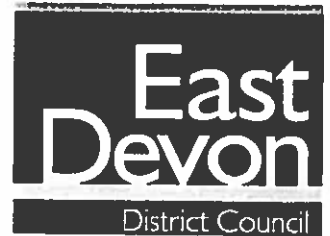


Date 18 September 2009  
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To: Members of the Licensing & Enforcement Committee  
(Councillors David Atkins, Chris Gibbings, Graham Godbeer,  
Pat Graham, Steve Hall, May Hardy, John Humphreys,  
John Jeffery, Jim Knight, Ann Liverton, Frances Newth,  
Darryl Nicholas, Barry Nicholson, Marion Olive,  
Ken Potter, Mark Williamson).

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

**Meeting of the Licensing & Enforcement Committee  
Tuesday 29 September 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 9 June 2009.  | 4 - 5  |
| 2. To receive any apologies for absence.   |        |
| 3. 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). |        |
| 4. 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).  |        |
| 5. Committee update - Licensing Act 2003, Gambling Act 2005, Licensing Manager<br>Taxis and General Licensing.   | 6 - 14 |

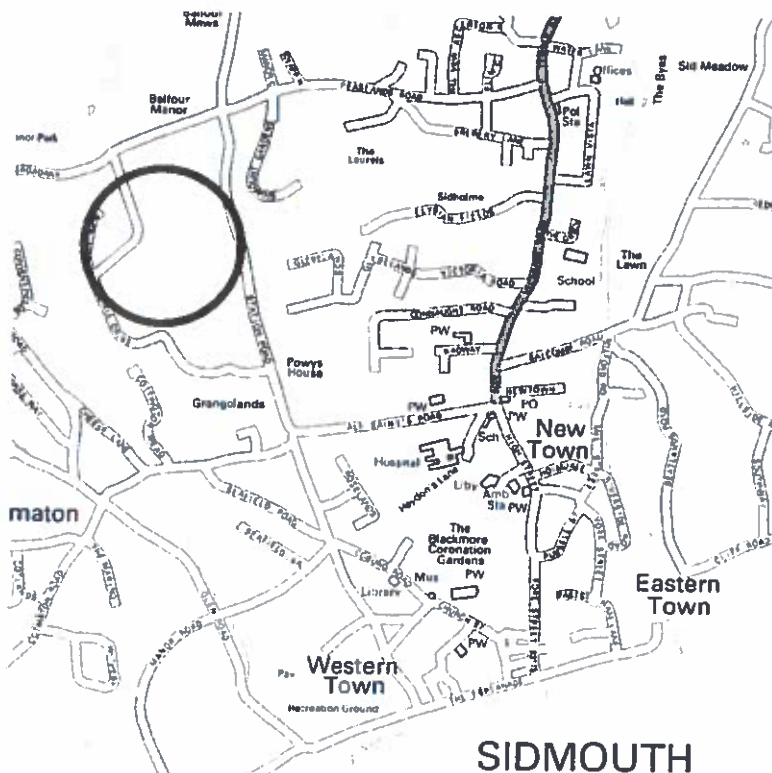
6.	Gambling Act 2005 – Tri-annual review of the Council's Licensing Policy.	Licensing Manager	15 - 53
7.	Licensing Act 2003 – Effect of Minor Variation Procedure and DPS Disapplication.	Licensing Manager	54 - 61
8.	Request to amend the Council's Street Trading Policy and Guidance to incorporate changes with regard to Charitable Street Trading in Seaton.	Licensing Manager	62 - 64
9.	Proposed New Taxi Ranks for Honiton	Licensing Officer	65 - 78

Would Councillor please note that at the end of the meeting there will be a short presentation of the Risk Rating system for premises licensed under the Licensing Act 2003.

## 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



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

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, 9 June 2009

**Present:**

Councillors:

Graham Godbeer (Chairman)

Steve Hall  
May Hardy  
John Humphreys  
John Jeffery  
Jim Knight

Ann Liverton  
Barry Nicholson  
Marion Olive  
Ken Potter  
Mark Williamson

**Officers:**

John Tippin, Licensing Manager  
Ian Carter, Senior Licensing Officer  
Giles Salter, Assistant Solicitor  
Chris Lane, Democratic Services Officer

**Apologies:**

Councillors:  
Roger Boote  
Chris Gibbings  
Pat Graham

The meeting started at 9.30 am and ended at 11.15 am.

**\*1 Minutes**

The minutes of the meeting of the Licensing & Enforcement Committee held on 2 March 2009, were confirmed and signed as a true record.

**\*2 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 since the commencement of the Licensing Act in November 2005, a total of 2,365 Temporary Event Notices had been given. In the summer there was an average on 4 – 5 TEN's applications made a day. The Licensing Service had designed a risk rating system, which had rated each licensed premises as Low, Medium or High Risk, this system had been adopted by other Local Authorities.

With regard to taxis, further enforcement action was planned for the summer months. The Licensing Manager reported that it was anticipated that Devon County Council would prepare the traffic order and mark out the ranks for Seaton within the next 3 months. Concern was expressed about whether the 2 spaces in Eyrecourt Road were designated as taxi ranks or disabled spaces, this matter would be investigated. A meeting would be held on 18 June with Devon County Council to discuss the proposed changes to the taxi rank at The Strand, Exmouth, due to proposed enhancement works. Taxi drivers and the Licensing section were concerned over the changes proposed to this taxi rank. It was hoped that a successful solution had been achieved for increasing the number of taxi ranks in Honiton and it was anticipated that a report would be made to the next meeting of the Committee.

**\*3 Licensing Act 2003, Gambling Act 2005, taxis and general licensing (Cont)**

**RESOLVED** that the report be noted;

**\*4 Resolution to designate streets in Seaton as consent streets for street trading under Schedule 4, paragraph 2(1)(c) of the Local Government (Miscellaneous Provisions) Act 1982 with effect from Monday 6 April 2009**

Consideration was given to the report of the Senior Licensing Officer, which explained the request from Seaton Town Council's Amenities Committee to remove the designation of the Esplanade, Seaton as a consent street for street trading under Schedule 4, paragraph 2(1) (c) of the Local government (Miscellaneous Provisions) Act 1982.

Members noted that if a decision was made to deregulate the Esplanade, Seaton this would take 2 – 3 months to process. This would mean that the "consent" street designation would still be in place for most of the summer.

- RESOLVED**
1. that the requests from Seaton Town Council's Amenities Committee supported by some charities in the town to remove the designation of the Esplanade, Seaton as a consent streets for street trading under Schedule 4, paragraph 2(1) (c) of the Local Government (Miscellaneous Provisions) Act 1982 be deferred to allow further consultation and investigation of the options,
  2. that the interim measure proposed by the Licensing Service (paragraph 4.4) to facilitate local charities to run street markets on Seaton Esplanade during the summer be agreed.

(Councillor Jim Knight declared a pecuniary interest in this item as Chairman of a local charity and left the room during discussion of the item, having made a brief statement)

**\*5 Parish and Town Council involvement in Licensing**

Consideration was given to the report of the Head of Legal, Licensing & Democratic Services on an explanation of the statutory frameworks governing parish council involvement in licensing. Some concern was expressed that parish and town councils were not included in notification procedures and not able to make representations on under the Licensing act 2003 and the Gambling Act 2005.

Members had queried the statutory framework and were unhappy that parish and town councils could not automatically make representations on licensing applications.

**RESOLVED** that the Licensing Manager write to all parish and town councils to make them aware of a link in the Knowledge which took them through to the section of the Council's website which listed all applications made under the Licensing Act 2003 and the Gambling Act 2005.

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

Date 18 September 2009  
Contact number: Direct Dial (01395) 517544 or Ext. 2744  
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To: Members of the Licensing & Enforcement Committee  
(Councillors David Atkins, Chris Gibbings, Graham Godbeer,  
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Head of Legal, Licensing & Democratic Services  
Assistant Solicitor  
Licensing Manager  
Senior Licensing Officer

**Meeting of the Licensing & Enforcement Committee  
Tuesday 29 September 2009 at 9.30am in the Council Chamber, Knowle, Sidmouth**

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| 5. Committee update - Licensing Act 2003, Gambling Act 2005, Licensing Manager<br>Taxis and General Licensing.   | 6 - 124 |

# Agenda Item 5

**Licensing & Enforcement Committee**

**29 September 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 Team.

**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

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## **1 Licensing Act 2003**

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

1.1.1 Within the Licensing Authority's district there are currently 656 (646)\* Licensed Premises. 592 (585) of those hold Premises Licences while the remaining 64 (62) benefit from Club Premises Certificates. In addition a total of 1,359 Personal Licences have been issued by the Authority.

