

**Agenda for Licensing and Enforcement
Committee
Wednesday, 7th December, 2022, 10.00 am**

Members of Licensing and Enforcement Committee

Councillors: J Whibley (Chair), K Bloxham (Vice-Chair), F Caygill, M Chapman, I Chubb, O Davey, A Dent, S Gazzard, P Jarvis, D Manley, P Millar, C Pepper, B Taylor, T Woodward and T Wright

East Devon District Council
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

DX 48808 HONITON

Tel: 01404 515616

www.eastdevon.gov.uk

Venue: Council Chamber, Blackdown House, Honiton

Contact: Sarah Jenkins;

01395 517406; email sjenkins@eastdevon.gov.uk

(or group number 01395 517546)

Tuesday, 29 November 2022

1 Public Speaking

Information on [public speaking](#) is available online

2 Minutes of the previous meeting (Pages 3 - 6)

3 Apologies

4 Declarations of interest

Guidance is available online to Councillors and co-opted members on making [declarations of interest](#)

5 Matters of urgency

Information on [matters of urgency](#) is available online

6 Confidential/exempt item(s)

To agree any items to be dealt with after the public (including the press) have been excluded. There is one item which officers recommend should be dealt with in this way.

7 Quarterly update report (Pages 7 - 14)

8 Street Trading policy and designation of streets (Pages 15 - 56)

9 Hackney carriage fares - adoption of new fare table (Pages 57 - 60)

Part B

10 Suspension of hackney carriage driver licence (Pages 61 - 63)

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[Decision making and equalities](#)

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EAST DEVON DISTRICT COUNCIL**Minutes of the meeting of Licensing and Enforcement Committee held at Council Chamber, Blackdown House, Honiton on 26 October 2022****Attendance list at end of document**

The meeting started at 10.00 am and ended at 11.42 am

10 Public Speaking

The Chair welcomed the four members of the public present who were members of the East Devon taxi trade. Mr George Shorter, Chair of the East Devon Taxi Association, Mr Gary Marles, Manager of AJ Taxis, Exmouth and Mr Adrian Phillips and Mr Stuart Phillips, Millstream Taxis, Honiton addressed the Committee and made the following points:

- A series of events had affected taxi drivers including Brexit and Covid which had resulted in the loss of drivers, with a large number of vacancies still remaining.
- Costs had risen significantly including the average fuel cost increase of 58%.
- Recruitment was difficult in part due to low rates of pay.
- A large percentage of drivers are nearing retirement age and the industry needs new drivers, otherwise numbers would decrease even more.
- A number of drivers only undertake contract work which means that not all licensed drivers are out working on taxi ranks.
- In contrast to previous years pre-Covid, customers were waiting at taxi ranks, when previously there would have been plenty of taxis waiting for customers.
- A rise in tariffs would make it easier to recruit and future rises needed to be index linked to take account of price rises.
- A proprietor of a taxi business had not taken a full wage during recent months in order to ensure staff were paid.
- The cost per mile needed to include dead mileage.

Responses to questions from Members of the Committee included the following:

- It was noted that not all licensed drivers are out driving.
- Independent operators have to be badged but may not be driving.
- Some drivers are only doing County Council work.
- Night working, dealing with drunken customers, is not appealing to drivers.
- It was noted that drivers are competing across the whole of Devon for County Council work.
- If work on the taxi rank was more viable, drivers would be less attracted to County Council contract work.
- Taxi companies' main concern is that they are not able to serve East Devon and cannot keep up with demand.
- Customers have been asking when taxi firms would be putting prices up as the majority of the public does not understand how fare pricing works.
- Taxis can choose to charge lower than the set meter rate and drivers do charge less for those regular customers who they know are experiencing hardship.
- Index linking is needed going forward to avoid the need to ask the Committee for further increases.
- Taxi firms also need to be able to future proof their businesses, including the possible need to switch to electric cars in coming years.
- Taxi companies acknowledged the need to support their vulnerable customers who are known to them, however, their support is not subsidised in the way other support such as free bus passes are subsidised.

11 **Minutes of the previous meeting**

The minutes of the previous meeting held on 20 July 2022 were agreed and signed as a correct record.

12 **Declarations of interest**

Minute 15. Report on Hackney Carriage fares.
Councillor Paul Millar, Affects Non-registerable Interest, Councillor occasionally uses Hackney Carriages.

Minute 15. Report on Hackney Carriage fares.
Councillor Steve Gazzard, Affects Non-registerable Interest, Councillor habitually uses Hackney Carriages.

The Chair advised that he had met with two of the public speakers prior to the meeting as a means of fact finding and confirmed that he had come to the meeting with an open mind.

