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Agenda for Licensing & Enforcement Committee Wednesday, 23 August 2017; 9.30am

[Members of the Committee](#)

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

Contact: [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 14 August 2017

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- 1 Minutes for 28 June 2017 (pages 2-4)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#) – none identified
- 5 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.

Part A - Matters for Decision

- 6 Committee Update – Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing, including Apps A - E (pages 5-10)
- 7 Taxi Licensing Policy – To seek approval to change to medical Policy (pages 11- 13)
- 8 Street Trading –Street Trading – Designation of Streets Under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (pages 14-31)

[Decision making and equalities](#)

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

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EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Committee
held at Knowle, Sidmouth on Wednesday, 28 June 2017

Attendance list at the end of the document

The meeting started at 9.30am and ended at 10.45am

*20 Minutes

The minutes of the meeting of the Licensing & Enforcement Committee held on 17 May 2017, were confirmed and signed as a true record.

*21 Declarations of interest

Councillor John Dyson

Minute 6

Disclosable Personal Interest – Member of Sidmouth Town Council and Sidmouth Folk Festival Trustee

Councillor Cherry Nicholas

Minute 6

Disclosable Personal Interest – Chairman of Exmouth Festival

22 Street Trading- Designation of Streets under Schedule 4 of the
Local Government (Miscellaneous Provisions) Act 1982

Members received the report of the Licensing Manager which set out the method and results of the public consultations undertaken in respect of changing the current Street Trading designation in East Devon from prohibited to consent streets. This was to retain control on the issue of Street Trading Consents and also sought approval to undertake the change in designation of specified locations as consent streets for street trading and to adopt a policy to administer the regime. The report also showed the current fee structure in respect of Street Trading Consents and sought authority to set and to increase fees to allow the Council to recover the cost for carrying out its regulatory responsibilities.

Members noted that if the proposal to change the current Street Trading designation in East Devon from prohibited to consent streets was not accepted then EDDC would have to enforce the current street trading prohibitions more stringently than at present. There was concern expressed from Exmouth Members about the possible effect the introduction of fees for Street Trading licences would have on traders on Exmouth Festival, and that these would be in addition to charges currently levied by the Street Scene service. This highlighted the need for discussions with the Estates and Street Scene services over events on Council owned land when the new Street Trading regime came into operation.

During discussions the following comments were made:

- A document providing a clear and easy to read guidance document on organising events on Council land and the new Street Trading regime would be welcomed;
- Importance of improving quality of stalls and the produce they sell;
- Potential to have a corporate style street trading pitch throughout the district;

Steve Saunders, Licensing Manager and the Licensing Team were thanked for the well-presented and informative report.

- RESOLVED:**
1. that the results of the public consultation undertaken in respect of the proposed changes to the street trading regime and the resource implication of introducing a new regime be noted;
 2. that agreement be given to:
 - a) Rescind all of the Council's previous resolutions to designate streets a 'Prohibited Streets' and 'Consent Streets' within the district, and
 - b) Resolve to designate all 'streets' in East Devon as being 'Consent Streets' as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 save for certain streets in Sidmouth which shall be 'Prohibited Streets' (identified in Appendix F).
 3. that approval be given to the Street Trading Policy and Standard Conditions (Appendix I) to be used to administer the street trading regime.

- RECOMMENDED**
1. that the proposed fees set out in Appendix K which will apply to all applications for street trading consent, be agreed;
 2. that approval be given for a temporary appointment of a Grade 5 officer for 18 months to ensure sufficient resources to administer the new regime.

Attendance list

Councillors present

Steve Hall (Chairman)
John O'Leary (Vice Chairman)
Megan Armstrong
Brian Bailey
Dean Barrow
Colin Brown
Bruce de Saram
John Dyson
Steve Gazzard
Jim Knight
Geoff Jung
Cherry Nicholas

Officers present

Henry Gordon Lennox, Strategic Lead – Governance & Licensing
Steve Saunders, Licensing Manager
Sue Howl, Democratic Services Manager
Chris Lane, Democratic Services Officer

Apologies

Councillors:

Matt Booth
Jenny Brown
Maddy Chapman

Chairman Date

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 23 August 2017

Public Document: Yes

Exemption: None



Agenda item: 6

Subject: **Committee Update -
Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing**

Purpose of report: 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**

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

Officer: Steve Saunders, Licensing Manager, Ext. 2787,
ssaunders@eastdevon.gov.uk

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:
Appendix A – Published List Wheelchair Access Vehicles (WAV's)

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

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

1.1.1 Since 6 April 2017 when legal introduced under the Immigration Act 2016 came into force, the team has undertaken additional work through examining identity documents for all applicants to confirm a right to work in the UK.

1.1.2 Part of the work undertaken by the licensing team involves compliance inspections visiting licensed premises to ensure that licensing laws are adhered to by licence holders and their staff. From April to August 2017 the team completed 60 compliance visits to premises across

the district. This will increase over the forthcoming months and will be reported as the team embark on the busy summer period for festivals and outdoor events.

- 1.1.3 On 18 May an officer attended a licensed premises in Colyton following complaints of late night noise and disturbance during the previous weekend. On speaking to the licence holder it would appear that this was an unusual weekend for the pub as they had a 'stag do' on the Saturday evening (all locals) followed by a charity event on the Sunday when a local male had his hair shaved off. They had spoken to the complainant who had rung the pub and explained what had taken place and were surprised when an official complaint had been made. No further incidents or complaints have been received since the event.
- 1.1.4 On 2 June an officer attended a licensed premises in Colaton Raleigh following a complaint that a 'club house shed' had been built in the gardens of a licensed premises and the owners were using it for selling alcohol and playing music. The owners were seen and advice given that either a new licence should be applied for or to stop using the 'shed' for licensed purposes. The owner has since agreed not to use the 'shed' and will apply for a licence at a later date if he feels it would be worthwhile.
- 1.1.5 On 21 July officers attended a licensed premises in Sidmouth following complaints of loud music and late night 'people' noise as late as 5am. The temporary manageress/ DPS of the premises apologised for any disturbance but said she had closed on time but the staff had stayed after closing to clean the place through and they did have music on. She denied that any staff or customers had been around at 5am but did say on one occasion she had been disturbed early one morning by people who had come up from the town and had stopped outside her pub to chat. Suitable advice given but since the visit there has been a change of staff and permanent management have transferred onto the licence.

