of approximately £13,200.
- 9.3 The appointment of SMTC who are a specialist market company on a full time management basis will incur additional expenditure, which will vary with their success in letting stalls and would be met from the income earned.
- 10.1 Required financial and audit procedures have already been put in place for the handling of market income and expenditure.
- 10.2 The cost of running the market will increase as a result of the new arrangements. If the Market Manager is not able to secure additional income from the Market, these costs will not be offset by additional income. The risk is mitigated by limiting the agreement to a trial period of one year and through close monitoring.
- 10.3 The cost of running the market will increase if it is successful in attracting the numbers of traders referred to in the report and the relevant budgets for marketing, refuse, rates etc will have to be increased accordingly.
- 10.4 There is a reputational risk in developing a more vigorous week-day provisions-based market, in that Hampshire Farmers' Market may feel that the Council is eroding the viability of their Sunday operation. This comes in the wake of the increased market charge, and local producers are expressing concern. It is important to manage and grow our own communications with the producers to reassure them of the Council's commitment to creating sustainable trading opportunities for them whatever the outcome of discussions with Hampshire Farmers' Markets. This will be done in consultation with the LEADER programme team and the Council's wider economic development service.
- 10.5 If the market managers are successful in increasing the number of pitches which are let on a regular basis, it will be necessary to purchase between eight and thirty additional stalls. There is a risk that the price of the stalls will increase which may have a minor effect on the budgetary position.
- 10.6 For the market to be successful, the street trading controls referred to in the report must be in place.

BACKGROUND DOCUMENTS:

Previous Cabinet reports in respect of the proposed "Silverhill Development " refer to the future location of the market within the proposed scheme.

APPENDICES:

Appendix 1 – Site Plans

Appendix 2 - Market Rules

Appendix 3 – Financial Information (Exempt Paper)