1.1.2 Since the commencement of the Act in November 2005 a total of 2,639 (2,365)\* Temporary Event Notices have been given. 2,427 (2,174) of these were given for events where alcohol was to be sold while the remaining 212 (191) were for regulated entertainment or late night refreshment only. \* Note the numbers in brackets are the figures from the previous update report.

## 1.2 Premises Risk Ratings

1.2.1 The premises risk rating system which categorises each licensed premise within the district as Low, Medium or High Risk is now being used by the Licensing Team to target those premises listed as high risk on the system. The system currently has 105 high risk rated premises which the team will target with a visit to each of the listed premises by 31 March 2010. During these visits the officers will re-assess the risk rating of the premises and it is anticipated that the number of high risk rated premises will be significantly reduced. The reason for the probable reduction of high risk premises is that the initial assessments included verbal warnings for minor offences which elevated the premises into the high risk category. The majority of the verbal warnings were given in respect of the failure to display the Premises Licence Summary.

## 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. And again it is pleasing to report that although there have been a number of complaints being received against licensed premises all have been resolved without the need for formal enforcement action.

1.3.2 Recently the Licensing Team received information that a Personal Licence Holder who was the appointed Designated Premises Licence Holder on two licensed premises within the district had had his personal licence suspended by a Magistrates Court outside our area. Confirmation was sought and then with the co-operation of the local police in both Budleigh Salterton and Honiton both premises were closed the same day. Both premises stayed closed until a qualified person was nominated as the Designated Premises Supervisor and transferred onto the premises licence. This is an excellent example of multi agency co-operation.

## 1.4 Hearings

1.4.1 The following hearings have been held since the last report to committee on 9 June 2009:

Number of hearings where no agreed position has been reached.	May 2009	1
	June 2009	2
	July 2009	0
Number of hearings held to approve an agreed position.	May 2009	2
	June 2009	5
	July 2009	0
Total number of days sub-committees have sat.	May 2009	2
	June 2009	2
	July 2009	0

1.4.2 On 11 May 2009 the Licensing Committee granted a Premises Licence to Courtlands House, Courtlands Lane, Exmouth following a contested hearing. Following the grant of this licence local residents who objected to the issuing of the licence lodged an appeal at the Central Devon Magistrates Court. As a result of the appeal a case Management Conference was held at the Central Devon Magistrates Court between both sides for a directions hearing on 15 July 2009. The appeal was withdrawn a few days later and a request for costs to recover some of the council's legal expenses remains unresolved at this time.

1.4.3 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.

- 1.4.4 The current practice of calling a hearing within a period as close to five working days after an agreed position has been reached continues. This has been well received by both the licensed trade and interested parties.

## 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 summer months.

Temporary Event Notices given to the Licensing Authority.		
	May 2009	76
	June 2009	100
	July 2009	87

## 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.		
	May 2009	8
	June 2009	7
	July 2009	1
Applications for the variation of a Premises Licence.		
	May 2009	1
	June 2009	2
	July 2009	1
Applications for the transfer a Premises Licence.		
	May 2009	1
	June 2009	0
	July 2009	4
Applications for a change of Designated Premises Supervisor.		
	May 2009	0
	June 2009	9
	July 2009	10

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

## 1.7 Personal licences

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

Personal Licences issued.	May 2009	6
	June 2009	10
	July 2009	13
Applications for change of name or address.	May 2009	0
	June 2009	0
	July 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 15 (16)\* Premises licensed under the Gambling Act. The reduction of one licence relates to the surrender of one of the adult gaming centre premises (AGC) licences for Exmouth Leisure (AGC1), Queens Drive, Exmouth. There is now only one AGC premises licence for this site. We also have 173 (169) 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.

### 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 anticipated that as with the Licensing Act close working with partner agencies will prove most beneficial.

### 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.	May 2009	0
	June 2009	2
	July 2009	0

Applications for a Licence.	May 2009	0
	June 2009	0
	July 2009	0
Notifications of Intent to have Gaming Machines.	May 2009	1
	June 2009	4
	July 2009	5

## 2.6 Increase in gaming machines stake and prize limits

- 2.6.1. In recent months a number of changes in stakes and prizes relating to a variety of machines took effect. The one significant change involving gaming machines authorised by this licensing authority is that from 11 June Category C machine stakes increased to £1 and the maximum prize to £70.
- 2.6.2 At the same time the Government announced a new voluntary funding arrangement for the research, education and treatment of problem gambling. The Responsibility in Gambling Trust will continue to raise funds from the gambling industry and the new body The Responsible Gambling Fund will distribute the money. This will now put an end to the introduction of a statutory levy although the power still remains for the Government to consult again if they feel the new voluntary funding arrangement is not a success.

## 2.7 Gambling Act Licensing Policy Consultation

- 2.7.1 All licensing authorities are required to prepare and publish, every three years, a statement of the principles that they propose to apply when exercising their functions under the Gambling Act 2005. In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. We are now coming towards the end of our first three year period and our Policy needs to be formally reviewed. The current statement expires on 31 January 2010.
- 2.7.2 A more detailed report on this subject will be included within the agenda for the meeting on the 29 September 2009.
- 2.7.3 The results of this consultation exercise will be reported for consideration by this Committee at your next meeting on the 24 November 2009. It will then go to full Council on 9 December 2009 for final approval.

## 3 Taxis

### 3.1 Licences Issued and Notices Given

- 3.1.1 Within the Licensing Authority's district there is currently a fleet of 222 (220)\* licensed Vehicles, 188 (177) of which are Hackney Carriages and 34 (43) are Private Hire Vehicles. There are 249 (242) licensed Hackney Carriage Drivers and 55 (73) Licensed Private Hire Drivers. There are also 17 (23) 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.

- 3.2.2 Officers continue to plan and carryout enforcement operations within the district with the police and other partner agencies. Details of two recent operations follow below.
- 3.2.3 Exeter Airport - On Friday 12 June 2009 a multi agency operation took place at Exeter Airport to check that taxis and private hire vehicles were being operated legally.
- 3.2.4 Licensing officers from East Devon District Council together with their counterparts from Exeter City Council as well as officers from Customs and Excise, Department for Work and Pensions and the Devon and Cornwall Constabulary took part in the operation with positive results.
- 3.2.5 Over 30 vehicles were checked and inspected by the team at the airport from various taxi and private hire businesses throughout the southwest. These were mainly from the Exeter and East Devon area but also included vehicles from Newton Abbot, Sherborne, Torbay, Plymouth and Penzance.
- 3.2.6 All the vehicles with the exception of one were found to be operating lawfully with only two incidents relating to a minor breach of local conditions. No action was taken at the scene, but drivers were given advice.
- 3.2.7 One vehicle operating from outside of the district was found to be unlicensed. As a result the driver was given strong advice, and the passengers he had come to collect were taken home by a properly licensed East Devon taxi at the expense of the unlicensed operator. Details of the unlicensed operator have been passed to Plymouth City Council who are continuing enquiries.
- 3.2.8 Exmouth - On 2 July 2009 a multi agency operation took place at Camperdown Terrace Exmouth to check that taxis and private hire vehicles were being operated lawfully. These checks were in conjunction with a proms night for Exmouth College students taking place at the Exmouth Pavilions. Care was taken to minimise disruption to the evening with the vehicles being allowed to drop of their passengers at the venue before they were directed to the Council's Camperdown Terrace depot for the relevant checks.
- 3.2.9 Licensing officers from East Devon District Council as well as officers from the Vehicle and Operators Services Agency (VOSA), the Department of Work and Pensions, the Council's Revenues and Benefits Fraud Team and the Devon and Cornwall Constabulary took part in the operation again with very positive results.
- 3.2.10 The checks were aimed at the stretched limousine/novelty car industry which carry passengers for hire or reward, and should either be licensed by a local authority (for passengers up to 8 seats) or the Traffic Commissioners (for vehicles with 8 seats or more).
- 3.2.11 A total of 11 vehicles were inspected of various makes, including stretch limousines. Four were given immediate prohibitions and one stretch limousine was seized by the police and impounded. Investigations are on going into the use of two separate stretch limousines, from another authority area, both under 8 seats. Neither vehicle was licensed for the use they were being put. There were no detected offences by operators based in East Devon.

