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If calling please ask for
Leisel Malcolmson
Direct Dial: 01595 744599

Date: 17 August 2017

Dear Sir/Madam

You are invited to the following meeting:

Licensing Committee
Council Chamber, Town Hall, Lerwick
Thursday 24 August 2017 at 10.30am, or immediately following the Shetland Islands Area Licensing Board

Apologies for absence should be notified to Leisel Malcolmson at the above number.

Yours faithfully

Executive Manager – Governance and Law

Chair: I Scott
Vice-Chair: G Smith

AGENDA

- (a) Hold circular calling the meeting as read.
- (b) Apologies
- (c) Declarations of Interest – Members are asked to consider whether they have an interest to declare in relation to any item on the agenda for this meeting. Any Member making a declaration of interest should indicate whether it is a financial or non-financial interest and include some information on the nature of the interest. Advice may be sought from Officers prior to the meeting taking place.
- (d) Confirm minutes of Licensing Committee meeting held on 4 July 2017 (enclosed).

Item

1. Variation of Street Traders Licences
ES-01-17-F



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| Meeting(s): | Licensing Committee. | 24 August 2017 |
| Report Title: | Variation of Street Traders Licences | |
| Reference Number: | ES-01-17-F | |
| Author / Job Title: | Patti Dinsdale Team Leader – Environmental Health | |

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| 1.0 | Decisions / Action required: |
| 1.1 | That the Licensing Committee; 1.1.1 consider and discuss the contents of this report and its appendices; and 1.1.2 determine whether, of its own accord, to vary three street trader's licences. |
| 2.0 | High Level Summary: |
| 2.1 | Street Traders are licensed under Civic Government (Scotland) Act 1982 (the "Act"). The licensing scheme under the Act is administered on behalf of Shetland Islands Council as licensing authority by the Environmental Health section of Environmental Services (the "Authority"). The Act gives the Authority a wide-ranging power to vary the terms of a licence on any grounds they think fit, either at the request of the licence holder or of their own accord. |
| 2.2 | The author of this report draws the situation to the attention of the Licensing Committee and invites the Committee of its own accord to vary the licences. |
| 3.0 | Corporate Priorities and Joint Working: |
| 3.1 | The licensing function helps to make Shetland a safe place to live with strong, resilient, supportive communities and helps maintain sustainable economic growth, which are objectives in the Single Outcome Agreement in the Community Plan. |
| 4.0 | Key Issues: |
| 4.1 | To operate a mobile catering vehicle between 5am and 11pm, traders must have a Street Traders Licence under the Act. In addition, the Act requires a Late Hours Catering Licence for the use of premises between the hours of 11pm and 5am for the sale to or consumption by the public of food. This Authority currently grants Late Hours Catering licences permitting trading only between the hours of 11pm and 3am. |
| 4.2 | Street Traders licences contain standard conditions, one of which is that a trader requires to hold planning permission if the trader operates from the same location for more than 28 days a year. A further condition is that operators selling similar items are positioned not less than 50 metres apart. |

