

Date 18 February 2013  
Contact number: 01395 517544  
E-mail: [clane@eastdevon.gov.uk](mailto:clane@eastdevon.gov.uk)  
Our Ref: Chris Lane



To:  
Members of the Licensing & Enforcement Committee  
(Councillors David Atkins, Roger Boote, Peter Burrows, Bob Buxton, Madeleine Chapman, Christine Drew, Steve Gazzard, Pat Graham, Steve Hall, John Jeffery, Jim Knight, Ken Potter, Pauline Stott, Tom Wright, Mark Williamson)

East Devon District  
Council  
Knowle  
Sidmouth  
Devon  
EX10 8HL  
DX 48705 Sidmouth  
Tel: 01395 516551  
Fax: 01395 517507

Corporate Legal & Democratic Services Manager  
Solicitor  
Licensing Manager  
Licensing Officer

Meeting of the Licensing & Enforcement Committee  
Tuesday 26 February 2013 at 9.30am in the Council Chamber, Knowle,  
Sidmouth

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

Councillors and members of the public are reminded to switch off mobile phones during the meeting. If this is not practical due to particular circumstances, please advise the Chairman in advance of the meeting.

## AGENDA

	Page/s
1 To confirm the minutes of the meeting held on 20 November 2012.	3 - 7
2 To receive any apologies for absence.	
3 To receive any declarations of interests relating to items on the agenda.	
4 To consider any items which, in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances. (Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).	
5 To agree any items to be dealt with after the public (including the press) have been excluded. (There are no Items which the Officers recommend should be dealt with in this way).	
6 Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing.	8 - 19
7 Street Trading – Designation of Streets Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.	20 - 42

## Decision making and equality duties

The Council will give due regard under the Equality Act 2010 to the equality impact of its decisions.

An appropriate level of analysis of equality issues, assessment of equalities impact and any mitigation and/or monitoring of impact will be addressed in committee reports.

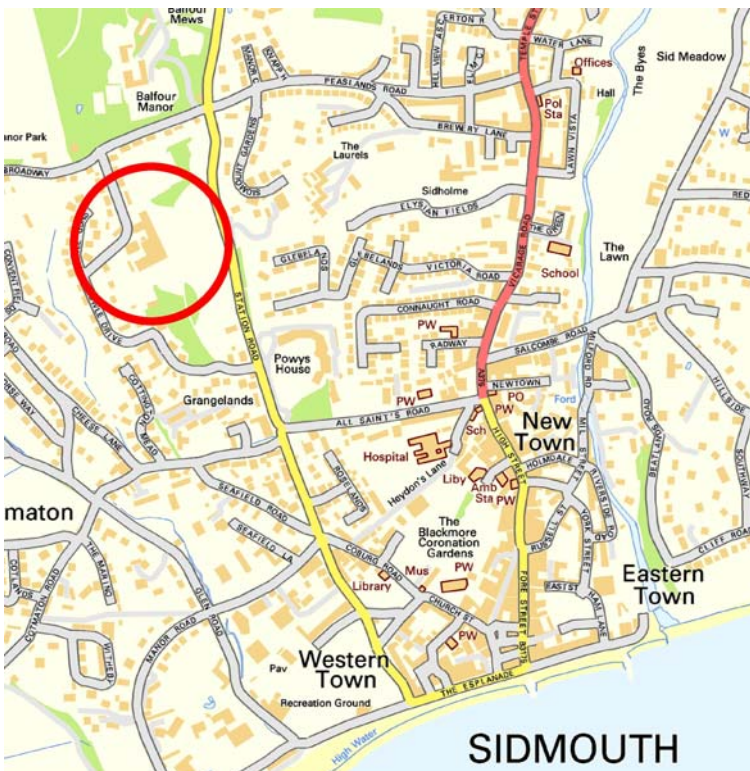
Consultation on major policy changes will take place in line with any legal requirements and with what is appropriate and fair for the decisions being taken.

Members will be expected to give reasons for decisions which demonstrate they have addressed equality issues

Members and co-opted members remember!

