

Agenda for Overview Committee

Tuesday, 30 June 2015; 6.00pm



[Members of the Committee](#)

Venue: Council Chamber, Knowle, Sidmouth, EX10 8HL

[View directions](#)

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- 1 Chairman's welcome
- 2 [Public speaking](#)
- 3 Apologies
- 4 [Declarations of interest](#)
- 5 [Matters of urgency](#) – none identified
- 6 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

Matters for Debate

7 **Role of the committee** (pages 3 - 5)

A briefing paper outlining the role of the committee as defined in the Council's constitution.

8 **Street Trading – Designation of streets under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982** (pages 6 - 57)

Report on changing current Street Trading arrangements within East Devon so as to provide for more flexibility whilst allowing the Council to retain its control on the issue of street trading consents.

9 **Overview forward plan** (page 58)

Opportunity for the committee to raise topics for scoping, to determine if and when they should be listed on the forward plan.

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[Decision making and equalities](#)

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Briefing paper for Overview Committee



What is meant by Overview?

Where the Scrutiny committee owns the post decision process, the Overview committee looks prior to decisions, in particular with policy. The constitution sets out the role of the committee as being:

- Principle holder of policy development and review;
- Assist the Council and Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- Conduct research and carry out community and other consultation in the analysis of policy issues and possible options;
- Question members of the Cabinet and/or committees and senior officers about their views on issues and proposals affecting the areas;
- Subject to prior Council approval of an annual work plan, liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

In January of each year this committee will meet with the Scrutiny committee to discuss the draft budget for the coming year.

Other topics may be brought directly from officers in the course of their service delivery, but most importantly the overview process must be Member led. Any issues or topics suggested by the Committee must be fully scoped, so that the Committee can agree what precisely is to be investigated and to determine what outcome the Committee seeks, without pre-empting the final agreed recommendations of the Committee.

A scoping template is set out in this briefing paper – please familiarise yourself with this.

Some topics require a detailed level of work by Members with a keen interest in a topic and/or a clear skill set for undertaking in-depth investigation. The Committee can, after proper scoping, set up a Task and Finish Forum to undertake such work, and call on Members from across the Council to be part of that Forum. I am proposing that the existing Business TaFF, which has been on hold for some time, is resumed under the guidance of this Committee following work by the Committee in familiarising itself with the business demographics of the area.

Questioning is key. As an Overview Committee member – you want to be prepared, so below are some helpful prompts to help you form your questions. Your questioning technique is crucial in order to encourage open answers – avoid interrogation and treat those you are questioning with respect, but don't be afraid to ask supplementary questions of you feel you haven't been given a clear answer.

- IS IT REQUIRED? (do we have this, does it make sense to tackle it, do we really need it).
- IS IT SYSTEMS THINKING? (is it evidence based and designed around the customer demands)
- IS THE INTENTION CLEAR? (what are we actually trying to achieve)

- ANY REAL OUTCOMES? (are we actually, and measurably, achieving things for our customers).
- WHAT IS THE COST? (both time and money)
- DOES IT COMPLY? (have we checked that it meets our obligations, the law, any formal guidance, and any Council policy or resolutions).
- OTHERS DO WHAT? (how do other organisations tackle this, best practice)
- EFFECTIVE AND EFFICIENT? (how do we know we're doing things well, in a timely fashion, and at "best value")
- WHAT IS THE RISK? (any areas of risk for the Council)
- ANYONE LOSE OUT? (are there sections of the community who might be disadvantaged by this approach, or be less able to take advantage, than others)
- DOES IT LINK? (have we linked this to other, similar, pieces of work within or outside the Council)

The Overview Committee makes recommendations to Cabinet – it can only make resolutions on its own affairs, such as the setting of the forward plan or task and finish forums.

Scoping template

Scope of work for overview:

Broad topic area:	
Specific areas to explore within topic area:	
Areas NOT covered by the review:	
Desired outcomes of the review:	
Expected resource impact if outcomes reached:	
Who should be consulted to obtain evidence (e.g. Ward Member, officers, stakeholders)	
What evidence already exists (consultation, good practice examples)	
What experts are needed to help with the review:	
What other resources are needed:	
Undertaken by the Committee or is a TAFF required:	
Timescale including start date:	
Who are the recommendations being reported to:	

Report to: **Overview Committee**

Date of Meeting: 30 June 2015

Public Document: Yes

Exemption: None

Review date for release: None



Agenda item: 8

Subject: **Street Trading – Designation of Streets Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982**

Purpose of report: The report sets out the background to and the request to the Licensing and Enforcement Committee for authority for public consultation to be undertaken on changing the current Street Trading arrangements within East Devon so as to provide for more flexibility whilst allowing the Council to retain its control on the issue of Street Trading Consents.

Recommendation: **That the Committee consider the contents of this report and make recommendations as appropriate regarding the proposed changes to the Council’s existing street trading restrictions including the proposal to:**

- (a) Rescind the Council’s passed resolutions to designate streets as ‘Prohibited Streets’ and**
- (b) To replace all previous resolutions designating ‘Consent Streets’ with a new resolution to designate all ‘streets’ in East Devon as ‘Consent Streets’ as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Meaning all roads, footways, service areas (as defined by section 329 of the Highways Act 1980), beaches or other areas to which the public have access without payment in East Devon would be designated as ‘Consent Streets’ for the purposes of Street Trading.**

The consultation to include publication of a newspaper notice (to conform to Section 2 Local Government (Miscellaneous Provisions) Act 1982) of the proposal to pass a resolution changing the current Street Trading scheme within the District.

Reason for recommendation: To allow public consultation to be undertaken to ascertain the level of support to designate all streets in East Devon as ‘Consent Streets’.

Officer: John Tippin, Licensing Manager, jtippin@eastdevon.gov.uk, 01395 517587

Financial implications: There are initial costs associated with the publication of a newspaper notice of the proposal to pass a resolution to change the current street trading scheme, and officer time involved in carrying out the consultation.

Longer term, if the current street trading arrangements are changed, there will need to be additional resources to administer the scheme.

Legal implications: The legal implications are adequately addressed in the report

Equalities impact: Low Impact

Risk: Medium Risk

In the longer term the increased resource requirements to administer and enforce the street trading powers will not be available to accommodate the public's expectations. There is the possibility of recovering some or all costs through licence fees.

Links to background information:

Appendices:

Appendix 1 - Draft report to the Licensing & Enforcement Committee (26.08.2015) to seek authorisation to consult on a proposal to change the Street Trading controls currently in place for the District

Background Papers:

- [Local Government \(Miscellaneous Provisions\) Act 1982 Sec. 3 & Schedule 4](#)
- Minutes of the Council's Policy Committee dated 6 October 1982
- Minutes of the Council's Public Health Committee dated 13 June 1983
- Minutes of the Council's Public Health Committee dated 27 May 1998
- Council Minutes dated 27 April 1983

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

1 Background

- 1.1 The Licensing and Enforcement Committee is the council committee with responsibility for Street Trading within the District. Under the Constitution it currently has the authority to decide the Council's policy on Street Trading.
- 1.2 The ability to control street trading within the district is an adoptive power and this Council adopted the legislation in 1982. Using these powers to control street trading, the Council has since designated many streets in the District as 'Prohibited' and a small number as 'Consent' streets. The current list of Prohibited and Consent Streets are listed within the draft report to the Licensing and Enforcement Committee at **Appendix 1** to this report. The majority of the listed streets were designated in 1983/84 with further changes being made in 1998. More recently the Sidmouth Esplanade and Promenade and parts of Seaton's Esplanade and Square were re-designated as 'Consent Streets' – they were previously 'Prohibited Streets'.
- 1.3 The effect of the prohibitions means that almost all the centres of the towns in East Devon and esplanades are prohibited so far as street trading is concerned. This means that even if the Council wishes to permit street trading it is prevented from doing so except for those areas designated as 'consent streets'.
- 1.4 We now live in different times and over recent years the number of enquires to street trade has increased as it seems has the public support for these ventures although not in all areas of the district. In particular the advent of Farmers, French and Christmas Markets has shown how popular street trading has become. In 2013 the Licensing Manager was granted approval by the Licensing and Enforcement Committee to consult on a proposal to in effect designate the whole of the district as a 'consent street'. This would still permit the council to control street trading but would give it flexibility to decide if and where and how such trading should take place.

- 1.5 Unfortunately this approval coincided with an announcement by the then coalition government that they intended reviewing the street trading legislation. The proposals were far reaching. In view of the strong possibility of fairly major changes within a few years coupled with concerns over the Council resourcing the administration and enforcement of street trading the consultation was not progressed. However the government's proposed changes were largely shelved and with the change of government there appears to be no further appetite to take this matter further.
- 1.6 Since 2013 pressure for changes to the Council's street trading regime has continued to grow with a number of sites currently in prohibited areas being identified as suitable for street trading including some in areas owned by the District Council. As a result the Licensing Manager was intending to take this matter back to the Licensing and Enforcement Committee on the 24 June 2015 to seek renewed approval to consult on his original proposal to designate the whole of the district as a 'consent street'.
- 1.7 Following the Licensing Manager's meeting on this subject with the Deputy Chief Executive and Strategic Lead – Legal, Licensing and Democratic Services the issue was discussed at a recent Senior Management Team meeting and it was agreed that the Overview Committee should have the opportunity to consider the contents of the Licensing Manager's report and make recommendations as appropriate regarding the proposals. A copy of the report forms part of this document and appears at **Appendix 1**. It is the intention that this report goes to the next Licensing and Enforcement Committee on the 26 August 2015. The reason for this was because it was felt that to allow street trading, such as Farmers, French and Christmas Markets, but in controlled circumstances could well lead to economic benefits for the towns and district as a whole. This said, it is considered appropriate that further consideration is given to the wording of the policy itself so as to ensure that the Council can control all aspects of the street trading. For example, it may well be appropriate to control the direction the stall / pitch faces so as to ensure the most beneficial thoroughfare is created – so stalls facing towards existing shops rather than with their back to them. This would ensure a more attractive vista and ensure that existing premises were able to benefit from increased footfall.
- 1.8 Currently ownership of Street Trading lies with the council's Environmental Health Service. The Licensing services only became involved in 2008 because during the Sidmouth Folk Week each year a number of traders had set up along the Promenade in contravention of the street trading prohibition. This led to a concentration of stalls and pedlars obstructing the Promenade for pedestrians and performers. In 2007 it became particularly bad and prompted a number of complaints to both the Council and the Folk Festival.
- 1.9 In response to these complaints and calls for action the Licensing Service liaised informally with the Folk Week, local Police and Sidmouth Town Council. It promoted the current regime that applies on the Esplanade during Folk Week each year and gained approval for the Sidmouth Esplanade to be re-designated as a 'Consent Street'.
- 1.10 It was always the intention that the Licensing Service would retain responsibility for the Folk Week trading but the responsibility for street trading generally was never transferred to the Licensing Service. However over the last 6 years there seems to have been a defacto transfer of the responsibility to the Licensing Service but without any additional resources.
- 1.11 Looking forward, and should the decision be to progress with amendments to the Street Trading rules, it should be noted that resourcing will need to be considered as part of the process as clearly there could be an impact on the ability to deliver a service for Environmental Health or Licensing. It is anticipated, as set out in the draft report attached, that income should go some way to meet any increased resource requirement.