1.3 Hearings

- 1.3.1 The licensing authority continues to offer mediation when representations have been made against a licensing application to see if an agreed position can be reached between objectors and the applicant. These mediation meetings are often successful and reduce the number of contested hearings.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The licensing team has reminded a number of gambling operators of the need to renew their 10 year gaming permits that are due to expire later this year as a number of premises that were licensed in 2007 are coming to the end of their full maximum period. On 24 July 2017 an officer visited two licensed gaming premises with staff from the Gambling Commission to assess the progress of renewal applications. Both premises were found to be operating professionally and within the requirements of the Gambling Act and applications to renew both permits have been received from the operators.
- 2.1.2 This licensing team works closely in conjunction with the Gambling Commission when considering new applications and further joint inspections to premises subject of renewals are to be arranged in the autumn.

2.2 Enforcement

- 2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected.

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 Members will be aware that the updated Taxi policy was approved and passed by the Council on 26 July 2017 both modernising and updating many aspects of the previous policy. It was acknowledged that the policy will be subject of regular review and any further changes where appropriate. One early proposed revision to the new policy relates to the frequency of medical checks for hackney carriage and private hire drivers following the changes of national standards by the DVLA and is addressed in a separate report.
- 3.1.2 The new taxi policy saw the introduction of a knowledge test for Hackney and Private Hire drivers. This will be a requirement for all new drivers along with those whose licences lapse if they fail to renew on time. Officers have worked to create the new knowledge test containing questions on local geography, the Highway Code and numeracy. Work on this will continue to ensure a suitable bank of questions are available for future applicants.
- 3.1.3 On 7 July 2017 officers visited car dealerships in Exeter to examine various vehicles offered for sale by manufacturers as 7 seater vehicles (6 passengers with 1 driver). The officers examined those vehicles having two passenger seats behind the main three seats which together with the front passenger seat (next to the driver) provide seating for 6 passengers. Such vehicles are sometimes referred to as being Sports Utility Vehicles (SUV) being designed to carry 5 to 7 passengers. This council has issued hackney carriage and private hire licences to carry 5 passengers rather than 6 for certain cars, the Vauxhall Zafira being one example. Although the design may offer 6 available passenger seats, a licence to carry a maximum of 5 passengers will be issued due to the very small size of both rear seats which would prevent seating for adults.
- 3.1.4 The research by the officers supports the licensing arrangements for smaller SUV's, such as the Vauxhall Zafira to be licensed for a maximum of 5 passengers. Officers propose to produce a list of vehicles according to make, model and licensed seating capacity. This will then be published on the council's website in the future to assist proprietors and owners when considering purchase of a vehicle.
- 3.1.5 The majority of hackney carriage driver and vehicle licences still fall due for renewal by 31 October each year. Officers have sent out letters to 85 licence holders and to their employers reminding them of the need to have a relevant identity document to confirm their right to work. A number of licence holders gave positive feedback to the team for the early reminder to prevent their licences lapsing by not having a passport, birth certificate or other document available.
- 3.1.6 For the majority of existing licensed drivers being required to renew their driver licences (Hackney and Private Hire) it will be necessary to conduct individual meetings to confirm the right to work in the UK through examining original documents (passports or birth certificates). This will create an increase in working procedures later this year for the officers.
- 3.1.7 The new taxi policy will see the introduction of an inspection review of licensed vehicles being 14 years or older from date of manufacture for which there are currently two. A letter explaining the change has been sent to both vehicle owners. Letters were also sent to 6 owners of vehicles currently 13 years old and being due to reach 14 years from date of manufacture next year.

3.2 Enforcement

- 3.2.1 The licensing team has continued to carry out checks and inspections of hackney carriage vehicles whilst parked on the taxi ranks within the East Devon area to ensure that all vehicles comply with the legislation and meet the required standards. During this quarter compliance inspections for vehicles have been undertaken at ranks in Exmouth, Sidmouth and Honiton.
- 3.2.2 The licensing team continue to inspect licensed vehicles with the number completed currently standing at thirty eight. These inspections continue to ensure the safety of the public by ensuring vehicles are properly maintained when in use and all licensed hackney carriage vehicles must display a roof sign along with a hackney carriage plate fixed to the rear of the

vehicle to allow the public to properly identify taxis. Checks have continued across the district to ensure compliance and safety.

- 3.2.3 The Committee was informed at the last meeting of enforcement work undertaken by officers earlier this year across the district and also in Exeter City. This was necessary following complaints from the trade to ensure that East Devon licence holders were displaying both a roof sign and a hackney carriage plate, particularly when undertaking journeys in Exeter and had led to some drivers receiving formal warnings. Members may feel more assured that the compliance visits in Exeter have now been completed without further need to continue. Officers will continue to work in partnership with colleagues in other council areas to address specific complaints.
- 3.2.4 Following the extensive compliance work undertaken, three hackney carriage drivers surrendered licences held with East Devon and opted to move to Exeter City Council where officers had identified they were working rather than being in East Devon.
- 3.2.5 Members asked at the last meeting what the arrangements are for those taxis licensed by East Devon which may wish to use bus lanes in Exeter City in a similar manner to taxis licensed there. An enquiry was made with licensing colleagues at Exeter City Council who outlined that licence holders in East Devon can apply for bus lane passes there. It may be necessary to show that there is a due to certain types of work, such as conducting child school transportation. Any interested licence holders would need to contact Exeter City Council Licensing to make their application.