- 4.3 The Street Traders licences to which this report relates are
- licence number STL/15/03/V1 relating to the “Munchies van” owned and operated by Mr Barry Callieu; and
 - licences numbered STL/16/03 (relating to a “small trailer”) and STL/17/02 (relating to a “large trailer”) both owned and operated by Mr Ronald Obern. The locations allowed for trade are the same for both of Mr Obern’s trailers.
- 4.4 The Street Traders licences already granted to both parties allow them to operate on Commercial Road, Lerwick below Fort Charlotte (See plan – Appendix 1). Of the two trailers owned by Mr Obern only the large trailer has a late hours catering licence.
- 4.5 The areas currently permitted for the small trailer and the large are:
- Commercial Road, Lerwick – the “elbow” in the parking area below Fort Charlotte
 - Area below Clydesdale Bank, Lerwick (after 18:00 hours)
 - Tesco Car Park, Lerwick
 - Co-op car park Lerwick
 - And anywhere else in Shetland for special events (by invitation and with permission)
- 4.6 The areas currently permitted for the Munchies van are:
- Junction of Harbour Street and Commercial Road, Lerwick, Shetland and any other events by invitation
- 4.7 Mr Obern does not have any planning permission for his trailers on the area on Commercial Road below Fort Charlotte, so is permitted to operate from this location for no more than 28 days per year. In addition, trading from that location before 10pm is not permitted, as it is within 50 metres of the Fort Chip Shop, which trades until that time.
- 4.8 In March 2017 Mr Callieu applied to renew his late hours catering licence for the Munchies van located at the corner of Commercial Road, Lerwick at Harbour Street. However, following due consideration planning permission for that location was refused on road safety grounds.
- 4.9 Planning permission is required if a trader operates from any location for more than 28 days a year at the same location and the Munchies van has been at that site most weekends for several years. In respect that the grant of a Street Traders Licence is conditional on a grant of planning permission, the refusal of planning permission resulted in the refusal of the Late Hours Catering Licence.
- 4.10 Mr Callieu subsequently consulted with Roads, agreed another adjacent suitable location (below Fort Charlotte past the elbow - see plan Appendix 2). Mr Callieu’s subsequent application for Planning Permission permitting the siting of the Munchies van at the parking bays on the north side of Commercial Road was granted on 10 July 2017 (see plan Appendix 4).
- 4.11 The result of this is that, should Mr Callieu resume his operations in the area for which he has planning permission, the licensing condition that similar street traders must be not less than 50 metres apart will be breached should Mr Obern also choose to trade at the same time.

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| | <p>4.12 A licensing authority may, at any time, whether or not upon an application made to them by the holder of a licence, vary the terms of a licence on any grounds they think fit.</p> <p>4.13 In order to trade from this new area, the existing street traders licence for the Munchies van will need to be varied and the new location specified.</p> <p>4.14 Further in the event that the variation referred to in paragraph 4.14 is made, it will be necessary to vary Mr Obern's Street Trader's Licences for the small trailer and the large trailer and his Late Hours Catering Licence for the large trailer. This will avoid creating a situation where both the Munchies van on the one hand and the small trailer and the large trailer on the other, are trading on Commercial Street, Lerwick within 50 metres of each other. To avoid this situation the Committee might vary the terms of all three licences as follows –</p> <p>4.14.1 that Mr Callieu's licence for the Munchies van permit trade on the area for which he has planning permission; and</p> <p>4.14.2 that the location specified in the licences, held by Mr Obern, for the use of the small trailer and the large trailer be moved several metres from that currently permitted,</p> <p>both as shown in the plan in Appendix 3.</p> <p>This variation will allow both parties to trade in the area in accordance with their licences licensing conditions (see plan Appendix 3). Due notice of the suggested variation has been given to such persons as are required by the Act, including both Mr Callieu and Mr Obern, and has notified them of the right to be heard by the Committee.</p> <p>4.15 There are no other areas deemed suitable just over 50 metres from the area granted Planning Permission for the Munchies van. There are no Road Safety concerns should Mr Obern choose to operate from the area opposite the South of the Thulecraft building area for 28 days a year.</p> |
| 5.0 Exempt and/or confidential information: | |
| 5.1 | NONE |
| 6.0 Implications : Identify any issues or aspects of the report that have implications under the following headings | |
| 6.1 Service Users, Patients and Communities: | <p>The Munchies van has had planning permission granted to allow trading all year round at this location.</p> <p>The small trailer and the large trailers, owned by Mr Obern, have no planning permission for the current site permitted by the licence at the elbow of Commercial Road below Fort Charlotte. The small trailer and the large trailer are therefore only allowed to trade up to 28 days per year and should suffer little detriment from the move of further towards the town centre.</p> <p>Mr Callieu has applied for another Late Hours Catering Licence for the Munchies Van in the area for which he has planning</p> |