Report to: Licensing and Enforcement Committee

Date of Meeting: 26 August 2015

Public Document: Yes

Exemption: None

Agenda item: To be completed by Democratic Services.

Subject: **Street Trading – Designation of Streets Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982**

Purpose of report: The report sets out the background to and the request for authority for public consultation to be undertaken on changing the current Street Trading arrangements within East Devon so as to provide for more flexibility whilst allowing the Council to retain its control on the issue of Street Trading Consents.

Recommendation: **That the Committee authorise public consultation on a proposal to:**

- (a) Rescind the Council’s passed resolutions to designate streets as ‘Prohibited Streets’ and**
- (b) To replace all previous resolutions designating ‘Consent Streets’ with a new resolution to designate all ‘streets’ in East Devon as ‘Consent Streets’ as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Meaning all roads, footways, service areas (as defined by section 329 of the Highways Act 1980), beaches or other areas to which the public have access without payment in East Devon would be designated as ‘Consent Streets’ for the purposes of Street Trading.**

The consultation to include publication of a newspaper notice (to conform to Section 2 Local Government (Miscellaneous Provisions) Act 1982) of the proposal to pass a resolution changing the current Street Trading scheme within the District.

Reason for recommendation: To allow public consultation to be undertaken to ascertain the level of support to designate all streets in East Devon as ‘Consent Streets’.

Officer: John Tippin, Licensing Manager, Ext. 2787, jtippin@eastdevon.gov.uk
Initially there is the cost of newspaper public notices of the intension to make changes to the designation of the street trading status in the district – a legislation requirement.

Financial implications: Longer term there is the increased resource requirements to administer and enforce the street trading powers. There is the possibility of recovering some or all costs through licence fees.

Legal implications: To be completed by Legal.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

Appendix A - The District Council's current Street Trading Policy

Appendix B - List of Designated Streets in East Devon on 1 June 2015

Appendix C - Proposed replacement Street Trading Policy

Background Papers:

- Local Government (Miscellaneous Provisions) Act 1982
- Minutes of the Council's Policy Committee dated 6 October 1982
- Minutes of the Council's Public Health Committee dated 13 June 1983
- Minutes of the Council's Public Health Committee dated 27 May 1998
- Council Minutes dated 27 April 1983

Link to Council Plan: Living in, working in, enjoying and funding this outstanding place

Background and consultation

- 1.1 The Licensing and Enforcement Committee is the council committee with responsibility for Street Trading within the District. Street Trading is defined as "the selling or exposing or offering for sale of any article (including any living thing) in a street". "Street" is defined as "including:
- (a) any road, footway, beach or other area to which the public have access without payment; and
 - (b) a service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street".
- It should be noted that the area covered by this legislation can extend to land to which the public have access without payment including for example lay-bys and privately owned car parks used by the public.
- 1.2 The Council adopted section 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, relating to consent and prohibited streets, with effect from 1 December 1982 (decision 06.10.1982). A copy of the Council's current street trading policy adopted in February 2009 can be found at **Appendix A**.
- 1.3 Using these powers to control street trading, the Council has since designated a number of streets in the District as either 'Prohibited' or 'Consent' streets. The current list of Prohibited and Consent Streets are listed at **Appendix B** to this report. The majority of the streets appearing in the appendix were designated in 1983/84 with further changes being made in 1998. More recently the Sidmouth Esplanade and Promenade and parts of Seaton's Esplanade and Square were re-designated as 'Consent Streets' – they were previously 'Prohibited Streets'.
- 1.4 Where the Council has designated a street as 'Prohibited' it means that no trading can be permitted even if the Council considers that permission/consent should be granted. In the case of those streets that are designated as 'Consent Streets' then it is unlawful to trade in those streets unless the Council has granted a 'Consent'. Where a street is neither a 'Prohibited' nor a 'Consent' street trading is uncontrolled.

- 1.5 Due to legal requirements, particularly relating to the notice requirements, the process of changing the designation of a street is time consuming and expensive. For example each time a designation is made or changed there is a requirement to place three different public notices in a newspaper circulating in the district. The whole process would take in excess of two months.
- 1.6 Over recent years the number of enquires to street trade has increased as it seems has the public support for these ventures although not in all areas of the district. In particular the advent of Farmers, French and Christmas Markets has shown how popular street trading has become. Members will note from **Appendix B** that there are a great many streets designated as 'Prohibited'. This means that even if the Council wishes to permit trading on them this cannot be accomplished quickly or easily.
- 1.7 East Devon is unusual in having so many 'Prohibited Streets'. The modern thinking is to greatly reduce the number of 'Prohibited Streets' but retain control of street trading by ensuring that all streets are designated 'Consent Streets'. A number of West Country Councils have developed this approach over the past 5 to 6 years. These include North and South Somerset, South Gloucestershire and Taunton Deane. They all report excellent results.

2 Resources

- 2.1 Currently ownership of Street Trading lies with the council's Environmental Health Service. The Licensing services only became involved in 2008 because during the Sidmouth Folk Week each year a number of traders had set up along the Promenade in contravention of the street trading prohibition. This led to a concentration of stalls and pedlars obstructing the Promenade for pedestrians and performers. In 2007 it became particularly bad and prompted a number of complaints to both the Council and the Folk Festival.
- 2.2 In response to these complaints and calls for action the Licensing Service liaised informally with the Folk Week, local Police and Sidmouth Town Council. It promoted the current regime that applies today on the Esplanade during Folk Week each year and gained approval for the Sidmouth Esplanade to be re-designated as a 'Consent Street'.
- 2.3 It was always the intention that the Licensing Service would retain responsibility for the Folk Week trading but the responsibility for street trading generally was never transferred to the Licensing Service. However over the last 6 years there seems to have been a defacto transfer of the responsibility to the Licensing Service but without the addition of any additional resources.
- 2.4 Street Trading has had a very low priority in the council with no resources made available for administration or enforcement. Whilst the stalls on the Esplanade during Sidmouth Folk Week are very resource demanding the demand is over a very short period and the Licensing Service has been able to cope by drawing staff from their normal work for this short time.
- 2.5 It is difficult to assess what resources will be required to administer and enforce the proposal suggested in this report as there is no way of accessing what the demand for consents will be if the regime was more flexible. However a neighbouring council to East Devon several years ago adopted a similar street trading regime to the one proposed in this report. A recent check with that council revealed that there was an initial large resource implication to bring in the changes. This was partly for enforcement which included two prosecutions. Now that the regime has bedded in less officer time is required and they estimate that now this amounts to 10% to 15% of a full time officer. If this was mirrored in East Devon and based on current salaries the additional cost would equate to approximately £4,533 per year. However because of the demographic of this district's residents, our proximity to the coast generating additional seasonal demands and the heavy

demands for Folk Week it is expected that a larger amount of resources would be necessary, for example 30% to 35% of a full time officer equating to £9,066 to £10,577.

- 2.6 In order to cover the additional resources required during the introduction period a solution could be to employ a suitable member of staff on a short term 12 month contract of around £30,222. Similar solutions have been adopted in the past, for example when the smoking ban was first introduced.
- 2.7 Even if the proposal is not adopted the pressure for street trading in the district is not likely to diminish meaning the resources to enforce the legislation including the large number of prohibited streets will need to increase if the council is to meet the public's expectations to even enforce the current restrictions in the district. In effect the prohibited streets are a milestone.
- 2.8 The legislation permits the council to recover its costs in running the licensing scheme from the fees charged for consents. In the case of the council referred to in paragraph 2.5 that council now has 9 permanent consent pitches and numerous other short term pitches meaning that they should be adequately covering their operating costs. However no licensing regime is permitted to make a profit. Recent case law has reinforced this.
- 2.9 The ability to recover costs could be further enhanced by the council itself organising markets round the district instead of leaving it to adhoc organisers including marketing companies. This would also ensure the markets meet the council's own standards. For example there have been recent complaints about the way the markets held in the Strand at Exmouth is laid out to the detriment of the remainder of the town centre businesses.

3 The Proposal

- 3.1 The intention of this report is to seek the Committees approval to undertake public consultation on the Licensing Manager's recommending:
 - (a) That the Council rescind previous resolutions to designate streets as 'Prohibited Streets' and
 - (b) That all previous resolutions designating 'Consent Streets' be replaced by a completely new resolution to designate all 'streets' as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. This means all roads, footways, service areas (as defined by section 329 of the Highways Act 1980), beaches or other areas to which the public have access without payment in East Devon to be designated as Consent Streets.
- 3.2 If approval is granted full consultation will be undertaken with all town and parish councils within the District. Public comment will also be invited. Before any changes to the street designation can be done the legislation requires a notice to be placed in a local newspaper explaining the Council's intention and inviting residents' comments. If approval to consult is given it is intended that this notice be published.
- 3.3 A consent, unlike a licence is simply a permission to do something which would otherwise be unlawful and so Members can be reassured that the designation does not confer blanket approval for street trading in these streets. The applicant must obtain the express consent of the Council (and any landowner) in each case. A consent fee is payable on grant of the consent and is given subject to appropriate conditions. The legislation allows a 'consent' to be revoked at any time in certain circumstances.
- 3.4 Consents can be issued for various periods of time from a few hours to 12 months. So far the consents issued in the district have ranged from half a day to 8 days for Folk Week. However where someone wishes to establish a more permanent trading opportunity they may seek a consent for longer periods. The fees would be set to cater for any eventuality.

4 The Scheme

4.1 If the proposed changes to the Street Trading regime in the District are approved it is further proposed that before a new Street Trading Consent is granted for a new location/area the Council would carry out a consultation process with various persons and organisations. In particular we would consult:

- The Highways Authority (Devon County Council)
- Devon and Cornwall Constabulary
- East Devon District Council Food/ Health and Safety and Pollution Teams
- The relevant Ward Members
- The appropriate Parish or Town Council
- Where considered relevant local residents and businesses who may be affected by the Consent
- The land owner of the proposed trading site if it is on private land

This process would work well with the current national localism agenda.