3.3 Change in Procedures for Wheelchair Access Vehicles (WAV's)

- 3.3.1 It was reported at the last meeting that statutory guidance has been provided to all licensing authorities by the department for transport. Under the Equality Act 2010, authorities are now expected to publish details of all licensed proprietors (Hackney and Private Hire) who operate licensed vehicles capable of carrying wheelchairs with a passenger from 6 April 2017. It also became law that all drivers of such vehicles must comply with affording all assistance to wheelchair users whilst not making any additional charges for doing so. The onus is for all authorities to establish whether any drivers have any legal exemptions from complying with the act and to publish a list of all WAV's on the council website.
- 3.4.2 This council currently has 8 such vehicles licensed and under the transition arrangements of the act all proprietors were contacted and provided approval to have their vehicle details published. There are 3 proprietors owning the 8 licensed WAV's.
- 3.4.3 The full list of licensed WAV's has been published on the council's website and is shown as **Appendix A**.

4. General Licensing – Street Trading Consents

4.1 Street Trading Consents Policy

- 4.1.1. The current policy concerning Street Trading Consents is subject of an additional report submitted following a public notice to progress the proposed change in the designation of street trading from prohibited to consent locations.

5. Consultations and Partnership Working

5.1 Meeting between Members, Taxi Proprietors and Officers

- 5.1.1 An officer attended a meeting for members of the Exmouth taxi proprietors and drivers on 24 July 2017 which has seen changes in members and an increase in those attending. The latest meeting provided an opportunity to highlight the recent change in taxi policy and to further remind licence holders of the requirement to prove a right to work when renewing licences later this year. The forum also allows licence holders to ask officers questions on taxi related matters and was held in a positive manner.

5.2 Officers attend Licensees meeting

5.2.1 Officers attend Licensees meeting within the East Devon area, usually quarterly for the exchange of ideas, information and keeping up to date with issues within each area. Attendance by council, local police and also police licensing staff is keenly sought by the licensing trade to discuss local crime and disorder issues. An officer attended the previous meeting with Sid vale licensees on 17 July 2017 to discuss and prepare ahead of the Sidmouth Folk Week

6. Members Training

6.1 Following requests from committee members for a formal training session to be considered, a training event occurred in the Council Chamber on 14 June 2017 which was delivered by the Institute of Licensing (IoL) in conjunction with TLT Solicitors. The feedback received since was positive and will form the basis for further training sessions occurring at the end of Committee quarterly meetings in the future.

Transporting a Wheelchair User

The new requirements of the Equality Act 2010 came into force on 6 April 2017.

Sections 165 to 167 of the Equality Act 2010 make it a criminal offence for drivers of designated taxi and specified private hire vehicles to refuse to carry passengers in standard manual wheelchairs, to fail to provide them with appropriate assistance or to charge them extra.

The requirements of section 165 do not apply to drivers who have a valid medical exemption certificate and are displaying a valid exemption notices. If you are exempt then you will have been issued with two exemption notices. These must be displayed as follows:

1. One in the near side window for approaching passengers and wheelchair users to see
2. One in the rear window of your vehicle so any driver behind you on the rank will be aware of your exemption

The exemption notice is not transferable and if the vehicle is shared by another user you must ensure the notice is removed before somebody else uses the vehicle.

Some Hackney Carriage and Private Hire Vehicles in East Devon are wheelchair accessible and the full list of vehicles can be found on our website.

This register is also the designated list for the purposes of section 165 of the Equality Act 2010.

Licence Number	Make/Model	Registration	Operator
HV0801	Peugeot Eurobus	SF10LCL	Peak Travel Services
HV0084	Peugeot Horizon	SF13HYL	Peak Travel Services
HV0091	Peugeot Horizon	SF61HFH	Peak Travel Services
HV0510	Citroen Dispatch	SP07EFN	Peak Travel Services
HV0092	Peugeot Premier	SF13FUG	Bee Line
HV0504	Peugeot Independence	SF62AAX	Bee Line
PV0600	Peugeot Tepee	WA66DPZ	Stamps Coaches
PV0800	Ford Transit	YR11FGD	Stamps Coaches

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 23 August 2017

Public Document: Yes

Exemption: None



Agenda item: 7

Subject: **This Council has adopted the Group 2 Medical Standards of fitness to ensure all licensed Hackney Carriage and Private Hire drivers are fit and proper persons. This standard is recommended by the Drivers Medical Unit at the DVLA, Swansea. The proposal is to continue with this standard but to amend the council taxi policy in line with national change of the frequency of medical assessments.**

Purpose of report: The proposal to revise the current taxi policy for frequency of medical assessments to reflect national standards for a medical upon applying, then again at the age of 45 and thereafter every 5 years to the age of 65.

Recommendation: **From 23 August 2017 that the Committee adopts a change to the current taxi policy;**
a. For all applicants for hackney carriage and private hire driver licenses to undergo a medical at point of application, thereafter,
b. A medical at the age of 45 and thereafter every 5 years until the age of 65 (annually after 65 years).
c. For all currently licensed to adopt the same frequency requirements upon completion of their next planned medical review (subject to satisfactory outcome).

Reason for recommendation: To revise existing taxi policy relating to medical fitness which currently specifies a medical review every 5 years (unless requiring an annual medical review). The proposed changes are inline with national DVLA changes.

Officer: Steve Saunders, Licensing Manager, Ext. 2787, ssaunders@eastdevon.gov.uk

Financial implications: Less frequent medical requests for approved applicants up to the age of 45 will result in a reduction of officer's time completing annual reviews.

Legal implications: The legal implications are explained within the body of the report.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

None

Background Papers:

[DVLA Assessing fitness to drive- A guide for medical professionals 2017](#)

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

1 Background

1.1 The licensing of hackney carriage drivers is the responsibility of the council and is governed mainly by legislation under the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.

1.2 **Section 59 Local Government (Miscellaneous Provisions) Act 1976 states that:**

A district council shall not grant a licence to drive a hackney carriage unless:

- (a) They are satisfied that the applicant is a fit and proper person to hold a drivers licence, or
- (b) to any person who has not for the last 12 months been, and is not at the date of the application for a drivers licence, the holder of a licence granted under part 111 of the Road Traffic Act 1988 or part 111 of the Road traffic Act 1988 (not being a provisional licence) authorising him to drive a motor car.

1.3 In 1996 the Council's Tourism and Transportation Committee adopted the Group 2 Medical Standards of fitness to drive in order to ensure that all Hackney Carriage and Private Hire drivers licensed by the Council are fit and proper persons. This is a higher standard of medical fitness to drive than for ordinary car drivers and was adopted after the House of Commons Select Committee on taxi and private hire vehicles recommended in 1995 that applicants should pass a medical examination before a licence could be granted.

