

## PLYMOUTH CITY COUNCIL

**Subject:** Proposed New Street Trading Consent Sites  
**Committee:** Licensing Committee  
**Date:** 28 May 2013  
**Cabinet Member:** Councillor Brian Vincent (Environment)  
**CMT Member:** Anthony Payne (Director for Place)  
**Author:** Phil Conday, Senior Environmental Health Officer  
**Contact details:** 01752 305480  
Email: phil.conday@plymouth.gov.uk  
**Ref:** PPS/SHL/ST I  
**Key Decision:** No  
**Part:** I

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### **Purpose of the report:**

Street trading restrictions currently only apply to a designated list of streets. Within these areas street trading is restricted to specifically authorised sites. The Plymouth Waterfront Partnership Business Investment District (BID) wishes to review street trading within the BID area. Part of this review is to introduce new street trading sites which will augment existing provision and support future business development in the area.

This report seeks approval for the introduction of 10 proposed street trading sites on Madeira Road and Hoe Road and set the appropriate consent fees.

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### **Corporate Plan 2012 – 2015:**

This report links to the delivery of the City and Council priorities. In particular:

**Delivering Growth:** The Waterfront BID aims to improve the economic success of a vital part of the City. The ability to offer low cost trading opportunities for suitable businesses will assist by extending the range of services and products available in the area.

**Value to Communities:** Street trading must be undertaken in a controlled manner to minimise the risk of the businesses having a negative impact on an area, for example through highway obstruction, causing nuisance or by providing poor quality services.

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### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:**

Street Trading is operated under the Local Government (Miscellaneous Provisions) Act 1982. The Council's policy is to administer street trading as a trading account and to finance all expenditure from the Consent fees. All activities including enforcement, administration and improvements are financed through the consent and pitch fees.

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### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The issuing of Street Trading Consents under the Council's street trading policy ensures that all Consent holders are properly licensed and operate in a hygienic and safe manner within the street trading policy guidelines. It also finances the aspects of Street Trading enforcement.

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### **Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? No

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### **Recommendations and Reasons for recommended action:**

It is recommended that:

1. Approval is granted for the introduction of 10 proposed street trading consent sites with associated fees as listed in Appendices 1 and 2
2. Officers are authorised to advertise the consent sites for the remainder of the 2013/14 financial year
3. Committee delegate approval to the Licensing Sub Committee of all new applications for consents.

These sites have received objections and comment as part of the consultation process, but have been overcome in liaison with those raising objections. The fees are deemed appropriate to cover all costs associated with the consent and provisions of facilities for each site.

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### **Alternative options considered and rejected:**

The authority could decide not to approve the introduction of one or more of the proposed trading sites, resulting in a potential loss of amenity or facilities for visitors to the Hoe area.

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### **Published work / information:**

[Street Trading and Pedlary Laws: A joint consultation on draft regulations to repeal the Pedlars Acts \(UK wide\) and make changes to the street trading legislation in England, Wales and Northern Ireland](#)

[Local Governemnt \(Miscellaneous Provisions\) Act 1982](#)

[Street Trading - Plymouth City Council website](#)

[Street Trading Consultation for Hoe Road and Madeira Road](#)

**Background papers:**

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	

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**Sign off:**

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Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? Yes													

## **1.0 Introduction**

- 1.1 The Council currently operates a scheme under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA1982) for the Control of Street Trading in the City Centre, the Hoe and Barbican areas only.
- 1.2 Under the scheme, certain streets have been designated as “Prohibited Streets”, where street trading is prohibited, and other streets designated as “Consent Streets”, where street trading is permitted only with the consent of the Council.

## **2.0 Proposed Street trading sites**

- 2.1 The Plymouth Waterfront Partnership (PWP) had originally established 15 potential new street trading consent sites located within the historic Waterfront area of Plymouth. These are located in the areas of Madeira Road and Hoe Road, both of which are Consent Streets.
- 2.2 It is proposed that the street trading sites are allowed to trade for 12 months of the year, with exclusions during special events or circumstances such as road closures due to highway maintenance. Consideration may be given during the application process to reduce this duration where the vendor is proposing to operate on a seasonal basis. Fees can be reviewed in line with any changes to the duration of the consent.
- 2.3 The proposed sites are static pitches and are in addition to existing consents given to ice cream vendors from mobile vehicles. The proposed acceptable trade types are detailed in the Proposed Site and Fee Table in Appendix I. In order to offer a diverse range of products, there are no specific limitations to the types of acceptable trade in some cases. However, the sale of ice cream products will not be accepted at any of the proposed pitches.
- 2.4 It is proposed that the Committee have the final sanction on deciding the suitable type of trade at each proposed site.