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| | permission. This application is awaiting consideration depending on the decision of the Committee on the variation of the Street Traders Licence. | |
| 6.2 Human Resources and Organisational Development: | NONE | |
| 6.3 Equality, Diversity and Human Rights: | NONE | |
| 6.4 Legal: | <p>Under Section 10 of Schedule 1 to the Civic Government (Scotland) Act 1982 a licensing authority may, at any time, vary the terms of a licence on any grounds they think fit. In addition the Chief Constable and the licence holder shall be given an opportunity to be heard by the Committee.</p> <p>The decision of the Committee may be appealed to the Sheriff. As such any variation does not come into effect on the date of the hearing but after the expiry of the appeal period of 28 days (or, if an appeal has been lodged, when the appeal is withdrawn or rejected by the courts).</p> | |
| 6.5 Finance: | NONE | |
| 6.6 Assets and Property: | NONE | |
| 6.7 ICT and new technologies: | NONE | |
| 6.8 Environmental: | NONE | |
| 6.9 Risk Management: | Any applicant can appeal a decision of the Licensing Committee to the Sheriff. | |
| 6.10 Policy and Delegated Authority: | Appendix 2 of the Council's Scheme of Administration and Delegation states where the authorised officer receives an objection or adverse representation to a proposal under the above legislation and conditions cannot address the issue(s) raised; or the proposal is recommended for refusal for reasons other than a clear technical failure to comply with legislative requirements, the matter will be referred to the Licensing Committee for determination. | |
| 6.11 Previously considered by: | N/A | |

Contact Details:

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Report written: 19 July 2017

Appendices:

Appendix 1 Plan of current licensed locations of street traders.

Appendix 2 Location of planning permission granted for the Munchies van and proximity of permitted location for J K Mainlands van.

Appendix 3 Proposed location for street traders on Commercial Street below Fort Charlotte.

Appendix 4. Copy of Plan from Planning Permission granted.

Background Documents: None

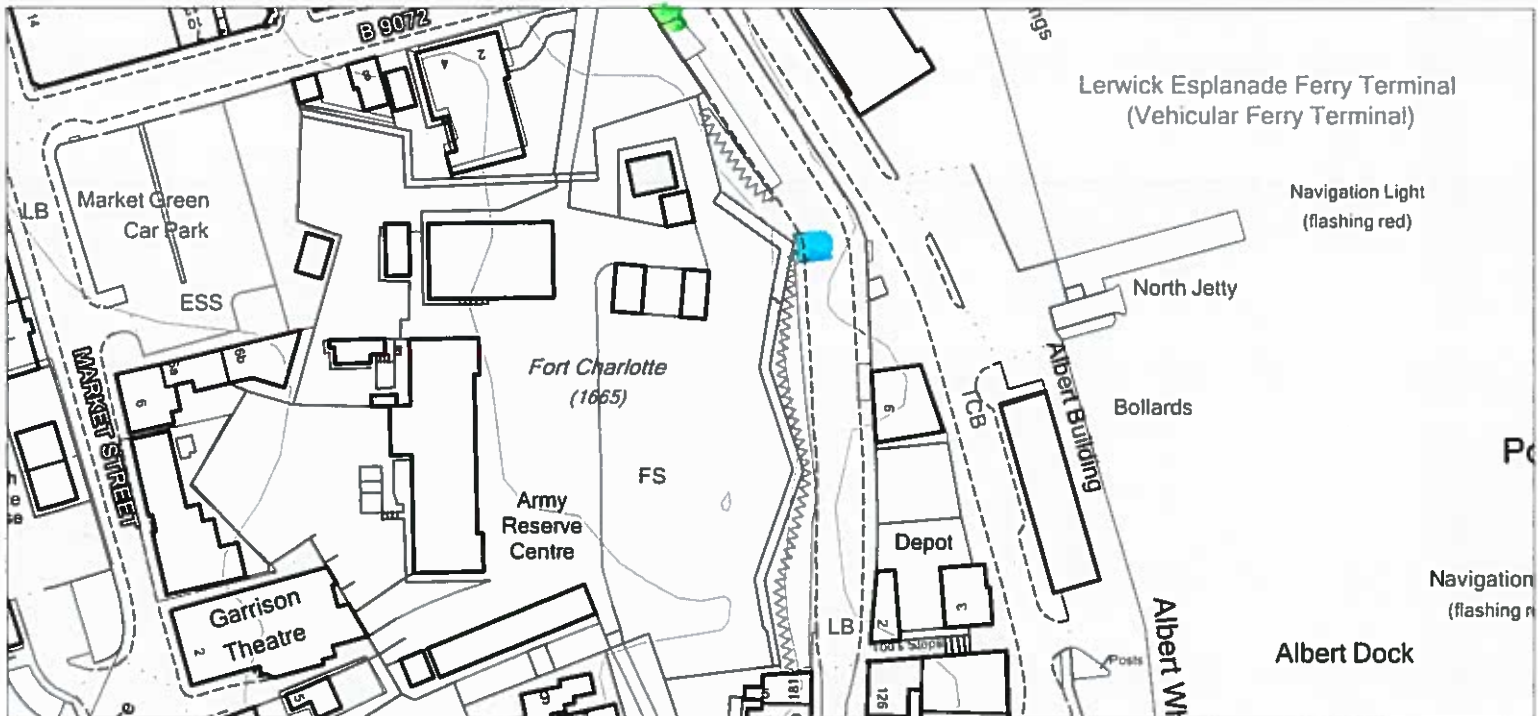
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MUNCHIES



