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Agenda for Licensing & Enforcement Committee Wednesday, 21 March 2018; 9.30am

[Members of the Committee](#)

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

Contact: [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 12 March 2018

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- 1 Minutes for 15 November 2017 (pages 2-5)
- 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 Street Trading Policy Revisions (Pages 6-19)

[Decision making and equalities](#)

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East Devon District Council
Knowle
Sidmouth
Devon
EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551
Fax: 01395 517507

www.eastdevon.gov.uk

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Committee
held at Knowle, Sidmouth on Wednesday, 15 November 2017

Attendance list at the end of the document

The meeting started at 9.30am and ended at 10.30 am

- *9 Minutes
The minutes of the meeting of the Licensing & Enforcement Committee held on 23 August 2017, were confirmed and signed as a true record.

- *10 Declarations of interest
Councillor Steve Hall
Minute 11
Disclosable Pecuniary Interest – Private Hire Licence Holder

Councillor Geoff Jung
Minute 11
Personal Interest – Designated Premises Supervisor

- *11 Committee update – Licensing Act 2003, Gambling Act 2005 and General Licensing
The Licensing Manager presented the report and the following issues were highlighted and discussed.

1. Licensing Act 2003

Part of the work undertaken by the licensing team involves inspections of licensed premises to ensure compliance with licensing laws and during the previous quarter the team completed 44 premises visits across the district. The summer months represent a demanding period for the licensing team as most festivals and outdoor events that have been licensed by the team then require visits and inspection whilst taking place.

During the first week of August, officers were involved during the Sidmouth Folk Week held this year between 4 and 11 August. Officers attended various venues licensed by Sidmouth Folk Week as well as general licensing visits to other premises within the town. All venues subject of alcohol licensing were found to be operating in compliance of the law. The team also provided supervision of trading pitches on the Esplanade being subject of trading consents issued earlier in the year.

During the previous period, the licensing team introduced a 'paperless' approach to dealing with incoming work and applications that related to the Licensing Act 2003. The process required any applications arriving by post to be scanned and uploaded into the Councils database known as Civica. Benefits in the long term were that traditional storage would cease altogether and the removal of paper based files to new office premises would no longer be necessary.

Gambling Act 2005

The ten year period for club gaming machine permits issued in 2007 meant a number of members clubs and family entertainment centres were due for renewal this summer to allow the continued presence of gaming machines. The licensing team managed the renewals successfully by contacting and reminding operators

and members clubs months in advance. Further renewal applications were necessary in the forthcoming year with the licensing team notifying other operators in the same manner.

The Chairman, Councillor Steve Hall, raised the issue of the licensing authority's response to consultation regarding Fixed Odd Betting Machines, which was due by the 23 January 2018. Steve Saunders, Licensing Manager reported that East Devon did not have the same level of issues with these machines as authorities in city locations.

2. Taxis

New applicants could now apply for a hackney carriage or private hire licence throughout the year. However, many licences still expired annually on 31 October and officers have reviewed and issued 179 driver and vehicle renewal applications during October 2017 being a significant amount of work. The added requirement to provide detail of the right to work in the UK in order to confirm the right to a licence was additional work conducted by officers this year.

The new Taxi policy introduced on 26 July 2017 saw the introduction of a knowledge test for Hackney and Private Hire drivers. This would be a requirement for all new drivers along with those whose licences lapse if they fail to renew on time. Officers had worked to create the new knowledge test containing questions on local geography, the Highway Code and numeracy. Work on this would continue to ensure a suitable bank of questions were available for future applicants.

The new taxi policy has introduced a further review of currently licensed vehicles upon reaching 14 years from date of manufacture at the point of renewal. Licensed vehicles reaching 14 years of age would be presented for inspection by a licensing officer prior to further renewal of the licence. In circumstances where a vehicle was not considered to be of sufficient standard, then the application would be referred to the Licensing Sub Committee who would decide whether to grant the renewal of the vehicle licence.