13 **Matters of urgency**

There were no matters of urgency.

14 **Confidential/exempt item(s)**

There were no confidential / exempt items.

15 **Report on Hackney Carriage fares**

The Licensing Manager thanked the taxi operators for attending the meeting.

Introducing his report, the Licensing Manager made the following points:

- The last time that a fare increase was discussed by the Committee, inflation had been at a very low level.
- Annual meetings with the taxi trade were being re-introduced.
- 2/3rds of East Devon's taxi drivers are at retirement age.
- Contract work for Devon County Council was very different from working on the taxi rank.
- It was noted that North Devon has provision for an extra fuel charge, so that when fuel prices reach a certain threshold, an additional charge per journey can be made.
- Feedback from the 2020 consultation indicated that some of the taxi trade did not support an increase at that time as it would affect vulnerable customers.
- Taxis play an important role in public safety in rural areas and a balance of supporting the taxi trade and the general public who used taxis was needed.

In response to questions for the Licensing Manager from members, the following points were made:

- There is an option to set different rates for different tariffs eg. for day and night time tariffs.
- The booking fee is discretionary and generally used by companies at night and to cover dead mileage, and was not included as part of the request for a tariff increase.

Discussion by members and questions to the taxi operators included the following:

- It was difficult to say whether operators would continue to be in business if the increase was not agreed, although one operator who employs their own drivers were of the view that their business would not be able to continue.
- Most of the business is day time as operators are finding it difficult to get drivers to work at night.
- In order to calculate when the fuel price surcharge should come into effect, North Devon used the monthly AA south west fuel costs. When fuel prices fall, the surcharge also falls back to previous levels. EDDC would monitor the AA south west fuel costs and would inform the drivers accordingly.

Should the tariff increase be agreed, officers would work up the rates set out in Appendix A in order to go out to consultation. It was agreed that the Licensing Committee meeting scheduled for 16th November 2022 would be postponed to enable the results of the consultation to be reported back to the Committee at a slightly later date.

RESOLVED

That tariff 1 would increase by 15% and tariffs 2 and 3 would increase by 20% and that the fuel surcharge trigger of £1.75 per litre would come into effect with an additional 10p per journey charged when the monthly south west fuel price set by the AA increased by 10p above the trigger price.

16 **Report on Hackney Carriage and Private Hire Vehicles Ages**

The Licensing Manager introduced the report on Hackney Carriage and Private Hire Vehicle ages. It was noted that, during the Covid-19 pandemic, the age of vehicles had been temporarily extended to a maximum of five years. The report recommended that the Committee consider a further request from Hackney Carriage Vehicle licence holders to temporarily extend the maximum age for newly licensed vehicles to five years from the date of manufacture.

RESOLVED

To temporarily extend the maximum age for newly licensed vehicles to five years from the date of manufacture until the Council's taxi policy is fully renewed in 2023.

Attendance List

Councillors present:

J Whibley (Chair)
K Bloxham (Vice-Chair)
M Chapman
O Davey
A Dent
S Gazzard
P Millar
B Taylor
T Wright

Councillors also present (for some or all the meeting)

Officers in attendance:

Damian Hunter, Planning Solicitor
Sarah Jenkins, Democratic Services Officer
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Stephen Saunders, Licensing Manager

Councillor apologies:

- P Jarvis
- T Woodward

Chairman

Date:

Report to: Licensing and Enforcement Committee



Date of Meeting 7 December 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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

Report summary:

The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005, Taxi legislation and General Licensing including Street Trading and Pavement Licences

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That the report be noted

Reason for recommendation:

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

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

- 1.1.1 This report informs the Committee of work undertaken by the licensing team and also with regard to any strategic or national updates for each area of work that the team oversees. It covers the period from July to December 2022.
- 1.1.2 The depth and variety of Licensing Act applications previously reported to this Committee has continued over the summer as we approach the end of the year. The later phase of each year involves inspections and compliance visits for events that were licensed at an earlier stage. Licensed businesses continue to submit applications to change existing licences as business models change, along with applications received from new businesses seeking to sell alcohol. The move from traditional ‘wet’ pubs to businesses offering food has continued as the industry tries to meet financial challenges. The Lloyds Bank UK Recovery Tracker includes output in the hospitality sector which showed a decline at the fastest pace since February 2021, when the UK was last in lockdown. The challenge intensified in September being driven by rising energy prices and inflation.
- 1.1.3 Increasing numbers of Temporary Event Notices (TENs) submitted over the summer months (indoor and outdoor events) has continued and will do through to the Christmas period.
- 1.1.4 Officers continue the necessary work of authorities collecting annual licence fees that are payable by licensed businesses on the anniversary of being issued. The Act is prescriptive in that a premises licence must be suspended for those failing to pay an annual fee and suspension cannot be lifted until payment is made. A licensee would commit an offence if he/she carried on licensable activities from the premises otherwise.
- 1.1.5 In October officers completed the work for classifying a film, usually being the responsibility of the British Board of Film Classification (BBFC). Where a premises seeks to show films, that venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act. The public exhibition of all films on licensed premises must either be classified by the BBFC or authorised by the relevant Licensing Authority under the powers of the Licensing Act 2003 to classify a film not been classified by the BBFC. In accordance with this Council’s Licensing Act Policy, two officers viewed the entire film to assess it against the BBFC guidelines and determined a classification certificate of ‘U’ as suitable for audiences aged 4 years and over.