## **3.0 Consultation**

- 3.1 In determining any possible negative and positive implications of introducing the new trading sites, consultation was undertaken with:
  - Devon and Cornwall Police
  - Devon and Somerset Fire and Rescue Service
  - Plymouth Transport and Infrastructure
  - Plymouth Transport & Highways (AMEY)
  - Plymouth Pannier Market Manager
  - All current Street Trading Consent holders
  - The Waterfront Business Improvement District (BID)
  - Business Members that operate in the PWP BID area
  - The City Centre Business Improvement District
  - Planning
  - Legal Services
  - Property and Facilities Management

- Parking Division
- Waste Collection & Street Scene
- Environmental Health
- Plymouth Community Safety Unit
- Economic Development

#### **4.0 Considerations of Representations**

- 4.1 Following consultation, the Public Protection Service has received a number of responses, which can be found in Appendix 4. The responses have been considered and have resulted in amendments to the original proposals.
- 4.2 Consultation responses from Internal and External Agencies are summarised below:
- 4.3 Plymouth Transport & Highways Department have raised concerns that the public access across the highway is not sufficient, if certain proposed sites are granted. The Department have outlined that a minimum of 2 metres from kerbside to the façade of the proposed trader would be acceptable.
- 4.4 Devon & Cornwall Police have also echoed these concerns from a public safety point of view, as any smaller gap may force members of the public into the road increasing risk of collision with vehicles.
- 4.5 As a result, it is the Officer's recommendations that proposed site 6, site 7, site 10, site 12a and site 12b would not meet this criterion, and should therefore not be pursued any further and withdrawn.
- 4.6 Plymouth City Council Transport & Infrastructure Department have raised concerns with regard to the proposed new sites:
- i) Loss of amenity and revenue through use of pay & display parking – An objection was raised that the proposed trading locations will impact on the provision of pay & display parking spaces, with regard to number available and potential revenue losses. The proposed trading sites will be situated on the pavement, away from any parking bays. Any vehicles associated with the trader will be subject to the existing parking requirements provided on the Hoefront. There will therefore be no loss of on street pay & display parking.
  - ii) An objection was raised that the proposed trading sites were not suitable on Commercial Wharf, which was described as a working Wharf. The proposed trading sites will not be located on Commercial Wharf and will be situated on the highway.
- 4.7 Plymouth City Council Economic Development Department have raised concerns that the proposed traders will clash with organised events held on the Hoefront, such as Plymouth Half Marathon, Lord Mayor's celebrations or similar large scale events that attract event catering or road closures. Where this is the case, it will be proposed through conditions of the street trading consent that the affected proposed traders may be excluded during such events, where no refund of fees will be made. This is currently an existing condition of trading with regard to ice cream vendors in these areas and is detailed in Condition 24 of Appendix 3.

## **5.0 Consultation responses from local businesses, groups and organisations:**

- i) Waste control and litter – concerns have been raised about the generation of rubbish and litter from proposed businesses. In order to reduce the likelihood of rubbish and littering of the street, a condition of the street trading consent will require traders that supply hot or cold food, to provide a suitable waste receptacle for the public to use. Under the Environmental Protection Act 1990, businesses additionally have a Duty of Care to control their waste and ensure appropriate disposal. This will place a lesser burden on the usage of public waste receptacles located on the Hoefront.
- ii) Concerns and objections have been raised concerning the introduction of new street traders that will sell hot or cold food. These concerns have focused on a potential loss of trade due to increased competition between existing and new food outlets. This can be considered by Committee as part of the application process with regard to the choice of product to be sold for the local amenity and location to existing traders.
- iii) Type of structure and safety – it was highlighted from the Consultation that the provision of gazebos and tents will not be safe during high wind conditions, on exposed areas of Hoe Road and Madeira Road. It is therefore proposed that applicants submit details of their trading structure, which should fit within the requirements of the Conditions and be of a suitable and safe construction. It is recommended that consideration of the suitability of the structure forms part of the approval process.
- iv) Health, Safety and Hygiene of potential food vendors – concerns have been raised concerning the health, safety and hygiene of practices undertaken by potential hot & cold food traders. All food traders will be required to comply with relevant food safety, health & safety and fire safety Legislation, and will be subject to stringent conditions through the application process, such as a requirement for training in basic food hygiene.
- v) Noise from new street traders – concerns have been raised about the potential for noise from the use of generators to supply electricity to vendors. It is proposed that the use of generators is not acceptable. Currently, there is no electricity supply provided to the proposed site location, however, this may be introduced following a review of these street trading sites and any changes in types of trade that may require an electrical supply in the future.
- vi) Odour from proposed new street traders - with regard to odour, it is perceived that this will not be of concern due to the proximity of proposed trading sites to existing businesses and domestic premises. The distance is sufficient to naturally disperse odours into the air without causing nuisance. This can also be a consideration during the suitability of applicants during the application process.

## **6.0 Fees**

- 6.1 Fees can be recovered for the administration and enforcement of the system. This is not a revenue raising power and as such no revenue can be accrued.
- 6.2 A list of the proposed fees for the consent site can be found in table Appendix I
- 6.3 The Annual Fee is proposed to include both the Consent and Pitch Fee. The Consent Fee will be set £400 per site, which will cover the general administration generated by the introduction and maintenance of the consent. The Pitch Fee will be used to facilitate the

operation of the site, which will include maintenance and improvement of the site for the period of the consent.