JK MAINLANDS



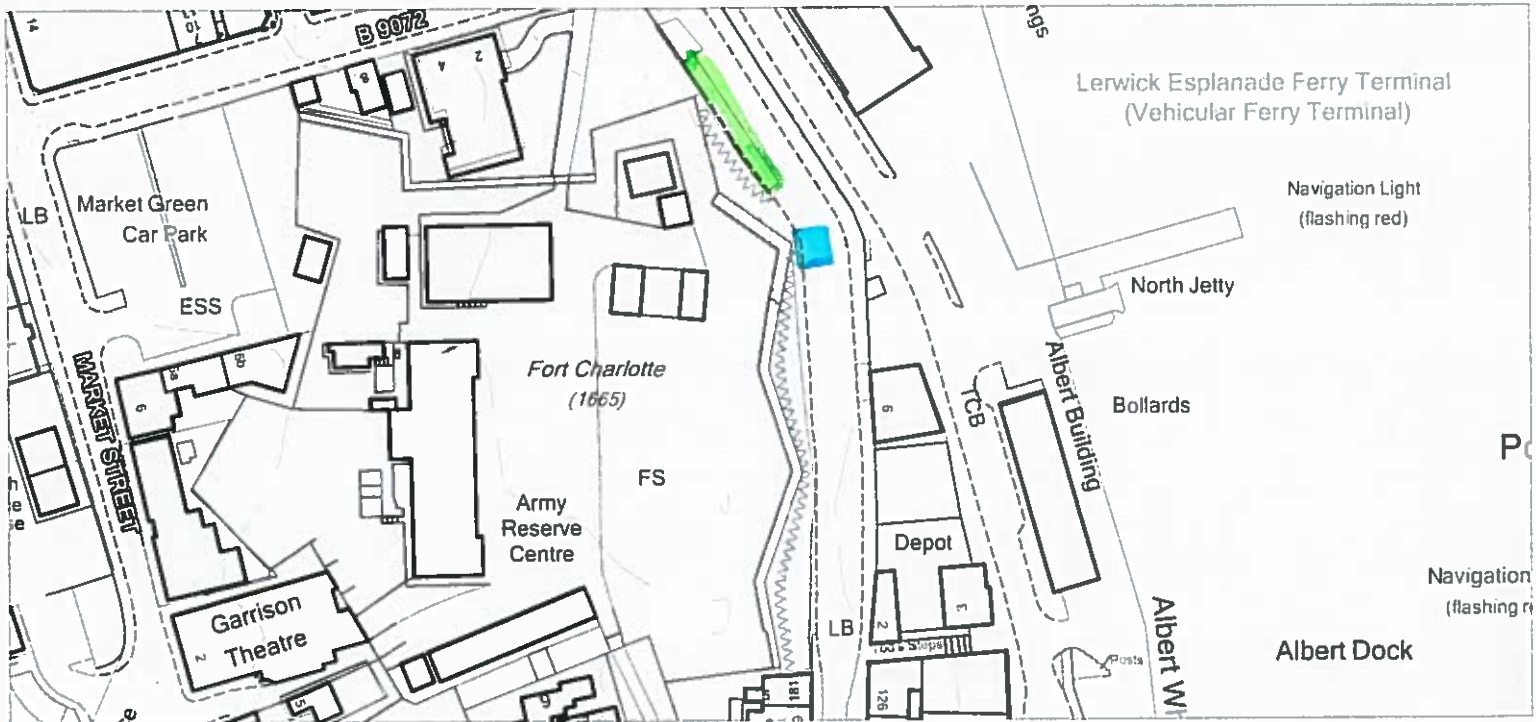
Appendix 2.