### 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 9 June 2009.

Number of hearings held.		
	May 2009	0
	June 2009	0
	July 2009	0

### 3.4 Applications received

Applications for a Hackney Carriage Licence. (including transfers & vehicle changes)	May 2009	3
	June 2009	6
	July 2009	6
Applications for a Hackney Carriage Drivers Licence.	May 2009	1
	June 2009	3
	July 2009	2
Applications for a Private Hire Vehicle Licence.	May 2009	19
	June 2009	14
	July 2009	0
Applications for a Private Hire Vehicle Drivers Licence.	May 2009	37
	June 2009	12
	July 2009	0
Applications for a Private Hire Operators Licence.	May 2009	13
	June 2009	2
	July 2009	0

- 3.4.1 May is always a busy month as all Private Hire licences issued by the Council expire on the 31 May and the applications for renewal of these licences need to be processed before they expire. The next very busy period is late September and October as all the Hackney Carriage licences expire on the 31 October.

### 3.5 Taxi Rank Update

- 3.5.1 Seaton Taxi Ranks – In February 2005 following a very detailed consultation involving staff from the County Council the District Council's General Licensing Sub Committee agreed to the siting of 6 taxi spaces in Seaton in the following locations:

- (a) Fore Street 2 spaces.
- (b) Eyrecourt Road 2 spaces.
- (c) Queen Street 1 space just outside the existing loading bay.
- (d) Queen Street 1 space just above the HSBC bank to operate from 2100 hours to 0300 hours, Monday to Saturday only

- 3.5.2 As has been previously reported to Members there has been considerable delay in implementing these ranks in Seaton as the Council is in the hands of the Highways Authority (Devon County Council) to prepare the necessary traffic order and to mark out the ranks. Numerous attempts have been made by this Council to expedite the situation with little success. We have been regularly informed by Paul Wilson for the County Council that the legal work to prepare the traffic order was in hand and that work to have the ranks marked

out would start within a number of months. However on 2 September 2009 Mr Paul Wilson was again contacted by the licensing team in relation to the ranks at Seaton and yet again stated that the traffic order was still with the Solicitors to make the traffic order and he again stated that he hoped that all would be in place within a 3 month period.

- 3.5.3 It is understood that owing to the passage of time since the original approval of the location of these ranks in Seaton there is some controversy about the location of the proposed rank in Eyrecourt Road. This is despite full consultation on the issue in 2005. It is understood that Paul Wilson is still dealing with this issue and a report is awaited from him. In the meantime the Licensing Manager has requested that the introduction of the other approved ranks be expedited.
- 3.5.4 Honiton Taxi Rank – As reported in the last update report over the past ten years there have been a number of attempts by the District Council to identify a location for additional taxi spaces in Honiton. Unfortunately local resistance, much from some local businesses, has thwarted previous attempts. The town currently has only one rank accommodating only two vehicles at a time. This is far fewer spaces than other comparable sized towns would normally host. As a result, the distribution of ranks in the town is non-existent. Because there are insufficient spaces on the rank to accommodate all the taxis needed to service Honiton many taxis are forced to double park in the High Street, park in ordinary parking spaces or even to park on double yellow lines.
- 3.5.5 It was reported at your last meeting that the Licensing Service had carried out informal consultation in the Honiton area on a proposal put forward by the Highway Authority to locate an additional rank accommodating two taxis on the north side of the High Street approximately three-car lengths west of the High Street/Silver Street junction. This met with very strong local opposition.
- 3.5.6 Following the rejection of the proposal referred to in the last paragraph another solution has been identified with the help of the Town Council, market traders and Devon County Highways. The area proposed for the new rank is in the High Street near the Manor House and the Baptist Church. This rank if approved would create 7 new spaces. The intention is that the existing 2 hackney carriage rank, on the other side of the road would revert to normal parking, and be available for use for market stalls on market days. A consultation exercise has been completed and a report outlining the proposal is included within the agenda for the meeting on the 29 September 2009.
- 3.5.7 Exmouth - The Exmouth regeneration scheme consultation continues and there has been a meeting involving the local Exmouth Taxi Association and the Highway Authority to identify the best sites new taxi ranks within the new scheme as the Strand taxi rank will no longer be available. It is hoped that an agreement will be reached very soon which will give the taxi trade at least as many taxi rank spaces as they are giving up. However the spaces will be in various locations around the town centre and not in one block as they are now in the Strand. This consultation is ongoing, mainly, at this stage with Devon County Council, as the Highway Authority. As soon as there is agreement, the procedure to create the ranks under the Local Government (Misc. Provisions) Act 1976 will commence via a report to this Committee.

#### **4. Street Trading**

##### **4.1 Sidmouth**

A total of sixty (60) street trading pitches were made available on the Esplanade during this year's Folk Festival. Once again a multi departmental team was used throughout the week that facilitated a successful and well received operation.

- 4.2 The new layout for the pitches on the Esplanade eased the pressure between performers and traders that had been

experienced during last year's festival. Some minor positional changes will be made before next year but it is not anticipated that the numbers will be changed.

#### **4.3 Seaton**

On 18 June 2009 the Senior Licensing Officer attended a meeting chaired by Seaton Town Council to discuss the interim measures agreed by this Committee at its meeting on 9 June 2009. Also at the meeting were representatives of local charities. A report on this matter is included within the agenda for this meeting.

#### **4.4 Enforcement**

- 4.4.1 In June complaints of a 'burger van' operating close to one of the nightclubs in Exmouth town centre were received through Environmental Health. Licensing Officers undertook a late night enforcement visit and secured the immediate cessation of the unauthorised trading and after providing the operator with suitable advice ensured that he left the area permanently.

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

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

- 5.1.1 The next liaison meeting has been re-arranged for Monday 26 October 2009 at 1400 hours in the Council Chamber. The Committee's Chairman and Vice Chairman normally attend these meetings.

### **6 Member Training & Development**

- 6.1 A training day for members of the Licensing and Enforcement Committee was held at the Council Offices in Sidmouth on Tuesday 14 July 2009. The event was facilitated by Jayne Foxley on behalf of the Public Health Legal Information Unit. A total of ten East Devon District Council members attended the day. On the 29 September attendance certificates will be distributed to those members who attended the day.

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

- 7.1 As reported at the Committee's last meeting the Licensing Service has applied to be assessed for the Customer Service Excellence Standard formerly Chartermark. This is a government standard "which tests in great depth those areas that research has indicated are a priority for customers, with particular focus on delivery, timeliness, information, professionalism and staff attitude. Over the last few months we have been preparing our portfolio of evidence. Our final assessment has now been planned for 29 October 2009.

#### **Legal Implications**

There are no legal implications contained within the report.

#### **Financial Implications**

Street Trading income has increased from £6,400 in 2008 / 2009 to £7,500 to date in 2009 / 2010

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John Tippin Ext. 2787  
Licensing Manager

Licensing and Enforcement Committee  
29 September 2009

Ian Carter Ext.2080  
Senior Licensing Officer

## Agenda Item 6

Licensing & Enforcement Committee

29 September 2009

JT



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

#### Summary

An explanation to Members of the Licensing and Enforcement Committee on the consultation process and timescales for the tri-annual review of the Council's Gambling Act.

#### Recommendation

That the Committee note the report

#### a) Reasons for Recommendation

To brief Members on the consultation process and timescales for the tri-annual review of the Council's Gambling Act 2005.

#### b) Alternative Options

None

#### 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

None

#### e) Date for Review of Decision

N/A

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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 Licensing Act 2003 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.
- 1.3 In August the Licensing Service started the consultation process by giving all stakeholders, interested parties and the public in general the opportunity to have their say on the content of the draft. The public consultation will close on Monday 26 October 2009.
- 1.4 The Communities Overview Committee will be given the opportunity to comment on the Policy at their meeting on the 28 October 2009.
- 1.5 The results of this consultation exercise will be brought for consideration to this Committee at its next meeting on the 24 November 2009. The final version of the draft Policy will then go before full Council for approval on the 9 December 2009.
- 

### **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"/> | Revised Draft Policy for consultation | Appendix A |
| <input type="checkbox"/> | Summary of Main Changes Sheet         | Appendix B |

### **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  
29 September 2009

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.

