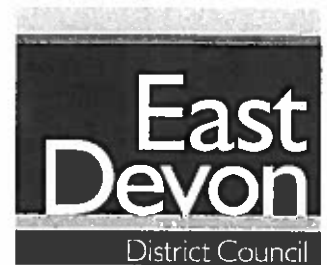


Date 13 November 2009  
Contact number: Direct Dial (01395) 517544 or Ext. 2744  
E-mail: [clane@eastdevon.gov.uk](mailto:clane@eastdevon.gov.uk)  
Our Reference: Chris Lane  
Your Reference: -



To: Members of the Licensing & Enforcement Committee  
(Councillors David Atkins, Chris Gibbings, Graham Godbeer,  
Pat Graham, Steve Hall, May Hardy, John Humphreys,  
John Jeffery, Jim Knight, Ann Liverton,  
Darryl Nicholas, Barry Nicholson, Marion Olive,  
Ken Potter, Mark Williamson).

East Devon District Council  
Knowle  
Sidmouth  
Devon  
EX10 8HL  
DX 48705 Sidmouth  
Tel: 01395 516551  
Fax: 01395 517507  
[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

Head of Legal, Licensing & Democratic Services  
Assistant Solicitor  
Licensing Manager  
Senior Licensing Officer

**Meeting of the Licensing & Enforcement Committee  
Tuesday 24 November 2009 at 9.30am in the Council Chamber, Knowle, Sidmouth**

Members of the public are welcome to attend this meeting when items listed under Part A of the agenda are being considered. For the benefit of Councillors and members of the public a hearing loop system will be in use in the Council Chamber.

Visitors please note that the doors to the civic suite (meeting rooms) will be opened ¼ hour before the start time of the meeting. Councillors are reminded to bring their key fobs if they wish to access the area prior to that time.

## A G E N D A

- |  | Page/s |
|--|--------|
| 1. To confirm the minutes of the meeting held on 29 September 2009.  | 3 - 6  |
| 2. To receive any apologies for absence.   |        |
| 3. To receive any declarations of interests relating to items on the agenda.   |        |
| 4. To consider any items which, in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances.<br><br>(Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting). |        |
| 5. To agree any items to be dealt with after the public (including the press) have been excluded. (There are no items which the Officers recommend should be dealt with in this way).  |        |
| 6. Proposed New and Temporary Taxi Ranks for Exmouth Town  | 7 - 16 |

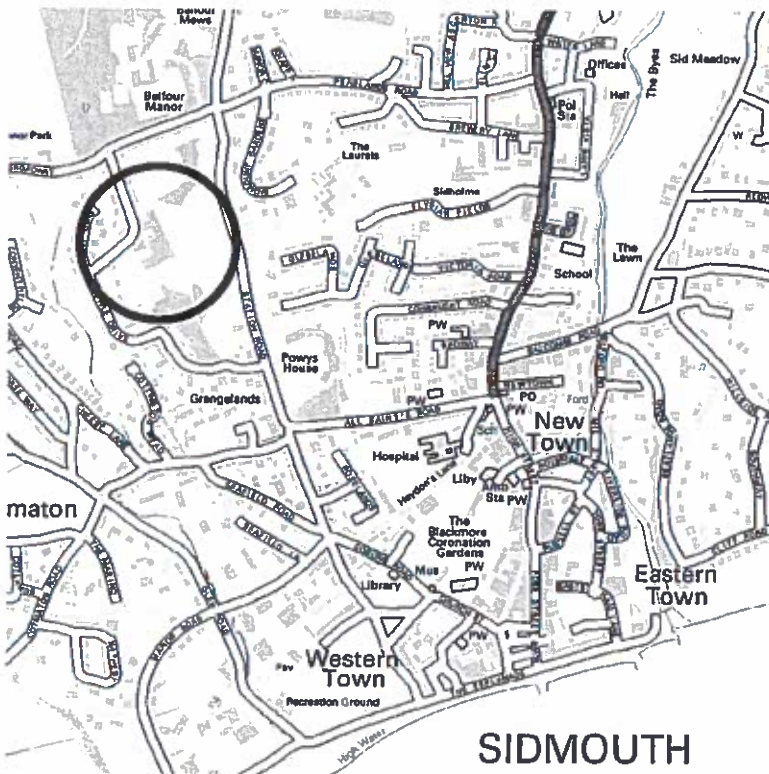
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- |    |  |                   |         |
|----|--|-------------------|---------|
| 7. | Committee update - Licensing Act 2003, Gambling Act 2005, Taxis and General Licensing.       | Licensing Manager | 17 - 23 |
| 8. | Gambling Act 2005 – Tri-annual review of the Council's Licensing Policy and Policy Adoption. | Licensing Manager | 24 - 70 |

**Members Remember!**

- ❑ You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- ❑ Make sure you say the reason for your interest as this has to be included in the minutes.
- ❑ If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- ❑ You also need to declare when you are subject to the party whip before the matter is discussed.

**Getting to the Meeting – for the benefit of visitors**



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The following bus service stops outside the Council Offices on Station Road:  
**From Exmouth, Budleigh, Otterton and Newton Poppleford – 157**

The following buses all terminate at the Triangle in Sidmouth, From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).  
**From Exeter – 52A, 52B**  
**From Honiton – 340 (Railway Station), 387 (Town Centre)**  
**From Seaton – 52A, 899**  
**From Ottery St Mary – 382, 387**

Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

**For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546**

# **EAST DEVON DISTRICT COUNCIL**

## **Minutes of a Meeting of the Licensing & Enforcement Committee held at Knowle, Sidmouth on Tuesday, 29 September 2009**

**Present:** Councillors:  
Graham Godbeer (Chairman)  
Chris Gibbings (Vice Chairman)  
David Atkins  
Pat Graham  
Steve Hall  
May Hardy  
John Jeffery  
Jim Knight  
Ann Liverton  
Marion Olive  
Ken Potter  
Mark Williamson

**Officers:** Ian Carter, Senior Licensing Officer  
Christopher Holland, Democratic Services Officer  
Douglas Jackson, Licensing Officer  
John Loveridge, Assistant Licensing Officer  
John Tippin, Licensing Manager  
Giles Salter, Assistant Solicitor

The meeting started at 9.32 am and ended at 11.22 am.

### **\*6 Minutes**

The minutes of the meeting of the Licensing & Enforcement Committee held on 9 June 2009, were confirmed and signed as a true record subject to the minute relating to taxi rank spaces in Eyrecourt Road being amended to read:

"The issue of an additional two taxi rank spaces Eyrecourt Road was mentioned, this matter would be further investigated.

### **\*7 Licensing Act 2003, Gambling Act 2005, taxis and general licensing**

Consideration was given to the report of the Licensing Manager, which provided Members with an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters.

Members noted that the Council had received a sum of £800 for costs of legal expenses regarding an appeal withdrawn by local residents over an application granted for a Premises License to Courtlands House, Courtlands Lane, Exmouth.

The Licensing Manager also reiterated points to Members made in the report including an update on a multi service operation at Exeter Airport on 12 June 2009 to check that taxis and private hire vehicles were being operated legally. He also pointed out that an operation to check that taxis and private hire vehicles, in particular stretched limousines, were being operated legally at the Exmouth Community College Prom on 2 July 2009. The Chairman congratulated the Licensing Service on both operations and reiterated the importance of multi agency working.

**\*7 Licensing Act 2003, Gambling Act 2005, taxis and general licensing (Cont)**

Members noted that the amount received in fees for Street Trading in Sidmouth during Folk week had increased from £6400 in 2008 to £7500 in 2009. It was noted that illegal parking on The Esplanade had created traffic difficulties at times. This would be enforced carefully in future years.

It was noted by Members that the description of one of the proposed Seaton Taxi ranks was incorrectly provided by Devon County Council. It was suggested that a meeting be held with Devon County Council Officers to inspect all proposed taxi rank sites in Seaton

- RESOLVED:**
- 1) that the report be noted.
  - 2) that the County Councillor Jim Knight, the Licensing Manager John Tippin and Douglas Jackson, Licensing Officer meet to inspect all proposed taxi rank sites in Seaton and record accurately the locations.

(Councillor Jim Knight declared a Personal Interest regarding the report on Seaton Street Trading and the meeting held on 18 June with Seaton Town Council as he was the Chairman of Seaton Phoenix Charity. He remained in the Chamber to speak).

**\*8 Gambling Act 2005 – Tri-annual review of the Council's Licensing Policy 2009**

Consideration was given to the report of the Licensing Manager, which explained to Members the consultation process and timescales for the tri-annual review of the Council's Gambling Act. It was noted that the Communities Overview and Scrutiny Committee would discuss the matter on 28 October 2009 before it was returned to the Licensing and Enforcement Committee on 24 November 2009. The Licensing and Enforcement Committee would then be asked to agree a final draft of the Policy for approval by Council on 9 December 2009.

**RESOLVED** that the report be noted.

**\*9 Licensing Act 2003 – Effect of Minor Variation Procedure and DPS Disapplication**

Consideration was given to the report of the Licensing Manager providing an explanation on the recent changes to the Licensing Act 2003. The changes relate to a new minor variation application procedure and the ability for Community Premises that either hold a Premises licence or wish to apply for one which authorises the sale of alcohol, to disapply the condition requiring the premises to have a Designated Premises Supervisor.

**\*9 Licensing Act 2003 – Effect of Minor Variation Procedure and DPS Disapplication (cont'd)**

- RESOLVED:**
- 1) that the report be noted;
  - 2)
    - (a) that the approval of minor variations under the Licensing Act 2003 be delegated to the Head of Legal, Licensing and Democratic Services, with the Licensing and Enforcement Committee and Sub Committees being able to exercise those powers concurrently if required.
    - (b) that where there is the requirement to determine an application for the disapplication of the need for a Designated Premises Supervisor at community premises under the Licensing Act 2003
      - (i) Where a relevant representation has been made and not withdrawn the application to be considered by a Sub Committee of the Licensing and Enforcement Committee.
      - (ii) In all other cases the determination to be delegated to the Head of Legal, Licensing and Democratic Services.

**\*10 Request to amend the Council's Street Trading Policy and Guidance to incorporate changes with regard to Charitable Street Trading in Seaton**

Consideration was given to the report of the Senior Licensing Officer which set out the request to formally adopt the interim measures approved by this Committee at its meeting on 9 June 2009 into the Council's street trading policy and guidance.

- RESOLVED:** that the interim measures relating to Seaton agreed at the Licensing and Enforcement Committee meeting on 9 June 2009 be adopted as amendments to the Council's street trading policy and guidance.

(Councillor Jim Knight declared a Personal and Prejudicial Interest as he was the Chairman of Seaton Phoenix Charity and left the Chamber during discussion and voting).

**\*11 Proposed new Taxi Ranks for Honiton**

Consideration was given to the report of the Licensing Officer on proposed changes to the Hackney Carriage ranks in Honiton town. Members noted that at present Honiton only had one rank accommodating two vehicles at one time. This was far fewer spaces than other comparable sized towns. As a result, many taxis were forced to double park in the high Street, park in ordinary parking spaces or even to park on double yellow lines.

In the past the Police had complained about double parking in the High Street when the rank has been full. It was noted that the proposed scheme had received favourable comments from the majority of organisations and businesses in the town including the Town Council.

**RESOLVED:**

- 1) that the powers under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976, be exercised to appoint two areas on the northern side of the High Street, Honiton as taxi ranks. One rank for four vehicles being located 77 metres east of its junction with Dowell Street for a distance of 16 metres in an easterly direction and the other rank for three vehicles being located from a point 98 metres east of its junction with Dowell Street for a distance of 10 metres in the same direction (easterly);
- 2) that the requisite public notice be given of the proposed appointment as required by Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976;
- 3) that if no written objection or representation is received relating to the notice given under Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976 within the 28 day period following the publication of that notice the two ranks referred to in resolution 1 above will be deemed appointed;
- 4) that following the appointment of the two taxi ranks Devon County Council as the Highway Authority be requested to put in place the appropriate legal provisions and to mark out the ranks as appropriate.