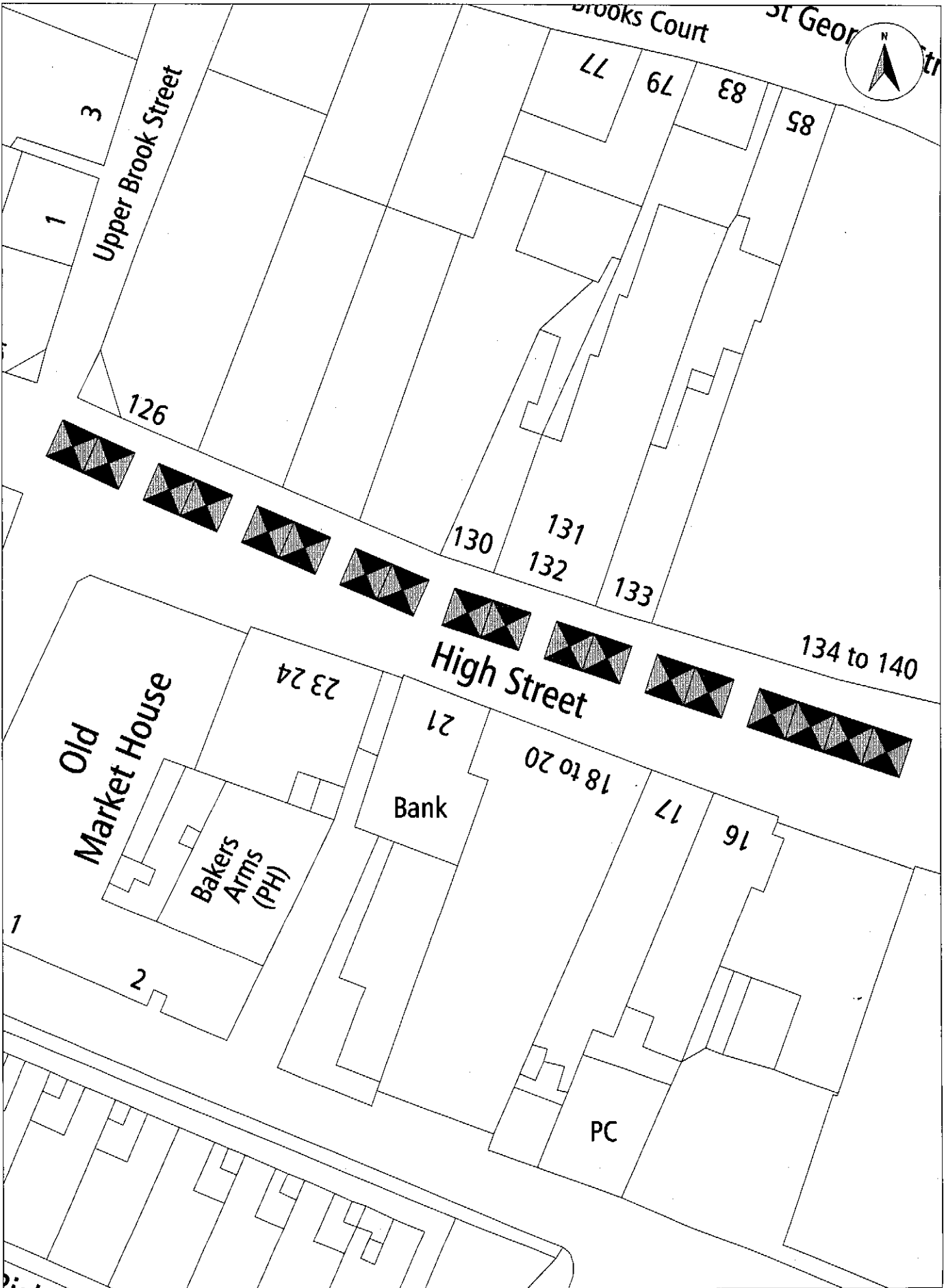
WINCHESTER CITY COUNCIL - ESTATES DIVISION

Site Address:- GAZEBOS LAYOUT, HIGH STREET, WINCHESTER - PLAN A1

Scale: N.T.S.

Date: 27/01/11

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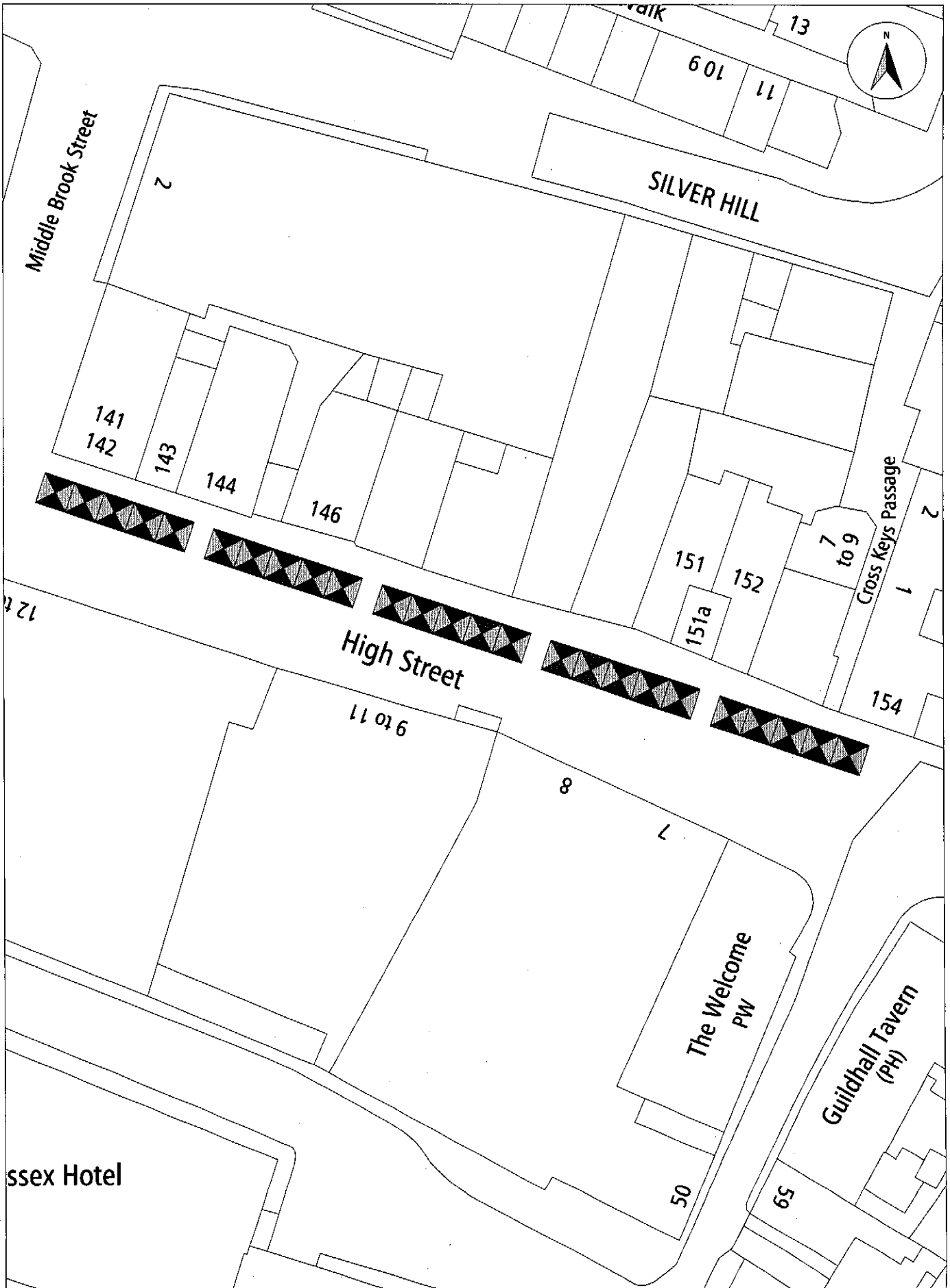
WINCHESTER CITY COUNCIL - ESTATES DIVISION