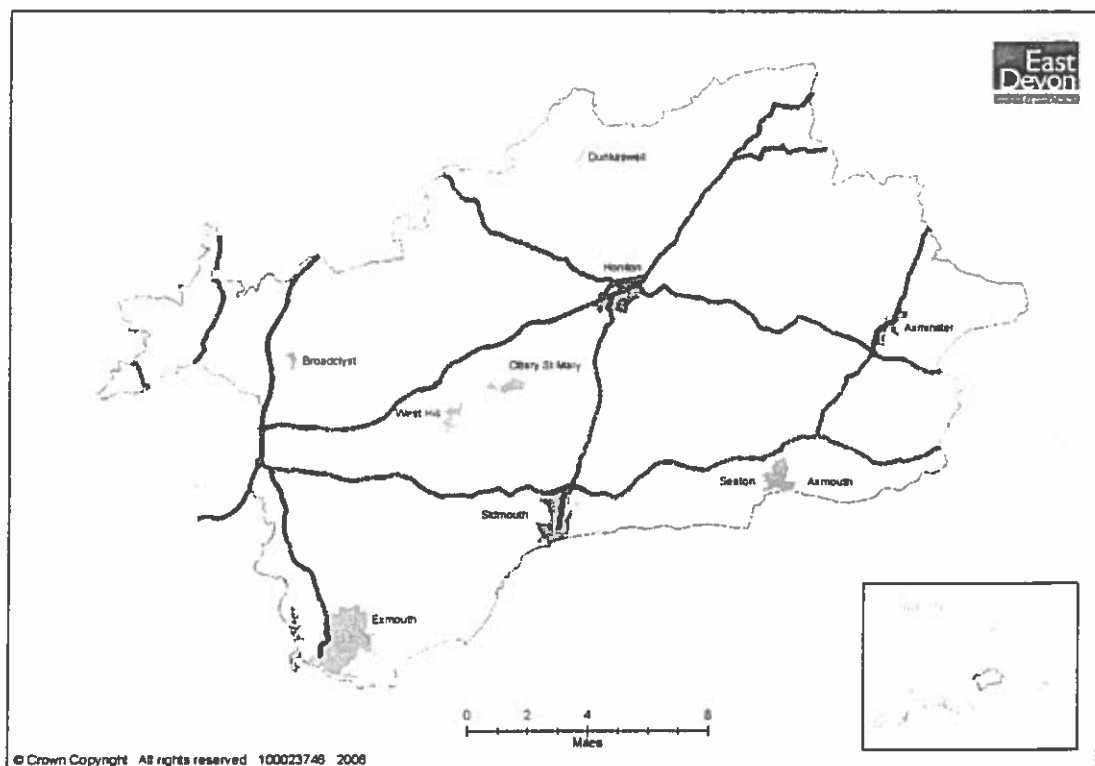
The District has a dispersed and mainly rural population. The rural nature of the area is emphasised by the low population density of 1.66 per hectare (the England and Wales average is 3.4). The District is fully parished with 68 Town and Parish Councils. Areas of Outstanding Natural Beauty and the World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

<http://www.mcga.gov.uk/c4mca/mcga07-home>

Tel: (01752) 266 211

## 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

Part A	Brief Description
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

# Agenda Item 7

Licensing & Enforcement Committee

29 September 2009

JT



## Licensing Act 2003 – Effect of Minor Variation Procedure and DPS Disapplication

### Summary

The report sets out an explanation of 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

### Recommendation

- (1) That the Committee note the report and
- (2) That the committee delegate the approval of minor variations under the Licensing Act 2003 to the Head of Legal, Licensing and Democratic services, with the committee and sub-committees being able to exercise those powers concurrently if required.

#### a) Reasons for Recommendation

To explain to Members the recent changes of the legislation and to recommend the level of delegation of decisions relating to the new types of applications associated with these changes.

#### b) Alternative Options

None

#### c) Risk Considerations

N/A

#### d) Policy and Budgetary Considerations

None

#### e) Date for Review of Decision

N/A

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## 1 Introduction

1.1 In July the Government introduced two changes to the Licensing Act 2003 with the intention of simplifying some long running issues. The two changes relate to:

- (a) A simplified procedure for seeking approval from the Licensing Authority for minor alterations to licensed premises.
- (b) A relaxation of the law relating to sales of alcohol in Community and Church Halls.

## **2. Minor Variation Procedure**

2.1 This is a streamlined process for making minor changes to premises licences and club premises certificates. The "minor variations" procedure will allow low impact changes that would not undermine the licensing objectives to take place without the need for the full variation application procedure. This has been introduced as the financial cost to operators of making minor amendments to their licences was found to be disproportionate in view of the negligible impact such changes would have.

2.2 Minor variations will generally fall into four categories:

- Minor changes to the structure or layout of the premises
- Small adjustments to licensing hours (but cannot be used to extend hours for the sale or supply of alcohol)
- The removal of out of date, irrelevant or unenforceable conditions or the addition of volunteered conditions
- The addition of certain licensable activities (for example, adding the live music activity to a premises licence that is already providing other licensable activities at that time or is already open).

### **2.3 Fee and application procedure**

Under the new procedure, the licence holder will send their application together with the prescribed fee of £89 to the Licensing Authority. Interestingly if the application is not dealt with within 15 working days, the fee must be refunded. However the guidance accompanying this legislation change advises that when a licensing authority and applicant agree that an undetermined application should be treated as a new application the fee originally submitted will be treated as the fee for the new application

2.4 The applicant must also place a public notice on white paper at the premises setting out the proposed changes. This is to give neighbours an opportunity to make representations which we, as the licensing authority, must consider, but there will be no hearing. There is no requirement to advertise the application in a local newspaper and no requirement to notify the responsible authorities.

2.5 Applications are made to the licensing authority on standard forms provided by the DCMS.

### **2.6 Timescale**

The licensing authority must process the application and determine it within 15 working days.

2.7 The first 10 working days of the 15 working day period constitute a consultation period in which Interested Parties may make representations to the licensing authority. Licensing Authorities may also wish to consider the application and consult relevant responsible authorities during this time. A determination cannot be made during the 10 day consultation period.

### **2.8 Delegation**

Our delegations framework currently divides functions between the licensing committee and officers. A number of functions cannot be carried out by officers, but must be carried out by the committee; they relate principally to hearings and reviews. In approving a scheme of delegations, members took into account government guidance.

In setting up the recommended scheme of delegation, the Head of Legal, Licensing and Democratic services advised the committee that there might be further matters which would need delegating in due course. For this reason, there is already a 'catch all' delegation to the Head of Legal, Licensing and Democratic Services to cover 'all other functions under the Licensing Act 2003 and regulations



made thereunder which the Licensing and Enforcement Committee is permitted to delegate, not already covered by specific delegations'. This meant that the Council could lawfully deal with variation applications under the new procedure, from 27 July, the date from which applications could be made, and avoided the decision-making process being left in limbo while this report was taken to committee.

The Head of Legal, Licensing and Democratic services recommends that a specific delegation now be added, and that it is appropriate that variations be dealt with at officer level. The Government has recommended that Licensing Authorities delegate the decision making on Minor Variation applications to licensing officials. The proposed recommendation reflects this guidance. There is no provision for a hearing under the minor variation process, although that would not prevent the exceptional case going to committee for consideration, rather than hearing. That is also reflected in the proposed recommendation.

#### **2.9 Role of responsible authorities**

There is no requirement for applicants to notify responsible authorities of their application. Instead, responsible authorities are involved at the request of the licensing officer responsible for determining the application. The DCMS suggests that licensing officers "must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision." For example if a minor variation application was made to add live music it would be anticipated that Environmental Health would be consulted in view of the potential for noise nuisance. There is no requirement to consult all the responsible authorities on each application.

#### **2.10 Role of interested parties (residents and other organisations/individuals)**

Interested parties may make representations based on the licensing objectives. Representations do not trigger a hearing under the Minor Variations process, but the Guidance states relevant representations must be taken into account in the decision-making process.