1.4 This is the same standard required for lorry, coach and bus drivers driving for a living. This standard is recommended by the Drivers Medical Unit at the DVLA, Swansea and at the time of adoption by the Medical Commission on Accident Prevention (the Medical Commission has since been disbanded).

1.5 Current national best practice advice is contained in government guidance "Assessing Fitness to Drive: A Guide for Health Professionals" first produced in 2006 and frequently revised since, most recently being in June 2017. It recommends that the Group 2 medical standards applied by DVLA in relation to bus and lorry drivers should also be applied by local authorities to taxi drivers. Most licensing authorities in England have adopted this policy.

1.6 Section 57(2(a)) of the Local Government (Miscellaneous Provisions) Act 1976 empowers any licensing authority to be able to require an applicant for a taxi drivers licence to produce a certificate signed by a registered medical practitioner as to his/her fitness. This section also gives the licensing authority the power to direct a current taxi driver to undergo a medical examination.

2 **Current Policy**

2.1 Current taxi policy specifies that applicants for the grant of a hackney carriage or private hire driver's licence must produce a medical certificate signed by a registered medical practitioner from the applicant's own medical practice or surgery and who has access to his/her medical history, certifying that the applicant is physically fit to Group 2 medical standards for vocational drivers' licences.

2.2 The current policy required a further medical review be undertaken every 5 years, until a licence holder reaches the first anniversary of the licence renewal date after his/her 65th

birthday or on his/her 66th birthday, whichever comes first and then annually at the licence renewal date thereafter.

2.3 The cost of any such examination will be at the applicant's own expense and there are certain illnesses and disorders that merit the requirement for an annual medical review.

2.4 The latest national best practice advice contained in the DVLA guidance "Assessing Fitness to Drive: A Guide for Health Professionals" was revised and published in June 2017.

3 Proposed Policy change

3.1 The latest national best practice to licensing authorities and the Group 2 Medical standards has changed the frequency for medical reviews. Whilst medical reviews for all new applicants for private hire and hackney carriage driver licences will continue, a change to policy is recommended that upon being granted a licence the next subsequent medical (provided there is no change in health) will be required at the age of 45 years. Thereafter the age of 45 years a medical will be required every 5 years until the age of 65.

3.2 It is further recommended the policy be revised to require all currently licensed hackney carriage and private hire drivers to be subject of the same frequency requirements up to the age of 45 and thereafter to undergo a medical every 5 years until the age of 65.

3.3 The current policy requiring an annual medical over the age of 65 remains unchanged.

3.4 If approved, for drivers that are currently licensed the change in frequency will only occur upon satisfactory completion of their next planned medical review unless having undertaken a medical in the previous six months (since 23 March 2017). This change of frequency after completion of the next planned medical ensures the safety of the public and other road users through confirming current licence holders are medically fit and proper prior to extending the frequency of medical assessments.

3.5 In circumstances where certain illnesses or disorders are diagnosed, the requirement to undertake annual medical reviews will remain. The costs of medical examination will also be at the licence holder and applicant's own expense.

3.6 The proposed change of medical policy would not require consultation with the taxi trade in advance being a national change in standards introduced by the DVLA. The change to adopt longer periods between medical assessments will reduce financial costs for licence holders through having less frequent medical examinations.

3.7 The proposed change of medical frequency policy reduces officer time spent engaged in medical reviews

3.8 The policy will retain the existing legal requirement that all licence holders should notify any adverse change in medical circumstances or health to the licensing authority.

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 23 August 2017

Public Document: Yes

Exemption: 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 explains the response to the Council's public notice of the proposal in respect of changing the current Street Trading designation in East Devon from prohibited to consent streets.

Recommendations:

That the Committee;

- 1. Notes the outcome of the public notice of their proposal to change the street trading regime in East Devon and formally resolves to;**
- 2. To:**
 - (a) Rescind all of the Council's previous resolutions to designate streets as 'Prohibited streets' and 'Consent Streets' within the district, and**
 - (b) Designate all 'streets' in East Devon as being 'Consent Streets' as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 save for certain streets in Sidmouth which shall be 'Prohibited Streets' (identified in Appendix B) with effect from Monday 2nd October 2017**
- 3. Approves the Street Trading Policy (Appendix C) incorporating an amendment under Point 8 relating to community events.**

Reason for recommendation: To inform the Committee of the outcome of the public notice in accordance with the decision made at its meeting of 28 June 2017 and to for the Committee to decide on whether to confirm its proposal to change the current Street Trading designation.

Officer: Steve Saunders, Licensing Manager: ssaunders@eastdevon.gov.uk

Financial implications: Costs incurred of delivering the proposal to the public to be covered by existing advertising budget by means of marketing and external consultant fees. Previously this has been £400 and minimal Officer time. Provided public consultation has passed, based on a predicted increase in demand for Street Trading within East Devon, a temporary post of Licensing Officer for a 12 month contract to administer new applications to be passed and reviewed after this temporary period. At a present cost of £21,268 for 2017/18, would require approval for additional Employment Funding.

It is important to regularly review fees being recovered to ensure that costs of providing the administration for the licensing department are

met. It is also imperative to provide good value for money whilst encouraging new applicants for street trading.