**\*12 Central Law Training – Licensing Act 2003 Conference, London**

Members noted that the Senior Licensing Officer and Assistant Solicitor had recently attended a Licensing Conference in London. At the Conference, it was noted that solicitors including Turbevilles and TLT had publically thanked the East Devon Licensing Team for their support and also congratulated the whole team on their achievements and professionalism. The Chairman congratulated the Licensing Team for their achievements to date and hoped that the excellent work would be continued into the future.

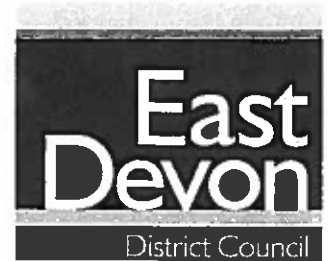
Chairman ..... Date .....

# Agenda Item 6

Licensing and Enforcement Committee

24 November 2009

DJ/JT



## Proposed Permanent and Temporary Taxi Ranks for Exmouth Town

### Summary

The Licensing and Enforcement Committee is asked to consider proposed temporary and full time changes to the Hackney Carriage ranks in Exmouth town. These changes are needed to accommodate the regeneration scheme for the town centre planned to commence in February 2010.

### Recommendation

That the Committee resolves:

1. To exercise the Council's powers under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to appoint the following ranks in Exmouth:
  - (a) **Rolle Street (Temporary Rank) – 24 Hour Rank**  
South west side from a point 9 metres south east of its junction with Strand for a distance of 40 metres in a south westerly direction  
**Rank creates 8 spaces**  
Restriction: No Waiting At Any Time except taxis.
  - (b) **The Parade - Evening Only Rank**  
Side of road south from a point 95 metres west of its junction with Albion Street for a distance of 15 metres in a westerly direction  
**Rank creates 3 spaces**  
Restriction: No Waiting 6pm-midnight and midnight-8am except taxis.
  - (c) **Imperial Road – 24 Hour Rank**  
Side of road south-west from a point 18 metres north-west of its junction with Rolle Street for a distance of 15 metres in a north-westerly direction  
**Rank creates 3 spaces**  
Restriction: No Waiting At Any Time except taxis.
  - (d) **Victoria Road – 24 Hour Rank**  
Side of road south from a point 11 metres west of its junction with road from The Strand to Chapel Hill: for a distance of 12 metres in a westerly direction  
**Rank creates 2 spaces**  
Restriction: No Waiting at Any Time except taxis.
  - (e) **Chapel Street – 24 Hour Rank**  
West side of Chapel Street from its junction with Church Street for a distance of 13 metres in a northerly direction  
**Rank accommodates 2 spaces**  
Restriction: No Waiting at Any Time except taxis.
  - (f) **Esplanade – 24 Hour Rank**  
South West side of the Esplanade nearly opposite the Pavilion from a point 43 metres north-west of the southern boundary line of the Beach Gardens for a distance of 13 metres in a north-westerly direction  
**Rank accommodates 2 spaces**  
Restriction: No Waiting at Any Time except taxis.
2. That the requisite public notice be given of the proposed appointment as required by Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976.



## **Recommendation (Continued)**

3. That if no written objection or representation is received relating to the notice given under Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976 within the 28 day period following the publication of that notice the ranks referred to in paragraph 1 of this recommendation will be deemed appointed.
4. That following the appointment of the taxi ranks Devon County Council as the Highways Authority be requested to put in place the appropriate legal provisions and to mark out the ranks as appropriate.

### **a) Reasons for Recommendation**

Exmouth Town Centre is due for a regeneration scheme to commence in February 2010, with an anticipated finish in mid November 2010. As a result of this regeneration work, the main taxi rank in the Strand accommodating 15 vehicle spaces will not be available from the outset meaning the available ranks in the town will be greatly reduced. The siting of the new ranks proposed within this report will maintain the taxi rank numbers and give the licensed hackney carriage trade an alternative to trade whilst the regeneration work is being undertaken.

### **b) Alternative Options**

Not to adopt the recommendation or to adopt only part of the proposal for use as hackney carriage ranks.

### **c) Risk Considerations**

None known

### **d) Policy and Budgetary Considerations**

### **e) Date for Review of Decision**

---

## **1 Main Body of the Report**

- 1.1 Under Section 63(1) of the Local Government (Miscellaneous Provisions) Act 1976 the district council can appoint stands for hackney carriages either on public highways or private land and the stands can be for continual or part time use. The district council can also determine the number of hackney carriages that can use a stand and also has the power to vary the numbers. If the land is to be on the public highway the consent of the highway authority is required. It also requires that notice must be given to the Chief Officer of Police.

Other issues that the Council must consider are:

- a. that the stand will not unreasonably prevent access to any premises;
  - b. that the stand will not impede any taking up or setting down points for Public Service Vehicles (buses) or will not unreasonably interfere with access to passenger road transport operators' stations or depots.
- 1.2 There are at present 22 taxi rank spaces in Exmouth situated through the town. In February 2010 the Exmouth regeneration scheme is due to commence with an anticipated completion date of mid November 2010. As a result of this, from the outset, the Strand



hackney carriage ranks will not be available for use by the taxi trade. This is a rank that can accommodate 15 taxis at anytime.

- 1.3 Alternative facilities are needed to accommodate the taxi trade whilst this work is in progress. Ensuring that they can continue with their lawful business with as many hackney spaces available as possible for use.
- 1.4 During the course of the works there will be many other temporary disruptions to the town centre infrastructure, i.e. building works, road closures, temporary one way systems etc.
- 1.5 At present there are hackney carriage ranks as follows in the Exmouth area
  - (a) The Strand 15 spaces
  - (b) Victoria Road 3 spaces
  - (c) The Esplanade 2 spaces
  - (d) Chapel Street 2 spaces

As part of the regeneration scheme the 15 spaces in the Strand will disappear. The rank in Victoria Road, which is currently regarded as a feeder rank for the Strand, will be reduced in size and position as the road layout is to be changed. Instead of accommodating 3 spaces it is proposed that the new rank will only accommodate 2 spaces. It is intended that the ranks currently located on the Esplanade (2 Spaces) and in Chapel Street (2 Spaces) will be retained and should be unaffected by the regeneration scheme.

- 1.6 It is proposed that new ranks be created as listed below:
  - (a) **Rolle Street (Temporary Rank) – 24 Hour Rank**  
South west side from a point 9 metres south east of its junction with Strand for a distance of 40 metres in a south westerly direction  
**Rank creates 8 spaces**  
Restriction: No Waiting at Any Time except taxis.
  - (b) **The Parade - Evening Only Rank**  
Side of road south from a point 95 metres west of its junction with Albion Street for a distance of 15 metres in a westerly direction  
**Rank creates 3 spaces**  
Restriction: No Waiting 6pm-midnight and midnight-8am except taxis.
  - (c) **Imperial Road – 24 Hour Rank**  
Side of road south-west from a point 18 metres north-west of its junction with Rolle Street for a distance of 15 metres in a north-westerly direction  
**Rank creates 3 spaces**  
Restriction: No Waiting at Any Time except taxis.
  - (d) **Victoria Road – 24 Hour Rank**  
Side of road south from a point 11 metres west of its junction with road from The Strand to Chapel Hill: for a distance of 12 metres in a westerly direction  
**Rank creates 2 spaces**  
Restriction: No Waiting at Any Time except taxis.

A plan showing the location of the proposed permanent ranks in Exmouth Town Centre appears in this report as **Appendix A**. A plan showing the location of the proposed temporary rank in Rolle Street appears in this report at **Appendix D**.

- 1.7 The proposed rank in Rolle Street is intended as a stop gap while the regeneration work is carried out. On the conclusion of the works it is intended that permanent rank spaces will be allocated elsewhere in the town centre in an attempt to balance up the spaces lost whilst accommodating the regeneration work. When that happens the section of road where the planned temporary rank in Rolle Street is to be located will revert to on street parking. Negotiations are ongoing between the Exmouth Hackney Carriage Association, Devon County Council, as



the Highway Authority, and East Devon District Council to get the correct permanent balance of hackney carriage stands in the Exmouth area. A further report to seek approval of these additional spaces will be brought to the Committee in the New Year.

- 1.8 The other 3 proposed taxi ranks numbered 1.6(b), 1.6(c) and 1.6(d) (previous page) are intended to be permanent ranks and will remain in place at the conclusion of the regeneration works.
- 1.9 If this proposal is approved then during the period that the regeneration work is in progress the total number of new spaces made available will be **13** daytime/evening spaces and **3** evening spaces. The rank spaces in Chapel Street (**2 spaces**) and the Esplanade (**2 spaces**) are not affected by the regeneration scheme so will also be usable during this period. However at the commencement of the work a total of 16 other spaces will be lost as a result of the planned changes to the town centre (Strand rank – 15 spaces and Victoria Road rank a reduction of 1 space).
- 1.10 Both the Chapel Street and Esplanade ranks were originally authorised under byelaws agreed in 1988 although the position of the existing rank in Chapel Street does not match the original position agreed in 1988. The same 1988 byelaw also authorised the Strand rank which will disappear with the start of the regeneration scheme. In order to tidy up the various bits of legislation relating to the Exmouth ranks it is recommended that the Chapel Street and Esplanade ranks be reauthorised at the same time as the Committee agree the other rank proposals for Exmouth. Location plans of the Chapel Street and Esplanade ranks appear in this report as **Appendices B and C** respectively.

The description of the Chapel Street and Esplanade ranks appear below:

- (a) **Chapel Street – 24 Hour Rank**  
Western side of Chapel Street from its junction with Church Street for a distance of 13 metres in a northerly direction.  
**Rank creates 2 spaces**  
Restriction: No Waiting at Any Time except taxis.
  - (b) **Esplanade – 24 Hour Rank**  
South West side of the Esplanade nearly opposite the Pavilion from a point 43 metres north-west of the southern boundary line of the Beach Gardens for a distance of 13 metres in a north-westerly direction.  
**Rank creates 2 spaces**  
Restriction: No Waiting at Any Time except taxis.
- 1.11 Devon County Council considers the proposals as set out in the recommendation are the best option taking into account the limitation of locations for such ranks along with all the other changes that are due to occur with the regeneration work. There is no easy solution to the hackney carriage rank situation as everyone is going to be inconvenienced by the regeneration works. It is considered that the proposals are a good compromise as they provide good locations in the middle of Exmouth from where the trade can operate.
  - 1.12 If the new ranks are approved by the Committee legislation requires that a public notice be placed in a local newspaper in order to provide local residents with the opportunity to make representations in relation to the proposal. Representations must be made within a 28 day period from the date of publication. Should any objections be received and not withdrawn this item will need to be returned for reconsideration by members.
  - 1.13 Mr Paul Wilson, Traffic Engineer East for Devon County Council, or a representative from his department, will attend the Committee meeting on the 24 November 2009 to explain the proposals and to answer any questions in relation to the regeneration scheme and taxi rank space proposals.



- 1.14 Consultation letters have been sent to the local taxi drivers who regularly use the ranks, Devon County Council, Exmouth Town Council, the Chamber of Commerce, the Tourist Information Board, the Devon and Cornwall Constabulary and the businesses located in the Rolle Street and Imperial Road area where the ranks are to be situated. There has also been consultation by DCC in relation to the whole of the regeneration scheme. An article, instigated by the Council's Licensing Office, outlining the taxi rank proposals has also appeared in a local newspaper.
- 1.15 The Devon and Cornwall Constabulary have replied and there are no objections in relation to the proposals as outlined. Copy of letter at **Appendix E**.
- 1.16 During the recent Taxi Proprietors' and Drivers' liaison meeting on the 26 October with the District Council chaired by Councillor Godbeer some members of the Exmouth taxi trade voiced concerns over the proposals. In particular there was concern that the proposed Rolle Street rank would cause congestion in the town centre. A suggestion was made that Victoria Road should be used to accommodate more rank space instead of using Rolle Street. Those present at the meeting were advised to make their representations in writing to the Council so the Committee could consider them on the 24 November 2009. Some of those present stated their intension of sending representations. At the time of finalising this report no representations have been received.
- 1.17 Should any representations be received before the 24 November 2009 copies will be made available to members at the meeting.