4.2 The Street Trading legislation automatically exempts certain activities which include:

- (a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
- (b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by an enactment or order. (This would include Honiton Street Market).
- (c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
- (d) trading as a news vendor – for example the sale, exposure or offer for sale of newspapers or periodicals, except from a stall or receptacle that exceeds the dimensions set out in schedule 4 of the Act.
- (e) trading which:
 - (i) is carried on at premises used as a petrol filling station; or
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used as part of the business of the shop.
- (f) selling things, or offering or exposing them for sale, as a roundsman.
- (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway.
- (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
- (i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.

Note – it has been established in law that mobile ice cream sales normally will not be deemed to be exempt from street trading controls on the grounds that they are not roundsmen.

4.3 As is already included in the Council's current Street Trading policy it would be possible within a new policy to provide for special treatment for certain types of activities. For example the organisers of the Seaton Charity Markets pay a special reduced fee for a block consent and a similar arrangement could be agreed for genuine Farmers Markets and similar. Travelling fairs is another activity where special arrangements would need to be made. These proposed arrangements are set out in the draft Street Trading Policy – **Appendix C**.

- 4.4 Activities that would require consent could include:
- (a) car boot sales (one consent granted to the organiser could cover all traders)
 - (b) markets (unless exempted by virtue of a grant, enactment or order – for example Honiton Market)
 - (c) sales from ‘pitches’ in a car park where the public have access without payment
 - (d) burger vans both on the highway and on private property to which the public have access without payment
- 4.5 The suggested changes would provide additional ability to
- ensure road safety considerations are met;
 - ensure that the district is not adversely affected by large numbers of street traders;
 - help to ensure that businesses/consent holders do not have an unfair advantage over fixed premises businesses.
- 4.7 The changes proposed in this report would permit a far greater amount of flexibility without the delays and high cost that the Council has to bear each time the designation of a street needs to be changed. For example each time a street designation is changed there is a need to publish three separate public notices. In 2008 when the Council changed the designation of the Sidmouth Esplanade the cost of placing the public notices in the Sidmouth Herald was around £500.
- 4.8 Other Councils who have adopted similar schemes report that they have had a positive impact by helping to increase the economic vitality and prosperity of the area. Certainly it would provide a flexibility which currently cannot be accommodated to help future developments whilst maintaining a control of Street Trading.

5 The Next Step

- 5.1 If the Committee resolves to propose the re-designation of streets as proposed in the recommendation a public notice will be placed in a local newspaper inviting residents’ views.
- 5.2 Consultation will also be widely undertaken to include all Town and Parish Councils within the District, the Highways Authority, Devon and Cornwall Constabulary, East Devon District Council Food/Health and Safety and Pollution Teams and Street Scene.
- 5.3 All comments will be collated and the intention is to report back to this Committee at its next meeting. It is anticipated there may need to be some changes to the Council’s existing consent conditions to accommodate different circumstances however the special conditions that currently apply to street consents on the Seaton Esplanade are unlikely to need changing.
- 5.4 Having considered the responses to the public notice and the rest of the consultation if the Committee resolves to confirm their decision to change the Street Trading scheme as recommended a further final advertisement process is required to take place. A notice must be placed in the local press for two consecutive weeks to give notice of the Council’s decision and of the date it comes into force.

EAST DEVON DISTRICT COUNCIL



STREET TRADING IN EAST DEVON

Licensing Service
East Devon District Council
Knowle
SIDMOUTH
EX10 8HL

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Appendix A - Standard Conditions

Appendix B - Measures in respect of applications for Street Trading Consents in Seaton made by registered Charities

1. Legislation

- 1.1 East Devon District Council has under section 3 of the Local Government (Miscellaneous Provisions) Act 1982 adopted Schedule 4 of that Act with regard to Street Trading within the district.

Consent Streets

- 1.2 A Consent Street is a street where street trading is prohibited without the consent of the District Council.

Within the East Devon District the following are designated as consent Streets.

Exmouth

- Bath Road

Honiton

- Northcote Lane (part only – see plan)

Axminster

- Trinity Square

Seaton

Esplanade from Fisherman's Gap to Beach Road
The Square

Sidmouth

- Esplanade & Promenade

Prohibited Streets

- 1.3 A Prohibited Street is a street where street trading is at all times forbidden by law.

Within East Devon District the following streets are currently designated as prohibited streets,

Exmouth

- Albert Place
- Albion Place
- Albion Street
- Alexandra Terrace
- Alston Terrace
- Ann Street (this is probably now under London Hotel car park)
- Beacon Place
- The Beacon
- Bickton Place
- Bickton Street – from its junction with Rolle Street to its junction with South Street.
- Carlton Hill
- Chapel Hill
- Chapel Street
- Charles Street
- Church Road
- Church Street
- Churchill Road

Street Trading in East Devon

- ❑ Clarence Road
- ❑ Clinton Square
- ❑ Cranford Avenue – from its junction with Littleham Rd, to its junction with Barnfield Ave.
- ❑ Crudge's Lane
- ❑ Dagmar Road
- ❑ Dinan Way
- ❑ Elm Grove
- ❑ Esplanade and Queens Drive – from its junction with Victoria Rd to Orcombe Point.
- ❑ Exeter Road – from its junction with the Parade to its junction with Lyndhurst Road
- ❑ Fore Street – from its junction with King Street to its junction with Church Street.
- ❑ George Street
- ❑ Henrietta Road
- ❑ High Street
- ❑ Imperial Road
- ❑ King Street
- ❑ Littleham Road – from its junction with Salterton Road to the Broadway
- ❑ Louisa Place
- ❑ Louisa Terrace
- ❑ Little Bicton Place
- ❑ Lower Fore Street
- ❑ Maer Road – from its junction with Queen's Drive to its junction with Douglas Avenue
- ❑ Manchester Road
- ❑ Manchester Street
- ❑ Margaret Street
- ❑ Magnolia Centre
- ❑ Marine Way
- ❑ Market Street
- ❑ Meadow Street
- ❑ Meeting Street
- ❑ Morton Crescent
- ❑ Morton Road
- ❑ New North road
- ❑ New Street
- ❑ North Street
- ❑ Palace Cottages
- ❑ Parade, The
- ❑ Pound Street
- ❑ Prince of Wales Drive
- ❑ Queen's Drive
- ❑ Queen Street
- ❑ Rolle Road
- ❑ Rolle Street
- ❑ Rolle Villas
- ❑ Sheppards Row
- ❑ St Andrew's Road
- ❑ South Street
- ❑ Staples Mews (formerly Buildings)
- ❑ Strand, The

Street Trading in East Devon

- ❑ Tower Street
- ❑ Union Street
- ❑ Victoria Road
- ❑ Windsor Square

Honiton

- ❑ George Street
- ❑ King Street
- ❑ New Street
- ❑ Northcote Lane (part of – see plan))
- ❑ Queen Street
- ❑ School Lane
- ❑ Silver Street

Seaton

- ❑ Beer Road, - extending from Queen Street to Westcliff Terrace.
- ❑ Castle Hill
- ❑ Colyford Road, - as far as the cemetery
- ❑ Court Lane
- ❑ Cross Street
- ❑ Esplanade (except for that part of the Esplanade from Fisherman's Gap to Beach Road)
- ❑ Eyrecourt Road
- ❑ Fore Street, - extending from Marine Place to its junction with Court Lane
- ❑ Harbour Road
- ❑ Harbour Road Car Park
- ❑ Harepath Road, - extending from Queen Street to its junction with Homer Lane and including the triangle of grass contained within Harepath Road, Homer Lane and Barnards Hill Lane.
- ❑ Harepath Road as far as Harepath Hill
- ❑ Highwell Road
- ❑ Manor Road
- ❑ Marine Crescent
- ❑ Marine Place
- ❑ Meadow Road
- ❑ Orchard Car Park
- ❑ Queen Street
- ❑ Seafeld Road
- ❑ Seahill
- ❑ Seaton Town Hall – Marsh Road Car Park
- ❑ Seaton Town Hall Reserved Car Park
- ❑ Seaton Down Road - extending from Harepath Road to Cherry Drive.
- ❑ Stock Lane
- ❑ The Burrow
- ❑ The Underfleet, - together with the roundabout which forms the junction with Underfleet Way and all its surrounding highway (up to and including its junction with Harbour Road Car Park).
- ❑ Trevelyan Road
- ❑ Underfleet Way
- ❑ Unnamed Road - extending from CRS (Pioneer) Supermarket to Seaton Town Hall Reserved Car Park
- ❑ York Road

Sidmouth

- ❑ All Saints Road
- ❑ Bedford Square and including the un-named street leading from Bedford Square to the Esplanade
- ❑ Blackmore View
- ❑ Chapel Road
- ❑ Chapel Street
- ❑ Church Street
- ❑ Coburg Road - between Coburg Terrace and Church Street
- ❑ Dove Lane - and the lane between Dove Lane & New Street
- ❑ Fore Street
- ❑ Fortfield Place
- ❑ Fortfield Terrace
- ❑ Glen Road, - south of Manor Road
- ❑ Ham Lane and East Street - from the Esplanade to Fore Street
- ❑ Ham Playing Field
- ❑ High Street
- ❑ King Street
- ❑ Manor Road
- ❑ Market Place
- ❑ Mill Street, - west of its junction with Russell Street
- ❑ Millford Road, - north of the ford
- ❑ New Street
- ❑ Old Fore Street
- ❑ Peak Hill Road – east from its junction with Cotmaton Road.
- ❑ Prospect Place
- ❑ Radway, - south of the Post Office
- ❑ Salcombe Road
- ❑ Sid Road, - south of Redwood Road
- ❑ Station Road - between Knowle Drive and The Esplanade
- ❑ Streets adjoining the Three Cornered Plot (Known as The Triangle)
- ❑ The Beach – from the mouth of the River Sid westwards to a point opposite Clifton Cottage.
- ❑ The un-named street between Elizabeth Hotel and Marlborough Hotel (now Dukes)
- ❑ Vicarage Road, - south of Connaught Road
- ❑ York Street

Definitions

- 1.4 **Consent Street** – means a street in which street trading is prohibited without the consent of the District Council.

News Vendor – means a person trading where, the only articles sold or exposed or offered for sale are newspapers or periodicals and provided that they are not sold from a stall or similar structure or, if they are, that the structure stands on the carriageway of a street and its dimensions do not exceed one metre in length or width, two metres in height and it does not occupy a ground area of more than 0.25 square metres.