Legal implications: If the Committee decides to confirm the changes to the street trading regime then to complete the legal process a further advert is required as detailed in the report. Otherwise the legal implications have been detailed within the previous report and require no further comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

Appendix A – Public Notice advertisement East Devon

Appendix B – List of Prohibited Streets in Sidmouth

Appendix C – Revised Street Trading Policy

Background Papers:

- Street Trading Report, Overview Committee, 30 Jun 2015
- Street Trading Report Minutes, Overview Committee, 30 Jun 2015
- Street Trading Report, Licensing Committee, 26 Aug 2015
- Street Trading Report Minutes, Licensing Committee, 26 Aug 2015
- Street Trading Report to Overview Committee, 29th November 2016
- Street Trading Report, Licensing Committee, 15 Feb 2017
- Street Trading Report, Licensing Committee, 28 Jun 2017

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

1 Results of the Public Notice

- 1.1 On 28 June 2017 the Licensing and Enforcement Committee resolved that it wished to change the designation of Street Trading with the decision to rescind all of the Council's previous resolutions to designate streets as 'Prohibited streets' and 'Consent Streets' within the district and to designate all 'streets' in East Devon as being 'Consent Streets' save for certain streets in Sidmouth that shall be 'Prohibited Streets'.
- 1.2 Following this decision a public notice (**Appendix A**) advertising the Committee's intention to pass this resolution was placed in each newspaper circulating in East Devon on 5 July 2017. The notice requested that any responses be made to the Council in writing by 4 August 2017.
- 1.3 Notification was also given to the Chief Officer of Police and the Lead Officer of the Highway Authority at Devon County Council. An entry was also placed on the Council's website with a link to the public notice.
- 1.4 Consideration must be given to any representations in response to the public notice before the Council decides whether to pass such a resolution
- 1.5 Despite the widespread circulation of the public notice no formal responses were received.
- 1.6 Accordingly, and as there are no representations to be taken into account, the recommendation to the Committee is to pass the formal resolution to change the street trading regime as detailed above. It is recommended that the date the resolution takes effect (i.e. the date the new regime comes into force) is Monday, 2 October 2017.

2 Further Advertisement

- 2.1 If the Committee resolve to confirm their decision to change the designation of Street Trading it will be necessary for a final advertisement process to take place. A further public notice must be placed in the local press for two consecutive weeks giving no more than 28 days notice of the Council's decision and of the date it comes into force. It is for this reason that the effective date is suggested to be 2 October, to enable the appropriate notice to be given following any decision of the Committee.

3 Street Trading Policy, Conditions and Fees

- 3.1 The proposed Street Trading Policy, standard conditions and fees were approved by this committee at its last meeting on 28 June 2017 together with the recruitment of a temporary Scale 5 Officer to administer the new regime. The recruitment budget and fees have subsequently been approved by Full Council.
- 3.2 A copy of the proposed Street Trading Policy is provided for approval as **Appendix C** solely concerning an amendment at Point 8 (a) at the request of the Committee arising from the last meeting. Members had requested that the Council remit application fees for Community based events in the future which has been taken into account with the revision under this section.
- 3.3 Officers also note the comments of members at the previous meeting for clearer guidance concerning events on Council land, improving the quality of stalls and the produce they sell and the potential to have a corporate style street trading pitch throughout the district. Meetings have already taken place involving managers from various services to agree arrangements and will continue to be formalised at a further meeting occurring in September. The quality and suitability of produce sold and the stalls would be closely monitored for all future street trading requests. Whilst Sidmouth Esplanade is currently the only location where specific pitches have been available, any new locations requested by traders in the future would be considered on a case by case basis together with the option to introduce more corporate style pitches where appropriate.

4 Implementation

- 4.1 The administration and staffing arrangements for street trading is being progressed in accordance with the anticipated timescale for commencement in October 2017. The Council website will be revised once the change of designation to consent streets comes into force to highlight the new arrangements, application procedures and change in designation.
- 4.2 The changes will also be circulated through a press release in the media prior to the commencement date.

East Devon District Council

Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 Street Trading in the East Devon District Council area

Notice is hereby given that East Devon District Council propose to pass the following resolution in relation to all streets in the administrative area of East Devon.

'In accordance with Section 3 and Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, the Council hereby resolves that all the streets in the administrative area of East Devon be designated as consent streets, save for those listed in the schedule hereunder which shall be prohibited streets. Any previous designations made by the Council in respect of any streets in its area are hereby rescinded. This resolution will take effect from MONDAY 2 OCTOBER 2017.

The effect of the Council resolution means that street trading will only be allowed on consent streets with the consent of the Council on such days and times, under such other conditions and on payment of such charges as the Council shall determine.

Schedule of Prohibited Streets

Prohibited Streets in Sidmouth where street trading is at all times forbidden by law;

- ❑ 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
- ❑ 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
- ❑ Vicarage Road, - south of Connaught Road

Representations relating to the proposed designation may be sent or delivered in writing and addressed to the undersigned not later than FRIDAY 4 AUGUST 2017:

The Licensing Manager
Council Offices
Knowle
Sidmouth
EX10 8HL
Dated: 5 July 2017

APPENDIX B

List of Proposed Designated Streets in Sidmouth at 2 October 2017

The following are designated as Prohibited Streets where street trading is at all times forbidden by law;

- ❑ 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
- ❑ 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
- ❑ Vicarage Road, - south of Connaught Road

The following is a Consent Street but as a matter of policy consents shall only be granted during Sidmouth Folk Week;

- ❑ Esplanade & Promenade



APPENDIX C

EAST DEVON DISTRICT COUNCIL

Street Trading Policy
And
Application Guidance

Licensing Service
East Devon District Council
Knowle
SIDMOUTH
EX10
8HL

August 2017

INTRODUCTION

1. East Devon District Council (“the Council”) has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. This means the Council can properly regulate those who sell articles without the use of ordinary business premises and those traders who move from place to place. The Council has designated all of its administrative area as a consent street for street trading purposes, except a small part of Sidmouth in which street trading is prohibited. This means that in the consent streets anyone wanting to street trade must obtain consent from the Council first.
2. 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 may also be subject to the requirement to have consent depending on the circumstances.
3. These guidelines have been developed to assist those applying for street trading consents in East Devon and sets out the standards for determination of applications and the enforcement of street trading activities in the East Devon area to ensure a consistent approach. However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.
4. Advice should be sought from the Licensing Team on the proposed activity/location to see if a consent is required before starting to trade – see paragraph 12 for contact details.
5. Within this document the following definitions apply:

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 subject to the street trading legislation.
Street	Includes: <ol style="list-style-type: none">(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

Exempt activities

6. Shops and petrol filling stations (including selling in the street adjoining such premises

provided it is part of the business of the premises) are not caught by the requirements to have a street trading consent. In addition, certain other activities are exempt from street trading rules. These include;

- Pedlars, markets or fairs where the right is granted through any enactment or order, trading in a trunk road picnic area, news vendors (unless the stall exceeds a certain size) and roundsman (this does not include mobile ice cream sellers).
7. In addition, the Council, as a matter of policy choice, will not require any consents to be applied for or held where the residential occupier of a property is selling items which are surplus to domestic requirements (e.g. home grown / produced jams, fruit, vegetables, eggs etc) provided the sale is within the curtilage of the property or immediately adjacent to it and it is not a commercial concern.