#### **2.11 Determining Application**

Unlike other applications relating to the Licensing Act 2003 all minor variation application must be determined without a hearing. Where a licensing authority refuses a minor variation application there is no avenue for appeal. In these circumstances if the applicant wishes to pursue the application he may make a full variation application in the normal way. The normal process for full variations would be followed (application copied to responsible authorities, blue notice displayed and advertised in a newspaper). The normal 28 day notice period would apply and where representations are received against the application there would follow the normal committee hearing and the appeal process if it needed to go that far.

### **3 Relaxation of the law relating to sales of alcohol in Community and Church Halls**

3.1 The Licensing Act 2003 ("the 2003 Act") requires that anyone wishing to sell alcohol or provide entertainment or late night refreshments (the supply of hot food and drink between 11pm and 5am) must do so from premises that have the benefit of a premises licence or club premises certificate.

3.2 The 2003 Act has stipulated until now that every premises licence that authorises the sale of alcohol is subject to the following mandatory condition:

- No alcohol sales may be made unless the premises licence has named on it a nominated person, known as the designated premises supervisor ("DPS") who in turn must be a personal licence holder.
- Every sale of alcohol must be made or authorised by a personal licence holder. To obtain a personal licence a

person must possess a licensing qualification and a criminal record bureau certificate.

- 3.3 The Government has now amended the 2003 Act to disapply the mandatory condition referred to in paragraph 3.2 in relation to premises licences held by village halls, church halls, chapel halls, community halls and similar community premises ("Community Premises"). If the mandatory condition is disapplied, a new alternative condition will be applied instead. The new 'alternative' condition means that a "Management Committee" supervises sales of alcohol and the application form requires the Premises licence holder to explain how that supervision will take place in a range of different circumstances. The licence holder (committee) will also need to provide copies of their constitution and the names of the key officers such as the Chairman, Treasurer and Secretary. If these officers change then they need to notify the Council, as the licensing authority, and send a copy to the police.
- 3.4 As premises licence-holder the management committee will collectively be responsible for ensuring compliance with licence conditions and the law, although it would not be necessary for a member of the committee to be present all the time the premises were being used. A robust hiring agreement providing a written summary of the hirer's responsibilities under the Licensing Act in relation to the sale of alcohol is suggested as an appropriate measure, as the "Management Committee" could be liable to prosecution if the hirer commits any licensing offences. Organisations such as ACRE and Community Matters have model hire agreements that committees might like to adopt, especially in making the hirer aware of the licensing objectives and duties under the Licensing Act in respect of the sales of alcohol.
- 3.5 This change has been introduced to reduce the burden to community premises of having to find individuals prepared to take the responsibility of being the Premises Designated Supervisor in relation to the sale of alcohol. There is also the cost of that individual becoming a personal licence-holder, including the cost of the training course to obtain the relevant qualification.
- 3.6 **How to disapply the mandatory conditions**  
There is a prescribed form issued by the DCMS to be used for the application. There is a £23 application fee. The application is made to the Licensing Authority and a copy must be served on the police. The police can object to the application.
- 3.7 If the Community Hall does not currently have the sale of alcohol as one of the licensable activities on the licence the committee may include this 'disapplication' if they should decide to apply for a new licence to include the sale of alcohol. This Licensing Authority would normally except where an applicant wishes to add the sale of alcohol to an existing licence that this would be done by way of a new licence application and not by variation. Providing the committee apply for the disapplication at the same time as the new licence there will be no additional fee. The applicant would merely pay the normal application fee that is relevant to the premises to be licensed.
- 3.8 **Time Scales**  
A variation of a licence to exclude the DPS requirement altogether (or reinstate it) must always follow the 28 day variation timescale. This means that where an application is made to disapply the mandatory DPS condition it can not take effect until a period of 28 days has expired following receipt of the application by the Licensing Authority and the Police.
- 3.9 **Responsible Authority Role**  
In exceptional circumstances the Chief Officer of the Police for the area in which the community premises is situated can object to a request for inclusion of the alternative licence condition on the grounds of crime and disorder. In those circumstances the police would issuing a notice seeking the refusal of the application to include the new mandatory condition. The licensing authority would then hold a hearing in order to reach a decision on whether

to grant the application. The authority's decision can be appealed by either party.

- 3.10 Even if the police did not object to the original disapplication application if in the future any issues arise with how the premises are run by the Management Committee then the police are able to request that the licence is reviewed so that the premises must have a Designated Premises Supervisor again if the sales of alcohol are to continue.
- 3.11 The other responsible authorities (Environmental Health, Fire Service etc.) do not have the right to issue a notice seeking refusal. They can however seek reinstatement of the mandatory conditions at a later date through a review of the licence under section 52A of the Licensing Act 2003.

#### **4 Delegations**

4.1

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#### **Legal Implications**

The legal implications are set out within the report.

#### **Financial Implications**

As this is new legislation the extent of income generation is yet unknown

#### **Appendices**

None

#### **Background Papers**

- Licensing Act 2003
- Guidance (dated July 2009) issued by the Secretary of State for the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

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John Tippin Ext 2787  
Licensing Manager

Licensing & Enforcement Committee  
29 September 2009

## Appendix A

Function	Full Committee	Sub Committee	Officer
Part a			
Determination of application for premises licence Section 18		If a relevant representation made Section 18(2)	All other cases Head of Legal, Licensing and Democratic Services
Determination of application for provisional statement Section 31		If a relevant representation made Section 31(3)	All other cases Head of Legal, Licensing and Democratic Services
Determination of application to vary premises licence Section 35		If a relevant representation made Section 35(3)	All other cases Head of Legal, Licensing and Democratic Services
Application to vary designated premises supervisor Section 39		If a police objection Section 39(3)	All other cases Head of Legal, Licensing and Democratic Services
Request to be removed as designated premises supervisor Section 41			All cases Head of Legal, Licensing and Democratic Services
Determination of application for transfer of premises licence Section 44		If a police objection Section 44(5)	All other cases Head of Legal, Licensing and Democratic Services
Consideration of police objection made to interim authority notice Section 48		Where notice of objection is given by the chief officer of police Section 48(3)	All other cases Head of Legal, Licensing and Democratic Services
Determination of application to review premises licence Section 52		All cases Sections 52(2) and (3)	
Determination of application for club premises certificate Section 72		If a relevant representation made Section 72(3)	All other cases Head of Legal, Licensing and Democratic Services
Determination of application to vary club premises certificate		If a relevant representation made Section 85(3)	All other cases Head of Legal,

Section 85			Licensing and Democratic Services
Determination of application for review of club premises certificate Section 88		All cases	
Decision to give counternotice to temporary event notice Section 105		Where notice of objection is given by the chief officer of police Section 105(2)	
Determination of application for personal licence  Section 120		If a police objection for convictions  Section 120 (7)	If no police objection :  Head of Legal, Licensing and Democratic Services
Determination of application of renewal of personal licence Section 121		Where notice of objection is given by the chief officer of police  Section 121(6)	If no police objection :  Head of Legal, Licensing and Democratic Services
Revocation of personal licence where convictions come to light after grant Section 124		Where the chief officer of police has given an objection notice (This means all cases will come to a sub-committee)	
Decision on whether a representation is irrelevant frivolous vexatious etc.			Head of Legal, Licensing and Democratic Services,
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
<b>Approval of minor variations</b>			<b>Head of Legal, Licensing and Democratic Services</b>
<b>Determination of the removal of a Designated Premises Supervisor or Personal Licence Holder at community premises</b>		<b>If a relevant representation is made</b>	<b>All other cases</b>  <b>Head of Legal, Licensing and Democratic Services</b>

b) Other delegations:

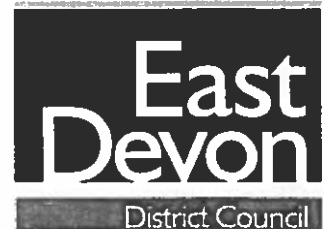
Function	Full Committee Sub Committee	Officers
Part b		
All other functions under the Licensing Act 2003 and regulations made thereunder which the Licensing and Enforcement Committee is permitted to delegate, not already covered in section (a) above	When exercising those functions in connection with the delegations set out in part a above	All other cases Head of Legal, Licensing and Democratic Services

## Agenda Item 8

Licensing and Enforcement Committee

29 September 2009

JT/IC



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

#### **Summary**

This report sets 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.