The work undertaken by officers to introduce the new Hackney Carriage and Private Hire policy included an update concerning locations of current taxis in East Devon being produced in 2016. The full list of current taxi ranks in East Devon was attached to the agenda as Appendix B. Work continued to establish approval and designation of the ranks in Station Road and Fore Street, Budleigh Salterton.

3. General Licensing

The new, revised policy concerning Street Trading consents came into force on 2 October 2017 rescinding the Council's previous resolutions and designating all streets in East Devon as being consent streets, save for certain streets in Sidmouth. The new policy related to any road, footway, beach or other area to which the public had access without payment in the future with some exempt activities.

The policy incorporated street trading activities occurring at community events and those events occurring for charitable purposes in the future. Clarification on community based events was specified as being an event that was community-based and run, for non-commercial purposes, such as a fete or school fund raising activity. Where any profit was retained by the trader(s) for private gain and not passed to the organisers of the event for use in, or by, the community concerned then the trader(s) will not benefit from a fee exemption (unless a fee is charged to

those entering the event). Further guidance on this aspect was circulated to the Committee as an Appendix C to the agenda.

Since the implementation of the policy last month, applications had been received from a number of static, roadside food vendors already operating in areas of East Devon where locations were neither consent nor prohibited streets under previous policy. Traders submitting applications had supplied necessary documents and the fees required for annual street trading consents in order to continue trading in those locations. It was known that further applications were being prepared by other traders and the uptake and interest so far bodes well at this early stage. A temporary member of staff had been recruited from an agency in an administrative role to support the licensing team prior to formalising the office post required in 2018 to deal with the increase in street trading applications expected next year.

Steve Saunders, Licensing Manager, agreed to provide an update and guidance to Town Clerks on details of the new Street Trading policy and in particular regulations regarding community events.

4. Consultations

A liaison meeting for members, officers and taxi proprietors was planned for 23 November 2017 in the Council Chamber at Knowle and occurs every 6 months to allow members of the taxi trade to discuss relevant topics of interest and to exchange views. The Committee's Chairman and Vice Chairman normally attend these meetings and other members were always welcome.

Officers attend Licensees meetings within the East Devon area usually quarterly for the exchange of ideas, information and keeping up to date within each area. Attendance by Council, local police and also police licensing staff was keenly sought by the licensing trade to discuss local crime and disorder issues.

RESOLVED: that the report be noted.

- *12 Steve Saunders, Licensing Manager
The Chairman and members of the Committee wished to express their thanks to Steve Saunders for his hard work and ready advice in his role as Licensing Manager. Steve was leaving for a role within Chard Town Council. He in turn wished to thank the Chairman and members for their support in his time as Licensing Manager.

Attendance list

Councillors present

Steve Hall (Chairman)
Megan Armstrong
Dean Barrow
Colin Brown
Maddy Chapman
Geoff Jung
Cherry Nicholas
Bruce de Saram
Pauline Stott

Officers present

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

Apologies

Councillors:

Brian Bailey
Steve Gazzard
Jim Knight
John O'Leary

Officer:

Giles Salter, Solicitor

Chairman Date

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 21st March 2018

Public Document: Yes

Exemption: None

Review date for release None



Agenda item: 6

Subject: **Street Trading**

Purpose of report: Following the introduction of a new street trading regime in October 2017, there have been a number of concerns raised by local organisation, including charitable ones, about the impact that the new regime is having and that it is overly complicated and difficult to apply for consents. Accordingly there is a proposal to revise the policy and approach to consenting, as detailed in the report, with a view to ensuring a quicker and easier process for obtaining a street trading consent.

Recommendation: **That the Licensing and Enforcement Committee;**
(1) Agree to the withdrawal of a charge for applying for street trading consents,
(2) Adopt the revised street trading policy (Appendix A)
(3) Note the actions that will be taken as a consequence of the above being agreed

Reason for recommendation: Having listened to the feedback from those having to obtain consent and the impact it was having on events, a review of the approach to street trading has been undertaken with changes proposed as a consequence.

Officer: Henry Gordon Lennox, Strategic Lead (Governance and Licensing)

Financial implications: The financial implications are identified in the report.