---

### **Legal Implications**

The legal implications are as set out within the report and require no further comment.

### **Financial Implications**

As these proposals leave the number of spaces relatively unchanged, there are no implications for increased or decrease in Licensing revenue.

### **Appendices**

- Appendix A DCC Map of Exmouth Town Centre showing locations of the proposed full time taxi ranks
- Appendix B DCC Map showing location of Chapel Street taxi rank
- Appendix C DCC Map showing location of Esplanade taxi rank
- Appendix D DCC Map showing location of the proposed temporary taxi rank in Rolle Street
- Appendix E Letter from Devon and Cornwall Police

### **Background Papers**

Consultation letters sent to:

- Exmouth Taxi Association
- Exmouth Town Council
- Devon & Cornwall Constabulary
- Exmouth Chamber of Commerce
- Local Exmouth Hackney Carriage Drivers
- Tourist Information Centre
- Devon County Council

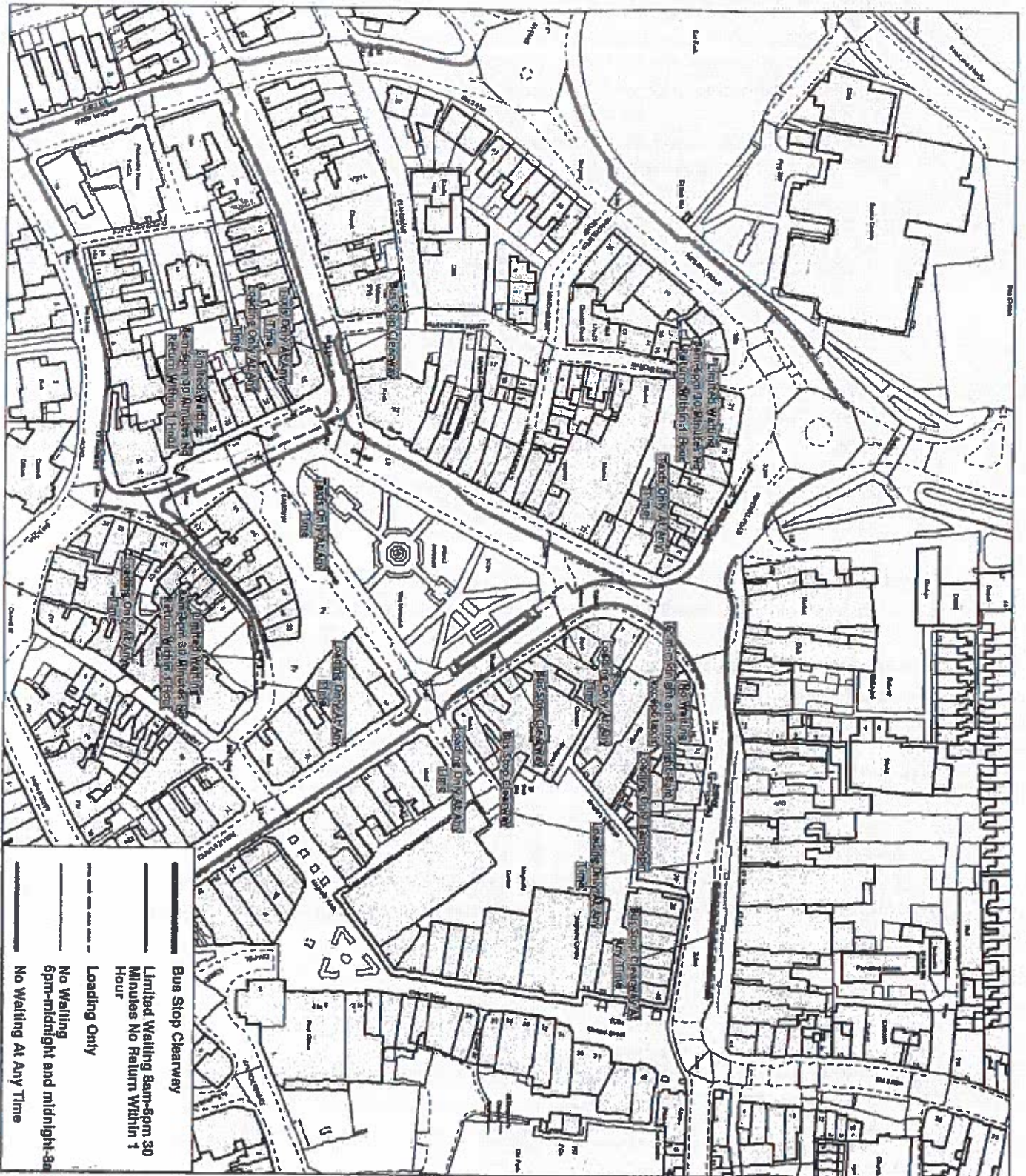
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Douglas Jackson Ext. 2611  
Licensing Officer


Licensing and Enforcement Committee  
24 November 2009







**Bus Stop Clearway**  
 Limited Waiting 6pm-9pm 30  
 Minutes No Return Within 1  
 Hour  
**Loading Only**  
 No Waiting  
 6pm-midnight and midnight-9a  
 No Waiting At Any Time

  
 DEVON COUNTY COUNCIL  
**The Strand, Exmouth**  
 SCALE 1 : 1250  
 DATE 08/10/2009  
 DRAWING NO. EXM/CS38  
 DRAWN BY

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TAXI RANK CHAPEL STREET, EXMOUTH

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 Exmouth, Devon, EX20 2AA

SCALE 1 : 1000

DATE 06/11/2009

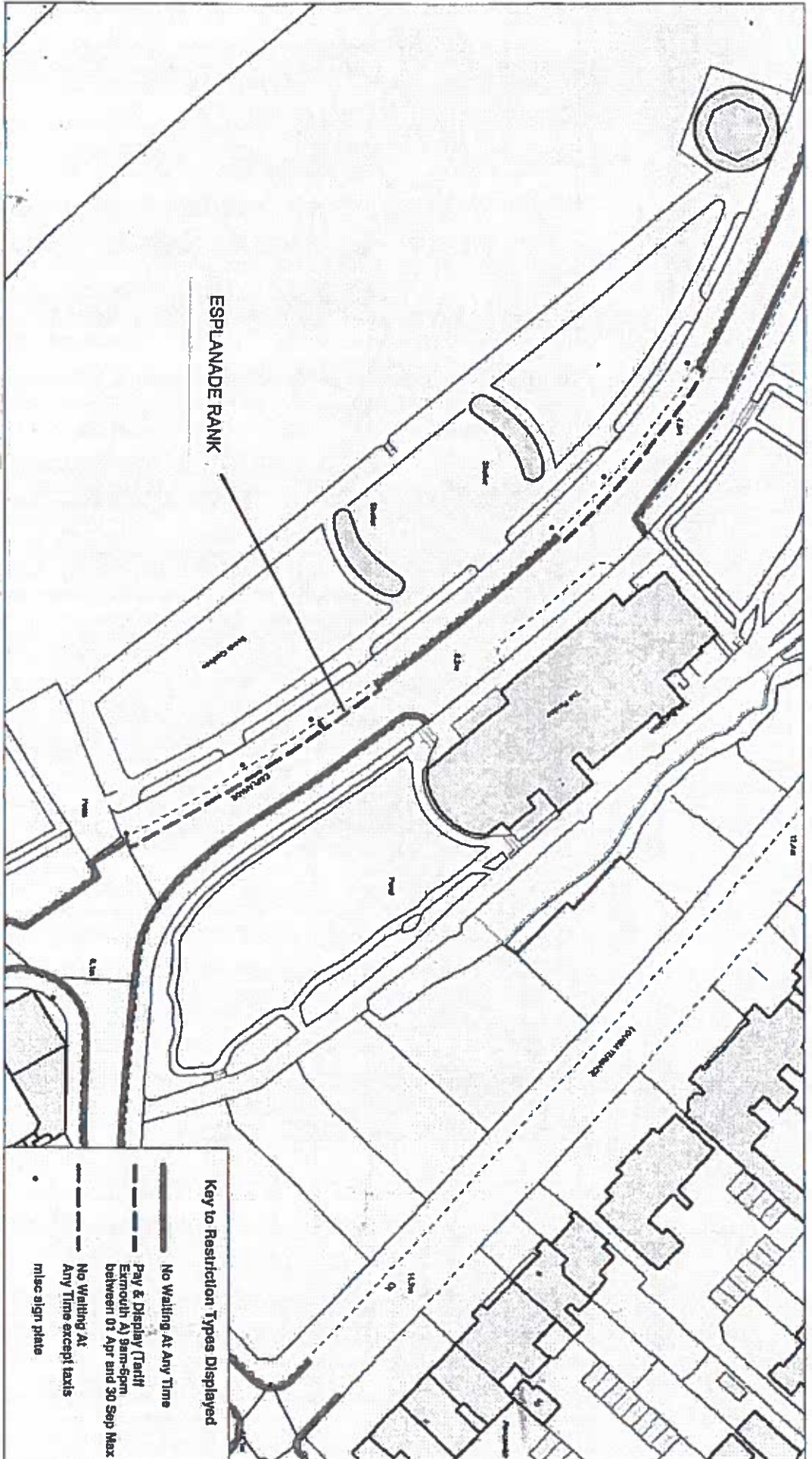
DRAWING No.

DRAWN BY



Esplanade - Exmouth

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 Devon County Council  
 License No. 100019133 2009



Key to Restriction Types Displayed

- No Waiting At Any Time
- - - Pay & Display (Tariff Exmouth A) 9am-5pm between 01 Apr and 30 Sep Max
- - - Any Time except taxis
- misc sign plate

SCALE 1 : 1000

DATE 09/11/2009

DRAWING No.