Prohibited Street – means a street in which trading is prohibited

Street – includes any road, footway, beach or other area to which the public have access without payment, and a service area as defined in section 39 of the Highways Act 1980.

Street Trading – means the selling or exposing or offering for sale of any article (including a living thing) in a street but does not include:

- a) trading as a pedlar under the authority of a ‘Pedlars Certificate’
- b) anything done at a market or fair which have a right to be held.
- c) trading as a news vendor
- d) trading at a petrol filling station or shop.
- e) selling things, or offering or exposing them for sale as a roundsman.
- f) trading in a street adjoining a shop provided it is part of the business of the shop.

Relevant Offences

1.5 The Local Government (Miscellaneous Provisions) Act 1982 provides as follows:

Schedule 4, paragraph 10

A person who -

- a) engages in street trading in a prohibited street; or
- b) engages in street trading in a consent street without being authorised to do so under this Schedule: or
- c) contravenes any of the principal terms of a street trading licence; or
- d) being authorised by a street trading consent to trade in a consent street, trades in that street:
 - i) from a stationary van, cart, barrow or other vehicle; or
 - ii) from a portable stall, without first having been granted permission to do so under paragraph 7 (8) (of this schedule); or
- e) contravenes a condition imposed under paragraph 7 (9) (of this Schedule), shall be guilty of an offence.

1.6 It shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

1.7 Any person who, in connection with an application for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.

1.8 A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding **level 3** on the standard scale.

2. Policy

2.1 All applications will be considered individually on their merits.

2.2 Pitches will be allocated on a first come first served basis.

2.3 All street trading consents will be limited to daily trading hours between 8.00 am and 10.00 pm.

2.4 On the occasions that consents are issued to commence before 10.15 am then if the consent holder has not occupied the pitch for which they hold a valid consent by 11.45 am on any day when trading is permitted the Council may re-let the pitch for the remainder of the trading hours of that day.

2.5 Applications will be encouraged provided they are for goods to be sold from a stall, cart, barrow or other non-motorised vehicle that is in sympathy with the surroundings, adds colour and character to the locality and complies with all relevant legislation.

Street Trading in East Devon

- 2.6 The siting and operation of any stall, barrow etc. operated by a Consent Holder or people employed by them shall be such that it does not cause any problems of highway safety, obstruction to users of the highway, or conflict with the requirement of emergency vehicles.
- 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.
- 2.8 The use for which the pitch is put shall not be likely to cause problems of noise, smell or litter, or be inappropriate to the character of the event with which the permit is connected.
- 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.
- 2.10 The Council will not permit trading unless, where necessary, a road closure order has been obtained by the event organiser or individual applicant.
- 2.11 Standard conditions will be imposed unless circumstances dictate otherwise. Additional conditions may be imposed at the discretion of the District Council.
- 2.12 Where the imposition of conditions is not adequate to control potential problems, applications will be refused.
- 2.13 Refusal or withdrawal of street trading consents will be normal in the following circumstances:
- a) That there are not enough pitches available in the street for the applicant to engage in the trading in which she/he desires without causing undue interference or inconvenience to persons using the street.
 - b) That there are already enough Consent Holders or people employed by them trading in the street from shops or otherwise, in the goods in which the applicant desires to trade.
 - c) An applicant or operator of the stall is under the age of 18 years.
 - d) That a Consent Holder or people employed by them have failed to comply with the conditions attached to the Consent.
 - e) That the street trading may damage the structure or surface of the street.
 - f) When adverse comments are received from the consultees.
- 2.14 The Council may at any time revoke a consent or vary the conditions of an existing consent where there are reasonable grounds for so doing.
- 2.15 Double pitches will only be issued in exceptional circumstances where demand for consents does not exceed the number of pitches available.
- 2.16 The measures set out in Appendix B shall apply to the procedure, policy and guidance in respect of any application for a Street Trading Consent in Seaton made by a Registered Charity.

Fees

- 2.16 The fees for individual pitches will be charged at a daily rate of £25 or the current fee then in force.
- 2.17 Pitches may be booked for a single day or for the duration of an event.

3. General Guidance

- 3.1 For General Guidance on Street Trading in East Devon please contact the Licensing Section in the first instance. The Licensing Section can be contacted on 01395 517410 or by email at licensing@eastdevon.gov.uk

4. Application Process

- 4.1 Only fully completed applications will be considered.
- 4.2 Applications will be considered and consent to trade from pitches will be issued on a first-come first-served basis.
- 4.3 Correctly completed applications consist of:
- a) Completed application form, giving full details of the stall, goods to be sold etc.
 - b) A photograph of the stall/vehicle/barrow to be used.
 - c) Application fee (you are advised to contact the Licensing Service to ascertain the current fee applicable).
 - d) Proof of Public Liability Insurance (minimum of £2m) being in place.
- 4.4 Completed applications should be forwarded to the Licensing Manager, Licensing Service, East Devon District Council, Knowle, SIDMOUTH, EX10 8HL.

Consultation

- 4.5 Details of all applications for street trading consent may be circulated to the following bodies and comments may be invited.
- the Police
 - Trading Standards
 - the Highway Authority
 - the Council's Environmental Health Service
 - Local residents and businesses who may be affected by your application may also be consulted before any Street Trading Consent may be granted

Revocation

- 4.6 The Council may revoke a Street Trading Consent after it has been granted. This may be for a variety of reasons. For example: non-compliance with the conditions, non-payment of the fee or because other agencies, for example, the highways department require access to the trading location.
- 4.7 Should the Council revoke a Street Trading Consent the Council shall not in any circumstances whatsoever be liable to pay any compensation to the Consent Holder or people employed by them in respect of such revocation.
- 4.8 If an application is refused or a Street Trading Consent revoked there is no statutory right of appeal against the Council's decision other than seeking the High Court's permission for judicial review.

5. Conditions

- 5.1 The Local Government (Miscellaneous Provisions) Act 1982 provides for Local Authorities when granting a street trading consent to “attach such conditions to it as they consider reasonably necessary”. Conditions may also be imposed which limit the location of trading and the hours of trade.
- 5.2 A list of standard conditions that the Council may seek to impose upon any street trading consent issued is included at **Appendix A**.
- 5.3 The Act also provides for Local Authorities at any time to:
 - a) vary the conditions of a street trading consent; or
 - b) revoke the street trading consent.

6. Inspections

- 6.1 An authorised officer of the council may inspect any stall, van, barrow, cart or other non-motorised vehicle from which it is intended to trade.

Standard conditions that the Council may seek to impose upon any street trading consents

1. The Consent Holder or people employed by them must produce this Street Trading Consent on demand when so required by a duly authorised officer of East Devon District Council a Police Officer or a Police Community Support Officer.
2. The Consent Holder or people employed by them must return this Consent to East Devon District Council immediately on revocation or surrender of this Consent.
3. The Consent Holder or people employed by them must trade strictly in accordance with this Consent.
4. The Consent Holder or people employed by them must notify the Licensing Manager, Knowle, Sidmouth, EX10 8HL immediately of any convictions or proceedings arising out of the use or enjoyment by the Consent Holder or people employed by them of this Consent.
5. The Consent Holder or people employed by them must not cause any obstruction of the street or danger to people using it and must not permit people to gather around them or any cart, barrow, other vehicle or stall included in this Consent so as to cause a nuisance or annoyance or danger to any people lawfully using the street.
6. The Consent Holder or people employed by them must not use or suffer or permit any music playing, music re-production or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent.
7. The Consent Holder or people employed by them must not place on the street or affix to any equipment placed on the street any advertising material of any description whatsoever except with the previous consent in writing of the Licensing Manager.
8. The Consent Holder or people employed by them must not make any excavations or indentations of any description whatsoever in the surface of the street or place or fix any equipment of any description in the said surface.
9. The Consent Holder or people employed by them shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any premises within the locality or to members of the public.
10. The Consent Holder or people employed by them must keep their trading position and the adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
11. The Consent Holder or people employed by them must at all times whilst trading provide at their own cost and expense suitable receptacles for the deposit of refuse and remove them and their contents from the site at the end of each day's trading. Any litter or food waste originating from the business and deposited on the highway by customers shall be collected by the Consent Holder or people employed by them.
12. Any stall, or authorised vehicle used for street trading must be immediately removable at all times in the event of an emergency or at any other time be removed at the request of any officers of the emergency services or officer of the Council.

Street Trading in East Devon

13. All stalls must be removed within 30 minutes of the expiry of the trading (consent) hours for the day.
14. The Consent Holder or people employed by them are not permitted to hold any Auction Sale.
15. The Consent Holder or people employed by them or his employees are expressly forbidden to sell, display or wear any article which is or is intended to be offensive either in writing or pictures.
16. The Consent Holder or people employed by them shall not trade in or issue any glass items or vessels.
17. The Consent Holder or people employed by them must comply with all reasonable requirements of the Licensing Manager, or any other authorised officer of the Council, a Police Officer or a Police Community Support Officer.

APPENDIX B

Applications for Street Trading Consents in Seaton made by Registered Charities

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

1. The fee will be £25.
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.

Changes to Policy, Guidance & Conditions

Policy

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

APPENDIX B

List of Designated Streets in East Devon at the 1 June 2015

Within the East Devon District the following are designated as Consent Streets

Exmouth

- Bath Road

Honiton

- Northcote Lane (part only – see plan)

Axminster

- Trinity Square

Seaton

Esplanade from Fisherman's Gap to Beach Road
The Square

Sidmouth

- Esplanade & Promenade

Within the East Devon District the following are designated as Prohibited Streets

A **Prohibited Street** is a street where street trading is at all times forbidden by law.