Activities where fee concession may apply

8. The Council may remit all or part of the payment of application fees for the following street trading activities;
- (a) Fetes or community events held for charitable or for **community** purposes
 - (b) Non-commercial car boot sales (where event organisers whether an individual or company do not profit)

Consents

9. Generally consents will be granted for specified / fixed locations. In the case of mobile / itinerant street traders where there is a genuine need to ply trade in many locations, being those who move from street to street but trade for less than 30 minutes at any one point and who don't return to a similar trading position within 2 hours (e.g. an ice-cream van or fish & chip van), a general consent will be issued on a daily basis. General consents will only be issued for consent streets and not for prohibited locations.
10. Consents may be granted on a daily, weekly, monthly, seasonal or yearly basis. No consent shall be longer than 12 months. All consents will expire on the expiry date and for trading to continue after the expiry date a new consent will need to be in place.

POLICY STATEMENT

11. The Council'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.

PROCEDURE

12. An application for a street trading consent must be made to the Licensing Team at East Devon District Council in writing or online through the Council's street trading section of the [website](#). If you need any help in completing the application form please contact the Council's Licensing Team on 01395 517411 or by emailing licensing@eastdevon.gov.uk. The Council offices are open to members of the public between the hours of 8.30 am and 5.00 pm Monday to Fridays. Appointments should be made in advance of visiting the council offices to ensure being seen and to allow staff to prepare documentation that you might be needed.
13. An applicant for the first time grant of an annual Street Trading Consent **should give a minimum of 60 days notice to the Council**.
14. The application and approval procedure comprises certain stages, detailed below.
15. Please note that there are separate sections dealing with Sidmouth Folk Week and Seaton Registered Charities Consents at the end of ^{2?}this guidance document.

STAGE 1 - SUBMISSION OF THE APPLICATION

16. You will need to submit the following documents and fees with the application:
- (a) A completed and signed street trading application.
 - (b) The relevant full fee payable (see Section on Fees).
 - (c) 2 copies of a map of the trading site. The map should clearly identify the proposed site position by marking the site boundary with a red line. The map should include the nearest residential and commercial properties to the trading site. Applications for mobile trading consents (i.e. fish and chip vans) must provide specific routes they wish to trade from.
 - (d) A clear passport photograph of the applicant (and every other person assisting) and one colour photograph showing the stall, vehicle, barrow which is to be used from the front back and sides.
 - (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) Proof of Right to Work (Immigration Act 2016).
 - (g) Copy of food hygiene certificate from relevant Local Authority (to include which authority).
 - (h) 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.
 - (i) A recent Gas Safety Inspection Certificate for any gas appliances used as part of the business. Generators may not be used or permitted at some locations. Where use of a generator is sought at a trading site the application will require details of the noise rating, the fuel type and the storage arrangements.
17. An application for a street trading consent will **not** be considered where permission of the landowner for the proposed trading site to carry out street trading has not been provided, for whatever reason.
18. Any organizer of any event where there is to be a number of traders (e.g. farmers markets or car boot sales) may apply for one block consent for each market or event held. However the full fee is payable at the time of application. The market or event organiser in receipt of a block consent will become responsible for all the individual trading activities as well the collection and payment of any fees they wish to pass on.

STAGE 2 – CONSULTATIONS

19. Before a street trading consent is granted, the council will carry out a consultation process with various persons and organisations seeking comment from them, namely:

Statutory organisations

- The Highways Authority (Devon County Council)
- Devon and Cornwall Police
- Devon and Somerset Fire & Rescue Service (DSFR) where appropriate
- The Council's Environmental, Commercial and Environment Protection Teams

Non-statutory bodies / persons

- The relevant Ward Members

- The appropriate Parish or Town Council
- Neighbouring residents / businesses

20. Where practicable, 21 days will be given for representations to be received.
21. No consultation will be carried out on applications for established events or sites (such as Sidmouth Folk Week and regular applications from registered local charities for consents on the Seaton Esplanade or sites which become established as consent sites in the future).
22. Comments (whether supporting or objecting) will be assessed to determine their relevance on the basis of the criteria set out in Stage 5 below (paragraphs 32-40). In addition, consideration will be given as to whether an objection is vexatious or repetitive. All those comments which are deemed to be relevant and not vexatious or repetitive will be taken into account as part of the decision making process.

STAGE 3 – SITE ASSESSMENT

23. Officers will assess the suitability of the site for the street trading activity to occur.
24. Street trading consents from static locations will generally **not** be granted where;
 - 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
 - Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
 - There is a conflict with Traffic Orders such as waiting restrictions, or
 - 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
 - The trading unit obstructs the safe passage of users of the footway or carriageway, or
 - The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
 - The site does not allow the consent holder, staff and customers to park in a safe manner, or
 - 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.
 - 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
 - Street trading requests for certain areas of Exmouth Seafront may not be considered suitable, due to health and safety and highway issues. Commercial consents for the sale of hot or cold food, including ice cream or food sales from vans/trailers/units, are generally considered unsuitable due to highway and parking restrictions, heavy pedestrian use and health and safety reasons. Each application will be considered on its own merit.
25. In certain circumstances and for larger events or markets, it may be necessary for a road closure order to be obtained to mitigate risks to safety.

STAGE 4 – INSPECTION OF STREET TRADING UNIT

26. The vehicle, van, trailer, stall or other device to be used for the proposed street trading activity may be inspected by an Authorised Officer of the Council, prior to the determination of any street trading consent. 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 2013
- Food Safety Act 1990 and any Regulations made under this act
- Health and Safety at Work etc. Act 1974 and any Regulations made under this Act.
- Environmental Protection Act 1990.
- Control of Pollution Act 1974
- Anti-social Behaviour, Crime and Policing Act 2014

Further advice on any of the above requirements can be obtained from the Environmental, Commercial and Environment Protection Team by emailing environmentalhealth@eastdevon.gov.uk.