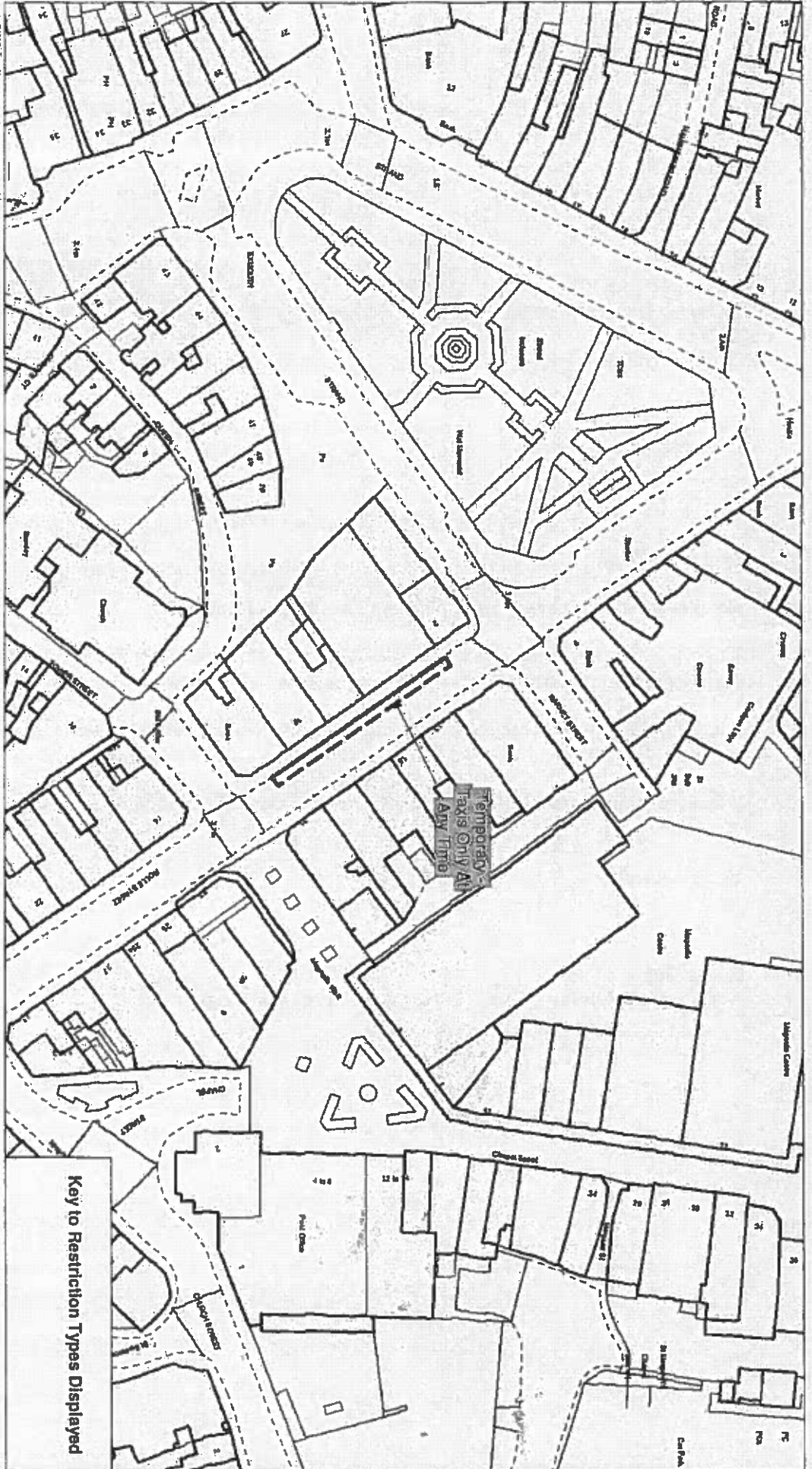
DRAWN BY





The Strand, Exmouth  
Temporary Taxi Rank

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Licence No. 100018783 2009



Key to Restriction Types Displayed

SCALE	1 : 1000
DATE	09/11/2009
DRAWING No.	EXM/539
DRAWN BY	

Mr D Jackson  
Licensing Officer  
East Devon District Council  
Knowle  
SIDMOUTH EX10 8HL

Architectural Liaison Officer  
Police Partnership Office  
Old Forde House  
Brunel Road  
NEWTON ABBOT TQ12 4XX

23 October 2009

01626 215125

Dear Mr Jackson

**Re: Proposed Temporary and Full Time Taxi Ranks, Exmouth**

Thank you for your email dated 9 October 2009 requesting the views of Devon and Cornwall Constabulary regarding the proposed temporary and full time taxi ranks in Exmouth.

I have liaised with the local Crime Prevention Officer, Nick Farrell and Inspector Jez Capey and they have no objections to the plans.

If I can be of any further assistance please contact me on 01626 215125.

Yours sincerely

**Emma Snow**  
**Architectural Liaison Officer (Exeter, East Devon and Teignbridge)**

## **Agenda Item 7**

**Licensing & Enforcement Committee**

**24 November 2009**

**JT/IC/NM/DJ/JL**

### **Committee Update -**

**Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing**

#### **Summary**

The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters.

#### **Recommendation**

**That the report be noted**

**a) Reasons for Recommendation**

To keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service.

**b) Alternative Options**

Not Applicable

**c) Risk Considerations**

Failure to provide an efficient licensing service may result in complaints or legal challenges being made against the Licensing Authority.

**d) Policy and Budgetary Considerations**

None

**e) Date for Review of Decision**

Not Applicable

---

### **1 Licensing Act 2003**

#### **1.1 Licences Issued and Notices Given**

1.1.1 Within the Licensing Authority's district there are currently 657 (656)\* Licensed Premises. 595 (592) of those hold Premises Licences while the remaining 62 (64) benefit from Club Premises Certificates. In addition a total of 1,366 Personal Licences have been issued by the Authority.

1.1.2 Since the commencement of the Act in November 2005 a total of 2,733 (2,639)\* Temporary Event Notices have been given. 2,511 (2,427) of these were given for events where alcohol was to be sold while the remaining 222 (212) were for regulated entertainment or late night refreshment only.

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\* Note the numbers in brackets are the figures from the previous update report.

## 1.2 Premises Risk Ratings

- 1.2.1 The inspections under the premises risk rating system continue and are on target to be completed by 31 March 2010.

## 1.3 Enforcement

- 1.3.1 The pro-active educational partnership approach to enforcement with the aim of compliance through consent continues to be successful. Again it is pleasing to report that although there have been complaints received against licensed premises all have been resolved without the need for formal enforcement action.

## 1.4 Hearings

- 1.4.1 The following hearings have been held since the last report to committee on 29 September 2009:

Number of hearings where no agreed position has been reached.	August 2009	2
	September 2009	0
	October 2009	1
Number of hearings held to approve an agreed position.	August 2009	1
	September 2009	0
	October 2009	1
Total number of days sub-committees have sat.	August 2009	1
	September 2009	0
	October 2009	2

- 1.4.2 To date, the Council has received no applications to review existing licences. In addition there are no outstanding appeals to the Magistrates' Court against the decisions of this Council's licensing sub committees. Council Officers continue to co-ordinate mediation meetings where Responsible Authorities have expressed their intention to seek a review. Since the last report to committee one "Pre Review Mediation" meeting has been held. This approach continues to be well received by all parties to the meetings and remains as standard practice in cases where responsible authorities are considering making an application for review of a premises licence.

## 1.5 Temporary Event notices

- 1.5.1 These are a key part of the Act's operation, and enable individuals to carry on licensable activities without a premises licence provided they serve notice in the correct way on the licensing authority and the police. The police have only 48 hours in which to object, otherwise the event goes ahead. The number of notices served invariably increase during the early summer months and by August have the numbers have started to drop off.

Temporary Event Notices given to the Licensing Authority.	August 2009	64
	September 2009	41
	October 2009	51

## 1.6 Variations, new licence applications, and changes of Designated Premises Supervisor

1.6.1 Applications for variation, transfer, new licences or change of designated premises supervisor continue to be received at a fairly constant rate.

Applications for the grant of a Premises Licence.	August 2009	2
	September 2009	0
	October 2009	2
Applications for the variation of a Premises Licence.	August 2009	1
	September 2009	3
	October 2009	6
Applications for the transfer a Premises Licence.	August 2009	4
	September 2009	7
	October 2009	5
Applications for a change of Designated Premises Supervisor.	August 2009	3
	September 2009	2
	October 2009	13

1.6.2 Licensing Officers continue to offer advice and guidance to applicants and liaise regularly with partner agencies to ensure the Licensing Authority provides the best possible service.

1.6.3 Under the new 'Minor Variation' procedure the authority has received a total of 12 applications since July this year.

## 1.7 Personal licences

1.7.1 Applications relating to Personal licences are still being received at a steady rate.

Personal Licences issued.	August 2009	8
	September 2009	2
	October 2009	6
Applications for change of name or address.	August 2009	0
	September 2009	0
	October 2009	0

## 2 Gambling Act 2005

### 2.1 Licences Issued and Notices Given

2.1.1 Within the Licensing Authority's area there are now 14 (15)\* Premises licensed under the Gambling Act. The reduction of one licence relates to the surrender of the adult gaming centre premises (AGC) licence for Symonds Amusements, 165 High Street, Honiton EX14 1LQ. We also have 185 (173) Small Society Lotteries registered.

\* Note the numbers in brackets are the figures from the previous update report.

## 2.2 Premises Inspections and Risk Ratings

2.2.1 The Licensing Authority is required to inspect premises licensed under the Gambling Act in accordance with the advice given by the Gambling Commission. To meet the Authority's obligations in this matter the scheme of inspection, report and risk assessment is still under development in consultation with the Gambling Commission and Partner Agencies. However regular visits are made to licensed premises when officers are in the vicinity.

## 2.3 Enforcement

2.3.1 Currently the Authority's role remains one of education and guidance with licence and permit holders to achieve compliance with the Gambling Act 2005. To date no formal enforcement action has been required and it is generally anticipated that as with the Licensing Act close working with partner agencies will usually prove most beneficial.

2.3.2 In recent weeks there has been concern raised in respect of the premises known as the 'Dove', Dove Lane, Sidmouth. In particular regarding the standard of window display at the premises. Members will recall that these premises were subject to a hearing in late 2008 when the proprietor successfully applied for an Adult Gaming Centre licence. However at the hearing members heard that the District Council's Planning Department had placed a condition on the planning permission requiring the proprietor to maintain a retail display in the shop window.

2.3.3 The Licensing Sub Committee hearing the application and objections against the grant of the licence placed the following condition on the premises licence:  
'The premises shall have a window display which will prevent direct vision into the premises. The display shall not be of a nature that advertises or invites gambling.'

2.3.4 It is the Licensing Service's view that the current window display not only breaches the planning permission but also the Premises licence condition prohibiting advertising and invitations to gamble. The Licensing Service has written to the proprietor twice on this matter but with little effect. In view of the proprietor's lack of corrective response it is intended that the issue will be progressed with more vigour in the coming weeks.

## 2.4 Hearings

2.4.1 Since the last update report there has been no requirement for any hearing relating to applications made under the Gambling Act. As is the case with the Licensing Act 2003 if there are no representations made against an application and in all other respects the application is properly made then there is no requirement for a hearing.

## 2.5 Applications & Notifications received

Applications for a Permit.	Aug 2009	1
	Sep 2009	0
	Oct 2009	2
Applications for a Licence.	Aug 2009	0
	Sep 2009	0
	Oct 2009	0
Notifications of Intent to have Gaming Machines.	Aug 2009	1
	Sep 2009	5
	Oct 2009	2



## 2.6 Gambling Act Licensing Policy Consultation

2.6.1 A report on this matter is included within the agenda for this meeting.

## 3 Taxis

### 3.1 Licences Issued and Notices Given

3.1.1 Within the Licensing Authority's district there is currently a fleet of 211 (222)\* licensed Vehicles, 179 (188) of which are Hackney Carriages and 34 (34) are Private Hire Vehicles. There are 247 (249) licensed Hackney Carriage Drivers and 54 (55) Licensed Private Hire Drivers. There are also 16 (17) licensed Private Hire Operators.

\* Note the numbers in brackets are the figures from the previous update report.

### 3.2 Enforcement

3.2.1 The Licensing Team has continued the education based enforcement and monitoring approach to the Hackney Carriage and Private Hire drivers and vehicles as we have used with the Licensing Act. Again close liaison is maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality are maintained.

### 3.3 Hearings

3.3.1 There have been no hearings relating to Hackney Carriage and Private Hire licensing since the last report to committee on 29 September 2009.

### 3.4 Applications received

Applications for a Hackney Carriage Licence (including renewals, transfers & vehicle changes)	Aug 2009	3
	Sep 2009	19
	Oct 2009	122
Applications for a Hackney Carriage Drivers Licence (including renewals)	Aug 2009	0
	Sep 2009	34
	Oct 2009	161
Applications for a Private Hire Vehicle Licence.	Aug 2009	0
	Sep 2009	0
	Oct 2009	0
Applications for a Private Hire Vehicle Drivers Licence.	Aug 2009	0
	Sep 2009	0
	Oct 2009	0
Applications for a Private Hire Operators Licence.	Aug 2009	1
	Sep 2009	0
	Oct 2009	0

3.4.1 October is always a busy month as all Hackney licences issued by the Council expire on the 31 October and the applications for renewal of these licences need to be processed before they expire. At the time of compiling these figures (28.10.09) more applications to renew hackney licences were expected. The next very busy period is May as all the Private Hire licences expire on the 31 May.