Within East Devon District the following streets are currently designated as prohibited streets,

Exmouth

- Albert Place
- Albion Place
- Albion Street
- Alexandra Terrace
- Alston Terrace
- Ann Street (this is probably now under London Hotel car park)
- Beacon Place
- The Beacon
- Bicton Place
- Bicton Street – from its junction with Rolle Street to its junction with South Street
- Carlton Hill
- Chapel Hill
- Chapel Street

Exmouth Continued

- ❑ Charles Street
- ❑ Church Road
- ❑ Church Street
- ❑ Churchill Road
- ❑ Clarence Road
- ❑ Clinton Square
- ❑ Cranford Avenue – from its junction with Littleham Rd, to its junction with Barnfield Ave.
- ❑ Crudge's Lane
- ❑ Dagmar Road
- ❑ Dinan Way
- ❑ Elm Grove
- ❑ Esplanade and Queens Drive – from its junction with Victoria Rd to Orcombe Point.
- ❑ Exeter Road – from its junction with the Parade to its junction with Lyndhurst Road
- ❑ Fore Street – from its junction with King Street to its junction with Church Street.
- ❑ George Street
- ❑ Henrietta Road
- ❑ High Street
- ❑ Imperial Road
- ❑ King Street
- ❑ Littleham Road – from its junction with Salterton Road to the Broadway
- ❑ Louisa Place
- ❑ Louisa Terrace
- ❑ Little Bicton Place
- ❑ Lower Fore Street
- ❑ Maer Road – from its junction with Queen's Drive to its junction with Douglas Avenue.
- ❑ Manchester Road
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- ❑ Margaret Street
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- ❑ Palace Cottages
- ❑ Parade, The
- ❑ Pound Street
- ❑ Prince of Wales Drive
- ❑ Queen's Drive
- ❑ Queen Street
- ❑ Rolle Road

Exmouth Continued

- ❑ Rolle Street
- ❑ Rolle Villas
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- ❑ Staples Mews (formerly Buildings)
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- ❑ New Street
- ❑ Northcote Lane (part of – see plan))
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Seaton

- ❑ Beer Road, - extending from Queen Street to Westcliff Terrace.
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Sidmouth

- ❑ All Saints Road
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- ❑ Radway, - south of the Post Office
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- ❑ Vicarage Road, - south of Connaught Road
- ❑ York Street
- ❑ Vicarage Road, - south of Connaught Road

**EAST DEVON DISTRICT
COUNCIL**



Street Trading Consents

Policy and Application Guidance

Licensing Service
East Devon District Council
Knowle
SIDMOUTH
EX10 8HL

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Section 1 General Principles

1. East Devon District Council (the Council) street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice, and seeks to enhance the character, and ambience of local environments.
2. These guidelines have been developed to assist persons applying for Street Trading Consents in East Devon. They were agreed by the Licensing and Enforcement Committee on the (date to be entered) and set out the standards for determining applications and the enforcement of street trading activities in the East Devon area.
3. East Devon has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. The Council has further designated all of its administrative area as Consent Streets for street trading purposes.
4. The purpose of the Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) is to ensure that Councils can properly regulate those who sell without the use of ordinary business premises and, particularly, traders who move from place to place. It is concerned, primarily, with commercial activities, excluding the provision of services, but there are grey areas and each case needs to be considered on its facts.
5. East Devon Council will apply these guidelines to street trading activities in its area to ensure consistency of decision making. However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.
6. The requirement to obtain a Consent for any street trading is wide-ranging and would include, for example, all hot and cold food vendors selling burgers, kebabs, doughnuts, ice cream etc., and all vendors of non-food products from any vehicle, stall, barrow, trailer, or any other moveable or static structure. Mobile artists who sketch or paint, or similar artisans who sell their own work are also likely to be caught by the Act.
7. Advice should be sought from the Licensing Service on the proposed activity/location to see if a Consent is required before starting to trade – see Section 3 for contact details.

1.1 Definitions of terms used in these Guidelines

8. Within the terms of the East Devon District Council's Street Trading Consent Scheme the following definitions apply:

The Council	Means the East Devon District Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street. From this definition, any person offering purely a service e.g. a shoeshine (where there are no tangible goods such as a picture or sketch) will not be caught by the street trading legislation.
Street	Includes: (a) Any road, footway, beach or other area to which the public have access without payment. (b) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	Means a street in which street trading is prohibited without the consent of East Devon District Council.
Consent	Means a consent to trade on a street by East Devon District Council.

Consent Holder	Means the person or company to whom the consent to trade on a street has been granted by East Devon District Council.
Authorised Officer	Means an officer employed by East Devon District Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

1.2 Exempted Street Trading Activities

9. Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that the activities listed below are not 'street trading' and, therefore, prior consent of the Council is not required:
- (a) trading by a person acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871.
 - (b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by an enactment or order.
 - (c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980.
 - (d) trading as a news vendor i.e. the sale, exposure or offer for sale of newspapers or periodicals, except from a stall or receptacle that exceeds the dimensions set out in schedule 4 of the Act.
 - (e) trading which:
 - (i) is carried on at premises used as a petrol filling station; or
 - (ii) is carried on at premises used as a shop or in a street adjoining premises so used as part of the business of the shop.
 - (f) selling things, or offering or exposing them for sale, as a roundsman.
 - (g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway.
 - (h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980.
 - (i) the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916.
10. With regard to point (f) above it has been established in law that mobile ice cream sales normally will not be deemed to be exempt from street trading controls on the grounds that they are not roundsmen.

1.3 Street Trading Consents for which fees are not payable

11. The Council may remit the payment or part of the payment of fees for the following street trading activities:
- (a) Fetes or community events held for charitable purposes (None of the trading must involve private gain for an individual or company).
 - (b) Non-Commercial Car Boot Sales (i.e. events organised by organisations that will not involve private gain for an individual or company).
 - (c) Sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it providing this is not a commercial concern. For example selling home grown fruit and vegetables, homemade jams etc. Such sales are seen as disposal of surplus domestic produce rather than trading.
 - (d) Trading Concessions granted by the council on their land (a Street Trading Consent will still be required).

(e) farmers markets (producer-managed marketplace for local producers to sell their own produce direct to local people)

1.4 Farmers Markets

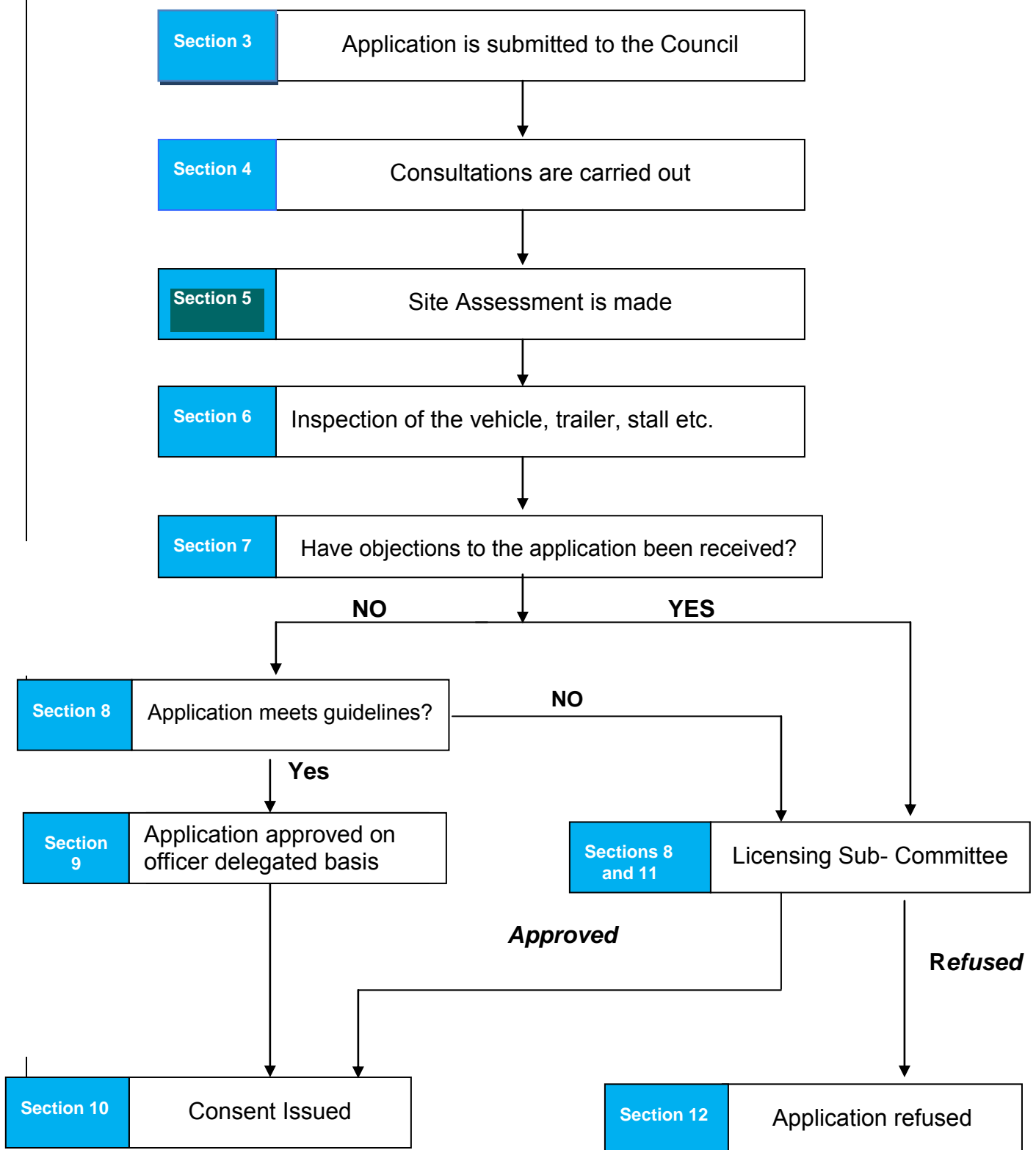
12. Farmers Markets (producer-managed marketplace for local producers to sell their own produce direct to local people) will be subject to the street trading scheme but at a reduced fee.

1.5 Mobile Trading

13. In the case of itinerant street trading (for example an ice-cream van or fish & chip van), where due to the nature of the business there is a genuine need to ply trade in many locations, a general consent will be issued.