MUNCHIES

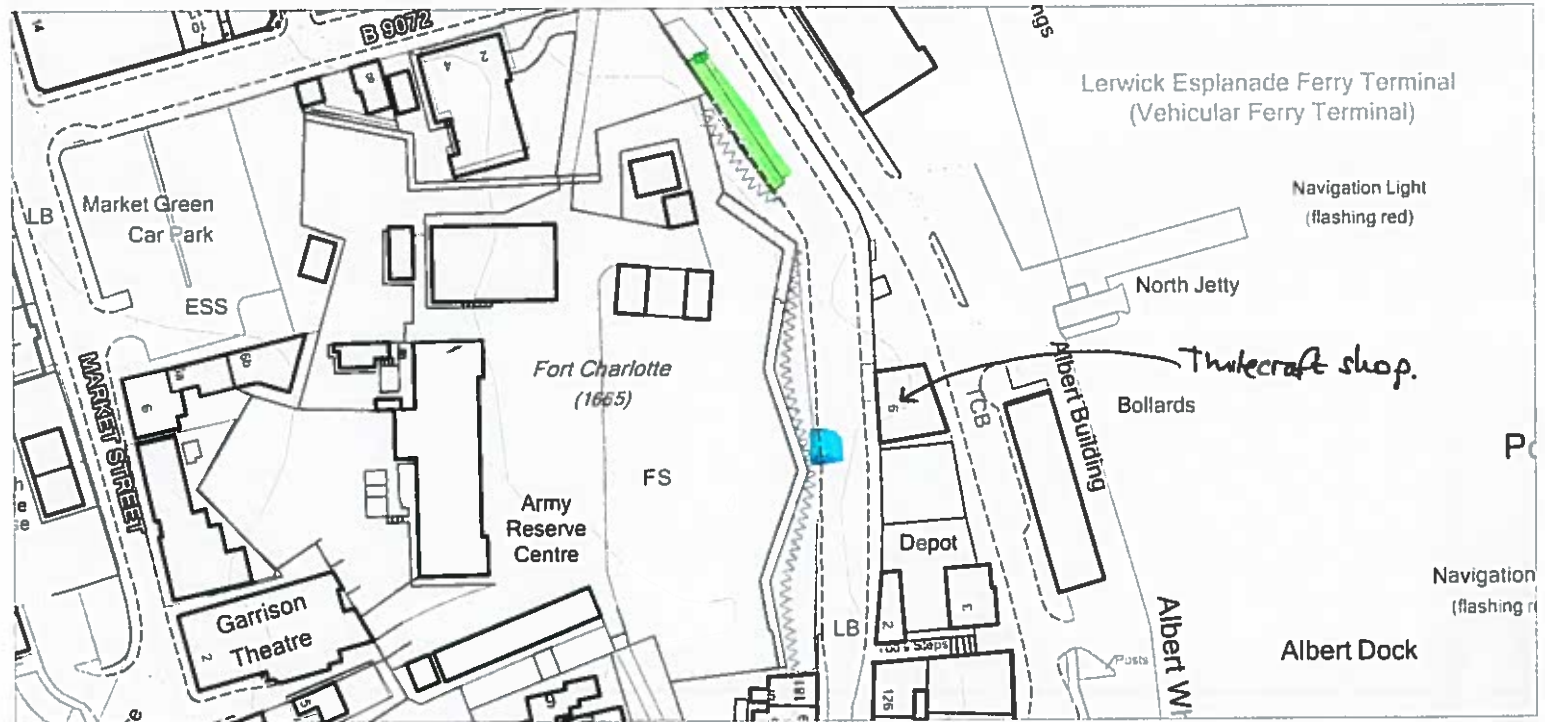



JK MAINLANDS



 MUNCHIES

 JK MAINLANDS



-  Location marked in blue is the block of SIC parking bays (excluding the disabled bays) starting opposite the southern edge of the Thulecraft shop. (6.)