- ❑ You must declare the nature of any disclosable pecuniary interests. [Under the Localism Act 2011, this means the interests of your spouse, or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living as if you are civil partners]. You must also disclose any personal interest.
- ❑ You must disclose your interest in an item whenever it becomes apparent that you have an interest in the business being considered.  
Make sure you say what your interest is as this has to be included in the minutes. [For example, 'I have a disclosable pecuniary interest because this planning application is made by my husband's employer'.]
- ❑ If your interest is a disclosable pecuniary interest you cannot participate in the discussion, cannot vote and must leave the room unless you have obtained a dispensation from the Council's Monitoring Officer or Standards Committee.

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The following buses all terminate at the Triangle in Sidmouth, From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).

**From Exeter – 52A, 52B**

**From Honiton – 52B**

**From Seaton – 52A**

**From Ottery St Mary – 379, 387**

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

EAST DEVON DISTRICT COUNCIL  
 Minutes of a Meeting of the Licensing & Enforcement  
 Committee held at Knowle, Sidmouth on Tuesday, 20  
 November 2012

Present: Councillors:  
 Steve Hall (Chairman)  
 Jim Knight (Vice Chairman)

David Atkins  
 Peter Burrows  
 Bob Buxton  
 Madeleine Chapman

Christine Drew  
 Pat Graham  
 Mark Williamson

Officers: John Tippin, Licensing Manager  
 Neil McDonald, Licensing Officer  
 Chris Lane, Democratic Services Officer

Apologies: Councillors:  
 Steve Gazzard  
 John Jeffery  
 Ken Potter  
 Pauline Stott  
 Tom Wright

The meeting started at 9.30 am and ended at 11.00 am.

\*9 Minutes  
 The minutes of the meeting of the Licensing & Enforcement Committee held on 28 August 2012, were confirmed and signed as a true record.

\*10 Declarations of interest

Councillor/ Officer	Minute number	Type of interest	Nature of interest
Councillor Steve Hall	*12	Pecuniary	Private Hire Licence Holder.

\*11 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing

The Licensing Manager presented his report and highlighted activities undertaken by the Licensing Service. Details of the work undertaken were included as appendices to the report.

Members raised and discussed a number of issues from the report:

\*11 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing (cont) – issues raised

1. Licensing Act 2003

The Licensing Team were again involved with enforcement of the Sidmouth Folk Festival both in ‘policing’ the stalls trading along the Sidmouth seafront and checking on the various licensed venues connected to the Festival. The event was very successful with very few minor problems with what was now a well organised and professionally run event. On the last Friday of the Festival the Chairman and Vice Chair of the Licensing and Enforcement Committee carried out their usual walk through of the seafront stalls and the Ham and Blackmore Gardens entertainment marquees and bars.

During October the Licensing authority suspended the premises licence of a public house in Exmouth for failing to pay the annual fee for the premises licence. This was the first licence that had been suspended following the introduction of the new legislation in April allowing the Licensing Authority to suspend licences for non payment of fees. Members noted that there had, subsequently, been two other premises licences suspended. A request was made that Ward Members be informed if a premises licence had been a suspended which was in their ward.

Members noted that in the past there had been a problem with a number of unlicensed catering units selling food and drink attending the annual Ottery St Mary Tar Barrels event. As a result of successive enforcement visits by licensing officers and regular meetings with the Tar Barrels organising committee, the level of awareness of the requirement for many traders at the event to submit a Temporary Event Notice had increased dramatically. The Licensing Manager reported that there had been no problems reported by the Licensing Team from this year’s Tar Barrels event.

2. Gambling Act 2005

Members noted that a programme of visits to licensed premises and other premises where gaming was permitted continued. It was reported that no Gambling Act offences had been detected, a result that confirmed that regular inspections were a valuable tool to ensure compliance.

The Council had gone out to consultation on the draft Gambling Act Policy to update the one which had now been in place for over 3 years. This was subject of a separate report at minute 13 below.

3. Taxis

Members noted that October was a busy month for taxi licensing as all Hackney Carriage licences issued by EDDC expired on 31 October and the applications for renewal of these licences need to be processed before they expired.

The Licensing Team had continued the education based enforcement and monitoring approach to the Hackney Carriage and Private Hire drivers and vehicles in the District. Close liaison was maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality were maintained.