1.2 Hearings

- 1.2.1 Licensing officers arrange mediation if appropriate when representations are received for new licensing applications and there has been no requirement for a licensing sub-committee for contested applications over the previous period.
- 1.2.2 A hearing was held on 24 August regarding the holder of a Personal Alcohol Licence who had received a conviction for a relevant offence. The Act sets out that where a holder of a personal licence is charged with a relevant offence they must produce their personal licence to the court or notify the court of the personal licence. Officers became aware when the court matter was highlighted in the media and subsequently conducted enquires to bring the holder before a licensing sub-committee with the decision taken to revoke the licence.
- 1.2.3 Although hearings of this nature are rare, the licensing authority takes such matters very seriously as licence holders are required to promote the ‘licensing objectives,’ including

maintaining public safety and preventing crime and disorder. The revocation was considered necessary to ensure that the public remain safe where alcohol is being served.

1.3 Compliance and Enforcement

- 1.3.1 During summer months, officers completed compliance visits to a number of licensed premises and to outdoor events licensed by the team. One event that provides a series of bars amongst other activities, identified the need for organisers to review their procedures and supervision concerning sales of alcohol, particularly regarding staff training, 'Challenge 25' requirements, refusal of sales and a requirement for security staff. The procedures that will need to be in place in 2023 were reinforced through a later meeting with organisers joining the police and licensing staff, with all findings and expectations being provided in writing.
- 1.3.2 Officers attend the EDDC Safety Advisory Group meetings held quarterly to provide guidance and assistance to event organisers. Over the previous period, officers had need to work in conjunction with other agencies to address events receiving complaints from the public.

1.4 Legislation Updates and Emerging Developments

- 1.4.1 **Temporary Regulations:** officers previously reported that temporary regulations applied to England and Wales since 2020 allowed 'off-sales' of alcohol for licensed premises that do not have that permission under a licence, were due to expire. It can now be reported that the Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2022, came into effect on 29 September and again extend the off-sales provision until September 2023. It continues to provide automatic extensions of premises licences having "on-sales" to allow sales of alcohol for consumption off the premises. They also apply temporary conditions to licences where there is a pre-existing permission for off-sales, to enable them to operate in the same ways as those granted the permission.
- 1.4.2 This has been used by some licensed venues across this district over the last two years by having the benefit of 'off-sales' in contradiction of their current licence, or licence conditions. The long term situation after September 2023 is not clear although work is being undertaken nationally to review the Licensing Act.
- 1.4.3 **Review of the Licensing Act 2003:** in 2017 the House of Lords Liaison Committee publication 'The Licensing Act 2003: post-legislative scrutiny' outlined nearly 100 recommendations detailing a "radical comprehensive overhaul." In 2018 the Government response resulted in minor legislative change to the [Statutory Guidance](#). On 8th November, the long awaited [Government Response](#) was published on the progress and recommending 25 additional changes that include:
- a) No intention to revisit the question of air side licensing at airports
 - b) Delivering a national database of Personal Licence Holders
 - c) Further updates to Section 182 Guidance,
 - d) Licensing & Planning regimes
 - e) Councillor Training
 - f) Replacement of the gov.uk licensing application platform
- 1.4.4 It is anticipated that recommendations for change will continue through partnership working next year with the industry, LGA, lead authorities and the Institute of Licensing.
- 1.4.5 **Government response to drink spiking report:** officers briefly reported on the [Publication of Government response to spiking report - Committees - UK Parliament](#) issued shortly before the last meeting of this Committee in July. The report warned that spiking could remain an invisible crime unless more is done to improve awareness and to support victims. It found there was insufficient data to provide a clear picture of its true extent and the motives behind it and called on the Government to do more proposing creation of a specific criminal offence of spiking to help deter offenders. The Government has committed to working with police,

local authorities and night-time industries to produce a 'victim-first' approach to combatting spiking going forward.