#### **Recommendation**

**That the Committee agree to formally adopt the interim measures agreed at its meeting on 9 June 2009 as amendments to the Council's street trading policy and guidance.**

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

To asset the continued success of Charitable events in Seaton and ensure compliance with the appropriate legislation.

#### **b) Alternative Options**

That the Committee decides not to adopt the interim measures meaning that the Charitable street trading events will need to pay the fees and comply with the policy and conditions currently in force.

#### **c) Risk Considerations**

None

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

None

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

None

### **1 Background**

- 1.1 At its meeting of 9 June 2009 this Committee considered a request from Seaton Town Council's Amenities Committee to remove the designation of the Esplanade, Seaton as a consent street for street trading under Schedule 4, paragraph 2(1)(c) of the Local government (Miscellaneous Provisions) Act 1982. Members may recall that this request was made on behalf of the local charities who felt that they were unable to meet the full

terms of some of the conditions and polices and that the required fees would be too excessive and force the charity street markets to stop happening.

- 1.2 Committee resolved that the request be deferred to allow further consultation and investigation of the options and that a series of interim measures proposed by the Licensing Service be agreed.
- 1.3 Three events have now been held under the interim measures all without problem.
- 1.4 A copy of the agreed interim measures is attached at **Appendix A**.

#### **Further consultation**

- 1.4 On 18 June 2009 the Senior Licensing Officer attended a meeting held to discuss the committee decision. The meeting was chaired by the Town Council and attended by Local Councillors and representatives of local charities. The meeting generally agreed that the interim measures represented the best way forward and should be adopted by the District Council.
- 1.5 The views of local Charities and the Seaton and District Chamber of Commerce have also been sought independently through a further consultation that at the time of writing is still ongoing. The responses received to date have been supportive of the recommendation to adopt the interim measures. The full results of this consultation will be made available to the Committee at the meeting.

## **2 Conclusion**

- 2.1 The interim measures were offered to allow the Charity Street Markets of Seaton to continue while the request for deregulation of the Esplanade was considered. Following the Committee meeting of 9 June 2009 the interim measures have been found to provide a balanced approach between control by the Council and maximising the benefit to the Charities.

#### **Legal Implications**

There are no legal implications to be considered.

#### **Financial Implications**

None other than noted in the report.

#### **Appendices**

Appendix A – Interim Measures

#### **Background Papers**

Agenda & Minutes Licensing & Enforcement Committee meeting 9 June 2009

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John Tippin Ext 2787  
Licensing Manager

Licensing & Enforcement Committee  
29 September 2009

Ian Carter ext 2080



### Agreed Interim Measures

The organising charity must apply in the usual manner using the Charity Street Trading Consent Form

1. The fee will be £15.
2. A copy of the charity's public liability insurance will be required.
  - a) If the policy covers all people who may be trading at the event then no further action will be required.
  - b) If the policy does not cover all people who may be trading at the event the organising charity will be required to ensure all traders have the necessary insurance.
3. No photograph of the stalls will be required for charity street markets.
4. Details of individual traders and numbers of stall should be provided with the application or as soon as possible before the event.
5. A description of goods to be sold will be required for each stall. This information should be provided with the application or as soon as possible before the event.
6. A Street Trading consent will be issued to the organising charity for the esplanade to the organising charity.
7. The Licensing Authority will maintain a light touch overview of the event.
8. The organising charity will be responsible for the allocation of pitches and ensuring that all traders comply with any imposed conditions.

### Agreed Interim Changes to Policy & Guidance

#### Policy 2.7

"The appearance of associated equipment or structures shall be of good quality and the precise appearance of the facility shall be identified before consent is granted."

9. The organising charity will be responsible for ensuring compliance.

#### Policy 2.9

"The council will not permit trading unless the Consent Holder or people employed by them have a current insurance policy against public liability and third party risks. The minimum insurance cover shall be £2,000,000, and must cover the use of the Consent Holder's vehicle, stall, barrow and any additional equipment under their control."

10. The organising charity will be responsible for ensuring compliance.

#### Policy 2.15

"Double pitches will only be issued in exceptional circumstances where demand for consents does not exceed the number of pitches available."

11. The organising charity shall be responsible for determining exceptional circumstances.

### Guidance

#### 4.3 (b)

Correctly completed applications consist of:

- b) A photograph of the stall/vehicle/barrow to be used.

12. This will not apply to applications received from registered charities for charity street markets in Seaton

### Conditions

#### Condition 16

"The Consent Holder or people employed by them shall not trade in or issue any glass items or vessels."

13. This condition will not apply to charity street markets in Seaton. The organising charity will be required to ensure that they are satisfied with the appropriateness in terms of public safety of any item offered for sale.

**These measures will apply only for events/street markets arranged and operated by registered charities in Seaton.**

## Agenda Item 9

Licensing and Enforcement Committee

29 September 2009

Report Reference



### Proposed New Taxi Ranks for Honiton Town

#### Summary

The Licensing and Enforcement Committee is asked to consider proposed changes to the Hackney Carriage ranks in Honiton town.

#### 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 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 paragraph 1 of this recommendation will be deemed appointed.
4. That following the appointment of the two 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

Honiton currently has only one rank accommodating only two vehicles at a time. This is far fewer spaces than other comparable sized towns would normally host. As a result, the distribution of ranks in the town is non-existent. Because there are insufficient spaces on the rank to accommodate all the taxis needed to service Honiton many taxis are 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 have complained about taxis double parking in the High Street when the rank has been full.

#### b) Alternative Options

To leave the situation as it is or to adopt part of the proposed changes

#### c) Risk Considerations

None known

#### d) Policy and Budgetary Considerations

## e) Date for Review of Decision

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### 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 operator's stations or depots.
- 1.2 The existing Hackney Carriage rank in Honiton is situated in High Street (on the southern side of the road). There are two spaces available at this rank, and potentially any Hackney Carriage licensed with this authority can use the rank in Honiton. In practice this is usually only used by the local taxis. These taxis are well used and offer a good service to local residents, both young and old.
- 1.3 Increasingly there have been complaints that the taxi rank space is inadequate, leading to overcrowding at the rank. There is no other rank in Honiton and therefore when that rank is full the taxi trade have little alternative option. There have been many occasions when taxis have had to double park or park on double yellow lines, causing traffic congestion and often breaking the parking laws. This leads to complaints from members of the public and the hackney drivers themselves.
- 1.4 Over many years there has been local resistance to increasing the number of rank spaces in the town although the need has been fairly obvious. The current Licensing Manager can recall attempting to broker a solution without success over ten years ago. Council Licensing Officers have been attempting to find a solution ever since.
- 1.5 During the last twelve months a further attempt was made to find a solution and Devon County Highways suggested an additional rank to accommodate two taxis on the north side of the High Street approximately three-car lengths west of the High Street/Silver Street junction. This met with very strong local opposition and subsequently this idea was abandoned.
- 1.6 Following the rejection of the proposal referred to in the last paragraph another solution has been identified with the help of Devon County Highways, the market traders and the Town Council. The area proposed is in the High Street near the Manor House and the Baptist Church. In effect it is proposed that there will be two ranks very close together and if approved would create 7 new spaces. A plan showing the proposed position of the two ranks can be found at **Appendix A** of this report. It is proposed that two ranks be provided on the north side of the High Street. One being located 77 metres east of its junction with Dowell Street for a distance of 16 metres in an easterly direction and the other from a point 98 metres east of its junction with Dowell street for a distance of 10 metres in the same direction (easterly). These locations are outside the Manor House and the Baptist Church respectively and comply with the conditions referred to in paragraph 1.1 above. Indeed a clear gap has been left between the two ranks for access to the Baptist Church.
- 1.7 If the proposal for the new ranks on the north side of the High Street are agreed the intention is that the existing two space hackney carriage rank, on the other side of the High Street would revert to

normal parking, and be available for use for market stalls on market days.