Legal implications: It is permissible for the Council to amend the policy and to choose not to charge fees. As this is not related to changing the actual designation in relations to street trading there is no need for formal consultation in accordance with the relevant legislation.

Equalities impact: Low Impact
If choosing High or Medium level outline the equality considerations here, which should include any particular adverse impact on people with protected characteristics and actions to mitigate these. Link to an equalities impact assessment form using the [equalities form template](#).

Risk: Low Risk
Click here to enter text on risk considerations relating to your report.

Links to background information:) [Licensing and Enforcement Committee - 23rd August 2017](#)
) [Current Street Trading Policy](#)

Link to Council Plan: Encouraging communities to be outstanding, developing an outstanding economy

Report in full

Background

1. In October 2017, the Council introduced a new street trading regime with the intent of facilitating economic growth and increasing footfall within the district. Prior to the changes, street trading in many locations where it would normally be beneficial (Exmouth Strand, for example) was illegal due to its previous designation as a prohibited street. The Council undertook a significant amount of public engagement in taking the decision to implement the changes, which was overall supportive of the principle of having a consent regime. The changes resulted in the whole of the district being a consent street, apart from parts of Sidmouth which remain prohibited. In the consent street areas, trading can only occur if consent is obtained first. The changes were accompanied with a new policy, application process and fee for obtaining consent.
2. Having introduced the scheme, and in receiving feedback from event organisers and those applying for consent, it is clear that there are issues both with the complexity of the application process and the payment of a fee for obtaining consent. In short, people have been saying that the cost was prohibitive and the application process overly complicated – both of which are being seen as a bar to events coming forward. This was also the view of the Council's Economic Development team which in part has been tasked with promoting East Devon as open for business and encouraging markets (such as European food markets) to come here.
3. In listening to the concerns, it is clear that steps need to be taken to deal with the issues. However it remains the case that the Council wants to retain control over street trading activity to ensure that the nature of what is being sold, the quality of the offering and how it is being sold are acceptable. Clearly the Council doesn't want to end up with markets being in direct competition with businesses or in promoting poor quality markets which will not achieve the objective of improving the retail offering within the district.

Charges

4. The fee that was being applied to any consent application was being seen as prohibitive. In setting the fee, there was a benchmarking exercise to ensure that what we were charging was reasonable compared to other authorities. Notwithstanding this, people were unhappy with the level of fee payable compared to potential income that may be made carrying out the activity. Clearly part of the concern is simply a charge being levied when there wasn't one before but nonetheless it is accepted that a fee does impact on viability for some and is not favoured by most.
5. While a 'community event' could benefit from a concession in certain circumstances, this was difficult to apply as every event was different to some degree. In addition there were some events that didn't fall within the concessionary rules but nonetheless appear to be viewed as being of community benefit.
6. In light of the above, the recommendation is to remove any fee being payable for obtaining consent. During the bringing in of the new regime it was stated that the regime would be cost neutral in that it would achieve income to meet costs. Should the fee be removed then this would no longer be the case. The budgeted cost for 2018/19 was £21,268 (plus any salary increase and on costs) equating to circa £32,000. The projected income for 2018/19 was £32,000. In short the intended approach will result in a cost of £32,000 being the equivalent of the Grade 5 officer post. Any additional costs will be met from within the service budget.

7. On the flipside though, the removal of a charge will mean that the Council as landowner would not be in a position of having to reduce hire costs to compensate for the new street trading charge. As Licensing can only be cost neutral, it seems logical that it would be beneficial for Streetscene to maximum income from our assets (in line with the Transformation Strategy) rather than the income coming to Licensing having a ceiling on it.
8. There has been discussion about whether or not certain activities should still be charged but the difficulty this presents is that a charge on some but not others will be viewed as unfair and difficult to justify - again how does one decide who will be charged and who won't. The most pragmatic approach is to not charge at all. Obviously this is a position that can be revisited in time as it is understood that certain organisers understand the rationale of the Council seeking to recover costs.
9. The Committee should note that one of the consequences of removing a fee is that we will need to refund any fees that we have charged already. However these are relatively modest (a few thousand pounds) given that the regime has not been in force for very long.