There had been one combined operation involving licensing officers, the police and the EDDC benefits fraud team in relation to taxi and private hire enforcement. This

\*11 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing (continued) – issues raised

was carried out on the night of Friday 12 October at the Strand taxi rank in Exmouth where there were 27 vehicles stopped and checked by the police, licensing officers and the local fraud/benefit team. Three minor defects were detected on three separate vehicles, all of which were dealt with at the time. There were also checks by the fraud benefits team which had resulted in a number of leads to be followed up by that department. The police were keen to complete at least two joint multi agency taxi checks a year and another operation was to be planned for the near future.

Taxi licensing fees increases had come into effect from Monday 3 September 2012, subject to no objections being received during the 28 day consultation period (there had been 4). Hackney Carriage fare increases were the subject of a further report which was considered later in the meeting (see minute \*12 below).

The Licensing Manager reported that the County Council was to make alterations to the taxi rank in the Strand, Exmouth to lower the kerb stones at the new Strand Rank at the request of the taxi trade.

4. General Licensing including Animal Licensing and skin piercing  
The Licensing Manager reported that Street trading during Folk Festival week in Sidmouth had been effectively controlled by the Licensing Service. A district-wide report on street trading was being prepared by the Licensing Manager and would be referred to the next Committee meeting to reflect increases in street trading activity. The report would propose changes including modernisation of the council's approach to the whole street trading issue whilst retaining robust controls.

5. Consultations and Partnership Working

The Licensing Manager advised that the meeting between Members, Taxi Proprietors and Officers had been held on Wednesday, 31 October 2012 (2pm start) in the Council Chamber at Knowle. The notes from this meeting had been circulated to members.

- RESOLVED**
1. that the report be noted;
  2. that Ward Members be notified of all premises licences suspended by the Licensing Authority in their ward.

\*12 Hackney Carriage Fares - Objections to the Approved Fare Table

Members considered the report of the Licensing Manager which set out four objections made against the Hackney Carriage Fare Table approved by the Committee on 28 August 2012 and considered whether to modify the tariff or retain it in the existing form.

(Councillor Steve Hall declared a pecuniary interest and withdrew from the room during this item. The Vice Chairman, Councillor Jim Knight took the Chair)

\*12 Hackney Carriage Fares - Objections to the Approved Fare Table

**RESOLVED** that the Hackney Carriage Fares Tariff be increased as proposed in Appendix D to the report with the approved tariff being adopted as the maximum fare tariff and used from 5 December 2012 by Hackney Carriage vehicles licensed by East Devon District Council.

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

Consideration was given to the report of the Licensing Manager which updated the Committee on the tri-annual review of the Council's Gambling Act 2005 Licensing Policy and the results of the consultation process and invited the Committee to recommend that the Council adopted the amended Licensing Policy as required by the Gambling Act 2005 at its meeting on the 5 December 2012. Members noted that a total of three responses had been made all of which simply acknowledged receipt of the document.

**RESOLVED** that the results of the public consultation undertaken on the Council's draft Licensing Policy relating to the Gambling Act 2005 be noted.

**RECOMMENDED** that Council at its meeting on 5 December 2012, be recommended to:

1. Nominate in writing the Area Child Protection Committee and Local Safeguarding Children Board (Devon County Council) as the body competent to advise the authority about the protection of children from harm issues as required by the Gambling Act 2005, Section 157 (h);
2. To adopt, for the period 31 January 2013 to 30 January 2016, the East Devon Gambling Licensing Policy attached to the Committee agenda.

\*14 New Licensing Legislation which is likely to have a major effect on the Late Night Economy and those living in the District

Consideration was given to the report of the Licensing Manager regarding the licensing powers introduced by the Police Reform & Social Responsibility Act 2011 and the changes brought about by the Live Music Act 2012.

1. Police Reform and Social Responsibility Act 2011

a. Late Night Levy

Members noted that the Act gave licensing authorities the power to raise a financial contribution from late opening alcohol premises towards the cost of policing the night time economy. In deciding whether to apply the Levy, the licensing authority must consider: "The costs of policing and other arrangements for reduction or prevention of crime and disorder in connection with the supply of

\*14 New Licensing Legislation which is likely to have a major effect on the Late Night Economy and those living in the District (Cont)

alcohol between midnight and 6.00am". The Levy would have to cover the whole of the authorities' area although there were certain exemptions.

b. Early Morning Restriction Orders

The Licensing Manger reported on Early Morning Restriction Orders (EMRO) which is a power which would enable the licensing authority to restrict the sale of alcohol if it considered this appropriate for the promotion of the licensing objectives. The authority may make an Order for the whole or a part of its area.