- 1.8 Currently the space proposed to be used for the two new ranks are used to accommodate market stalls on market days. However it understood that the market traders are supportive of the proposals in view of the intention to release the old rank for parking and the accommodation of stalls on market days.
- 1.9 Devon County Council considers this to be the best option taking into account the limitation of locations for such ranks. It is recognised there are other permutations for the use of the spaces identified but it is felt this is the most satisfactory solution to overcome the existing problems caused by insufficient taxi ranks.
- 1.10 If the new ranks are approved by the Committee, legislation requires that a notice be placed in a local newspaper in order that representations or objections can be made within a 28 day period from the date of publication (there is a cost implication of approx £600.00 for the cost of the advert). Should any objections be received and not withdrawn, this item will be returned for reconsideration by members.
- 1.11 In case he was able to assist members further Mr Paul Wilson, Traffic Engineer East for Devon County Council, was asked to attend the Committee meeting on the 29 September 2009. He is however unable to attend as he will be on leave.
- 1.12 Consultation letters were sent out to all local taxi drivers, Devon County Council, Honiton Town Council, Honiton street market, the Chamber of Commerce, the Devon and Cornwall Constabulary, the businesses located in the Manor House and the Baptist Church. The last two premises are adjacent to the location of the proposed ranks.
- 1.13 All the replies received have been positive with the exception of the one from the Honiton Osteopathic Centre, which operates from Manor House. Mr Douglas-Mort, who runs the practice, lists his objections, which can be read in his attached letter, (**Appendix I**). Briefly he is objecting on three grounds – (a) access to the church would be restricted – the church has written in support of the proposal (**Appendix F**), (b) taxis will cause a hazard turning at this location – both the police and the highway authority will have taken this into consideration but still support the proposal, (c) the ranks are too close to the Dowell Street junction – again both the police and the highway authority will have taken this into consideration but still support the proposal. Manor House is a small office block which accommodates several firms. They are - National Farmers Union, Beviss and Beckinsale Solicitors, Honiton Osteopathic Centre (the objector,) Somerset Care Homes and Findlay Butler.
- 1.14 There is a private car park at the rear of Manor House and Dowell Street car park (council owned) is only a very short distance beyond this.
- 1.15 The Devon and Cornwall Constabulary have no objections to the proposed ranks (**Appendix D**).
- 1.16 All the replies, with the one exception, have been in agreement with the proposals. This includes the Baptist Church (**Appendix F**).
- 1.17 All the replies are attached at **Appendix A to I**. If more responses are received they will be made available at the committee meeting.

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### **Legal Implications**

There are no legal issues requiring comment in this report.

### **Financial Implications**

There are no budgetary considerations other than detailed in the report.

## **Appendices**

- Appendix A Honiton Proposed Taxi ranks
- Appendix B Dimensions of proposed new taxi ranks
- Appendix C Honiton street market – stall layout
- Appendix D Letter from Devon and Cornwall Constabulary
- Appendix E Letter from Honiton Town Council
- Appendix F Letter from Honiton Baptist Church
- Appendix G E mail from Honiton District Chamber of Trade and Commerce
- Appendix H E mail from Mr Huffer, East Devon Taxi Association
- Appendix I Objection letter from Mr Douglas – Mort Honiton Osteopathic Centre Manor House

## **Background Papers**

Consultation letters sent to:

- Honiton Baptist Church
- Honiton Town Council
- Devon & Cornwall Constabulary
- Honiton Chamber of Commerce
- All local Honiton hackney carriage drivers
- Manor House businesses
- Honiton Town Market.

---

Douglas Jackson  
Licensing Officer

Licensing and Enforcement Committee  
29 September 2009



SCALE	1 : 500
DATE	05/05/2009
DRAWING No	HON / 472
DRAWN BY	

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 Devon County Council  
 Licence No. 100010763 2008

Honiton - Proposed Taxi Ranks



**From:** Lee Cranmer [lee.cranmer@devon.gov.uk]  
**Sent:** 26 June 2009 11:07  
**To:** Douglas Jackson  
**Subject:** FW: High Street - Honiton

Dougie

Double checked the dimension for the taxi bays and can confirm the following

***High Street, Honiton***

**Side of carriageway - North**

*From a point 77 metres east of its junction with Dowell Street for a distance of 16 metres in an easterly direction.*

*From a point 98 metres east of its junction with Dowell Street for a distance of 10 metres in an easterly direction.*

Ignore the approximate element of my original email.

Cheers

Lee

-----Original Message-----

**From:** Lee Cranmer  
**Sent:** 16 April 2009 09:37  
**To:** 'd.jackson@eastdevon.gov.uk'  
**Subject:** High Street - Honiton

Dougie

The approximate dimensions for the Taxi ranks are as follows:

***High Street, Honiton***

**Side of carriageway - North**

*From a point 77 metres east of its junction with Dowell Street for a distance of 16 metres in an easterly direction.*

*From a point 98 metres east of its junction with Dowell Street for a distance of 10 metres in an easterly direction.*

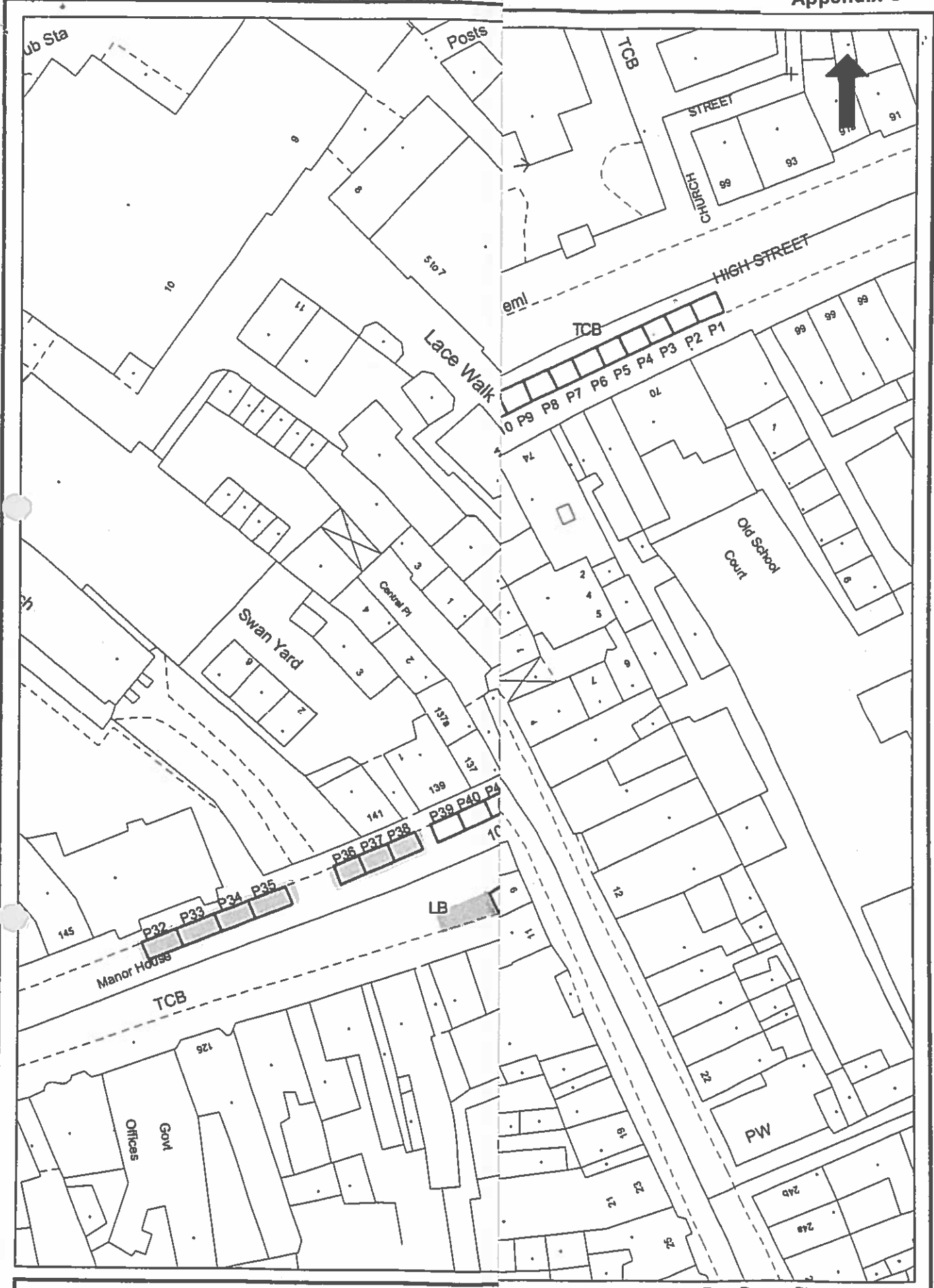
Regards

Lee Cranmer  
Senior Traffic Technician

-----  
East Area Highway Management  
Environment, Economy & Culture Directorate