STAGE 5 – CONSIDERATION OF APPLICATIONS

27. Any comments received from the consultation process which are relevant will be taken in to account as part of the consideration of the application.
28. The criteria listed below will be used to consider whether or not an application should be approved. 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;
 - (i) Site safety
 32. 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 location. In particular reference will be made to the guidelines set out in Stage 3 on site safety assessment criteria and observations made by the Highways Authority.
 - (ii) Public Order
 33. 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 Police will be taken into consideration under this heading.
 - (iii) Avoidance of Annoyance
 34. The street trading activity should not cause annoyance from noise, smells, fumes or litter to households and businesses in the vicinity of the proposed street trading site. Observations from Council’s Environmental, Commercial and Environment Protection Teams shall be taken into consideration under this heading.
 - (iv) Conflict with other like trading outlets and school premises
 35. The presence of other like trading outlets and proximity of schools shall be taken into consideration as follows:
 - The presence of like trading outlets already existing in the immediate locality of the proposed street trading site. The Council will not normally permit a new consent for the sale of goods or services which conflicts with those provided by nearby traders.
 - Mobile food vendors will not normally be permitted to trade within 500m of a school.
 - On lay-bys and trading estates there shall be no other street trading consents granted within 500 metres of an existing consent.
 - (v) Compliance with legal requirements
 36. 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.

(vi) Permitted Trading Hours

37. 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 case by case basis on their own merits. 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.
38. The Council retains the right to specify permitted hours of trading that are less than those applied for if local circumstances require it. Street trading locations will be managed and allocated on a first come first served basis subject to all requirements being met.

(vii) Compatibility of the proposed street trading operation

39. The proposed trading operation should complement the trading area in which it is situated and / or be compatible with the character of the event to which the consent is related. 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 (including any associated equipment or structures).
40. Refusal or withdrawal of street trading consents will be normal in the following circumstances:
- a) That there are not enough suitable street trading locations 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 any consent.
 - e) That the street trading may damage the structure or surface of the street.
 - f) When adverse comments are received from the statutory organisations which cannot be overcome.
 - g) Applications will normally be refused where the imposition of conditions is not adequate to control potential problems
 - h) In circumstances of extreme weather conditions when street trading may present a risk to the applicant, their staff or other people
 - i) The selling of psychoactive substances

STAGE 6 – DETERMINATION OF APPLICATION

29. The majority of applications will be determined by officers under delegated authority, although officers have the absolute discretion to refer any application to the Licensing Sub-Committee.
30. Where there are relevant objections then officers will be permitted to try and overcome the objections through negotiations with the relevant parties and the applicant.
31. If, following the negotiation process, there remain relevant objections from statutory organisations then, where the officer view is to approve the application, it will be referred to the Licensing Sub-Committee for a decision. In all other cases the application may be determined by officers. Where the decision of the officers is to refuse an application, the applicant will have the right to request a review of that decision by a more senior officer.
32. The applicant and anybody objecting to the application will be notified of a referral to the Sub-Committee and the date of when the application will be considered. The appropriate Ward Member will also be notified. Unless special circumstances apply the Sub-Committee meetings are open to the public.

33. The Sub Committee consists of elected members drawn from the East Devon District Council's 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.
34. The role of the Sub-Committee is determine applications where there are relevant objections from a statutory organisation or where the matter has been referred by officers. Officers have the discretion to also refer any enforcement related matters to the Sub-Committee where deemed appropriate.
35. The Council will look to convene the Sub-Committee as quickly as possible.
36. While all relevant comments relating to application will be referred to the Sub Committee the applicant and any objectors (or their representatives) and the Ward Member will be permitted to address the Sub-Committee. Only those who have commented on the application (or their representatives) will be permitted to address the Sub-Committee.
37. The Sub-Committee will follow a set procedure that will be notified in advance to those attending together with any officer report being presented at the meeting.
38. The 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 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 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.

Outcome

39. The reasons for refusal (whether a decision made by officers or the Sub-Committee) will be conveyed to the applicant. There is no right of appeal to the Magistrates' Court against the Council's refusal to issue a consent, however, where an application is refused, payment of the application fee shall be refunded save for the £30 administration fee.
40. In respect of any application which is approved the [Standard Conditions](#) will be attached to the consent, together with any other conditions deemed to be necessary by the decision maker. Conditions will require the street trading operation to be carried out as detailed in the application (e.g. the nature of the goods to be sold, trading hours / days and the unit from which they are to be sold).
41. 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 any subsequent application not granted. It is the responsibility of the applicant / consent holder to familiarise themselves with the conditions relevant to their consent and to abide by them.

FEES

42. Fees are determined by location, length of consent and time of year. Please refer to the [Fee Schedule](#) to determine the appropriate fee for what is being sought. Fees are set by the Council and will be reviewed, normally, on annual basis.
43. The first £30 of any application fee is a contribution towards the Council's processing fee while the remainder is towards the costs of administering / enforcing the street consent regime.
44. All applications must be accompanied by the full fee, save for annual consents which must be accompanied by at least half the relevant fee. If an application is refused, following the deduction of the £30 processing fees, any remaining fees will be refunded.
45. Any outstanding fees for annual consents must be paid on the 6 month anniversary of the issuing of the consent. A failure to make the ^{2nd} second payment (or a dishonoured payment)

will be a breach of the conditions attached to the consent and revocation of the consent will be considered.

46. Payments may be made by direct debit or using the online payment system available to the public. Please ask for information if you wish to pay by these methods. Cheques should be made payable to "East Devon District Council". Payment can also be made by card by telephoning the Licensing Service on 01395 517411.
47. 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 a pro rata basis from when the consent is surrendered (by way of being returned to the Council) minus a £10 administration fee.
48. 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.