Site Address:- GAZEBOS LAYOUT, HIGH STREET, WINCHESTER - PLAN A2

Scale: N.T.S.

Date: 27/01/11

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WINCHESTER CITY COUNCIL - ESTATES DIVISION

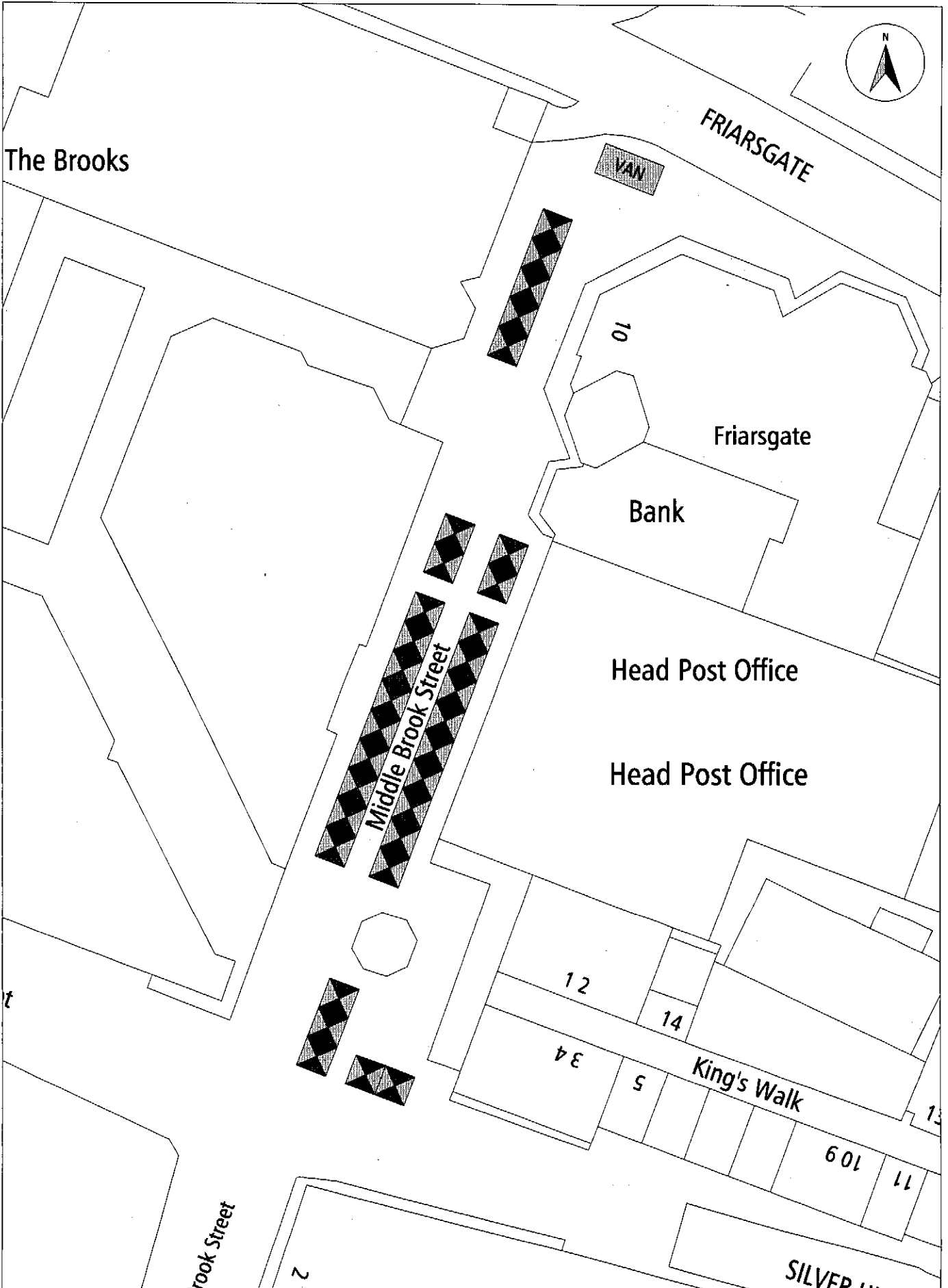
Site Address:- GAZEBOS LAYOUT, MIDDLE BROOK STREET, WINCHESTER