Procedure

10. One of the criticisms that has been made is that the process is overly complicated and requires far too much detail / information to be provided or the requirements are onerous. In light of the removal of fees (and thereby covering the costs of officer time) it does make sense to refine the process to ensure a more light touch approach. This does not detract from the consideration / assessment criteria and rigour that will be applied at the relevant stage. However it will ensure that only relevant information is obtained and the process is not onerous.
11. To that end we are looking to;
 - a. remove the requirements to provide photographs of the applicant and everyone working on the stall, proof of right to work, written permission from the landowner and gas safety certificates.
 - b. Reduce the insurance cover from £5m to £2m.
 - c. Make the application form more streamlined, this partly reflects the above changes, but also it will be easier for block bookers to satisfy the requirements (there will be a separate sheet for each trader to complete confirming what they are selling, that they have insurance and, where applicable, a food hygiene certificate and a photo of the stall). While desirable that they are provided at the time of application, we will only insist on the additional forms being provided at least two days prior to the event – enabling us to ensure that individual stalls meet our criteria but yet not requiring all traders to be known at the time of applying.
12. The consideration of the application has been streamlined by shortening the consultation period and by limiting the consultation process. Statutory bodies will still be consulted, along with the Ward Member and Town / Parish Council (unless they are the applicant). The decision on all applications will now be taken by officers (with the applicant having a right of review by a more senior officer if they are being refused) but officers will have the right to refer the matter to the Licensing and Enforcement Sub-Committee if felt appropriate to do so.

Policy

13. The Policy has been amended to take into account all of the points above and a revised version is attached at Appendix A. There are a number of consequential amendments and a few tidying up changes too.
14. In addition the policy has been changed to give greater clarity on events that are not caught by street trading and also to increase the number of activities which, by choice, the Council does

not consider will comprise street trading. This includes church, school or village fetes or events organised by town / parish Councils provided those events are not in close proximity to a commercial area (this is to ensure that our criteria can be properly applied to such cases due to potential conflict with existing businesses and ensuring quality events). It also covers funfairs and circuses where the street trading activity is clearly ancillary to as well as related to the funfair or circuses. Also those activities so minor in nature that it is not worthwhile requiring an application to be made (this would be at the discretion of the Strategic Lead or Licensing Manager). We have also tried to divert the low level charitable activity away from street trading to charitable street collections.

15. In light of the changes identified and if agreed, officers will progress revising the application form, guidance and detail on the website.

APPENDIX A



EAST DEVON DISTRICT COUNCIL

Street Trading Policy And Application Guidance

Licensing Service
East Devon District Council
Knowle
SIDMOUTH
EX10 8HL

March 2018

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 traders 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, drinks etc., and all vendors of non-food products from any vehicle, stall, barrow, trailer, bike 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 set 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:
(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

Activities that are exempt or do not require consent

6. The following are legally exempt from the need to obtain street trading consent;
 - (a) Shops and petrol filling stations (including selling in the street adjoining such premises provided it is part

of the business of the premises).

- (b) 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 roundsmen (although this does not include mobile ice cream sellers).
7. The following are exempt from the need to obtain a street trading consent as a matter of policy choice;
- (a) School, church or village fetes or fetes organized by town or parish Councils (or similar such events) where the event is not in close proximity to a commercial area.
 - (b) Funfairs or circuses where the primary purpose is the funfair or circus and the street trading activity is ancillary to the purpose, related to and in close proximity to the funfair or circus.
 - (c) Non-commercial car boot sales (where the event organiser whether an individual or company does not profit).
 - (d) Residential properties 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.
 - (e) Those activities that are so minor in nature that in the opinion of the Strategic Lead (Governance and Licensing) or Licensing Manager a street trading consent is not justified.
8. The following activities do not fall within the requirement for a street trading consent;
- (a) Educational / information / charity stands not selling any articles.
 - (b) Charitable street collections (there is a separate policy for this) including those with one or two tables selling items which solely benefit the charity.