3.4.2 The hackney licence renewal process has been greatly hampered by the disruption of postal services caused by strikes. Applicants were encouraged to deliver documents and collect licences from the Council Offices in Sidmouth whenever possible.

### **3.5 Taxi Rank Update**

3.5.1 **Exmouth** - A report on this matter is included within the agenda for this meeting.

3.5.2 **Honiton** – On the 29 September 2009 members will recall that this Committee resolved to appoint two areas on the northern side of High Street, Honiton as taxi ranks. One rank for four vehicles being located 77 metres east of its junction with Dowell Street for a distance of 16 metres in an easterly direction and the other rank for three vehicles being located from a point 98 metres east of its junction with Dowell street for a distance of 10 metres in the same direction (easterly). As required by the legislation a public notice was placed in a Honiton newspaper giving notice of the decision and providing the opportunity for local representations on the decision. Additionally the Council provided a press release which lead to a newspaper article inviting local representation. The legal consultation period ended on the 4 November 2009 and I am happy to report that only one representation has been received and that was from a local lady who wrote in support of the Committee's decision.

3.5.3 As provided for in your resolution on the 29 September 2009 as there were no objections or representations against your decision then the two ranks are deemed appointed. The Licensing Manager will now write to Devon County Council as the Highways Authority and requested that the County Council put in place, as soon as possible, the appropriate legal provisions and to mark out the ranks as appropriate.

3.5.4 **Seaton** - The Licensing Manager reported to members in the September up date report that owing to the passage of time since the original Committee decision to appoint taxi ranks in Seaton there was now some controversy over the appointment of a taxi rank in Eyrecourt Road, Seaton. Negotiations have been on going since your last meeting but at the time of finalising this report have not been completed. However it is anticipated that the Licensing Manager will be able to provide the Committee with a verbal report on the 24 November 2009.

## **4. Street Trading**

4.1 As the main tourist season has drawn to a close so interest in street trading has declined and no new applications have been made to the Council. No unauthorised trading has been found and no further complaints have been received.

## **5. Consultations and Partnership Working**

### **5.1 Meeting between Members, Taxi Proprietors and Officers**

5.1.1 The usual six monthly liaison meeting between members, taxi proprietors and officers was held on Monday 26 October 2009. The meeting was chaired by Councillor Godbeer and also present was Councillor Gibbings. A copy of the minutes will be available at the meeting on the 24 November 2009.

5.1.2 The next liaison meeting has been arranged for Wednesday 7 April 2010 at 1400 hours in the Council Chamber. The Committee's Chairman and Vice Chairman normally attend these meetings.

## **6. Customer Service Excellence (Chartermark)**

6.1 The final assessment took place on 29 October 2009. It is hoped that the official notification of the decision will be available to the Committee at the meeting.

### **Legal Implications**

There are no legal implications set out within the report requiring comment.

### **Financial Implications**

The Customer Service Excellence (Chartermark) award incurred a one off fee of £2,345 and will incur an annual reassessment fee of £1,100 from 2010/2011.

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John Tippin Ext. 2787  
Licensing Manager

Licensing and Enforcement Committee  
24 November 2009

Ian Carter Ext.2080  
Senior Licensing Officer

## Agenda Item 8

Licensing & Enforcement Committee

24 November 2009

JT/JL



### Gambling Act 2005 – Tri-annual Review of the Council's Licensing Policy and Policy Adoption

#### Summary

This report updates the Licensing & Enforcement Committee on the tri-annual review of the Council's Gambling Act 2005 Licensing Policy and the results of the consultation process and invites the Committee to recommend that the Council adopt the amended Licensing Policy as required by the Gambling Act 2005 at its next meeting on the 9 December 2009.

#### Recommendation

That the Committee:

1. Note the results of the public consultation undertaken on the Council's draft Licensing Policy relating to the Gambling Act 2005.
2. Recommend to Council at its meeting on the 9 December 2009:
  - a. To nominate in writing the Area Child Protection Committee and Local Safeguarding Children Board (Devon County Council) as the body competent to advise the authority about the protection of children from harm issues as required by the Gambling Act 2005, Section 157(h);
  - b. To adopt, for the period 31 January 2010 to 30 January 2013, the East Devon Gambling Licensing Policy as attached at Appendix A.

#### a) Reasons for Recommendation

It is a legal requirement for the Council to have a 'Statement of Licensing Policy' in order to carry out its statutory functions under the Gambling Act 2005. The Council's Licensing and Enforcement Committee and officers must have regard to its Gambling Licensing Policy when deciding upon licence applications.

#### b) Alternative Options

To amend the proposed policy within the legal and guidance limitations which apply.

#### c) Risk Considerations

If the Policy is not properly adopted by the District Council the Authority will be liable to legal challenge which if successful could entail heavy costs being awarded against the District Council.

#### d) Policy and Budgetary Considerations

Explained within the report

#### e) Date for Review of Decision

December 2012 or earlier. This means that to enable the review to be completed in good time the consultation process will commence around June 2012. The Gambling Act 2005 requires that the Policy must be reviewed at least every three years although if there is a need identified it can be reviewed earlier.

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## **1 Main Body of the Report**

- 1.1 Under the Gambling Act 2005, it is the responsibility of the Council to develop and publish a Statement of Licensing Policy. The published Policy then provides the framework for all decisions on applications relating to the Gambling Act 2005 and the way the Authority carries out its functions in relation to the legislation.
- 1.2 Licensing authorities are also required to review their policy at least every three years. The Council's current Policy was adopted by Council on the 6 December 2006 and will expire on the 31 January 2010.
- 1.3 The Licensing Manager in consultation with licensing colleagues within other Devon Authorities has prepared a new draft policy based on the Council's current policy and the template policy published by the Gambling Commission. Our current policy has been updated to remove information relating to transitional matters, and to include relevant changes in legislation. Also included are proposed statements of principles to be applied to unlicensed family entertainment centres and prize gaming permits. A copy of the draft policy is attached to this report at **Appendix A**. A summary of main changes is also attached as **Appendix B**. There is also a colour version of the draft policy on the Policy Consultation page within the licensing pages of the Council's website. That version shows in colour the various additions and deletions made to the draft.
- 1.4 The District Council's draft Licensing Policy, with the changes outlined in paragraph 1.3 above included was made available for consultation on the 10 August 2009. The closing date for comments was Monday 26 October 2009.
- 1.5 In accordance with the Guidance published under Section 182 of the Act a wide consultation on the draft of the policy has been undertaken. This has provided opportunity for views and representations to be received from industry, statutory bodies, East Devon residents and other agencies.
- 1.6 This report presents the Licensing Policy and the results of the public consultation.

## **2. Results of consultation**

- 2.1 The Consultation exercise for the licensing policy has been wide. The list of consultees is reproduced at **Appendix C**. A letter or email was sent to each of the consultees inviting them to make comment on the Policy. They were given the choice of downloading a PDF copy of the draft Policy from the District Council's website or requesting a printed copy to be sent out by post. A copy of the draft policy was placed on the Council's internet site.
- 2.2 The general public were also invited to take part in the consultation as details of the consultation were made available on the Council's website and in local newspapers. Copies of the draft policy were sent out to anyone requesting a copy and copies were made available in all Devon County Council libraries within the district as well as the Council's Information Points.
- 2.3 A total of five responses have been received in response to the consultation exercise. Four of these responses were from Parish or Town councils concerned to ensure that they had the opportunity to make representations on applications made for licences within their areas. This is already provided for in the amended policy as paragraph 8.2(b) of Part A of the policy states: 'Likewise, parish councils likely to be affected, will be considered to be interested parties'. One of the Parish Council asked to be considered as a Responsible Authority. This is not possible as the Gambling Act 2005 defines very precisely those authorities that are



Responsible Authorities and town and parish councils are not included.

- 2.4 The fifth response was from the Head of Business Strategies of the Devon County Council's Children and Young People's Services. He wrote to welcome the additional measures included within the policy to protect children and young people.
- 2.5 In the opinion of the Licensing Manager none of the responses have warranted any change to the draft policy. The five comments that have been made are listed in the table at **Appendix D** to this report. Column 6 in this document sets out the Licensing Manager's response to each of the consultation comments.

### **3. Child Protection**

- 3.1 One of the requirements under the Gambling Act is for the council to designate in writing who it considers competent to advise the authority about the protection of children from harm.
- 3.2 As the Devon County Council's Area Child Protection Committee and Local Safeguarding Children Board based in Totnes is the responsible consultee for this authority under the Licensing Act Members may wish to nominate the same Board. (They have indicated their willingness if so nominated). There is no obvious alternative organisation that could be considered and they were similarly nominated in 2006 when the policy was originally adopted.

### **4. Conclusions**

- 4.1 The lack of responses to the draft Licensing Policy for East Devon seems to demonstrate a general acceptance of the Policy by businesses and public alike. The comments in the main voice concern that Parish and Town Councils have the opportunity to make representations on applications made for licences within their areas. As explained earlier this is already provided for within the proposed changes to the policy.
- 4.2 The Licensing Authority must adopt a new policy prior to the 3 January 2010 in order to exercise its powers under the Act. Once the Council has approved the Gambling Act Licensing Policy on the 9 December 2009 it will be published and sent to all respondents. It will also be available through the Council's website. Existing licence holders will be updated and advised that a copy is available on the Council's website or alternatively they can request a copy to be sent to them.

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### **Legal Implications**

The legal implications are set out within the report

### **Financial Implications**

There are no financial implications in this review.

### **Appendices**

- |                          |  |            |
|--------------------------|--|------------|
| <input type="checkbox"/> | Draft Policy for adoption                            | Appendix A |
| <input type="checkbox"/> | Summary of Main Changes Sheet                        | Appendix B |
| <input type="checkbox"/> | List of those invited to respond to the consultation | Appendix C |
| <input type="checkbox"/> | Consultation Representations and Responses           | Appendix D |





## **Background Papers**

- Gambling Act 2005
  - Guidance issued by the Gambling Commission under the Gambling Act 2005
  - East Devon District Council's Draft Policy Statement under the Gambling Act 2005 issued for consultation in August 2009
  - Gambling Commissions Policy Template
- 

John Tippin Ext 2787  
Licensing Manager

Licensing & Enforcement Committee  
24 November 2009

John Loveridge Ext 2611  
Licensing Officer



EAST DEVON DISTRICT COUNCIL



# **DRAFT Statement of Licensing Policy**

## **UNDER THE GAMBLING ACT 2005**

For the period 31 January 2010 to 30 January 2013

Version Updated 08.2009

(Approved by Full Council XX December 2009)  
Responsible Authorities updated January 2010

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# **STATEMENT OF GAMBLING LICENSING POLICY**

Text in the shaded boxes within this Statement of Licensing Policy is advisory only intended to give assistance to applicants, interested persons and responsible authorities.

## **Part A**

### **1 The Licensing Objectives**

1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The relevant licensing objectives are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
- ensuring that gambling is conducted in a fair and open way, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling

Applicants are also advised to note Part B of this Statement of Principles:-  
Premises Licences – General Principles

### **2 Introduction**

2.1 This Statement of Principles (Licensing Policy) is written to conform to the provisions of the Gambling Act 2005 and regulations and Guidance issued under s.25 of the Act by the Gambling Commission. It outlines the way the licensing Authority will deal with applications for a range of premises licences, permits and enforcement of the Act.

2.2 The Statement takes effect on 31 January 2013.

### **3 The Geographical Area**

East Devon is one of eight Devon districts and, in population terms, it is the largest in the County.