- 6.4 Fees may be subject to review annually, where it may be increased or decreased based upon the level of revenue generated against the administration of the consent regime.

## **7.0 Conditions of trading**

- 7.1 The Council applies standard conditions to Street Trading Consents. This is to ensure that street traders can undertake the business in a controlled and safe environment, whilst minimizing any negative impact on the local amenity.
- 7.2 The standard conditions are not exhaustive and other conditions may be added to individual consents where appropriate. A list of the standard conditions can be found in the Appendix 3.
- 7.3 No outdoor seating will be permitted for the proposed trading sites, in order to separate street traders from existing businesses that provide seating for customers.

## **8.0 Approval of Applications:**

- 8.1 It is proposed that the Public Protection Service and Plymouth Waterfront Partnership Business Improvement District (BID) receive copies of the application for consideration. Consultation with other agencies and bodies will form part of the consideration for suitability of the application.
- 8.2 The consultees will include those as outlined in Section 3.0 of this report.
- 8.3 All applications will be submitted to Committee.
- 8.4 In making a decision to accept or refuse an application, regard should be made to Paragraph 7, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

## Appendix I

### Proposed Site and Fee Table:

Site Number	Description	Annual Consent Fee	Type of Trade
1	Hoe Road (Colonnade West)	£5,400	To be decided as part of application process
2	Hoe Road (mid-West Colonnade)	£5,400	To be decided as part of application process
3	Hoe Road (mid-East Colonnade)	£5,400	To be decided as part of application process
4	Hoe Road (Colonnade East)	£5,400	To be decided as part of application process
5	Hoe Road (Lido West)	£5,400	To be decided as part of application process
6*	Madeira Road (adj the roundabout)	£1,400	To be decided as part of application process
7*	Madeira Road (above Mens Pool)	£1,900	To be decided as part of application process
8	Madeira Road (Triangle west)	£4,400	To be decided as part of application process
9	Madeira Road (Triangle east)	£4,400	To be decided as part of application process
10*	Madeira Road (Corinthian East)	£2,400	To be decided as part of application process
11	Madeira Road (adjacent to Cannons)	£3,400	To be decided as part of application process
12a*	Commercial Wharf	£2,400	To be decided as part of application process
12b*	Commercial Wharf	£2,400	To be decided as part of application process
13	West Pier (Prawn)	£4,400	To be decided as part of application process
14	West Pier	£2,400	To be decided as part of application process

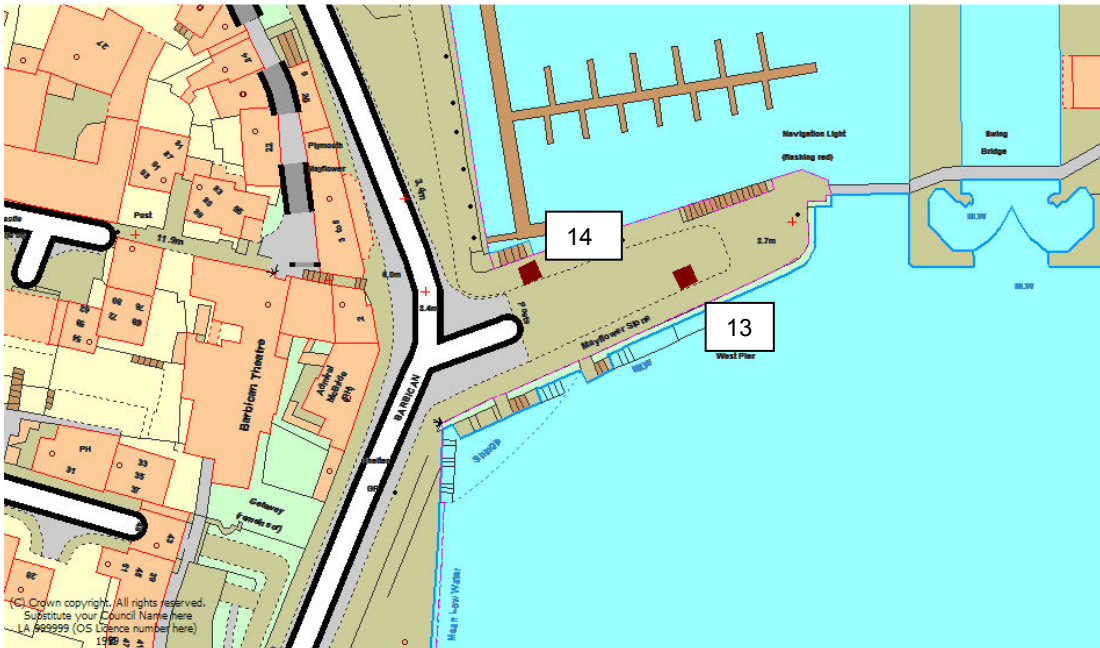
\*sites 6, 7, 10, 12a and 12b have been removed following consultation