Consents

9. Generally consents will be granted for specified / fixed locations. In the case of mobile 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 for a specified period of time. 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 further trading will require a new application to be made and granted. It is advised that a new application is applied for sufficiently in advance of the expiry date.

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 might be needed.

13. The application and approval procedure comprises certain stages, detailed below.
14. Please note that there is a separate section dealing with consents for Sidmouth Folk Week at the end of this guidance document.

STAGE 1 - SUBMISSION OF THE APPLICATION

15. In addition to a completed and signed street trading application you will need to submit the following documents:
 - (a) 1 copy 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 (e.g. fish and chip vans) must provide specific routes and the locations they wish to trade from.
 - (b) A colour photograph showing the stall, vehicle or barrow which is to be used from the front back and sides. It is not necessary to show what is being sold.
 - (c) A copy of the certificate of insurance that covers the street trading activity for third party and public liability risks with an appropriate level of cover (this will usually be a minimum cover level of £2,000,000).
 - (d) Evidence of a current Food Hygiene Rating Scheme score of at least 3 from the relevant home Authority (to include which authority) where there is the sale of food or drink.
16. An event organizer may apply for a single block consent for an event where there is to be a number of traders (e.g. farmers markets) using the application form. The event organizer will need to obtain confirmation from all the stall holders that they comply with the requirements of 15(c) and 15(d) above, along with the detail of what is being sold and photographs of the stall and these forms will need to be provided to the Council as part of the application or prior to the event commencing. The relevant form for the individual stall holders can be found [here](#). The event organiser in receipt of a block consent will become responsible for all the individual trading activities and for ensuring that they comply with the block consent conditions. A failure to do so may result in the consent being revoked or a subsequent application being refused.

STAGE 2 – CONSULTATIONS

17. Before a street trading consent is granted, the council will carry out a consultation process with:
 - The Highways Authority (Devon County Council) / Highways England
 - Devon and Cornwall Police
 - Devon and Somerset Fire & Rescue Service (DSFR) where appropriate
 - The Council's Environmental Health (Commercial and Environment Protection) Teams
 - The relevant Ward Members (unless they are the applicant)
 - The appropriate Parish or Town Council (unless they are the applicant)
18. Where practicable, 10 working days will be given for representations to be received.
19. 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).

STAGE 3 – SITE ASSESSMENT

20. Officers will assess the suitability of the site for the street trading activity to occur.

21. Street trading consents from static locations will generally **not** be granted where;
- A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
 - 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 causes 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. Each application will be considered on its own merit.
22. 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

23. 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 the 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 Health Team by emailing environmentalhealth@eastdevon.gov.uk.

24. Evidence of compliance with any legal requirement may be requested by the Council at any time.

STAGE 5 – CONSIDERATION OF APPLICATIONS

25. Any comments received from the consultation process which are relevant will be taken in to account as part of the consideration of the application at this stage.
26. 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;

Site safety

27. 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.

Public Order

28. 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.

Avoidance of Annoyance

29. 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 Health Team shall be taken into consideration under this heading.
30. Generators may 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 and conditions may be imposed to control their use.

Conflict with other like trading outlets and school premises

31. The presence of other like trading outlets and proximity of schools shall be taken into consideration as follows:
- The Council will not normally permit a new consent for the sale of goods or services which conflicts with those provided by nearby traders (whether street trading or in business premises).
 - Mobile food vendors will not normally be permitted to trade within 500m of a school.
 - On lay-bys there shall only be one street trading consent granted.

Compliance with legal requirements

32. 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.

Permitted Trading Hours

33. 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 and drink is proposed to be sold.
34. 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.

Compatibility of the proposed street trading operation

35. 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).

General

36. Refusal or withdrawal of street trading consents will be normal in the following circumstances where:

- a) 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) 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) A consent holder or people employed by them have failed to comply with the conditions attached to any consent.
- e) The street trading may damage the structure or surface of the street.
- f) Adverse comments are received from the statutory organisations which cannot be overcome.
- g) The imposition of conditions is not adequate to control potential problems.
- h) Extreme weather conditions when street trading may present a risk to the applicant, their staff or other people.
- i) There has been the selling of psychoactive substances.