An EMRO could be applied for any period between midnight and 6.00am and maybe for a finite period of unlimited duration.

Members noted that an application for an EMRO may be made by a member of the public, an organisation or a statutory authority. Licensing authorities would be required to justify an EMRO so any person applying for an EMRO would be expected to produce robust evidence in support of their application.

c. The Live Music Act 2012

Members noted that live music was regulated by the Licensing Act 2003, however with the introduction of the Live Music Act 2012 on 1 October 2012, it had meant that some aspects of live performance regulation had been relaxed.

- RESOLVED**
1. that the contents of the report be noted;
  2. that where the need is identified the authority's Statement of Licensing Policy be revised to take account of the Late Night Levy, Early Morning Restriction Orders and the changes brought about by the Live Music Act 2012;
  3. that information on the Late Night Levy, Early Morning Restriction Orders and the Live Music Act 2012 be disseminated to licence holders in the next licensing newsletter and on the Authority's website;
  4. that a decision on whether to introduce a Late Night Levy be deferred until the Licensing Manager brought forward a further report and meetings had been held with the Devon & Cornwall Constabulary on the issue.

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

## Agenda Item 6

Licensing & Enforcement Committee

26 February 2013

JT/NM/DJ/JL/ES/AL



Committee Update -

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

### Summary

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

### Recommendation

That the report be noted

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

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

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

Not Applicable

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

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

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

None

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

Not Applicable

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1 Licensing Act 2003

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

1.1.1 The numbers of licences issued and notices given since the last update report to the Committee are set out in **Appendix A**.





## 1.2 Premises Risk Ratings

- 1.2.1 Licensing Officers continue to carry out a programme of routine visits to licensed premises in our area as well as visits to those premises identified as high risk. The visits to the high risk premises are on course to be completed by the end of March this year.

## 1.3 Enforcement

- 1.3.1 On Monday 5 November 2012 two officers attended the Ottery St Mary Tar Barrels event where visits were carried out on licensed premises as well as visits to thirty other venues licensed by way of a Temporary Event Notice (TENS). Most of the TENS were non alcohol and were for Late Night Refreshment. Predominately for food stalls set up on the roads and pathways to sell hot food and hot drinks after 11.00 pm at night. The officers found that the stall holders were noticeably compliant compared with other years and all stalls requiring a TEN had applied in time and were able to produce the TEN on demand. The officers also liaised with the police and fire officers at the event but there were no serious licensing issues to report.
- 1.3.2 On Tuesday 4 December 2012 two officers attended a music concert featuring Florence and the Machine at the Westpoint Arena. The event was well run and supervised and only one minor matter was taken up with organisers concerning the non availability of free drinking water at the bars (a mandatory condition). This problem was sorted out on the night when the issue was raised by the officers and free drinking water was then made available.
- 1.3.3 During October the Licensing Authority had cause to suspend the premises licence of a public house in Exmouth for failing to pay the annual fee. The licence has now been re-instated following payment of the fee but three other premises licences have since been suspended for non payment of annual fees. All three licences still stand suspended at the time of writing this report meaning that the businesses are unable to operate.
- 1.3.4 At your November meeting it was reported that two night clubs in the District were planning to re-open. We are able to confirm that both have re-opened as planned, one in Exmouth called Pulse 8 and the other in Honiton called The Boutique Nightclub and Live Venue. Both clubs had been closed for some time and have re-opened using the existing premises licences that have been kept 'live' by the owners of the premises.
- 1.3.5 Officers, by invitation, continue to attend licensees meetings across the district in order to support the meetings, give advice on current issues and answer any questions the licensees may have. These meetings are a very good forum for meeting the local licensees and for the exchange of information and ideas. Officer attendance is very much appreciated by all the licensees associations.

## 1.4 Hearings

- 1.4.1 The numbers of hearings held since the last update report to Committee are set out in **Appendix A**.