GENERAL INFORMATION

49. The grant of a street trading consent does not confer any other consent, permission or licence that may be required in order to carry out the activity. Applicants will need to satisfy themselves that they have all necessary authorisations in place to trade. Other regimes that may be relevant include planning and licensing (i.e. sale of hot food or alcohol).
50. The Council will not grant a street trading consent to persons under the age of 17 years.
51. The consent granted is specific to the person it is issued to and is non-transferable.
52. 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 to confirm the identity of an employee.
53. Wherever possible food traders will be expected to use biodegradable materials in connection with the packaging of food served to members of the public
54. The Council will actively enforce the provisions of this Policy and street trading within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Council's Regulatory Enforcement and Prosecution Policy, copies of which are available upon request. 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.
55. 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 you should contact the Licensing Manager (01395 517587) or through the Complaints section on the [website](#).

SEATON

56. Due to the established nature of the charitable street trading activity carried on at Seaton, this section details how Registered Charities should apply for applications to street trade in Seaton.
57. The organising charity must apply in the usual manner using the Charity Street Trading Consent Form – which can be found [here](#).

- (a) The fee reflecting the applicant's charitable status.
- (b) A copy of the charity's public liability insurance.
 - (i) If the policy covers all people who may be trading at the event then no further action will be required.
 - (ii) 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.
- (c) No photograph of the stalls will be required for charity street markets.
- (d) Details of individual traders and numbers of stall should be provided with the application or as soon as possible before the event.
- (e) 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.
- (f) A street trading consent will be issued to the organising charity for the event.
- (g) The Licensing team will maintain a light touch overview of the event.
- (h) The organising charity will be responsible for the allocation of pitches and ensuring that all traders comply with any imposed conditions

58. There will be no consultation in respect of the Seaton charitable street trading.

SIDMOUTH FOLK WEEK

59. Due to the established nature of Sidmouth Folk Week, the normal process for obtaining street trading consent will not apply. Rather the process as detailed on the [website](#) and set out in brief below.

60. All applications will be considered individually and sixty trading pitches are marked and available on the Esplanade at Sidmouth each year with consents issued in advance of the event. A specific application form will be made available online, or provided upon request, at the beginning of April each year. Information will be available on the council's website and applicants will be informed when the application process is open to allow applications to be submitted.

61. Pitches are allocated on a strictly first come, priority basis and due to high demand each year preference will be given to those applicants booking a trading pitch for the full week. Incomplete applications cannot be accepted.

62. The application process will close and application forms will be removed from the council's website upon receipt of sixty properly completed applications, together with the correct fee and associated documents required.

63. The hours of trading are specific and trading must cease within thirty minutes of the expiry of the trading consent hours for each day. The items proposed for sale will be specified within the application and items of food, drink or other consumables are not be permitted.

64. There will be no consultation in respect of the Sidmouth Folk Week.



STREET TRADING CONSENT

STANDARD CONDITIONS

Set out below are the standard conditions that the Council will impose on any consent that is granted. If necessary, these may be varied and additional conditions may also be imposed.

GENERAL

1. A copy of this consent shall be displayed by the consent holder (or person employed to assist the holder) in a conspicuous position that is visible to members of the public and shall be produced for inspection if requested by an authorised officer of the Council or a Police Officer or a Police Community Support Officer.
2. The consent holder shall comply with all relevant legislation applicable to the street trading activity. The consent holder must notify the Licensing Manager immediately of any convictions or proceedings arising out of the consented activity.
3. The consent holder shall not assign his interest in this consent or any part thereof nor allow any person, other than a person employed to assist the holder, to rely on it.
4. The consent holder shall observe and comply with any directions in relation to the consented activity or use of the street / public place by a duly authorised officer of the Council, a Police Officer or a Police Community Support Officer.
5. The consent holder shall for the duration of the consent maintain a valid Third Party Public Liability Insurance Policy for a minimum of £5,000,000 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.
6. This consent does not infer or grant exclusive right 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 is necessary.
7. 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.
8. The Council may vary any of the conditions attached to a consent at any time, subject to reasonable notice being given to the consent holder.

SITE CONDITIONS

9. Music may be played subject to having appropriate PRS and PPL licenses provided that the music shall not be audible outside the vehicle or beyond the boundary of the consented area without prior consent in writing from the Council.
10. 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.
11. Outside of the consented area the consent holder shall not place on or in 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 prior consent in writing from the Council
12. At the expiry of the consent, all stalls, vehicles or other equipment associated with the street trading activity must be removed within 30 minutes of the expiry of the trading hours.

13. The consent holder when operating on a static site shall have access to suitable and sufficient sanitary accommodation for anyone carrying out the street trading activity.
14. With respect to litter and waste the consent holder shall;
 - (i) provide and maintain refuse receptacles for litter and shall remove waste arisings from the site on a daily basis and dispose of them in an approved manner,
 - (ii) 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 permitted by this consent,
 - (iii) 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.

TRADING CONDITIONS

15. The consent holder and those employed to assist shall not carry out any street trading activities other than those permitted by the consent and are expressly prohibited from;
 - (i) selling Psychoactive Substances,
 - (ii) holding an Auction Sale
 - (iii) trading in or issuing any glass items or vessels,
 - (iv) selling, displaying or wearing any article which is or is intended to be offensive either in writing or pictures.
16. The consent holder shall not trade outside of the permitted times and days.
17. The consent holder shall not trade in such a way that is likely to cause;
 - (i) undue obstruction to any part of any street or public place, or
 - (ii) injury to any person using the street or public place, or
 - (iii) damage to any property in the street or public place, or
 - (iv) annoyance to persons using the street or public place, or occupiers of premises in the vicinity.
18. The consent holder shall pay any instalment consent fee (for annual licences) by the required time and a failure to do so could result in revocation of the consent.
19. The consent holder shall at all times conduct their business in a clean, honest, civil and businesslike manner so as not to interfere with the business of other traders and consent holders.

REVOCATION OR SURRENDER OF CONSENT

20. This consent may at any time be revoked by the Council or surrendered by the consent holder.
21. The holder shall return this consent to the Council immediately on revocation or surrender of the consent. The Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

LEGAL PROVISIONS

22. 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 in carrying out the consented activity agrees to indemnify the Council in respect of all claims, actions, demands or costs arising from this consent.