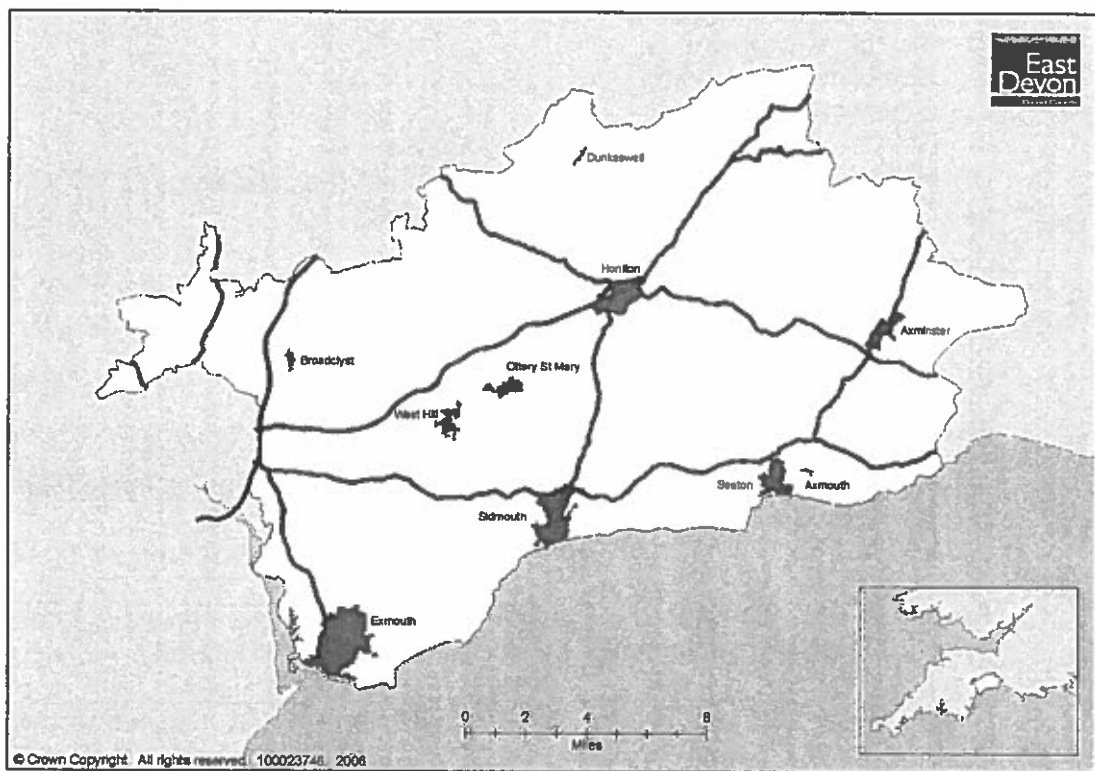
The District has a dispersed and mainly rural population. The rural nature of the area is emphasised by the low population density of 1.66 per hectare (the England and Wales average is 3.4). The District is fully parished with 68 Town and Parish Councils. Areas of Outstanding Natural Beauty and the World Heritage Coast cover a high proportion of the District.

The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population 35,688), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets.

The District's population currently stands at 135,560: 63,200 males and 69,100 females. The black and ethnic minority population of East Devon is considerably small – only 2.5% (3400 people described their ethnic group as non-white in the 2006 ethnicity census, with Mixed race being the single largest grouping at 1,100). East Devon also has a high percent of elderly residents with 34% of the population over 60 years of age.

The East Devon population is set to grow considerably over the next few years, projected to reach 170,800 in 2011 – a growth of around 25%. The age band predicted to have the largest growth over the next 3 years is the 65-69 year old band.

The entertainment industry within the District is a major contributor to the economy of East Devon. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer.



## 4 Consultation

- 4.1 Licensing authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must then be re-published.
- 4.2 The Gambling Act requires that the following parties be consulted by Licensing Authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;

- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

4.3 Before adopting this policy statement the Licensing Authority has consulted with the following:

- All premises licensed to sell alcohol in East Devon district
- British Beer & Pub Association
- Chambers of Commerce within East Devon area
- Citizen's Advice Bureau
- Communities Directorate (Environmental Health)
- Devon and Cornwall Constabulary
- Devon County Council Children and Young Peoples Services
- Devon and Somerset Fire and Rescue Service
- Devon Licensing Officers Group
- East and Mid Devon Community Safety Partnership
- Environment Directorate
- Gamblers Anonymous
- Gambling Commission
- Gamcare
- HM Commissioners of Custom and Excise
- Information Points and CABs within the East Devon area
- Local businesses and their representatives
- Local faith groups
- Local residents and their representatives
- Libraries within East Devon area
- Mencap
- NSPCC
- Premises holding Club Premises Certificates
- Primary Care Trust
- Representatives of existing licence/permit holders including bookmakers
- Town and Parish Councils within East Devon
- Voluntary & Community organisations working with children & young people

4.4 Proper weight has been given to the views of all those who have been consulted prior to the date of implementation of the Statement of Principles.

Our consultation took place between x date and x date and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:  
<http://www.berr.gov.uk/files/file47158.pdf>

4.5 The Statement of Principles was approved at a meeting of the Full Council on XX December 2009 and was published via our website on XXXXXXXXXXXXX. Copies were placed in the public libraries of the area as well as being available for viewing at the offices of the East Devon District Council, Knowle, Sidmouth, EX10 8HL.

4.6 Should you have comments regarding this Statement of Licensing Principles please write to the above address or email [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

4.7 It should be noted that this statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.



## **5 Declaration**

- 5.1 In producing the final Licensing Policy Statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the policy statement.

## **6 The Overriding Principle**

- 6.1 In exercising its functions under the Act, this Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks fit:
- in accordance with any relevant codes of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - as is reasonably consistent with the licensing objectives; and
  - in accordance with the authority's Statement of Licensing Policy under section 349.
- 6.2 Each case will be considered on its merits.
- 6.3 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are the subject of the application.
- 6.4 The overriding principle does not, however, apply to the consideration of an application for a casino licence if this Authority resolves not to issue casino premises licences.

## **7 Responsible Authorities**

- 7.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licence. Such bodies are entitled to make representations to the licensing authority in relation to the applications. The Responsible Authorities are detailed in Appendix A and available via the Council's website at <http://www.eastdevon.gov.uk/>.
- 7.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 7.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Local Safeguarding Children Board (Devon County Council) for this purpose.

## 8 Interested Parties

- 8.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as: "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person -
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - b) has business interests that might be affected by the authorised activities, or
  - c) represents persons who satisfy paragraph (a) or (b)"
- 8.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:
- (a) Each case will be decided upon its merits. This licensing authority will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the Guidance at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
  - (b) Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these, however, this licensing authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation may normally be sufficient.

if individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing and Enforcement Committee or Sub Committee dealing with the licence application. If there are any doubts then please contact the Licensing Service: East Devon District Council, Knowle, Sidmouth, Devon, EX10 8HL, email:- [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephone:- 01395 517410/517411

## 9 Exchange of Information

- 9.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005. The Licensing Authority will have regard to the principles of Better Regulation.
- 9.2 Should any protocols be established regarding information exchange with other bodies then they will be made available.

Licensing authorities are required to include in their Statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

## 10 Enforcement

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

- 10.1 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and in line with the Regulatory Compliance Code.
- 10.2 This licensing authority's principles are that it will endeavour to ensure its enforcement should be:
- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed and costs identified and minimised;
  - Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
  - Consistent: rules and standards must be joined up and implemented fairly;
  - Transparent: regulators should be open and keep regulations simple and user friendly; and
  - Targeted: regulation should be focused on the problem and minimise side effects.
- 10.3 In line with the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 10.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives
  - Relevant codes of practice
  - Guidance issued by the Gambling Commission, in particular at Part 36
  - The principles set out in this statement of licensing policy

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by this licensing authority but should be notified to the Gambling Commission.

This licensing authority will also keep itself informed of developments regarding the

work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the Licensing Service at East Devon District Council and available via the Council's website at <http://www.eastdevon.gov.uk/>. Our risk methodology will also be available upon request.

## 11 Licensing Authority functions

11.1 Licensing Authorities are required under the Gambling Act 2005 to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**
- Issue **Provisional Statements**
- Regulate **members' clubs and miners' welfare institutes** who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits
- Issue **Club Machine Permits to Commercial Clubs**
- Grant permits for the use of certain lower stake gaming machines at **unlicensed Family Entertainment Centres**
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register **small society lotteries** below prescribed thresholds
- Issue **Prize Gaming Permits**
- Receive and Endorse **Temporary Use Notices**
- Receive **Occasional Use Notices**
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that this Licensing Authority will not be involved in licensing remote gambling. This is the responsibility of the Gambling Commission through Operator Licences.

## 12 The Licensing Process

- 12.1 A Licensing Committee (Licensing and Enforcement Committee), a Sub-Committee, or an officer acting under delegated authority may carry out the powers of the authority under the Gambling Act 2005.
- 12.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.
- 12.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing and Enforcement Committee have received adequate training for their role under the Gambling Act 2005.

- 12.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.
- 12.5 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.



## **Part B - Premises Licences: Consideration of Applications**

### **1 General Principles**

- 1.1 Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others where it is believed to be appropriate.
- 1.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks fit:
- in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives and
  - in accordance with the authority's Statement of Principles.
- 1.3 It is appreciated that in line with the Gambling Commission's Guidance to licensing authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos later) and also that unmet demand is not a criterion for a licensing authority.
- 1.4 **Definition of "premises"** - In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the third edition of its Guidance that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.

- 1.5 This licensing authority takes particular note of the Gambling Commission's Guidance to licensing authorities which states that: Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in

gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

The Guidance also gives a list of factors which this licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?
- This licensing authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

**The Gambling Commission’s relevant access provisions for each premises type are reproduced below from the Guidance, 7.25:**

#### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance).
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

#### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises.

#### **Betting Shops**

- Access must be from a street (as per paragraph 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

#### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track.

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - betting premises, other than a track.

Part 7 of the Guidance contains further guidance on this issue, which this licensing authority will also take into account in its decision-making.

## **1.6 Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that this licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this licensing authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this licensing authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59 – 7.66 of the Guidance.

- 1.7 Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. In line with the Gambling Commission’s Guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

1.8 **Planning:**

The Guidance states:

Paragraph - 7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, that is, those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This licensing authority will not take into account irrelevant matters in line with the above guidance. In addition this licensing authority notes the following excerpt from the Guidance:

Paragraph - 7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

- 1.9 **Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will, though, listen to, and consider carefully, any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this licensing authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

- 1.10 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to licensing authorities and further comment on the objectives is made below.

- 1.11 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how

threatening the behaviour was to those who could see it) so as to make that distinction.

- 1.12 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however more of a role with regarding to tracks which is explained in more detail in the tracks section later.
- 1.13 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance to licensing authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are particularly attractive to children). This licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.
- 1.14 This licensing authority is also aware of the Gambling Commission's Codes of Practice regarding this licensing objective in relation to specific premises.
- 1.15 It is noted that the Gambling Commission is not seeking to offer a definition of the term "vulnerable persons" but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider the licensing objective on a case-by-case basis.
- 1.16 **Conditions** - Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
  - directly related to the premises and the type of licence applied for;
  - fairly and reasonably related to the scale and type of premises;
  - reasonable in all other respects; and
  - enforceable.
- 1.17 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions on the way in which the licensing objectives can be met effectively when making their application.
- 1.18 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 1.19 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:



- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

1.20 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In line with the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

1.21 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winnings or prizes.

1.22 **Door Supervisors** - The Gambling Commission advises in its Guidance that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (in line with the Guidance, Part 33).

1.23 In deciding whether door staff are needed and the level of training required, the licensing authority will take into account the particular circumstances of the premises and the Gambling Commissions guidance.