## **1.5 Applications Received and Notices Given**

1.5.1 The numbers of applications received and notices given are set out in **Appendix A**.

## **2 Gambling Act 2005**

### **2.1 Licences Issued and Notices Given**

2.1.1 The numbers of licences issued and notices given since the last update report to Committee are set out in **Appendix B**.

### **2.2 Enforcement**

2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues. It is still the case that no Gambling Act offences have been detected, a result which is pleasing and confirms that regular inspections are a valuable tool to ensure compliance.

2.2.2 Two officers will be attending a “Seaside Summit” hosted by the Gambling Commission at their offices in Birmingham in February. The event is for licensing authorities with tourist based gambling activities at coastal resorts. The event has been developed over the past two years to discuss issues relevant to the particular gambling activities and problems faced by authorities that have tourist based gambling activities. The last year’s meeting proved to be valuable for both the Gambling Commission and licensing officers to obtain an overview of some of the issues facing gambling at coastal resorts.

### **2.3 Hearings**

2.3.1 The numbers of hearings held since the last update report to Committee are set out in **Appendix B**.

### **2.4 Applications & Notifications received**

2.4.1 The numbers of applications and notifications received since the last update report to Committee are set out in **Appendix B**.

### **2.5 Gambling Act Policy Consultation**

2.5.1 The legislation requires the Council to review its Licensing Policy under the Gambling Act 2005 at least every three years. Following a period of consultation in mid/late 2012 an updated policy was prepared and supported by this Committee at your November meeting. It was subsequently approved by Council on the 5 December 2012 for the next three years. The new policy has been published and will expire in January 2016.

## **3. Taxis**

### **3.1 Licences Issued**

3.1.1 The numbers of Licences issued since the last update report to Committee are set out in **Appendix C**.

- 3.1.2 All of the Hackney Carriage driver and vehicle licences have been renewed following the annual re licensing period ending on 31 October, the total number of Hackney Carriage licences issued to date are 157 vehicle and 202 drivers licences.
- 3.1.3 The next busy period for taxi re-licensing is May as all the Private Hire licences expire on the 31 May 2013. At present there are 14 licensed private hire operators, 30 private hire driver licences and 17 private hire vehicle licences.

### **3.2 Enforcement**

- 3.2.1 The Licensing Team has continued the education based enforcement and monitoring approach to the Hackney Carriage and Private Hire drivers and vehicles as we have used with the Licensing Act. Close liaison is maintained with partner agencies and the taxi trade to ensure that the principles of consistency, transparency and proportionality are maintained.
- 3.2.2 There have been no combined operations involving licensing officers, and other agencies since the last operation on 12 October 2012 in relation to taxi and private hire issues.
- 3.2.3 The Devon and Cornwall Constabulary are keen to complete at least two joint multi agency taxi checks a year, and another operation is to be planned for the near future.

### **3.3 Hearings**

- 3.3.1 There have been no Sub Committee hearings during the past quarter ending January 2012.

### **3.4 Applications received**

- 3.4.1 The number of applications received since the last update report to Committee is set out in **Appendix C**.

### **3.5 Taxis Fares**

- 3.5.1 The District Council as the Licensing Authority has responsibility for setting the maximum fare tariff for all Hackney Carriages licensed by this Council. In August 2012 this Committee considered a report prepared by the Licensing Manager and agreed to a change to the fare tariff. Following that decision the law required that the proposal be advertised. As a result four objections to the increase were received. This required the Committee to reconsider its decision in the light of the objections. On the 20 November having considered the objections the Committee confirmed its original decision taken on the 20 August. The new fare tariff was implemented on the 5 December 2012.

### **3.6 Taxi Rank Update**

- 3.6.1 Exmouth – As the Committee has been aware the Taxi Association and some taxi drivers from the Exmouth area have been unhappy with the new Strand rank provided as a result of the regeneration scheme in the town. In October Devon Highways informed the Council that there had been significant demands on the authority, but an order had been

raised to lower the kerb stones at this location. To date (Feb 2013) the work still has not been completed by Devon County Council.

#### 4. General Licensing including Animal Licensing and Skin Piercing

##### 4.1 Sex Entertainment Venue Licensing

4.1.1 In 2010 the Policing and Crime Act 2009 classified lap and pole dancing clubs and similar venues as Sexual Entertainment Venues and gave local authorities in England and Wales the option to adopt the legislation to regulate them as Sex Establishments under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. As a result the Council adopted the legislation requiring that all Sex Entertainment Venues within the district should be licensed.