OPTION 1 - PLAN A3

Scale: N.T.S.

Date: 27/01/11

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WINCHESTER CITY COUNCIL - ESTATES DIVISION

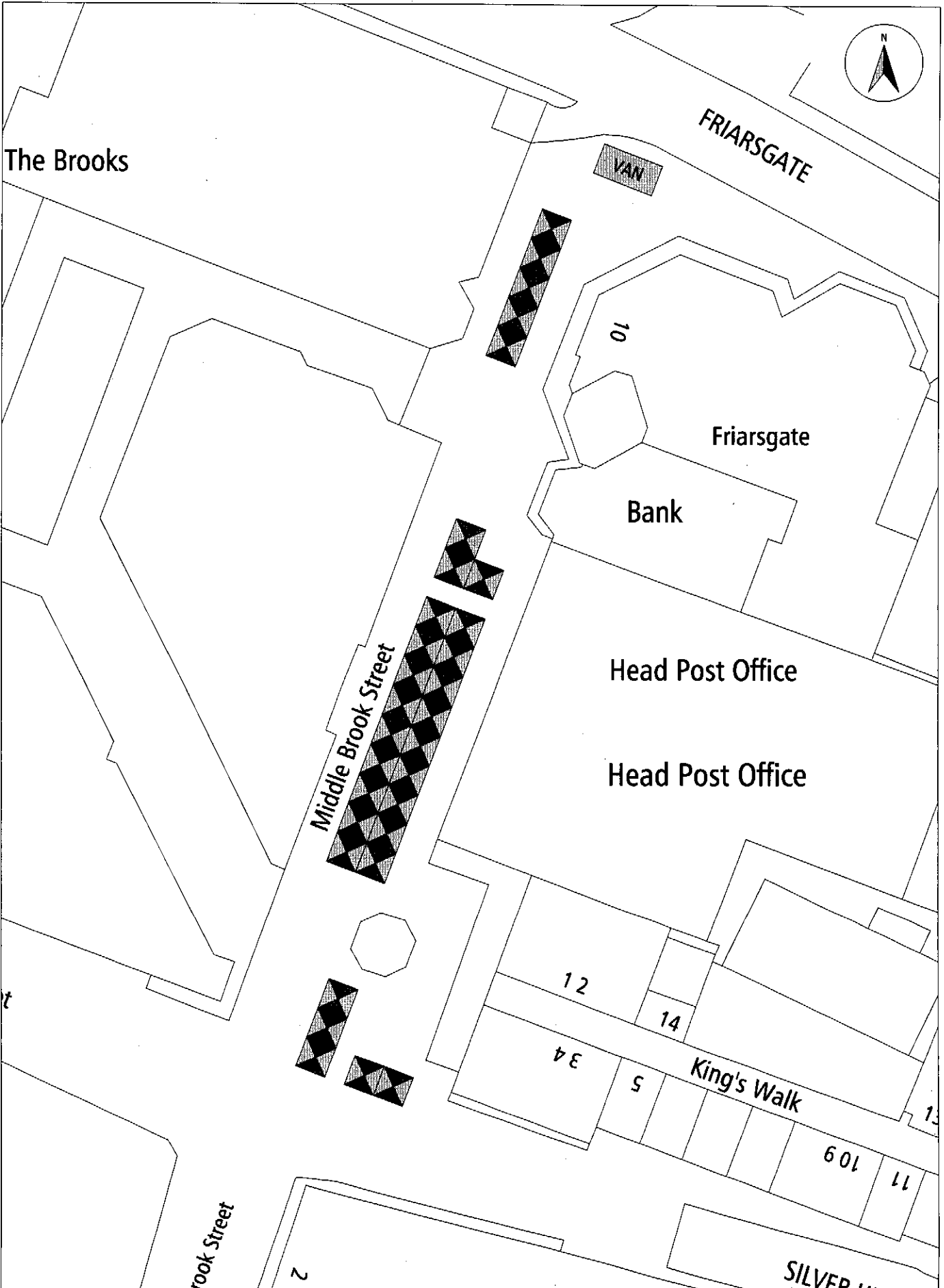
Site Address:- GAZEBOS LAYOUT, MIDDLE BROOK STREET, WINCHESTER

OPTION 2 - PLAN A4

Scale: N.T.S.