## 2 Adult Gaming Centres

2.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover the following issues:

- CCTV
- Door supervisors
- Location of entry
- Notices/signage
- Physical separation of areas
- Proof of age schemes
- Provision information leaflets helpline numbers for organisations such as GamCare.
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances/machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

### **3 (Licensed) Family Entertainment Centres**

3.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

3.2 This licensing authority may consider measures to meet the licensing objectives including those relating to:

- CCTV
- Door supervisors
- Location of entry
- Measures/training for staff on how to deal with suspected truant school children on the premises
- Notice/signage
- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

3.3 This licensing authority will, in line with the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as 'Amusement Arcades') are advised to speak to the Planning Service of this Council before making a formal application to the Licensing Service.

The Planning Service can be contacted at Planning and Countryside Service, East Devon District Council, Council Offices, Knowle, Sidmouth, EX10 8HL – Tel. 01395 516551

## **4 Casinos**

East Devon District Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

## **5 Bingo premises**

5.1 This licensing authority notes that the Gambling Commission's Guidance states:

Paragraph 18.4 - Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This licensing authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Paragraph 18.7 - Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## **6 Betting premises**

### **Betting machines**

This licensing authority will, in line with the Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **7 Tracks**

7.1 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In line with the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (that is the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track

areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

- 7.3 This licensing authority may consider measures to meet the licensing objectives including those relating to:
- CCTV
  - Location of entry
  - Notices/signage
  - Physical separation of areas
  - Proof of age schemes
  - Provision of information leaflets/helpline numbers for organisations such as GamCare
  - Self-exclusion schemes
  - Specific opening hours
  - Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

#### 7.4 **Gaming Machines**

Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

#### 7.5 **Betting Machines**

This licensing authority will, in line with part 6 of the Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

#### 7.6 **Applications and plans**

The Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that this licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for this licensing authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This licensing authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that

betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this licensing authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.33).

Only one premises licence may be issued for any particular establishment at any time. There is one exception to this rule, namely a track (that is a horse race course, dog track or other premises where races or sporting events take place), which may be subject to more than one premises licence, provided each licence relates to a specified area of the track. The Act sets out that there will be a main (betting premises) licence for the track, and in addition subsidiary premises licences for other gambling activities may be issued. In principle there is no reason why all types of gambling should not co-exist upon a track, however this licensing authority will want to think about how the third licensing objective is delivered by the co-location of premises. As with the granting of multiple licences in a single building, this licensing authority will need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

Premises licences in relation to tracks are unusual in that, because the track operator does not need to have an operating licence (although may have one), the premises licence will need to contain requirements on the premises licence holder about his responsibilities in relation to the proper conduct of betting. The conduct of the betting on tracks will be regulated primarily through the operating licences that the persons offering betting on the track will need to hold (whether a general betting operating licence or a pool betting operating licence). But the track operator will have a role to play in ensuring, for example, that the betting areas are properly administered, and licensing authorities will have an important role in regulating tracks because of the particular rules surrounding on-course betting and the sub-division of the track into different areas.

## **8 Travelling Fairs**

- 8.1 Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs it will be this Licensing Authority's responsibility to decide whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It is been noted that the 27 day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.



## 9 Provisional Statements

- 9.1 Developers may wish to apply to this licensing authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 Section 204 of the Act provides for a person to make an application to this licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. This licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
  - they reflect a change in the applicant's circumstances.

In addition, this licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in this licensing authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 10 Reviews

- 10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below.

- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives;
  - in accordance with the authority's Gambling Licensing Policy
- 10.2 The Licensing Authority will also consider whether the request is frivolous, vexatious, whether the request will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether the request is substantially the same as previous representations or requests for review;
- 10.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises on the basis of any reason which it thinks is appropriate.
- 10.4 Once a valid application for a review has been received by this licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by this licensing authority, who will publish notice of the application within 7 days of receipt.
- 10.5 This licensing authority must carry out the review as soon as possible after the 28-day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether this licensing authority should take any action in relation to the licence. If action is justified, the options open to this licensing authority are:-
- (a) add, remove or amend a licence condition imposed by this licensing authority;
  - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 10.7 In determining what action, if any, should be taken following a review, this licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 10.8 In particular, this licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 10.9 Once the review has been completed, this licensing authority must, as soon as possible, notify its decision to:
- (i) the licence holder
  - (ii) the applicant for review (if any)
  - (iii) the Commission
  - (iv) any person who made representations
  - (v) the chief officer of police or chief constable; and
  - (vi) Her Majesty's Commissioners for Revenue and Customs

## **PART C**

### **Permits / Temporary & Occasional Use Notice**

#### **1 Unlicensed Family Entertainment Centre - Gaming Machine Permits Statement of Principles – (Schedule 10 Paragraph 7)**

- 1.1 Where an establishment does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a licensing authority may prepare a **statement of principles** that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year Statement of Principles (Licensing Policy), licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues." (Guidance Paragraph 24.6)
- 1.3 Guidance also states: ". . .An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application . . ." This Licensing Authority will require the applicant to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - that staff are trained to have a full understanding of the maximum stakes and prizes. (Guidance Paragraph 24.7)
- 1.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 1.5 **Statement of Principles**
- 1.5.1 This licensing authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow the council to better determine the suitability of the applicant and the premises for a permit.
- 1.5.2 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:
- they are a fit and proper person to hold the permit
  - they have considered and are proposing suitable measures to promote the licensing objectives, and
  - they have a legal right to occupy the premises to which the permit is sought.

1.5.3 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

## 1.6 Unlicensed family entertainment centres

1.6.1 The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny-pushers. The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre, which does require a premises licence because it contains both category C and D gaming machines.

1.6.2 Unlicensed family entertainment centres (uFECs) will be most commonly located at seaside resorts, in airports and at motorway style service centres, and will cater for families, including unaccompanied children and young persons.

1.6.3 The council will only grant an uFEC gaming machine permit where it is satisfied that the premises will be operated as a bonafide unlicensed family entertainment centre.

1.6.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application.

## 1.7 Supporting documents

1.7.1 The council will require the following supporting documents to be served with all uFEC gaming machine permit applications:

- proof of age (a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website <http://www.disclosurescotland.co.uk/>
- In the case of applications for an uFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling machine supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission
- A plan of the premises for which the permit is sought showing the following items:
  - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - (ii) where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. slot machines, penny-falls, cranes)
  - (iii) the positioning and types of any other amusement machines on the premises

- (iv) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
- (v) the location of any ATM/cash machines or change machines
- (vi) the location of any fixed or temporary structures such as columns or pillars
- (vii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- (viii) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

## 1.8 Child protection issues

1.8.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half term and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends that require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult
- maintain policies to deal with any young children who enter the premises unaccompanied
- the provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## 1.9 Protection of Vulnerable Persons Issues

1.9.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the



particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines).

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

#### 1.10 Other miscellaneous issues

1.10.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as 'Amusement Arcades') are advised to speak to the Planning Service of this Council before making a formal application to the Licensing Service

The Planning Service can be contacted at  
Planning and Countryside Service, East Devon District Council, Council Offices,  
Knowle, Sidmouth, EX10 8HL – Tel. 01395 516551

## 2 Alcohol Licensed Premises Gaming Machine Permits – (Schedule 13 Paragraph 4(1))

### 2.1 Automatic Entitlement for two machines

There is provision in the Act for a premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

The Licensing Authority will use its discretion to remove permits where appropriate taking into account individual circumstances.

## 2.2 Permit - three or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "other such matters as the Authority think relevant." This licensing authority considers that "such matters" will be decided on a case-by-case basis. However generally there will be regard to the size of the premises in comparison to the number of machines sought and to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

- 2.3 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 2.5 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

Applicants should be aware that only those premises which have a 'bar' (servery) at which alcohol is sold for consumption on the premises will be eligible for a machine in the bar area of the premises. This means that premises such as restaurants which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food (the old Part IV restaurant licences under the former Licensing Act 1964) will no longer automatically qualify for two machines.

## 3 Prize Gaming Permits – Statement of Principles on Permits - (Schedule 14 Para 8 (3))

- 3.1 The Gambling Act 2005 states that a licensing authority may "prepare a statement of principles that they propose to apply in exercising their functions under this Schedule" which "may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit".

## 3.2 Statement of Principles

3.2.1 This licensing authority has adopted a Statement of Principles in accordance with paragraph 8 of Schedule 14 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a prize gaming permit. This will allow the council to better determine the suitability of the applicant and the premises for a permit.

3.2.2 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:

- they are a fit and proper person to hold the permit
- they have considered and are proposing suitable measures to promote the licensing objectives, and
- they have a legal right to occupy the premises to which the permit is sought.

3.2.3 This licensing authority will expect the applicant to set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.
- the clear policies that outline steps to be taken for the protection of children from harm.

3.2.4 In making its decision on an application for a prize gaming permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3).)

3.2.5 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

## 3.3 Prize gaming permits

3.3.1 Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The operator will determine the prizes before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed.

3.3.2 A prize gaming permit is a permit issued by the council to authorise the provision of facilities for gaming with prizes on specified premises.

3.3.3 Applicants should be aware of the conditions in the Gambling Act 2005 with which prize gaming permit holders must comply. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and

- participation in the gaming must not entitle the player to take part in any other gambling.

3.3.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application.

### 3.4 Supporting documents

3.4.1 The council will require the following supporting documents to be served with all prize gaming permit applications:

- proof of age (a certified copy or sight of an original birth certificate, photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website <http://www.disclosurescotland.co.uk/>.
- A plan of the premises for which the permit is sought showing the following items:
  - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - (iii) The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
  - (iv) the positioning and types of any other amusement machines on the premises
  - (v) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - (vi) the location of any ATM/cash machines or change machines
  - (vii) the location of any fixed or temporary structures such as columns or pillars
  - (viii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - (ix) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

### 3.5 Child protection issues

3.5.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported

- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult.
- maintain policies to deal with any young children who enter the premises unaccompanied
- the provision of satisfactory basic disclosure checks (criminal records checks) for all staff that will be working closely with children.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

### **3.6 Protection of Vulnerable Persons Issues**

3.6.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines).

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

### **3.7 Other miscellaneous issues**

3.7.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises



- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## 4 Club Gaming and Club Machine Permits

- 4.1 Members Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 4.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 4.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
  - (a) the applicant does not fulfil the requirements for a members or commercial club or miners welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 4.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to licensing authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced"

The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

- 4.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **5 Temporary Use Notices**

- 5.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 This licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Act (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards temporary use notices. "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of the Gambling Commissions Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 5.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.6 This licensing authorities expect to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **6 Occasional Use Notices**

- 6.1 Occasional use notices enable betting on a track for up to eight days a year without a premises licence
- 6.2 The licensing authority has very little discretion regarding these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to serve the notice.

## 7 Vessels

- 7.1 The licensing authority when considering applications for premises licences in respect of vessels will give particular weight to the views of the Maritime and Coastguard Agency in respect of promoting the licensing objectives. Where in the opinion of the licensing authority any of the three objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.

Where a premises licence is sought in connection with a vessel which will be navigated whilst licensable activities take place, the licensing authority will be concerned following the receipt of relevant representations, with the promotion of the licensing objectives on-board the vessel. The licensing authority will not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provisions, all of which are subject to regulations which must be met before the vessel is issued with a Passenger Certificate and Safety Management Certificate. It is expected that if the Maritime and Coastguard Agency is satisfied that the vessel complies with Merchant Shipping standards for a passenger ship, the premises will normally be accepted as meeting the public safety objectives. In respect of other public safety aspects, representations made to the licensing authority by the Maritime and Coastguard Agency will be given particular weight.

**Relevant Authorities' Contact Details**

**Responsible Authority Contacts -**

The list of Responsible Authorities and their contact details may change where additional responsible authorities are designated by regulations from the Secretary of State or existing Responsible Authorities change their address.