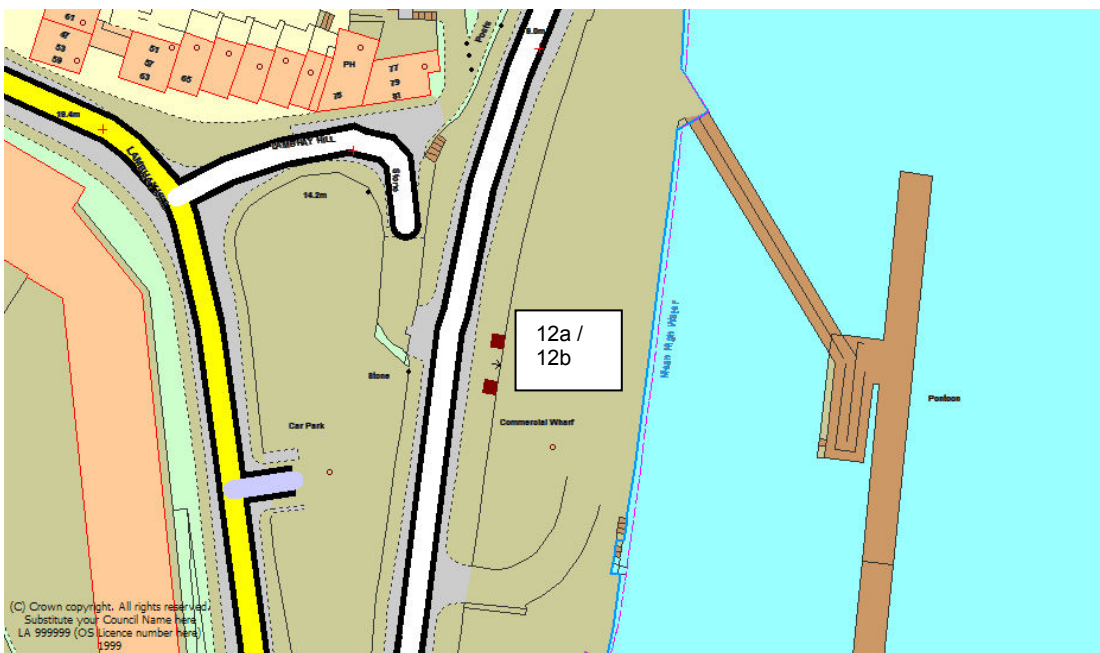
## Appendix 2

Maps showing locations of proposed street trading pitches:

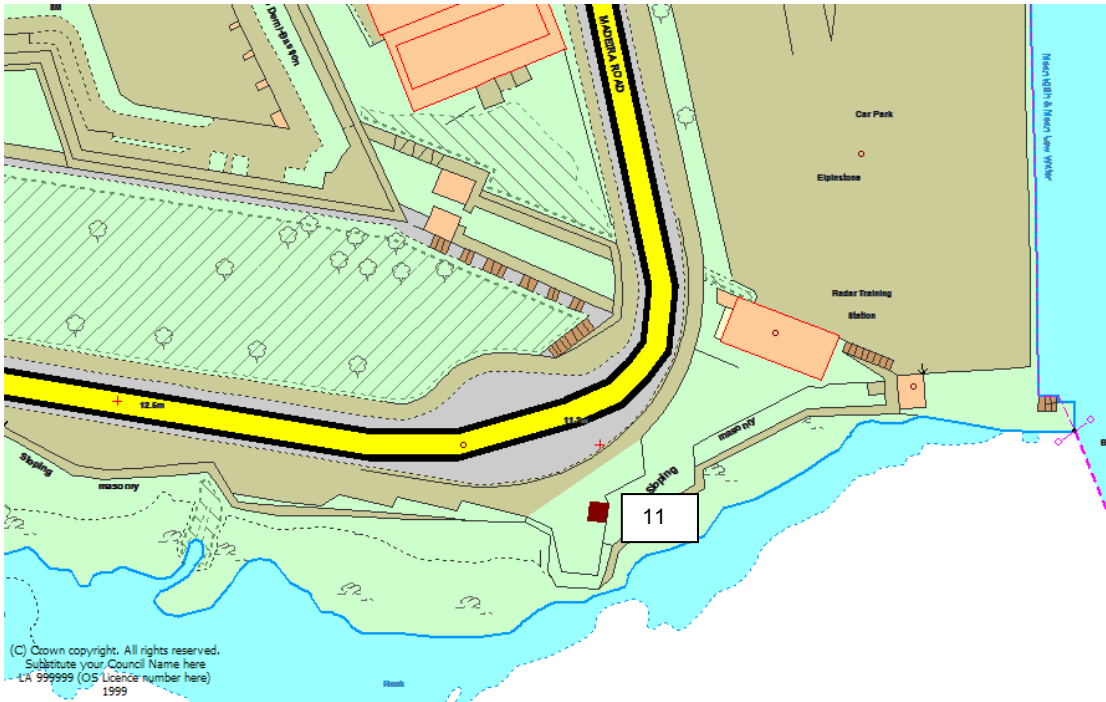
### Map showing West Pier locations – 14 & 13