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**SHETLAND ISLANDS COUNCIL
PLANNING**

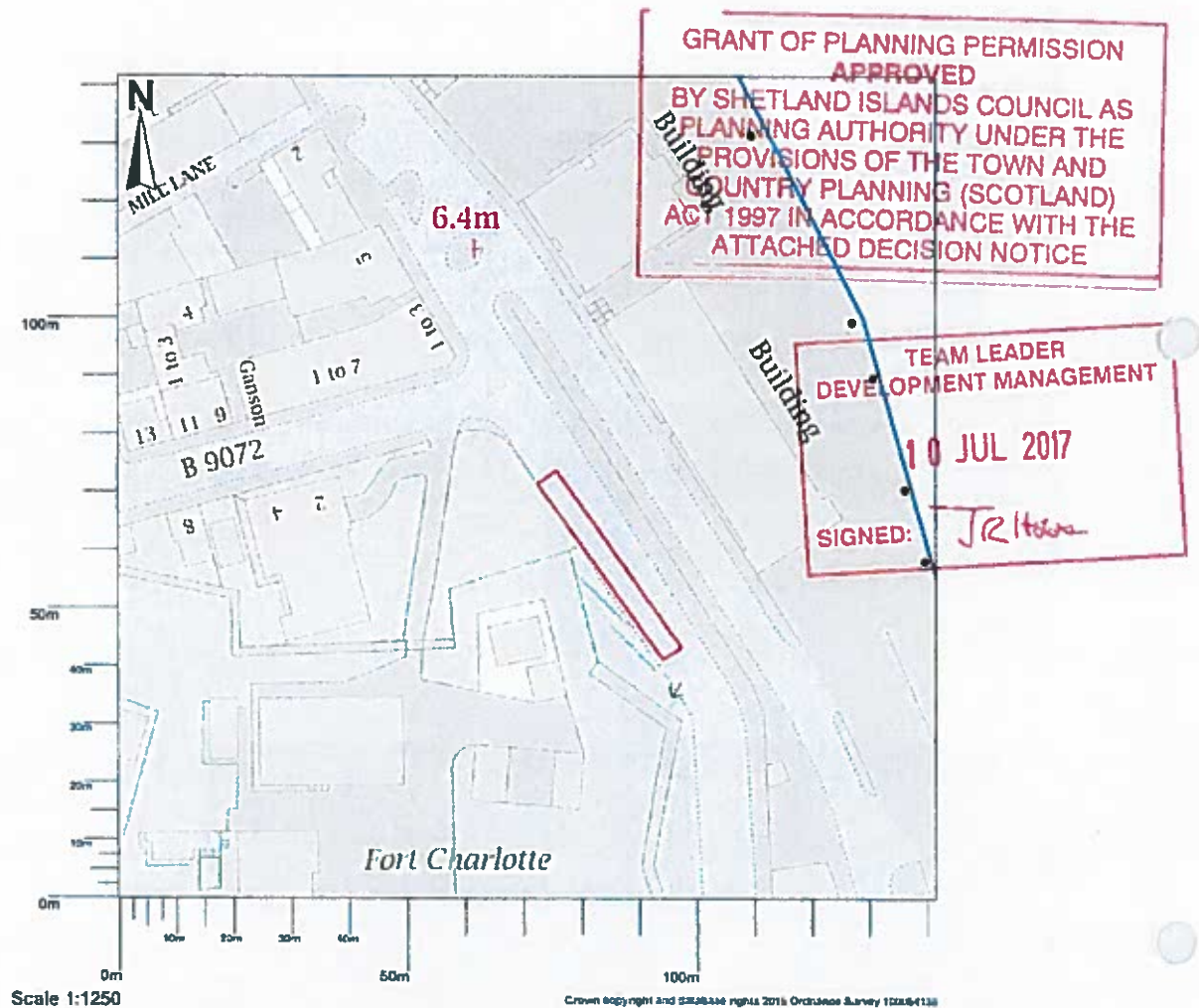
15 MAY 2017

PASS TO

ACTION



Munchies Site Location



Location marked in red is the block of SIC parking bays (excluding the two disabled bays) starting from the first bay after the junction with B9072 (then heading south-east) to the final bay before the single yellow line area on the bend.

Map shows area bounded by: 447524.28,1141529.2,447665.72,1141670.8 (at a scale of 1:1250) The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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