### Honiton Street Market - Stall Layout

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MADE

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East Devon District Council

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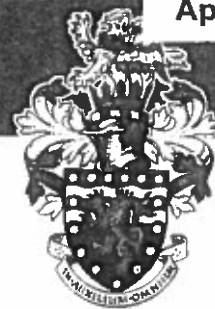
Sidmouth

EX10 8HL

Tel: 01395 516551

www.eastdevon.gov.uk





**DEVON & CORNWALL  
CONSTABULARY**



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

15 June 2009

01626 215125

Dear Mr Jackson

**Re: Proposed Re-siting of Honiton Taxi Ranks**

Thank you for your letter dated 28 May 2009 requesting the views of Devon and Cornwall Constabulary regarding the proposed re-siting of the Honiton Taxi Ranks.

I have liaised with the local police officers and they have no objections to the plans. However, they would like it noted that as there will be extra spaces to park, there will be no excuses for the taxis to double park as they sometimes do in the current location. The road is narrower at the proposed location and any double parking would make it difficult for traffic to negotiate the High Street. Any double parking here would constitute an obstruction of the highway & almost certainly warrant a Fixed Penalty Ticket (FPT) for obstruction.

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)



# Honiton Town Council

Mrs Lyn Hargood  
Town Clerk

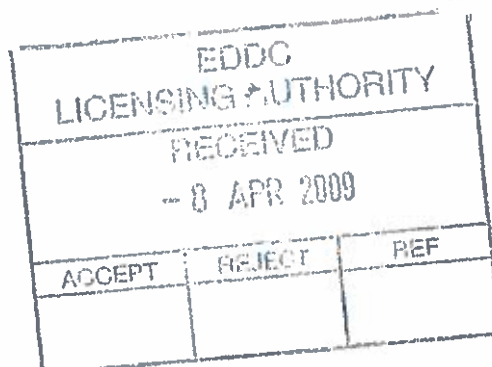


COUNCIL OFFICES  
NEW STREET  
HONITON  
DEVON EX14 1EY

Telephone/Fax: 01404 42957  
Email: [towncouncil@honiton.gov.uk](mailto:towncouncil@honiton.gov.uk)  
Website: [www.honiton.gov.uk](http://www.honiton.gov.uk)

7 April 2009

Mr D Jackson  
Licensing Department  
East Devon District Council  
Knowle  
Sidmouth EX10 8HL



Dear Duggie

## Taxi Ranks in Honiton

Following recent discussions concerning the siting of taxi ranks in Honiton I am writing to inform you that the proposals put forward by Mr Terry Farebrother were considered

- a) at the Honiton Street Market Forum on 31 March (a working group of Honiton Town Council)
- b) at Honiton Town Council's meeting on 6 April

and that both groups support the proposals subject to no loss in street market pitches as a result of this development.

Yours sincerely

  
Lyn Hargood  
Town Clerk

cc **Paul Wilson, Devon County Council**  
**Terry Farebrother, Market Supervisor**

# HONITON BAPTIST CHURCH HIGH STREET HONITON

**Rev Dr B Bendrey  
2, Chestnut Way  
Honiton.  
EX14 2UA**

01404  
44175

**Dear Terry.**

**Thank you for your letter, I put your plan for outside the Church  
To the Church deacons, and they agree with you that, this would  
Be beneficial to all concerned.**

**So we are behind you with this option to solve this problem.  
Thank you once again for bringing this to the Baptist Church.**

**Yours Sincerely.**

**Rev.Dr Bendrey, ( Ben ) <>**

**From:** Ralph Hibbert [ralph.hibbert@uwclub.net]  
**Sent:** 07 June 2009 17:33  
**To:** Douglas Jackson  
**Subject:** Re-siting of Honiton taxi ranks

Dear Mr Jackson,

Further to your letter of May 28th I cannot see that this new proposal would meet with any objection from Honiton & District Chamber of Trade & Commerce. However I will raise the issue at our next committee meeting and will only advise you if there are any problems foreseen.  
Ralph Hibbert

---

I am using the Free version of SPAMfighter.  
We are a community of 6 million users fighting spam.  
SPAMfighter has removed 8629 of my spam emails to date.  
The Professional version does not have this message.

**From:** Horseshoetaxis@aol.com  
**Sent:** 08 June 2009 16:00  
**To:** Douglas Jackson  
**Subject:** Proposed re-siting of Honiton Taxi Ranks

In reply to your letter 28 May 09; having spoken to most of the trade in the town we would be very happy to accept the proposal as shown on Devon County Council Plan (HON/472). The general feeling within the trade is this is long overdue and will do nothing but enhance the local transport services within the town. We concede the present rank should be passed back for use as market stalls.

Please may we have an undertaking on the following points from EDDC:

- i) the old rank will not be removed until the new rank is legally enforceable and painted on the road.
- ii) correct signage will be provided to indicate the position of the new rank within the town (brown signs).
- iii) the new rank parking restrictions are able to be enforced by your civil enforcement officers.

In conclusion may we thank and commend all those involved with the project for coming up with a sensible resolution to a 15 year old problem. We look forward to an early completion of this project.

John Huffer  
Chairman East Devon Hackney Carriage Association

# HONITON OSTEOPATHIC CENTRE

EDDC LICENSING AUTHORITY		
RECEIVED 10 JUN 2009		
ACCEPT	REJECT	REF



Incorporating Axminster  
Animal Osteopaths

The Manor House, 143 High Street, Honiton, Devon, EX14 1LJ, UK.

Tel: (01404) 41678

Website: [www.honitonosteopaths.co.uk](http://www.honitonosteopaths.co.uk)

David J. Douglas-Mort, DO, BA, PGDip CrO, MSCC.  
Rowan F. Douglas-Mort, DO, BA, PGDip CrO, MSCC.  
Penelope S. Price, DO, BSc (Hons).

**Specialists in Cranial Osteopathy**

09/06/2009

Mr. D Jackson,  
Licensing officer,  
EDDC.

Your ref: LIC/DJ

Dear Mr. Jackson,

**Re: Proposed re siting of Honiton Taxi ranks.**

Thank you for your recent letter with your proposals for the above. I do not think the proposal will work very well for the following reasons:

- The proposed site is either side of the entrance to the Baptist church (between 143 and 141 High Street). Are you aware that this church is used as a church? There are several funerals and weddings held here per year (perhaps 10?). The cars/ funeral cortege take up most of the road from 141-143 (which the church people block off with traffic cones). A few months ago there was a horse drawn carriage with coffin which was present for some time, whilst waiting in your proposed taxi area. You are only allowing the narrow entrance to be non-taxi. With taxis parked either side of this, I doubt if a larger funeral limousine would be able to get into the church drive. It would certainly have to back out into the traffic to regain the High Street. I suggest there will be chaos on wedding/funeral days.
- The road is considerably narrower at the proposed site than the old. The taxis currently complete "U" turns to arrive at and leave their parking area. At the proposed site they will be carrying out 3 point turns to access their rank (there is public parking and a bus stop opposite the proposed site). This will create more disruption, especially as the proposed site is much nearer the Dowell street turn off.
- The site is too close to the Dowell street turnoff. This is traffic light controlled, and is already a very difficult junction to negotiate. I have to turn into Dowell Street and turn left to turn up the High Street to leave my surgery. In the summer this can take up to 30 minutes to cover 400 metres. If the proposed new rank is placed outside 141 and 143 High Street, with taxis carrying out "U" turns to get to their rank, the situation can only be made worse.



I would appreciate your thoughts on my points. Although the proposal would be very convenient for my patients, I would oppose the position of the new taxi rank for the above reasons.

Yours sincerely,



David J Douglas-Mort