An up to date list of Responsible Authorities relating to East Devon with their contact details can be obtained by accessing the East Devon District Council's Licensing pages on the Council's website or by request to the Council's Licensing Office by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephoning 01395 517410.

**East Devon Licensing Authority**

The Licensing Manger  
East Devon District Council  
Knowle  
Sidmouth  
EX10 8HL  
Email: [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)  
Tel: 01395 517410  
Fax: 01395 517507

**The Gambling Commission**

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)  
Tel: 0121 233 1058

**Devon & Cornwall Constabulary**

The Chief Officer of Police  
(For attention of The Licensing Office)  
Devon & Cornwall Constabulary  
North Street  
EXMOUTH  
EX8 1JZ  
Non-Urgent Calls (24 Hours) - 08452 777444  
Email: [EastDevonLicensing@devonandcornwall.pnn.police.uk](mailto:EastDevonLicensing@devonandcornwall.pnn.police.uk)  
Web site: <http://www.devon-cornwall.police.uk/v3/homepage/index.htm>

**Devon & Somerset Fire & Rescue Service**

East Division  
Agriculture House  
Pynes Hill  
Rydon Lane  
Exeter  
EX2 5AZ  
<http://www.devfire.gov.uk/>  
Tel: 01392 872200  
Fax: 01392 266839

**Area Child Protection Committee and Local Safeguarding Children Board**

Head of Safeguarding for the Children's Service  
Child Protection Manager  
Children's Services Division  
Parkers Barn  
Parkers Way  
Totnes  
TQ9 5UF  
<http://www.devon.gov.uk/index/cyps/child-protection.htm>  
Tel: 01392 386657

**Head of Environmental Health and Equalities**

(Nuisance, Public Health & Health & Safety)  
East Devon District Council  
Environmental Health Service  
Council Offices  
Knowle  
Sidmouth  
EX10 8HL  
Tel: 01395 517467  
Email: [general@eastdevon.gov.uk](mailto:general@eastdevon.gov.uk)  
[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

**Head of Planning and Countryside Services**

East Devon District Council  
Planning & Countryside Service  
Council Offices  
Knowle  
Sidmouth  
EX10 8HL  
[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)  
Tel: 01395 516551

**HM Customs and Excise**

HM Revenue and Customs  
National Registration Unit  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ  
Tel: 0141 555 3633  
Email: [nru.betting&gaming@hmrc.gsi.gov.uk](mailto:nru.betting&gaming@hmrc.gsi.gov.uk)

**Additional Responsible Authority Contacts for vessels –  
Maritime and Coastguard Agency**

(For attention of Mr Tony Heslop)  
Plymouth Marine Office  
Western Region  
New Fish Market,  
Fish Quay  
PLYMOUTH  
PL4 0LH  
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## GLOSSARY

DCMS - Department of Culture, Media, and Sport

**An Interested Party – is a person, in the opinion of the Licensing Authority who:**

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b).

**Responsible Authority –**

- (i) The Licensing Authority
- (ii) The Gambling Commissioner
- (iii) Devon & Cornwall Constabulary
- (iv) The Devon and Somerset Fire & Rescue Service
- (v) The local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are wholly or partly situated
- (vi) The local authority by which statutory functions are exercisable in any area in which the premises are wholly or partly situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vi) A body which is designated in writing for the purpose of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated , as competent to advise the authority about the protection of children from harm:
- (vii) And any other person prescribed by regulations by the Secretary of State.

DCMS - Department for Culture, Media and Sport

[http://www.culture.gov.uk/what we do/gambling and racing/default.aspx/](http://www.culture.gov.uk/what_we_do/gambling_and_racing/default.aspx/)  
Licensing Documents...  
Gambling Act 2005  
Guidance under Section 25 of the Act



# Consultation on the Draft Statement of Licensing Policy under the Gambling Act 2005



## Summary of main changes

<b>Part A</b>	<b>Brief Description</b>
8.2	Sets out Principles that the Licensing Authority will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.
10.4	Explains the basis on which the authority's risk-based inspection programme is based.
<b>Part B</b>	
1.4 & 1.5	Definition of "Premises" – this section has been extensively reworded to reflect the LACORS and Gambling Commission's Guidance.
1.6	Sets out new guidance as to when the Licensing Authority will deem a premises to be ready for gambling.
1.7	Sets out new guidance based on Gambling Commission Guidance relating to location.
1.8	Sets out further guidance based on Gambling Commission Guidance on the relevance of planning approval for applications made for permissions under the Gambling Act 2005.
1.9	Sets out further guidance based on Gambling Commission Guidance on the avoidance of duplication with other regulatory regimes.
1.22	Sets out amended guidance based on Gambling Commission Guidance relating to the use of door supervisors at premises licensed under the Gambling Act 2005.
5	Sets out new guidance based on Gambling Commission Guidance relating to Bingo Premises.
6	Sets out new guidance based on Gambling Commission Guidance relating to Betting Premises.
7.4	Sets out new guidance based on Gambling Commission Guidance relating to Gaming Machines at Tracks.
7.5	Sets out new guidance based on Gambling Commission Guidance relating to Betting Machines at Tracks.
7.8	Gives more detailed information regarding the Licensing Authority's requirements in relation to plans for tracks and the details to be shown.
9	Sets out new guidance with regard to the process of applying for a provisional statement.
10.4 to 10.9	Sets out new guidance based on Gambling Commission Guidance relating to Reviews.
<b>Part C</b>	
1.5 to 1.10	Sets out additional information required by the Licensing Authority's statement of principles in relation to unlicensed family entertainment centres.
3.2 to 3.7	Sets out additional information required by the Licensing Authority's statement of principles in relation to prize gaming permits.
5.3 to 5.3	Gives more information about the need for temporary use notices

Please note: That the minor alterations (i.e. dates/grammar etc.) made to the draft Policy are not included in this list.

**Consultation commenced on 14 August 2009**

**Closing date for comments/responses Monday 26 October 2009**

**Key Organisations consulted by the Licensing Manager – August/October 2009**

List of persons this authority consulted

- All premises with licences, permits or notifications for gambling activities in East Devon
- All premises licensed or holding certificates to sell alcohol in East Devon
- British Beer and Pub Association
- Catholic Church in England and Wales
- Companies that supply gaming machines to premises in East Devon
- Chambers of Commerce in East Devon
- Citizens' Advice Bureaux
- Catholic Office for the Protection of Children and Vulnerable Adults (COPCA)
- Children and Young People's Services Devon County Council
- Devon PCT
- Devon and Cornwall Constabulary
- Devon and Somerset Fire and Rescue Service
- Devon Licensing Officers Group
- Devon Regional Office of Federation of Small Businesses
- East and Mid Devon Community Safety Partnership
- Exeter Diocesan Registry
- Gambling Commission
- Gamcare
- HM Customs and Revenue
- Head of Environmental Health Service
- Head of Planning and Countryside Service
- Health and Safety Executive
- Head Teachers of all Secondary Schools in East Devon
- Institute of Licensing
- Maritime and Coastguard Agency
- Muslim Council of Britain
- North and East Devon Health Authority
- South West Forum
- Trustees for Methodist Church Purposes
- Town and Parish Councils within East Devon

**EAST DEVON DISTRICT COUNCIL**



# **GAMBLING ACT POLICY CONSULTATION**

**REPRESENTATIONS AND RESPONSES**

under the

# **GAMBLING ACT 2005**

Consultation Period: 10 August 2009 to 26 October 2009

November 2009

## Table Headings

- 1 Reference number
  - 2 Policy paragraph number
  - 3 Respondent
  - 4 Area
  - 5 Details of comments
  - 6 Appraisal of comments
  - 7 Council's Response
- A unique number given to the particular representation  
 This identifies the section of the Policy to which the representation relates  
 The identification of the individual, company or organisation responding  
 The part of the District the representation relates to  
 A copy of the representation made  
 Sets out the appraisal of the representation  
 Details the Council's response to the representation – ie, whether or not a change is proposed

### Consultation Responses received – September/October 2009

1	2	3	4	5	6	7
1	Part A 7.1 & 7.2 Pp34-36	Woodbury Parish Council	All	"Woodbury Parish Council requests that Parish & Town Councils should be regarded as responsible bodies and in future be consulted as such in matters relating to licensing"	This request seeking to be considered as a Responsible Authority is not possible as the Gambling Act 2005 defines very precisely those authorities that are Responsible Authorities and town and parish councils are not included.	No
2	Part A 7.1 & 7.2 Pp34-36	Colaton Raleigh Parish Council	All	"This was considered at the last Parish Council meeting. Colaton Raleigh Parish Council request parish councils are informed of any licensing application in their area and that formal representation from town and parish councils is allowed"	The ability for a Parish Council to make representations relating to the three licensing objectives is already provided for in the amended policy as paragraph 8.2(b) of Part A of the policy states: 'Likewise, parish councils likely to be affected, will be considered to be interested parties'. There is already ample opportunity for Town and Parish Councils to inform themselves of applications being made to the Licensing Authority. In addition to the requirement for applications to be advertised in a local newspaper and at the premises all applications for Premises licences under the Gambling Act 2005 are advertised on the Council's website and Parish Council's are advised to check the website on a regular basis. If any Council wishes assistance to find this register on the website advise can be provided by the Licensing Office.	No

1				5	7	
3	Part A 7.1 & 7.2 Pp34-36	Sidmouth Town Council	All	<p>“Thank you for your letter of 18<sup>th</sup> August offering all stakeholders and interested parties the opportunity to make comment on the content of the three year licensing policy.</p> <p>I confirm that this matter was the subject of debate at a meeting of this Council held on Monday 7<sup>th</sup> September when it was resolved that a letter should be sent to East Devon District Council reporting that Sidmouth Town Council has great concern that this local level of Council has no input in these matters. Parish and Town Councils should be involved as ‘interested parties’.</p> <p>Parish and Town Councils must be permitted to comment, provided they have first discussed issues at a meeting and a resolution made. A Member or Officer should then be allowed to attend and make known the Council’s resolution. It would be essential; therefore, that prior notification must be received from the District Council in order to give sufficient time for matters to be placed on an agenda.</p> <p>I would be most grateful if the Town Council’s comments can be made known at the appropriate time.</p>	<p>6</p> <p>The ability for a Town Council to make representations relating to the three licensing objectives is already provided for in the amended policy as paragraph 8.2(b) of Part A of the policy states: ‘Likewise, parish councils likely to be affected, will be considered to be interested parties’. There is already ample opportunity for Town and Parish Councils to inform themselves of applications being made to the Licensing Authority. In addition to the requirement for applications to be advertised in a local newspaper and at the premises all applications for Premises licences under the Gambling Act 2005 are advertised on the Council’s website and Town Council’s are advised to check the website on a regular basis. If any Council wishes assistance to find this register on the website advise can be provided by the Licensing Office.</p>	No



1	2	3	4	5	6	7
4	Part A 7.2(b)	Exmouth Town Council	All	<p>“Thank you for your letter dated 18<sup>th</sup> August 2009.</p> <p>The Town Council’s Regeneration and general Purposes Committee considered the consultation draft statement. The only comment they wish make was to support the new paragraphs 8.2(b) of Part A where parish councils likely to be interested parties. This is considered to be a basic requirement with the elected body nearest to community level which ought to run through all licensing legislation.</p>	<p>This correspondent welcomes the introduction of paragraph 8.2(b), which confirms that Parish and Town Councils that are affected by an application will be considered as Interested Parties.</p>	No
5	Gen	Children & Young People’s Services DCC	All	<p>“The Executive Director welcomes and supports initiatives and measures to protect Children and Young People from exposure to gambling.</p> <p>The proposals made have been noted and Devon County Council would support their inclusion.</p> <p>Thank you for the opportunity to comment on these proposals.</p>	<p>This correspondent welcomes the additional measures included within the policy to protect children and young people.</p>	No
5	Gen		All			No