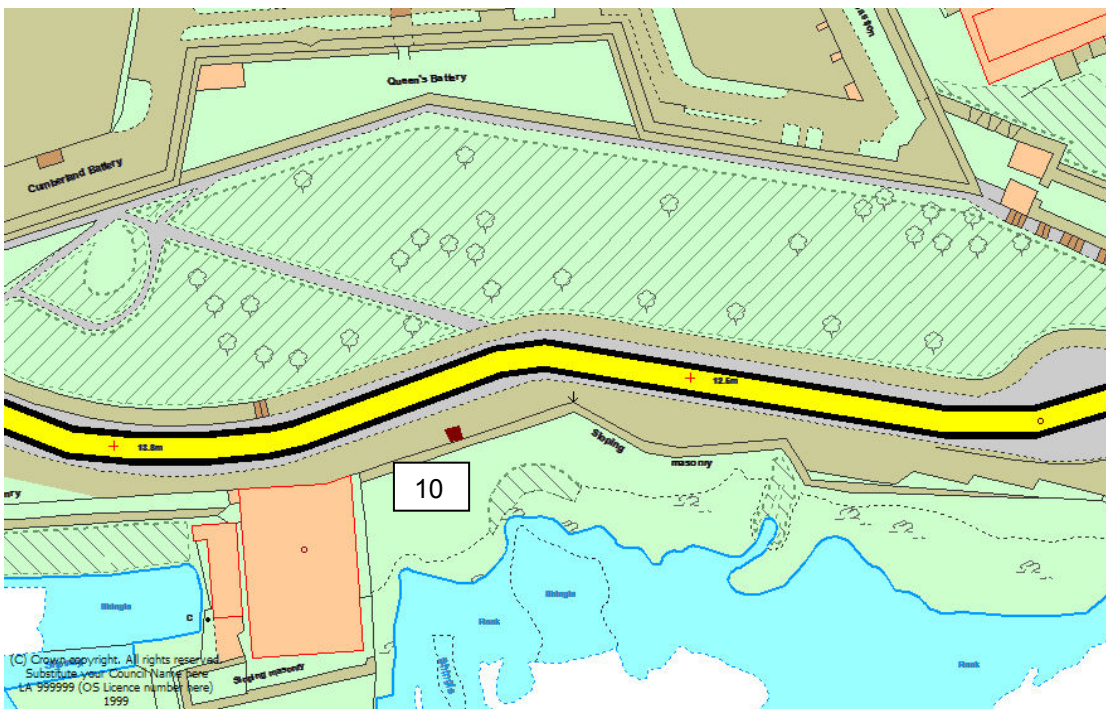
### Map showing locations above Commercial Wharf – 12a\* & 12b\*



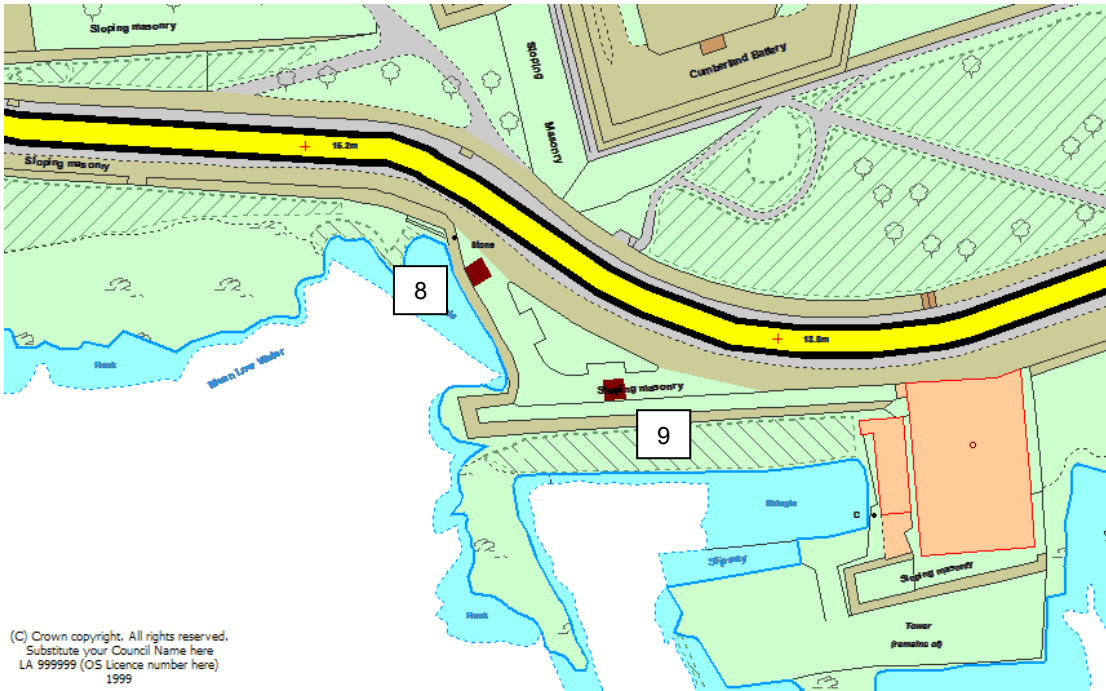
### Map showing Madeira Road (Cannons) location - 11