Date: 27/01/11

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Appendix 2 Market rules.

WINCHESTER MARKET TERMS AND CONDITIONS OF TRADING

“Council” - is the Owner

“Council representative” - is the Market Manager of SMT Management Ltd.

“Stallholder” - is the customer

Permission to use Pitch:

- 1 The Council permits the Stallholder to use the pitch on market days for the erection of a stall for the sale of goods and articles for a period particulars, of which are set out above and the Council shall be entitled in its absolute discretion:-
 - 1.1 To allocate pitches with the Market Manager’s discretion
 - 1.2 Only those commodities contained in the application form/or licence are to be sold from allotted stall(s).Any disputes concerning the commodities being sold will be determined by the Council’s representative and any goods found not to be permitted for sale on any stall must be removed from display immediately.
 - 1.3 No counterfeit goods will be tolerated – if discovered the stall holder licence will be terminated **immediately** with no refunds.
 - 1.4 Changes to permitted commodities sold by any traders will only be considered if the proposed range of commodities is not being sold elsewhere on the market by any trader.
 - 1.5 A regular trader wishing to change the type of commodities on the market must first terminate their existing licence in writing and cease trading. A new contract maybe agreed as long as it does not conflict with existing commodities already existing in the market.
 - 1.6 To cancel the market whether by virtue of public holidays or when the market day falls on Christmas Day Boxing Day or New Year’s Day or for any Health & Safety reasons e.g. adverse weather conditions.
- 2 The Stallholder may not permit any person other than his employees to use the stall and the Stallholder acknowledges that this Licence is personal to the Stallholder and the parties acknowledge that nothing in this licence shall create the relationship of landlord and tenant.

Pitch Fees:

- 3 The Stallholder must pay the Pitch Fee to the Council’s representative two weeks in advance of the first day of intended trading and each week thereafter until this licence is terminated.
- 4 The Council’s representative is responsible for the collection of all pitch fees due on the day of trading.
- 5 In the event that this Licence shall be week to week (casual) the Stallholder may terminate this licence by giving not less than two weeks notice in writing to the Council’s representative. Where the Stallholder is a casual trader the pitch fee must be paid at the time of signing the licence.
- 6 Any monies paid in advance:

- 6.1 May be refunded up to a maximum of 50% for each market day in the event of the Council cancelling the Market for any reason unless the market has operated normally for a period of four hours on the day of cancellation.
- 6.2 In the event of the Stallholder giving notice to terminate his licence the pitch fee will be used to off-set any monies due for the notice period.
- 7 The Council may vary the Pitch Fee from time to time and will give the stallholder adequate notice.
- 8 Stall Fees effective from 1st February 2011

Regular Traders:-

Weds	£30
Thurs	£20
Fri	£35
Sat	£35

Two weeks to be paid in advance

Casual Traders

Weds	£35
Thurs	£30
Fri	£40
Sat	£40

High Street stall rents Wednesday only To be agreed.(Minimum£40)
 High Street Stall Rents Christmas Week To be agreed.(Minimum£50)

Additional stalls:

- 9 The Stallholder is not permitted either himself his agent or nominee to place erect or to use more than one stall in the market except with the consent of the Council's representative.

Absences:

This licence does not entitle the stall holder to have leave of absence without paying for pitch fees, though in the period of likely absence e.g. ill health a medical certificate will be required in order that arrears do not accrue. This ensures the stallholder has a regular pitch and will not be rented to a third party in the likelihood of his/her absence.

The Stall:

- 10 Uniformed gazebo type stall will be provided by the Council / SMT Management Ltd. The Stall will be provided with a covering sheet of such colour and material approved by the Council. Backing sheets will be provided to be used by the Council's representative discretion.
- 11 The Stallholder must not place goods beyond the boundaries of the pitch either on the ground or hanging except with the permission of the Council's representative. The stallholder will be asked to remove any goods outside the trading designated pitch, failure to do so will

jeopardise this licence and only three written warnings will be given before the licence is terminated.