Section 2 Procedure for determining Street Trading Consent Applications

14. The application and approval procedure comprises of the following stages. The descriptions on the side of the boxes refer to the explanatory notes in the subsequent sections of this guide:



Section 3 Submission of the Application

15. An application for a Street Trading Consent must be made to East Devon District Council in writing or online. The application form is included in these guidance notes at page 18. If you need any help in completing the application form please contact the Council's Licensing Team on 01395 517410/517411.
16. You will need to submit the following documents and fees with the application:
 - (a) A completed and signed Street Trading application.
 - (b) A deposit of 25% of the full fee for an annual Consent. Fees for all other periods will require submission of the full fee with the application.
 - (c) 3 copies of a map of the trading site to a minimum of 1:1250 scale. The map should clearly identify the proposed site position by marking the site boundary with a red line. A map is not required for established events – for example applications for Sidmouth Folk Week consents for the Esplanade. If in doubt please check with the Licensing Service.
 - (d) Colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity.
 - (e) An original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5,000,000.
 - (f) Written permission from the owner of the land where the street trading is to be carried out on land which is not a public highway. Permissions given by leaseholders to use land for street trading purposes will only be accepted where the terms of the lease permits the type of street trading activity being applied for.
17. An application for a Street Trading Consent will not be entertained where permission of the landowner for the proposed trading site to carry out street trading has not been provided, for whatever reason.
18. Applications may be made in person to the Licensing Team at the East Devon District Council Offices, Knowle, Sidmouth, EX10 8HL during normal office hours however callers are advised to make a prior appointment by phoning 01395 517411 or emailing licensing@eastdevon.gov.uk to ensure an officer will be available. Alternatively you can apply online through the Council's website.
19. Applications will be considered from organisers of Farmers Markets, Commercial Car Boot Sales, Fetes and similar Community Events on the basis of one block consent for each market or event held. The market or event organiser in receipt of a block consent will become responsible for all the individual trading activities, including the collection and payment of the relevant fees to the Council, where appropriate. A separate Consent will be required for each market, car boot sale or event held.
20. An applicant for the first time grant of an annual Street Trading Consent **should give a minimum of 60 days notice to the Council.**
21. Further information about making an application can be obtained by contacting the Licensing Team as follows:

Telephone	01395 517410/517411
Fax	01395 517507
E-mail	licensing@eastdevon.gov.uk

Section 4 Consultations on applications made

22. Before a new pitch is authorised by the Council for the purposes of street trading (non Market) we will, where reasonably practicable, seek comment from:
- The Highways Authority (Devon County Council)
 - Devon and Cornwall Constabulary
 - East Devon District Council Food/ Health and Safety and Pollution Teams
 - The relevant Ward Members
 - The appropriate Parish or Town Council
 - The land owner of the proposed street trading site if it is on private land
23. Where practicable, fourteen days will be given for representations to be received. If no representations are received, the application will be dealt with by the Licensing Manager under delegated authority and granted in the terms applied for, and standard conditions will be considered and may be attached to the consent unless he considers it should be referred to the next available Licensing Sub Committee.
24. All relevant representations relating to the grant of a consent will be referred to a Licensing & Enforcement Sub Committee for consideration as part of the determination.
25. Subsequent renewal of consents to street trade submitted on the same terms as previously granted and for the same site, where there have been no relevant objections to the trading, will be dealt with by the Licensing Manager under delegated authority.
26. No consultation will usually be done on applications for established events or sites – for example applications for Sidmouth Folk Week consents on the Esplanade, the regular applications from registered local charities for consents on the Seaton Esplanade or sites which become established as consent sites in the future.
27. There is no right of appeal to the Magistrates' Court against refusal to issue a consent, however, where an application is refused, payment of the application fee shall be refunded.

Section 5 Site Safety Assessment

28. Street Trading Consents from static locations will **not** be granted where:
1. A significant effect on road safety would arise either from the sitting of the trading activity itself, or from customers visiting or leaving the site, or
 2. Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
 3. There is a conflict with Traffic Orders such as waiting restrictions, or
 4. The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
 5. The trading unit obstructs the safe passage of users of the footway or carriageway, or
 6. The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
 7. The site does not allow the Consent Holder, staff and customers to park in a safe manner, or

8. The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

Section 6 Nature of Trade and Trading Hours

29. The nature of goods which may be sold from any pitch will be specified in the consultation process. No substantial change to the products sold will be permitted without referral back to the Licensing Manager.
30. The Council would not normally grant a new consent for the sale of goods or services which conflict with those provided by nearby traders.
31. Consent holders or their employees are not permitted to sell the New Psychoactive Substances.
32. All street trading consents will normally be limited to daily trading hours between 8.00 am and 10.00 pm. However in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis.
33. On the occasions that consents are issued to commence before 10.15 am then if the consent holder has not occupied the pitch for which they hold a valid consent by 11.45 am on any day when trading is permitted the Council may re-let the pitch for the remainder of the trading hours of that day.
34. The design and appearance of the stall, barrow, van or cart etc. to be used must be agreed by the Council.

Section 7 Inspection of the Street Trading Unit

35. The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council, prior to the issue of any Street Trading permissions. The unit to be used for the street trading activity shall comply in all respects to the legal requirements relating to type of street trading activity proposed. In particular the proposed business shall comply with the following legislation:
- Food Hygiene(England) Regulations 2006
 - The General Food Regulations 2004
 - Regulation 852/2004 on hygiene of foodstuffs
 - Food Safety Act 1990.
 - Health and Safety at Work etc. Act 1974 and any Regulations made under this Act.
 - Environmental Protection Act 1990.

Further advice on any of the above requirements can be obtained from the council's Environmental Health Service on: 01395 517467

Section 8 Objections to the application

36. The application will be referred to a Sub-Committee of the Council's Licensing and Enforcement Committee for determination if relevant objections are received against the granting of a Street Trading Consent from any of the following:
1. Occupiers of property within the immediate vicinity of the proposed site.

2. East Devon District Council Ward Members (who can object as an individual or on behalf of constituents).
 3. Parish or Town Councils.
 4. Police, Fire or Highway Authorities.
 5. East Devon District Council Food/ Health and Safety or Pollution Teams.
 6. The land owner of the site proposed to be used for street trading.
37. Before such a referral is made officers will assess the objections on the following criteria:
1. Potential, or actual, nuisance to a property occupier from noise, fumes or smells.
 2. Whether any road safety issues have been identified.
 3. Compliance with food and health and safety legislation.
 4. Concern of public order problems resulting from the proposed street trading activity.
 5. Whether there are any fire safety issues present.
 6. Whether the objection is relevant, vexatious or repetitive.
38. If a written objection from the person or organisations listed above is received and deemed appropriate, the application will be referred to the next available meeting of the Licensing Sub-Committee for consideration and determination. The applicant will be informed in writing of the referral of the application to the Licensing Sub-Committee and notified of the date when the application will be considered.
39. Persons making written objections will also be informed of a decision to refer an application to the Licensing Sub-Committee and notified of the date of the hearing of the application.
40. The appropriate Ward Members for the proposed street trading site will be informed of a referral of an application to the Licensing Sub-Committee for consideration.
41. Unless special circumstances apply Licensing Sub Committee meetings are open to the public. Applicants and objectors or their representatives will be permitted to address the Sub Committee.

Section 9 Determination of the Application

42. The Licensing Sub-Committee and officers on a delegated basis will use the criteria listed below in the determination of Street Trading Consents. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case though will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration.

9.1 Site Safety

43. The location of the proposed street trading activity should not present additional risks to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 5 on site safety assessment criteria and observations made by the Highways Authority.

9.2 Public Order

44. The street trading activity should not present a risk to public order in the locality in which it is situated. Observations from the Devon and Cornwall Constabulary will be taken into consideration under this heading.

9.3 Avoidance of Nuisance

45. The street trading activity should not present a substantial risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council's Environmental Protection Team shall be taken into consideration under this heading.

9.4 Conflict with other like trading outlets and school premises

46. The presence of other like trading outlets and proximity of schools shall be taken into consideration as follows:
1. The presence of like trading outlets already existing in the immediate locality of the proposed street trading site.
 2. Fast food vendors will not normally be permitted to trade within 500m of a school.
 3. On lay-bys and trading estates there shall be no other street trading consents granted within 500 metres of an existing Consent.

9.5 Compliance with legal requirements

47. The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Observations made on the compliance with the requirements of Food Safety and Hygiene, Health and Safety, Environmental Protection and fire safety legislation shall be taken into consideration.

9.6 Observations from members of the public or representative organisations

48. In relation to points 9.1 – 9.4 above consideration will also be given to written observations from other persons or organisations. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made under the criteria set out in this section.

9.7 Permitted Trading Hours

49. All street trading consents will normally be limited to daily trading hours between 8.00 am and 10.00 pm. However in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis. Any trading between 2300 – 0500 hours must be subject to a separate application under the Licensing Act 2003 where hot food is proposed to be sold.
50. The Council retains the right to specify permitted hours of trading that are less than those applied for if local circumstances require it.

9.8 Compatibility of the proposed street trading operation

51. The proposed trading operation should complement the trading area in which it is situated. In assessing this criterion consideration should be given to the type and nature of locality, the type of street trading that will be carried out and the visual appearance of the trading operation being proposed.

9.9 Other Criteria

52. Pitches will be allocated on a first come first served basis
53. Where the imposition of conditions is not adequate to control potential problems, applications will normally be refused.

54. Refusal or withdrawal of street trading consents will be normal in the following circumstances:
- a) That there are not enough pitches available in the street for the applicant to engage in the trading in which she/he desires without causing undue interference or inconvenience to persons using the street.
 - b) That there are already enough Consent Holders or people employed by them trading in the street from shops or otherwise, in the goods in which the applicant desires to trade.
 - d) That a Consent Holder or people employed by them have failed to comply with the conditions attached to the Consent.
 - e) That the street trading may damage the structure or surface of the street.
 - f) When adverse comments are received from the consultees.

9.10 Officer decisions on applications made

55. If a relevant objection is made against an application for a Street Trading Consent, the applicant will be offered a meeting to discuss the reasons for a potential refusal of the application. At the meeting the applicant will be informed of the criteria from these Guidelines which are considered to have not been met. The applicant will be given an opportunity to discuss any relevant matters in relation to the application that has been made. If after the meeting the applicant wishes to continue with the application, the application will be referred to the Licensing Sub-Committee for determination.
56. If an applicant refuses an offer of attending a meeting with officers, or fails to attend, a letter will be sent to the applicant confirming the referral of the application to the Licensing Sub-Committee for determination.

Section 10 Approval of Applications

57. The Council's Licensing Sub-Committee or officers on a delegated basis (where no representations have been made against the application) may approve applications meeting the criteria contained within these guidelines.
58. On approving the application the Council will issue a Street Trading Consent to which conditions will be attached. The Consent will also contain specific terms such as days and hours when street trading is permitted, and goods that may be sold. A copy of the Council's standard conditions, which is attached to Street Trading Consents, is shown at page 20 to 22. Additional conditions may be attached to the Standard Conditions if special circumstances apply to the Consent being granted by the Council.
59. The conditions attached to the Consent form part of the approval to carry out street trading in East Devon. They MUST be complied with at all times and failure to do so could lead to the Consent being either revoked, or not renewed. Consent Holders are therefore requested to familiarise themselves with the terms and conditions attached to the Street Trading permission and comply with the requirements at all times.

Section 11 Issue of Street Trading Consents

60. Street Trading Consents will be issued for a maximum period of 12 months. Annual Consents issued will be renewable on the 1 April of any particular year. Shorter term Consents may be issued on a daily or weekly basis. These particular Consents will expire, unless renewed by the expiry date.