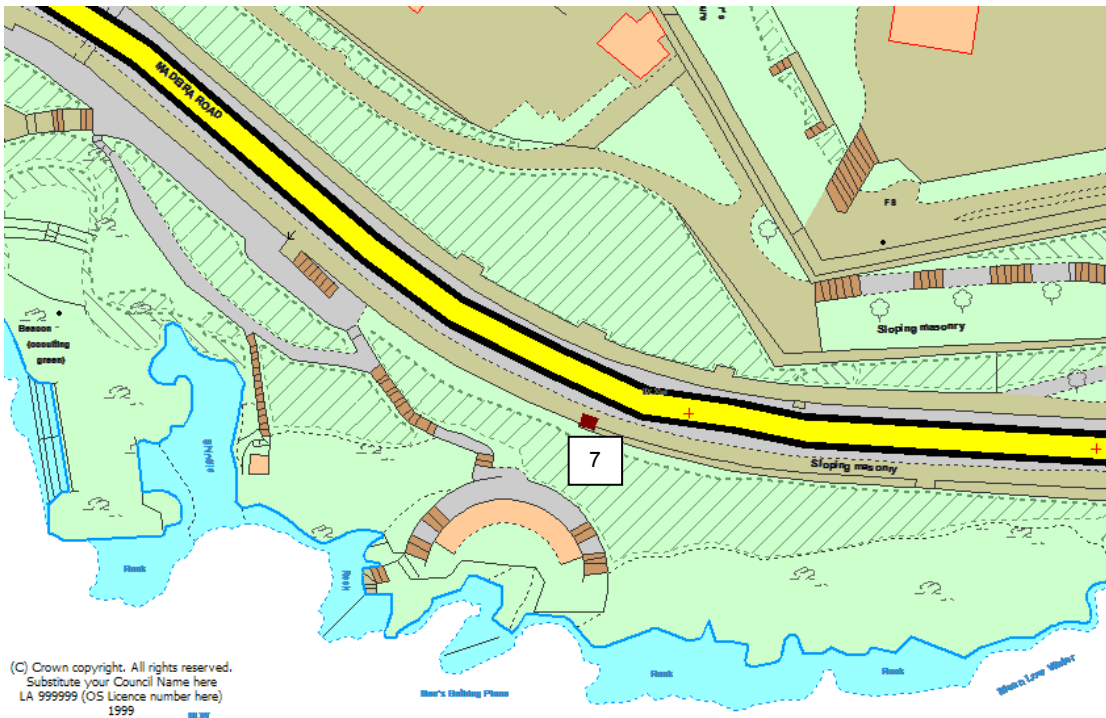
### Map showing Madeira Road (Corinthian East) location - 10\*