4.1.2 At the time there was an existing Sexual Entertainment Venue operating in Exmouth and as a result of the Council's decision the operator was required to apply for a licence. An application was received in mid 2011 which resulted in the Council receiving five objections to the licence. On the 6 September 2011 a Sub Committee of this Committee considered the application and granted a Sexual Entertainment Venue licence for the business – 'Lush', The Q Club, 15 Elm Grove, Exmouth.

4.1.3 The licence is renewable every 12 months with the expiry on the 31 January. In January an application was received for renewal. Despite notice of the renewal application being displayed outside the venue in Exmouth and the publication of a similar public notice in a local newspaper the Council has received no objections to the renewal application. As the period for receipt of objections expired on the 15 February with no objections being raised the licence has been renewed for a further year until 31 January 2014.

##### 4.2 Animal, Skin Piercing and Scrap Metal Dealers Licensing Statistics

4.2.1 The statistics relating to animal, skin piercing and scrap metal dealer licensing since the last update report to Committee are set out in **Appendix D**. These statistics include, where relevant, the numbers of licences issued, the number of hearings held and the number of applications received.

##### 4.3 Scrap Metal Dealers Bill 2012-13

4.3.1 The current legislation to control scrap metal dealers is the Scrap Metal Dealers Act 1964. Under the legislation the District Council is required to register all scrap metal dealers operating within the District. The registration is renewable every three years. Further controls were enacted in 2001 in the Vehicle (Crime) Act. This legislation included a registration scheme for car breakers known as the Motor Salvage Operators Regulations 2002. Similar to the scrap metal dealers' legislation these regulations require all car breakers operating within the district to be registered with the District Council. The registration is also renewable every three years.

4.3.2 Nationally, over recent months or even years, there has been growing concern over the amount of thefts involving stolen metal. The situation is thought to have been exacerbated by the recession. During 2012 Parliament passed an emergency power to stop scrap metal dealers paying cash for metal sold to them. This is an attempt to ensure that the

seller is traceable should the metal subsequently be discovered to have been stolen.

- 4.3.3 Even with the changes brought in last year there is a general feeling, especially in police circles, that the current legislation is not fit for purpose. As a result new legislation is proposed in the form of the Scrap Metal Dealers Bill 2012-13. The bill has surprised observers at the speed that it has passed through both houses of Parliament. It received its third reading – the final chance for the Lords to make any changes on the 12 February. As both Houses have agreed on the text of the Bill it now waits for the final stage of Royal Assent when the Bill will become an Act of Parliament. Royal Assent is expected in the spring (probably in May) with the Act being implemented this autumn.
- 4.3.4 The new legislation requires that all scrap dealers will have to apply for a mandatory licence from their local authority rather than the weaker current registration scheme. It will also provide Councils with the power to suspend or revoke the licence if any illegal activity is suspected. Police would also be given greater powers to inspect unlicensed scrap yards and charge those operating them.
- 4.3.5 Finally the Act brings together both Scrap Metal Dealers and Motor Salvage Operators under one piece of legislation and for the first time it will allow Councils to charge a fee for Scrap Metal Dealer licences – currently Councils can only charge to register Motor Salvage Operators and not Scrap Metal Dealers.

#### **4.4 Street Trading**

- 4.4.1. The statistics relating to street trading since the last update report to Committee are set out in **Appendix E**. These statistics include, where relevant, the numbers of permits issued, the number of hearings held and the number of applications received. The Council has not started taking bookings for this year's Sidmouth Festival.
- 4.4.2 Following increasing interest in street trading across the District the Licensing Manager will present a separate report to the Committee propose changes including modernisation of the Council's approach to the whole street trading issue whilst still retaining robust controls.

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

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

- 5.1.1 The next liaison meeting with the taxi trade has been arranged for Wednesday 3 April 2013 (during the Easter Holidays) commencing at 1400 hour in the Council Chamber, Knowle, Sidmouth. The Committee's Chairman and Vice Chairman normally attend these meetings.