61. In all cases when a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. In such cases the application will be required to go through the full consideration process outlined in these guidelines.
62. Fees for Annual Consents may be paid either in full in advance or on a three monthly basis via direct debit with the fees being due on the following dates:
- 1 April
 - 1 July
 - 1 October
 - 1 January
63. Failure to maintain payments of the fee on a three monthly basis will be a breach of the conditions attached to the Consent. If fees paid on an instalment basis are not made to the Council, the Consent issued by the Council will be considered for revocation. It is essential that traders electing to pay on an instalment basis ensure that such payments are made on the due dates. These payments must be made by direct debit. Please ask for information if you wish to pay by this method.
64. Cheques should be made payable to "East Devon District Council". Payment can also be made by card by telephoning the Licensing Service on 01395 517410/517411.
65. Please note, if a cheque is dishonoured by a bank this may result in revocation of the Street Trading Consent unless payment of the outstanding fees is made in cash within 5 working days. In such cases an administration charge may also be imposed on the Consent Holder.
66. The Council offices are open to members of the public between the hours of 8.30 am and 5.00 pm Monday to Fridays. It is advisable to contact the Licensing Team on 01395 517411/517410 prior to visiting the council offices in order that a member of staff will be available to see you. It will also allow us to prepare in advance any documentation that you might need.

Section 12 Consideration of applications by the Licensing Sub - Committee

67. The Council's Licensing Sub-Committees are established to consider applications in relation to licensing matters. The Sub Committee consists of elected members drawn from the East Devon District Council Licensing and Enforcement Committee who have received specific training in licensing issues. The Committee and Sub Committees are supported by a clerk and a solicitor and meet on a regular basis. Committee and Sub-Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.
68. The role of the Licensing Sub Committee is to: -
1. Determine applications to which objections, as defined in section 8 above, have been made.
 2. Review existing Street Trading Consents where a breach or breaches of the permission granted have occurred.
 3. Review Street Trading Consents where relevant representations have been received regarding the operation of a current trading site.
69. On receipt of a written objection, breach of a Consent condition or an unresolved application that does not meet the criteria in this guidance, arrangements will be made to have the application or matter heard at the next available meeting of the Licensing Sub-Committee.
70. Once arrangements have been made for the application to be heard by the Licensing Sub-Committee persons making the objection or reference to the Sub-Committee will be advised in

writing of the date, time and place where the application will be heard. The Council will endeavour to have applications heard as quickly as possible.

71. The person making a representation against an application or an existing Street Trading Consent to the Licensing Sub-Committee will normally be expected to attend the hearing. The applicant can be represented by a solicitor, or supported by a friend or colleague. The Licensing Sub-Committee will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.
72. In determining an application the Licensing Sub-Committee will consider presentations from the applicant, a person or organisation making an objection and the Council's Licensing Officer. Applicants and persons making objections to an application should notify the Council's Licensing Service at least five working days in advance of the meeting of any witnesses they intend to call and details of any evidence (written, photographic or other material or media) they intend to present at the hearing.
73. Where objections have been raised to the granting a Street Trading Consent the Licensing Sub-Committee will consider the objections or representations made. Only persons who have raised objections to the application will be allowed the opportunity to address the Licensing Sub-Committee and ask questions relating to the application. Letters of objection that have been received by the Council will be published in full in advance of a meeting where a contested application is being considered. Copies of objection letters will also be sent to the applicant.
74. The Licensing Sub-Committee will consider all the evidence presented to it during the hearing and members may ask questions of the applicant, officers and persons making an objection. After hearing the evidence presented to it, the Licensing Sub-Committee will retire and come to a decision on the application. When a decision has been reached the Sub-Committee will inform the applicant of their decision, and the reasons for coming to that particular decision. The decision of the Licensing Sub-Committee will be confirmed in writing to the applicant and objectors within 5 working days of the meeting at which the application was considered.
75. The Licensing Sub-Committee will always strive to ensure that when it is considering an application that all persons get a fair hearing through:
 1. Considering each case on its merits.
 2. Using these guidelines to assess applications where it is felt appropriate.
 3. Dealing with the application in a balanced and impartial manner.
 4. Ensuring that the rules of natural justice are applied at all hearings.
 5. Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Sub-Committee and present information for consideration in support of their objection.

Section 13 Refusal of Applications

76. Where the Council refuses an application the applicant will be informed in writing of the reasons for the refusal.
77. There is no right of appeal to the Magistrates Court against decisions of the Council in relation to Street Trading Consents under the Local Government (Miscellaneous Provisions) Act 1982. A person aggrieved by a decision of the Licensing Sub-Committee may make an application to the High Court for Judicial Review of the decision. There are strict time limits for making such applications. For further information about the potential grounds for Judicial Review and the procedure for making an application, applicants should seek legal advice from a solicitor as soon as they receive notice of the decision.

78. Where a deposit/licence fee has been made with an application, 50% of the deposit/fee will be refunded to the applicant in the case of an application not being granted.

Section 14 General Information on Street Trading Consents

14.1 Planning Permission

79. The issue of any street trading consent in relation to any particular land does NOT constitute the grant of any permission under the Town & Country Planning Act 1990 or any other legislation for the use of the land for that purpose. Use of the land for trading may, therefore, amount to a material change of use for which planning permission is required notwithstanding that a street trading consent may have been granted. You should contact the Council's Development Control on 01395 516551 and seek advice as to whether an application for planning permission needs to be made in respect of the proposed use of the land. Planning enforcement action could be taken in situations where planning permission is required but not obtained.

14.2 Use of biodegradable materials for food packaging

80. Wherever possible food traders will be expected to use biodegradable materials in connection with the packaging of food served to members of the public.

14.3 Production of Consent Document

81. A copy of the Street Trading Consent must be displayed whilst trading and the the consent holder or people employed by them must produce it on demand when so required by a duly authorised officer of East Devon District Council, a Police Officer or a Police Community Support Officer.

14.4 Reimbursement of Fees

82. Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Consent to the Council. Any fee reimbursement will be on the following basis:

1. From the date the Consent is surrendered to East Devon District Council

83. Any refunds of a fee paid in connection with the surrender of a Street Trading Consent will be based on the following formula:

- a) Number of complete days remaining multiplied by the Daily Fee **less** the current administration fee.
- b) For Consents granted on an annual basis the daily fee will be calculated by dividing the annual fee due by 365.

84. Should the Council revoke a Street Trading Consent the Council shall not in any circumstances whatsoever be liable to pay any compensation or reimburse any fees to the Consent Holder or people employed by them in respect of such revocation.

14.5 Persons under the age of 17 years

85. The Council will not grant a Street Trading Consents to persons under the age of 17 years.

14.6 Access by Council and Police Officers

86. Consent Holders should allow access to Authorised Officers of the Council and Police Officers at all reasonable times. Council officers will carry with them and produce on request official identity cards issued by East Devon District Council. If you have any doubts about a person claiming to be from East Devon District Council ask to see their official identification card. If you remain uncertain please contact the Council on 01395 516551 and ask to speak to the Licensing Manager or the Strategic Lead – Legal, Licensing and Democratic Services.

14.7 Transfer of Permissions Granted

87. The conditions attached to all Street Trading Consents stipulate that a Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent.

The Consent granted is specific to the person it is issued to and is non-transferable.

A change of ownership of the business will require a new application to be made to the Council and the full application and consultation process will apply.

14.7 Miscellaneous Policy Considerations

88. Applications on the Sidmouth Esplanade for Sidmouth Folk Week will be encouraged provided they are for goods to be sold from a stall, cart, barrow or other non-motorised vehicle that is in sympathy with the surroundings, adds colour and character to the locality and complies with all relevant legislation.
89. As there is ample food and take away outlets in close proximity to the Sidmouth Esplanade and in order to prevent excessive littering the sale of food including take away food and ice creams will be permitted from a stall which holds a consent to trade on the Esplanade at Sidmouth.
90. The siting and operation of any stall, barrow etc. operated by a Consent Holder or people employed by them shall be such that it does not cause any problems of highway safety, obstruction to users of the highway, or conflict with the requirement of emergency vehicles.
91. 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.
92. The use for which the pitch is put shall not be likely to cause problems of noise, smell or litter, or be inappropriate to the character of the event with which the permit is connected.
93. The Council will not permit trading unless, where necessary, a road closure order has been obtained by the event organiser or individual applicant.
94. The Council may at any time revoke a consent or vary the conditions of an existing consent where there are reasonable grounds for so doing.
95. Double pitches will only be issued in exceptional circumstances where demand for consents does not exceed the number of pitches available. This will especially apply to pitches on the Esplanade at Sidmouth
96. The measures set out in Section 19 shall apply to the procedure, policy and guidance in respect of any application for a Street Trading Consent in Seaton made by a Registered Charity.

Section 15 Enforcement of Street Trading

97. East Devon District Council will actively enforce the provisions of the Street Trading Policy within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Licensing Service's Enforcement Policy, copies of which are available free of charge. If you require a copy please contact the Licensing Team on 01395 517411/517410.
98. Our regulatory activities are focussed upon allowing and encouraging economic progress and supporting businesses, individuals and voluntary and community organisations to meet their legal obligations. As part of that we will:
- Keep our regulatory activities and interventions under review to reduce their burden on businesses, clubs and individuals, as much as possible
 - Risk assess our regulatory activities so as to target our resources where they will have greatest effect
 - Carry out inspections only where there is a reason for doing so, for example, as a response to intelligence or as part of our risk assessment process
 - Provide advice when it is requested and to do so proactively where this is practicable
 - Only require data and information when it is strictly necessary for us in carrying out our regulatory activities

Complaints against the Service

99. East Devon District Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of Street Trading Services you should in the first instance contact the Licensing Manager, telephone 01395 517587.
100. If the matter cannot be resolved advice will be given on how to further your complaint under the Council's Complaints Scheme.

Section 16 Licensing Act 2003

101. Under the Licensing Act 2003 persons selling hot food between the hours of 2300 and 0500 hours are required to hold a Premises Licence or a Temporary Event Notice (TEN). This requirement is in addition to the requirement to hold a Street Trading Consent.
102. These notes are intended to cover the Street Trading permissions only, and separate application and consultation arrangements are required under the Licensing Act 2003.
103. If you are intending to sell hot food between the hours of 2300 and 0500 hours, please contact the Licensing Service on 0395 517410/517411 to obtain further information and advice.