STAGE 6 – DETERMINATION OF APPLICATION

- 37. Applications will be determined by officers under delegated authority, although officers have the absolute discretion to refer any application to the Licensing and Enforcement Sub-Committee.
- 38. 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.
- 39. Where the decision of the officers is to refuse an application or grant it in terms substantially different than applied for (in this regard a change to the hours will not normally be viewed as substantial), the applicant will have the right to request a review of that decision by a more senior officer.
- 40. The applicant and anybody objecting to the application will be notified of a referral to the Sub-Committee, the date when the application will be considered and the procedure to be followed. The appropriate Ward Member will also be notified. Unless special circumstances apply the Sub-Committee meetings are open to the public.

Outcome

- 41. 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.
- 42. 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. 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).
- 43. 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.

GENERAL INFORMATION

- 44. 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 and the landowner's permission. Other regimes that may be relevant include planning and licensing (e.g. sale of hot food or alcohol).
- 45. The Council will not grant a street trading consent to persons under the age of 17 years.
- 46. The consent granted is specific to the person it is issued to and is non-transferable.

47. 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.
48. Wherever possible food traders will be expected to use biodegradable materials in connection with the packaging of food served to members of the public and should not rely on single use plastics wherever practicable.

ENFORCEMENT

49. 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.

COMPLAINTS

50. 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 the council's Complaints team, details of which can be found on the [website](#).

SIDMOUTH FOLK WEEK

51. Due to the established nature of trading on the Esplanade during Sidmouth Folk Week, the normal process for obtaining street trading consent will not apply. Rather it will be the process as detailed on the [website](#) and set out in brief below.
52. All applications will be considered individually and sixty trading pitches will be 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.
53. Pitches will be 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.
54. The application process will close and application forms will be removed from the council's website upon receipt of sixty properly completed applications with the required associated documents required.
55. 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 will not be permitted.
56. There will be no consultation in respect of the Sidmouth Folk Week.

STREET TRADING CONSENT STANDARD CONDITIONS & TERMS



STANDARD CONDITIONS

1. A copy of this consent shall be displayed by the consent 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 the Police.
2. In the case of a block consent where the application did not contain all of the required information for all stalls, it is the responsibility of the consent holder to ensure that the Council has given its written approval to all stalls prior to the event commencing.
3. The consent holder shall comply with all relevant legislation applicable to the street trading activity and ensure that where applicable the consent holder has and maintains a current Food Hygiene Rating Scheme score of at least 3 and gas safety inspection certificate.
4. The consent holder must notify the Licensing Manager immediately of any convictions or proceedings arising out of the consented activity.
5. 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.
6. 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 or the Police.
7. The consent holder shall for the duration of the consent maintain a valid Third Party Public Liability Insurance Policy for a minimum of £2,000,000 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.
8. This consent does not imply or grant exclusive rights to the holder for use of the location specified in the permission. If at any time at the permitted trading location other statutory bodies or organisations require access and use of the location to carry out emergency or other remedial works, they shall be afforded such access for such time as is necessary.
9. The consent holder shall not carry out any street trading activities other than those permitted by the consent and is expressly prohibited from;
 - (i) selling Psychoactive Substances,
 - (ii) holding an Auction Sale
 - (iii) trading in or issuing any glass items or vessels (unless the glass is a piece of art or craft),
 - (iv) selling, displaying or wearing any article which is or is intended to be offensive either in writing or pictures.
10. The consent holder shall not trade outside of the permitted location / route and the permitted times and days.
11. 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.
12. 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.

13. 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.
14. The consent holder shall not place on the street or in a public place any furniture or equipment other than as permitted by the Council and he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance or exit from any premises.
15. 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
16. 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.
17. 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.
18. 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.

VARIATION OF CONDITIONS

The Council may vary any of the conditions attached to a consent or add new conditions at any time, subject to reasonable notice being given to the consent holder.

REVOCATION OR SURRENDER OF CONSENT

This consent may at any time be revoked by the Council or surrendered by the consent holder.

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

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.