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

- 6.1 The Licensing Team has been re-awarded the Customer Service Excellence award following a recertification assessment in December. The team first received this award in November 2009 and although inspected annually the standard requires a recertification every three years

(December 2012). The assessor was extremely complementary of the standard the team has attained and emphasised that it is very unusual to have an assessment that contains no partial compliances to the standard. He even awarded an 'Area of Compliance Plus' after "gathering strong evidence to show that consultation of customers, with feedback, is integral to continually improving the service and moving it forward".

He listed the following as Areas of Good Practice:

- ❑ There is a strong team approach to achieving a high standard of customer service with everyone sharing responsibility for delivery.
- ❑ A customer focussed culture is shown to be the main driver of the service. There were a number of examples provided where staff are shown to go the extra mile to achieve satisfactory outcomes. This view was reinforced by customers and partners met during the assessment visit.
- ❑ The Chairman and Vice Chairman of the Licensing Committee remarked very favourably on the quality of the training and briefing they received - 'We are extremely well briefed and very well trained. We feel confident when we carry out our responsibilities'.
- ❑ There is a notable success rate with taxi drivers, who are being actively encouraged by a Licensing Officer, to take-up the appropriate NVQ qualification.
- ❑ The Newsletter is shown to be a very informative document, the content of which is much appreciated by a whole range of customers.

### **Legal Implications**

There are no legal implications requiring comment.

### **Financial Implications**

There are no financial implications contained in this report.

### Appendices

Appendix A - Licensing Act 2003 Licensing Statistics

Appendix B - Gambling Act 2005 Licensing Statistics

Appendix C - Taxis Licensing Statistics

Appendix D - Animal, Skin Piercing and Scrap Metal Dealers Licensing Statistics

Appendix E - Charitable Collections and Street Trading Licensing Statistics

John Tippin Ext. 2787  
Licensing Manager

Licensing & Enforcement Committee  
26 February 2013

**General Licensing**Permits Issued

<b>Between</b>	<b>Jan-13</b>	<b>Oct-12</b>	<b>Changes</b>
Street Collections	27	72	-45
Street Collection cancellations	0	0	0
House to House	2	4	-2
Street Trading	0	79	-79
Street Trading (Charitable)	4	1	3

Hearings

	<b>Nov-12</b>	<b>Dec-12</b>	<b>Jan-13</b>
Hearings	0	0	0

# Agenda Item 7

Licensing and Enforcement Committee

26 February 2013

JT



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

## Summary

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.**

### a) Reasons 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'.

### b) Alternative Options

To refuse to grant authority for public consultation to be undertaken. This will leave the current inflexible street trading controls in place.

### c) Risk Considerations

None

### d) Policy and Budgetary Considerations

None

### e) Date for Review of Decision

None

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## 1 Background and informal 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”.
- 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).
- 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 A** 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 paper 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. In particular the advent of Farmers, French and Christmas Markets has shown how popular street trading has become. Members will note from **Appendix A** 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 3 to 4 years. These include North and South Somerset, South Gloucestershire and Taunton Deane. They all report excellent results.

## 2 The Proposal

- 2.1 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.

2.2 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.

2.3 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.

### 3 The Scheme

3.1 If the proposed changes to the Street Trading regime in the District is 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 for East Devon District Council
- Devon and Cornwall Constabulary
- Devon and Somerset Fire and Rescue Service
- East Devon District Council Food/ Health and Safety and Pollution Teams
- East Devon District Council 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 street trading site if it is on private land

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

3.2 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.

3.3 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 Farmers Markets and similar. Travelling fairs is another activity where special arrangements would need to be made. These arrangements would be set out clearly in a new Policy that would come into use with the proposed changes.

3.4 Activities that would require consent could include:

- (a) car boot sales (one consent 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

3.5 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.

3.6 The changes are not expected to bring a large increase of Street Trading as the controls will be very similar to those that already exist. However the change 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 made. For example each time a street designation is changed there is a need to publish three public notices. For example when the Council changed the designation of the Sidmouth Esplanade in 2008 the cost placing the public notices was around £500.

3.7 Whilst it is believed that there will not be a great increase in Street Trading in the District as a result of this proposal 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.