**Map showing Madeira Road (Triangle East & West) locations – 9 & 8**

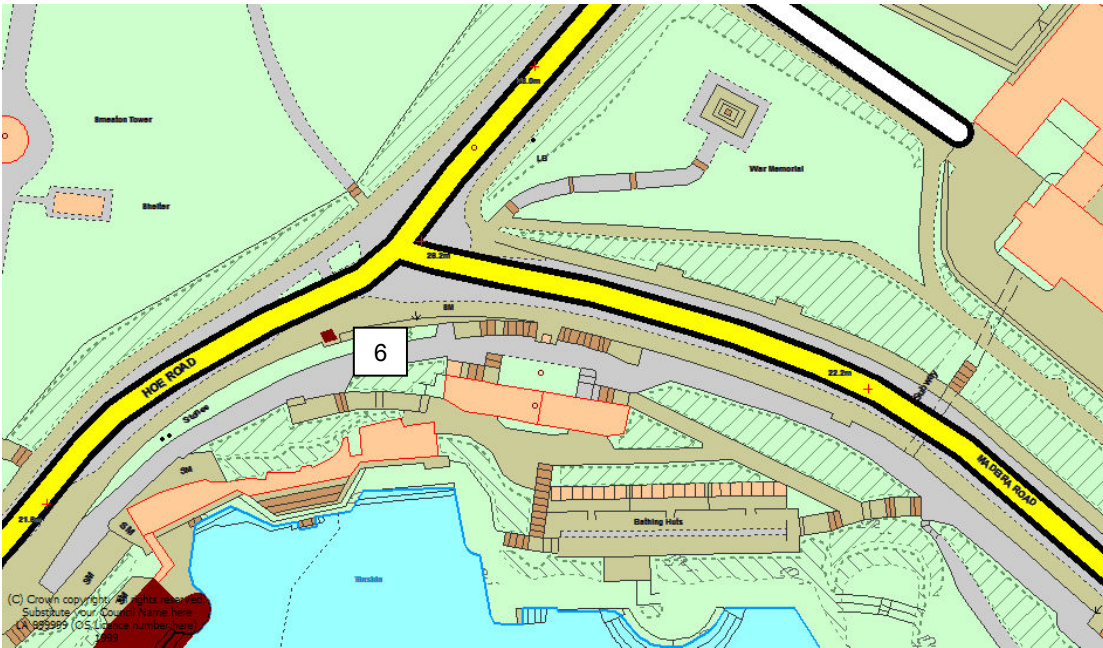


**Map showing Madeira Road (above Men's Pool) location – 7\***

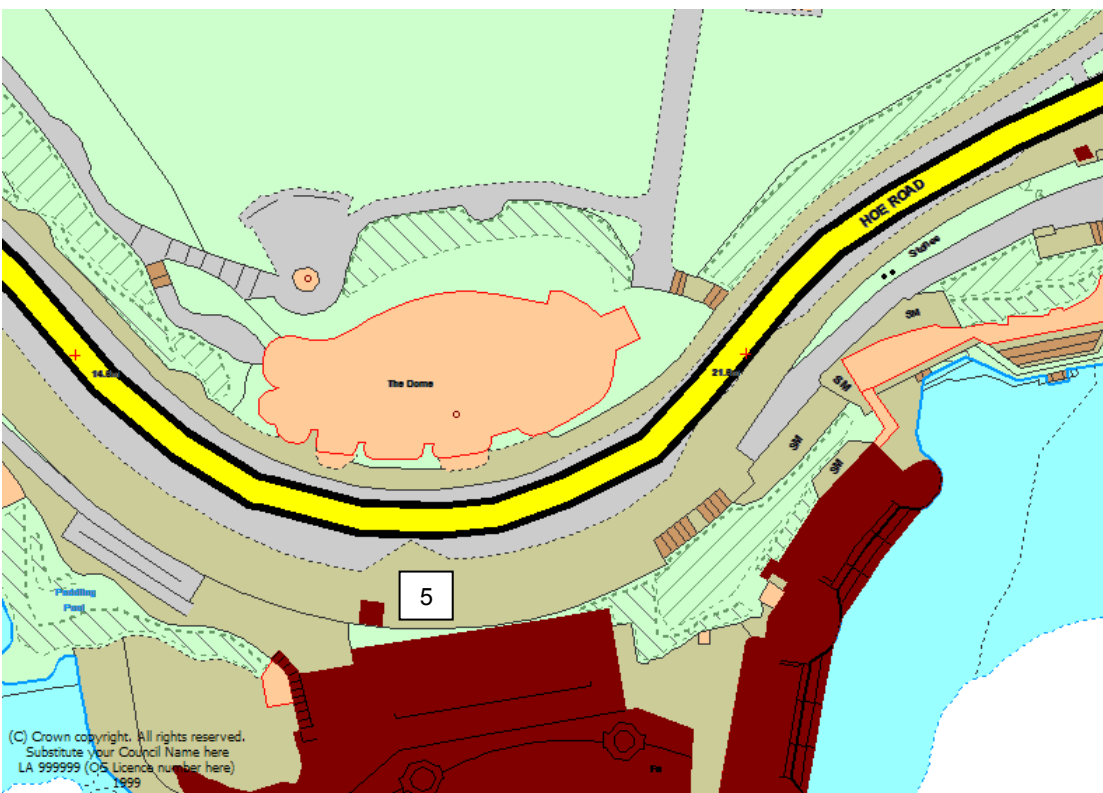




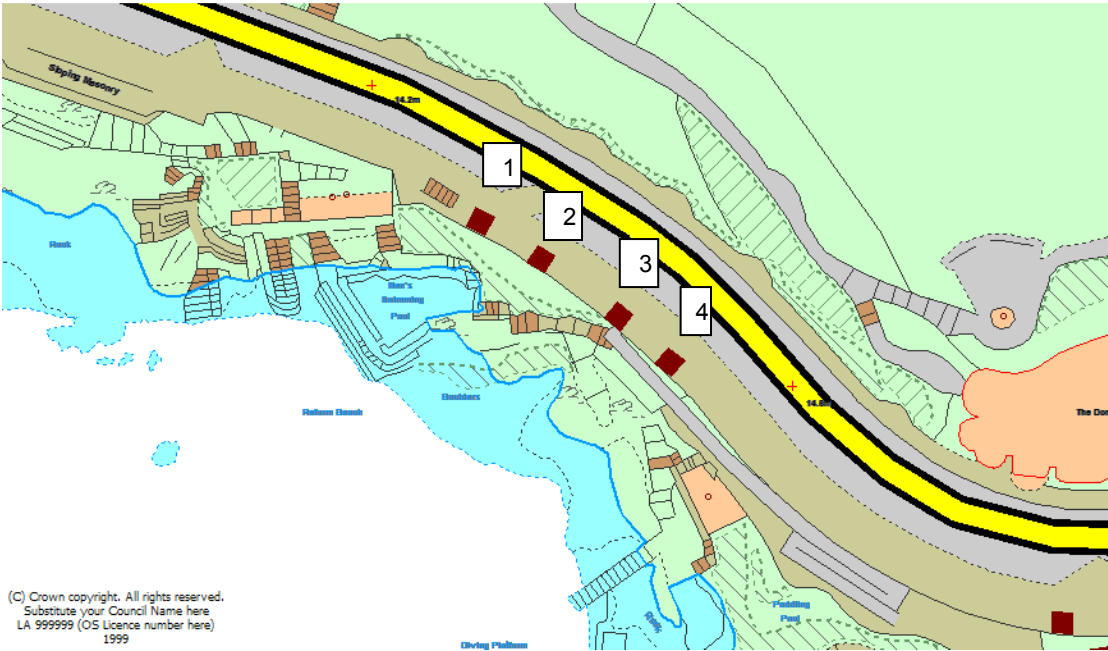
**Map showing Madeira Road (Adjacent roundabout) location – 6\***



**Map showing Hoe Road (Lido West) location - 5**



**Map showing Hoe Road (Colonnade East, Mid-East, Mid-West and West) locations – 1, 2, 3 & 4**



### **Appendix 3:**

#### **General Conditions for Annual Street Trading Consents**

1. No trading to which the attached consent relates shall take place except between the dates of:
2. The operational hours shall be:  
Between the hours of ..... and ..... on Mondays  
Between the hours of ..... and ..... on Tuesdays  
Between the hours of ..... and ..... on Wednesdays  
Between the hours of ..... and ..... on Thursdays  
Between the hours of ..... and ..... on Fridays  
Between the hours of ..... and ..... on Saturdays  
Between the hours of ..... and ..... on Sundays
3. The street trading consent relates to the following area/site only:
4. The street trading consent relates to the following vehicle/stall only:
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Environmental Services.
6. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work Act, 1974, the Food Hygiene (England) Regulations 2006. Advice on these requirements is available from the Environmental Health Department. The Consent Holder shall not drive or park a vehicle on any part of a footway. (It is an offence to drive other than on a road)
7. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Plymouth City Council. Consent Holders shall have special regard to and must take positive action to prevent excessive noise.
8. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade in a certain manner. The Consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent Holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times.
9. Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
10. The Consent Holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate.
11. The Consent Holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued. All goods shall be displayed on the stall and no freestanding racks or displays are permitted. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.

12. The Consent Holder's stall shall not exceed 2.3 metres in height nor occupy an area greater than 3 metres x 3 metres, unless specified. There shall be a gap between the façade of the street trader's structure and the edge of the pavement of no less than 2 metres.