- 12 The Stallholder must exhibit his stall number on the board or fascia to be provided for the purpose in the uniform style of lettering and colouring approved by the Council and all trading details be held by the Council's representative's office.
- 13 No trader will display any placard, poster or notice without the consent of the Council's representative, and must not display any literature that may cause offence.
- 14 The Stallholder may not add to or alter the electric wiring and fittings provided by the Council (if any) or provide any other kind of lighting except with the consent of the Council's representative.
- 15 The Stallholder may not install heating apparatus of any kind except with the permission of the Council's representative.
- 16 The Stallholder must take away all vegetable and food produce waste including fish scraps to dispose of by their own means and **NOT** in the refuse bins provided by the Council. Any dry refuse suitable for recycling together with general waste can be placed in bins provided by the Council.
- 17 The Stallholder must keep:
 - 17.1 The stall fittings and the space below the stall must be free from litter at all times. ***High Street location* will require traders to have rubber matting on the floor area of their pitch so not to cause any damage /spillage to the surface area of the street.**
 - 17.2 The aisles and access ways adjoining each stall shall be free from refuse and litter at all times in accordance with the Fire Officers recommendation. In addition no market stall must obstruct or likely to cause to cause obstruction to the means of escape from adjacent premises.
 - 17.3 ***High Street Location* the Council's representative will supply electricity through low noise generator for lighting when the weather deems it necessary.**

Compliance with statutory and other requirements:

- 18 The Stallholder must comply with all Acts of Parliament and Regulations applicable to the operation of the stall and to the Stallholder's trade or business and in particular any person selling foodstuffs must comply with the Food Hygiene (England) Regulations 2006. In addition any rules laid down by the Trading Standards.
- 19 The Stallholder must not do anything that would breach the terms of any permission for the placing of structures in the highway under the Highways Act 1980 or cause any other person to do so. A copy of the latest such permission is available from the Council's representative and by signing this licence the Stallholder confirms that he has read and understood its terms.
- 20 Without prejudice to Condition 17 vehicles and trailers belonging to the Stallholder are only permitted within **Middle Brook Street** between the hours of 0630 – 0845 and 1600 – 1800 for the purpose of unloading and loading of their commodities. **The High Street will be between 0600 – 0745hrs and 1700 – 1800hrs.No vehicles over 7.5 tons will be allowed at anytime between Marks & Spencer's and Laura Ashley)**

- 21 No vehicles are otherwise permitted in the trading area unless previously agreed with the Council's representative. Whilst unloading or loading any vehicles and trailers must not cause any obstruction inconvenience or nuisance to the public or any other stallholder. The Stallholder agrees that to facilitate the operation of the Market the Council's representative may require keys to vehicles to be left in the ignition.

Parking:

All stallholder must use the allocated parking area at all times – displaying a valid parking permit.

Insurance:

- 22 The Stallholder must hold a valid insurance policy for public liability for claims up to £5,000,000 and the Council's representative shall be at liberty to request the Stallholder to produce evidence of such a policy being in force and that the premiums have been paid.

Compliance with Market Manager's directions:

- 23 The Stallholder shall comply with all directions of the Council's representative which do not conflict with this licence, the permission referred to in Condition 17 or statutory requirement. Where approval or consent of the Council is required by this licence, the Council's representative is authorised to give such approval or consent.

Enforcement:

This licence will be terminated immediately in the event of any contravention of the terms of this licence.

WINCHESTER MARKET

LOGO

LICENCE TO USE PITCH FOR MARKET STALL

"The Council"	"Winchester City Council"	
"The Stallholder"		
"The Market"	"Middle Brook Street / *High Street* Market, every Wednesday ,Thursday ,Friday & Saturday"	
Particulars of Stall	Number	
	Size	(Minimum 10 ft x 10 ft (3 m x 3 m))
	Pitch Fee	£
	Goods to be sold	

	Period of licence	Each Wednesday/Thursdays/Friday&Saturday from _____ 20 to _____ 20 or from _____ 20 until this Licence is ended under condition 1 (<i>Delete as appropriate</i>) subject to the terms and conditions mentioned overleaf
Particulars of Insurance	Insurer and Policy Number	
	Renewal Date	
<p>By signing this agreement the Stallholder acknowledges that he has read the conditions mentioned overleaf and agrees to be bound by them.</p> <p>Signed: _____ Dated: _____</p>		
Signed by the Market Manager for and on behalf of the Council		Dated: _____