#### 4 The Next Step

- 4.1 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 comments.
- 4.2 Consultation will also be widely undertaken to include all Town and Parish Councils within the District, the Highways Authority, Devon and Cornwall Constabulary, Devon and Somerset Fire and Rescue Service, East Devon District Council Food/Health and Safety and Pollution Teams and Street Scene.
- 4.3 All comments will be collated and the intention is to report back to this Committee at its next meeting on Tuesday 11 June 2013. This report will also contain a new policy for approval, proposed fee levels and conditions. It is anticipated there may need to be a small change 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.
- 4.4 Having considered the responses to the public notice and the rest of the consultation if the Committee resolve 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.

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#### Legal Implications

The legal implications are contained within the report and require no further comment.

#### Financial Implications

The only finance implication would be the cost of public notices in this year's and next year's budget.

#### Appendices

Appendix A - List of Designated Streets in East Devon on 1 January 2013

Appendix B - The District Council's current 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

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John Tippin ext 2787  
Licensing Manger

Licensing & Enforcement Committee  
26 February 2013



## APPENDIX A

### List of Designated Streets in East Devon at the 1 January 2013

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

#### **Exmouth**

- Bath Road

#### **Honiton**

- Northcote Lane (part only)

#### **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.

#### **Exmouth**

- Albert Place
- Albion Place
- Albion Street
- Alexandra Terrace
- Ann Street
- 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
- Charles Street
- Church Road
- Church Street
- Clarence Road
- Clinton Square

## Exmouth Continued

- 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 Chapel Street to its junction with Church Street
- George Street
- Henrietta Road
- Imperial Road
- King Street
- Littleham Road – from its junction with Salterton Road to the Broadway
- Louisa Place
- Louisa Terrace
- Lower 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 Drive
- 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 Buildings
- Strand, The

### **Exmouth Continued**

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

### **Honiton**

- George Street
- King Street
- New Street
- Northcote Lane (part of)
- 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 and Harepath Road as far as Harepath Hill.
- Court Lane
- Cross Street
- Eyrecourt Road
- Fore Street, - extending from Marine Place to its junction with court Lane
- 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.
- Highwell Road
- Manor Road
- Marine Crescent
- Marine Place
- Meadow Road
- Orchard Car Park
- Queen Street
- Seafield 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
- Blackmore View
- 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
- 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
- Vicarage Road, - south of Connaught Road



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)

#### 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
- Ann Street
- 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
- Charles Street
- Church Road
- Church Street
- Clarence Road
- Clinton Square

## Street Trading in East Devon

- ❑ 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 Chapel Street to its junction with Church Street.
- ❑ George Street
- ❑ Henrietta Road
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- ❑ King Street
- ❑ Littleham Road – from its junction with Salterton Road to the Broadway
- ❑ Louisa Place
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- ❑ Manchester Street
- ❑ Margaret Street
- ❑ Magnolia Centre
- ❑ Marine Drive
- ❑ 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 Buildings
- ❑ Strand, The
- ❑ Tower Street
- ❑ Union Street

## Street Trading in East Devon

- ❑ Victoria Road
- ❑ Windsor Square

### **Honiton**

- ❑ George Street
- ❑ King Street
- ❑ New Street
- ❑ Northcote Lane (part of)
- ❑ 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 and Harepath Road as far as Harepath Hill.
- ❑ Court Lane
- ❑ Cross Street
- ❑ Eyrecourt Road
- ❑ Fore Street, - extending from Marine Place to its junction with court Lane
- ❑ 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.
- ❑ Highwell Road
- ❑ Manor Road
- ❑ Marine Crescent
- ❑ Marine Place
- ❑ Meadow Road
- ❑ Orchard Car Park
- ❑ Queen Street
- ❑ Seaford 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
- ❑ Blackmore View
- ❑ Church Street

## Street Trading in East Devon

- ❑ Coburg Road - between Coburg Terrace and Church Street
- ❑ Dove Lane - and the lane between Dove Lane & New Street
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- ❑ Fortfield Place
- ❑ Fortfield Terrace
- ❑ Glen Road, - south of Manor Road
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- ❑ Ham Playing Field
- ❑ High 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.
- ❑ Vicarage Road, - south of Connaught Road

### 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**  
1 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.
- 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.

## Street Trading in East Devon

- 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 persons employed by them has 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 Service can be contacted on 01395 517410 or by email at [licensing@eastdevon.gov.uk](mailto: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.

### **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.**