13. The Consent Holder must take adequate precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment. A serviceable fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food.

14. All hot food vans/trailers are required to carry a basic first aid kit. The Consent Holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vans should have access to a minimum of one mobile phone that must be serviceable at all times.

15. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate, that is accredited by the Chartered Institute of Environmental Health, the Royal Society of Health, Royal Institute of Public Health and Hygiene or a certificate of attendance at a Level 2 Course run by Plymouth City Council.

16. A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The sub letting of a pitch is prohibited.

17. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Head of Environmental Services of the name and address of that person. An administration fee will be payable.

18. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Head of Environmental Services.

19. A Consent Holder may terminate a Street Trading Consent by written notice to the Head of Environmental Services. A refund of the portion of the fee equal to the remaining full months will be payable, less £50 which the Council will retain to cover administrative costs.

20. Consent holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.

21. A copy of the Consent shall be carried by the operator when trading and must be produced on demand to a Council Officer or Police Officer.

22. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum level of insurance shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the City Environmental Health Officer before the Street Trading Consent is issued. Proof of cover must be produced to an officer of Plymouth City Council as required.

23. These general conditions, which apply to all Street Trading in Plymouth, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent Certificate. These Special Conditions must also be complied with.

24. Consent holders must be aware that the trading location may be affected by temporary road closures or suspension of access to the trading location. This may be as a result of organized events, such as Lord Mayors Day, Firework Festival or Plymouth Half Marathon. Closure of the road and

restrictive access may also be implemented due to roadworks or similar highways repair and improvements. In these circumstances, trading will not be possible and no refund of any Consent fee will be made.