Section 17 Renewal and Reviews of Consents

104. Annual/Period Street Trading Consents will be renewed on application by the Consent holder. The Licensing Service will usually send out a reminder to annual/period consent holders along with a renewal form prior to a Consent expiring. The final responsibility for renewing a Consent remains with the licensee. Applications for renewal must be made in plenty of time for the renewal process so that the consent is renewed before it expires.

105. Consultations will be held with the following organisations to ensure that they are satisfied that the Consent should be renewed:
1. Devon and Cornwall Constabulary
 2. Environmental Health (Food/Health and Safety/Pollution)
106. An annual/period Consent will be renewed unless objections are received from the organisations detailed in paragraph 105 above.
107. If during the lifetime of a Consent relevant objections are received from the organisations or persons mentioned in Section 4 of this document, or members of the public, regarding the operation of the permission, the Licensing Service will endeavour to resolve any non-compliance with permissions granted with the Consent Holder. If the matters raised remain unsolved a request to review the permission granted will be referred to a Licensing Sub-Committee for determination.
108. Failure to pay Consent fees will also be the subject of a referral to a Licensing Sub-Committee for a review of the permission.

Section 18 Fee Structure

109. Fee levels and fee structure for Street Trading Consents will be set by Council and will be reviewed, normally, on an annual basis.

Section 19 Seaton Registered Charities Consents

Applications for Street Trading Consents in Seaton made by Registered Charities

110. The organising charity must apply in the usual manner using the Charity Street Trading Consent Form.
1. The fee will be set by Council to reflect the applicant's charitable status.
 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.
 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.

Changes to Guidance

Section 3 – Para. 16

16. You will need to submit the following documents and fees with the application:

- (d) Colour photographs of the stall, van, barrow, cart etc that will be used for the street trading activity

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

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

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982



Application for the GRANT or RENEWAL of a Street Trading Consent

PLEASE COMPLETE THIS FORM IN BLOCK CAPITALS AND IN BLACK INK

I/We _____

Address _____

Telephone Number _____

Email Address _____

Trading a _____

APPLY FOR THE GRANT/RENEWAL of a Street Trading Consent in accordance with the following particulars:

The Street/Location I/We wish to trade is: _____

I/We wish to trade as detailed below

	MON.	TUES.	WED.	THURS.	FRI.	SAT.	SUN.
FROM							
TO							

Date or dates Consent is sought _____

The articles I/We wish to trade in are _____

Please detail toilet facilities for persons working on a static site:

Will the Consent Holder be present when street trading takes place? Yes No

If no, name of the person who will be present and responsible for the unit/stall:

We will be trading from a:

Stall Van Trailer Cart Barrow

Other (describe) _____

Dimensions: _____

Colour _____

Will you have tables and chairs on the site? Yes No

If yes, Number of Tables: _____ Number of Chairs: _____

Will you be trading on private land? Yes No

If yes, name and address of landowner: _____

Do you hold, or have you previously held, or been refused, a Street Trading Consent with this or any other Council? If yes, please give details

I/We declare that I am/we are NOT under the age of 17 years

Date of Birth(s) _____

I/We declare that the information given in this application is true.

Signature of applicants _____

Date _____

Please return this form to:

East Devon District Council
Licensing Service
Council Offices
Knowle
Sidmouth
EX10 8HL

Data Protection Act 1998

The personal data you provide on this form will be used by East Devon District Council to administer your permission. In order to protect public safety, this may include the use of sensitive personal data (criminal offences) to help assess whether you are a fit and proper person to hold a permission.

We may occasionally share your personal data with other Council departments and with other bodies (notably Housing Benefits, the Police, Inland Revenue) for the purposes of protecting public money, preventing and detecting crime and/or fraud and ensuring public safety. Such sharing will only occur on a case-by-case basis where a justifiable purpose in line with legislation has been demonstrated. The information may also be used for internal training.

STREET TRADING CONSENT CONDITIONS



Standard conditions that the Council may seek to impose upon any street trading consents

1. The Consent Holder (which expression where appropriate includes joint holders of this Consent) and any person employed by him to assist him in his trading shall produce the Consent on demand when so required by a duly authorised officer of the East Devon District Council, or by a Police Officer.
2. A copy of this Consent shall be kept onsite by the holder and available for inspection by an authorised officer of the Council, or a Police officer.
3. The Consent Holder or people employed by them must notify the Licensing Manager immediately of any convictions or proceedings arising out of the use or enjoyment by the Consent Holder or people employed by them of this Consent.
4. The Consent Holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but may surrender it to the Council at any time.
5. The Consent Holder shall observe and comply with any directions in relation to the use of the street or public place by a duly authorised officer of the Council.
6. Nothing contained in these conditions shall relieve the Consent Holder or his employees or agents from any legal duty or liability and the Consent Holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this Consent.
7. The Consent Holder shall at all times maintain a valid Third Party Public Liability Insurance Policy for a minimum of 5 million pounds to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.
8. This Consent does not infer or grant exclusive rights to the holder for use of the location specified in the permission. If at any time at the permitted trading location other statutory bodies or organisations require access and use of the location to carry out emergency or other remedial works, they shall be afforded such access for such time as the required works need to be completed.
9. The Council may vary the Conditions attached to the Consent at any time, subject to reasonable notice being given to the Consent Holder.

SITE CONDITIONS

10. The Consent Holder when operating on a static site shall have access to suitable and sufficient sanitary accommodation for both the Consent Holder, and any persons employed in the street trading activity. The sanitary accommodation arrangements shall be approved by the local authority.
11. The Consent Holder or people employed by them must not use or suffer or permit any music playing, music re-production or sound amplification apparatus or any musical instruments radio or television receiving sets whilst trading under this Consent.
12. The Consent Holder shall not place on any street or public place, or affix to any equipment placed on the street or public place, any advertising of any description whatsoever except with the previous consent in writing from the Council.

13. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without the approval of the Council. The Consent Holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street, or place or fix equipment or markings of any description in the said surface except with the previous consent from the Council in writing.
14. The Consent Holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Council and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
15. The Consent Holder shall keep his trading position and the area within 25m of the pitch in a litter free condition during the permitted hours and also leave the same in a litter free condition at the end of each daily period of use under the terms of this Consent.
16. The Consent Holder shall provide and maintain at his own expense adequate refuse receptacles for litter.
17. Litter and Trade Waste arising from the activities of the Consent Holder shall be removed from the site on a daily basis and disposed of in an approved manner.
18. The Consent Holder shall make such provision as is necessary to prevent the deposit in any street or public place of solid or liquid refuse and shall not discharge any water or effluent from the street trading activity to street surface drainage or other watercourse.
19. All stalls, vehicles or other equipment associated with the street trading activity must be removed within 30 minutes of the expiry of the trading (consent) hours for the day.
20. The Consent Holder or people employed by them are not permitted to hold any Auction Sale.
21. The Consent Holder or people employed by them or his employees are expressly forbidden to sell, display or wear any article which is or is intended to be offensive either in writing or pictures.
22. The Consent Holder or people employed by them shall not trade in or issue any glass items or vessels whilst trading on the Esplanade in Sidmouth.
23. Consent holders or their employees shall not sell the New Psychoactive Substances.
24. The Consent Holder or people employed by them must comply with all reasonable requirements of the Licensing Manager, or any other authorised officer of the Council, a Police Officer or a Police Community Support Officer.
25. Any special costs, other than those legally required to be borne by the Council, incurred in preparing a pitch fit for purpose shall be borne by the applicant.

TRADING CONDITIONS

26. The Consent Holder shall not carry out street trading activities other than those permitted by the Consent.
27. The Consent Holder shall not trade outside the time and days permitted by the Consent.
28. The Consent Holder shall display a copy of the consent issued by the Council on any van, cart, barrow or other vehicle or stall in a conspicuous position that is visible to members of the public.
29. The Consent Holder shall not trade in such a way that is likely to cause undue obstruction to any part of any street or public place.

30. The Consent Holder shall not trade in such a way that is likely to cause any injury to any person using the street or public place.
31. The Consent Holder shall not trade in such a way that is likely to cause damage to any property in the street or public place.
32. The Consent Holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity. Noise from equipment used in connection with consented street trading activity shall not be audible inside nearby residences so as to be deemed a Statutory Nuisance.
33. All street Trading fees are due in advance on the 1 April of any year. Annual fees may by agreement be paid by instalments. Failure to pay an annual or instalment fee will render the consent holder liable to action by the Council to revoke this consent.
34. The Consent Holder shall at all times conduct his business in a clean, honest, civil and businesslike manner without interfering with the business of other Traders and Consent Holders.

LEGAL PROVISIONS

35. Nothing contained in these conditions shall relieve or excuse the Consent Holder or his employees or agents from any legal duty or liability.
36. At all times the Consent Holder shall comply with the legislation in force. Particular attention, where appropriate, should be paid to Health and Safety, Food Safety and Food Hygiene, Nuisance and Highways legislation.

REVOCATION OR SURRENDER OF CONSENT

37. This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
38. The holder shall return this Consent to the East Devon District Council immediately on revocation or surrender of the Consent.

NOTES TO THE CONDITIONS

Within the terms of these conditions the following words have the meanings as described:

The Council	Means the East Devon District Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street,
Street	Includes: (c) Any road, footway, beach or other area to which the public have access without payment. (d) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	Means a street in which street trading is prohibited without the consent of the district council.

Authorised Officer

Means an officer employed by East Devon District Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

THIS CONSENT DOES NOT:

- 1. Permit trading outside the terms of the Consent.**
- 2. Indicate that planning permission is not required.**

Please note:

- (a) That the requirement to obtain planning permission applies to all streets, whether they have been designated Consent Streets or not.**
 - (b) That the grant of one or more street trading consents does not give the trader immunity from planning control.**
 - (c) The Council has discretion whether or not to enforce planning laws in relation to street trading.**
- 3. Indicate that the unit is exempt from business rates.**
 - 4. Over ride parking restrictions or any other traffic regulations.**
 - 5. Imply approval from the highway authority or any other person or authority.**

Agenda Item 9

Overview Committee



Overview Committee Forward Plan 2015/16

Date of Committee	Report	Lead
11 Aug 2015	Joint meeting with Scrutiny Committee on Moving and Improving	Karen Jenkins
22 Sep 2015	Presentation from Economic Development Manager, focus on the Economy Plan	Rob Murray
17 Nov 2015		
13 Jan 2016	Draft service plans and budget 2016/17 jointly with Scrutiny Committee	Simon Davey
26 Jan 2016		
22 Mar 2016	Sustainability	

Work for scoping and allocation to the Forward Plan:

Proposed date	Topic