- 1.4.6 The Home Office has begun work with cross government partners to ensure there is a joined-up and effective response to reports of drink and needle spiking across a range of settings, including festivals, events and the wider night-time economy. Reports related to needle spiking, first began to emerge in September 2021 in other areas of the UK, being understood to be connected to students returning to university after the summer break that year. The LGA and the Association of Police and Crime Commissioners urged young people to learn about the dangers of spiking and take precautions to stay safe. The LGA has also launched [guidance on drink spiking prevention](#) in a bid to tackle the issue.
- 1.4.7 Continuing partnership work and communication continues between Devon Licensing teams and Devon and Cornwall Police. In October, an officer attended a regional briefing provided by Devon and Cornwall Police that outlined work is continuing to aim at tackling perpetrators through investigation and with training and awareness offered for venues. As the lead authority that receives the reports and complaints of this nature, Devon and Cornwall Police continue in their work to enable better accuracy of the reported cases. It includes support for victims and establishing patterns and preventative solutions. It was reported that venues have previously been supplied with testing kits and police stations also equipped with urine kits to send to forensics with data from a previous trial being reviewed and with methods that have provided victims the reassurance that complaints were taken seriously. Licensing authorities need to manage co-ordination being delivered by the police so that reported incidents can be investigated from the outset and with victims being given the correct information, support and guidance, particularly in relation to evidence/testing for spiking when required.
- 1.4.8 **Protect Duty consultation:** known as 'Martyn's Law' and arising out of the Manchester Arena attack, the Government published its response earlier this year which would apply to public venues, with the aim of ensuring preparedness for/from terrorist attacks. The need for the legislation was highlighted in the Queen's Speech in May and before it becomes law, it will need to go through the House of Commons and then pass through the House of Lords. Although being a future consideration for Safety Advisory Groups, the legislation would apply to owners and operators of publicly accessible locations that may include festivals, music arenas and some licensed premises, the list by no means exhaustive.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The Gambling Commission was set up under the Act in 2005 to regulate commercial gambling in partnership with licensing authorities and it has responsibility for licensing operators and for all online betting with a primary aim of preventing harm to the public. Local authorities oversee the gambling premises licensed in each district.
- 2.1.2 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The last bulletin can be viewed online at [September LA Bulletin](#)
- 2.1.3 Government proposals to reform the Gambling Act 2005 are still due to be published along with a White Paper due last year and will be reported to this Committee upon publication.

3 Taxis

3.1 Applications Received and Licences Issued

- 3.1.1 This Council ended its requirement in 2017 for all taxi licences to be renewed annually by 31st October and new drivers now submit applications throughout the year. The proportion of

licence holders still having to renew licences each October are reducing although the numbers present significant work for officers each autumn completing bulk licence renewals.

3.1.2 The bulk renewals were completed successfully over the last period by the licensing team with a number of staff rising to the challenge. The contribution made by officers, Martha Loak, Emily Westlake and Phillippa Norsworthy ensured delays in issuing licences by the deadline of 1st November were not a factor for this council.

3.1.3 Small numbers of licensees often decide to retire and not renew their licences each autumn. On 24 November 2022, figures showed an annual increase in most of the taxi and private hire licences managed by the licensing authority over the last year, other than for taxi driver licences which is attributed to those retiring:

Year	Taxi Driver Licences	Taxi Vehicle Licences	Private Hire Drivers	Private Hire Vehicles	Private Hire Operators
2016	206	170	22	18	15
2017	195	165	26	20	13
2018	179	161	30	24	16
2019	162	148	37	31	20
2020	155	126	40	32	18
2021	156	129	41	37	19
2022 (Nov)	153	135	52	40	22

3.1.4 Officers have researched the age range of all currently licensed Hackney and Private Hire drivers in East Devon which range from 24 to 81 years of age. 37% of licensed drivers are aged 60 years or older. Ten of the most recently licensed driver ages ranged between the ages from 32 to 61 years and represented new driver applications across all ages. It remains encouraging that an upturn of licences continues in the district.

3.1.5 National statistics for England and Wales are collected by the Dept of Transport and published in July with an increase in driver licences being nationally reported. The average age of a driver was identified as 48 years, with 17% of drivers being aged under 40. Those aged 60 or over made up 16% of drivers nationally. The full report can be found here

[Taxi and private hire vehicle statistics, England: 2022 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/taxi-and-private-hire-vehicle-statistics-england-2022)

3.1.6 The IT project requiring the involvement of Strata and Licensing staff has reached the point of delivering the first online application process being available for licensing a hackney carriage vehicle. It is a step forward that was requested by companies to allow submission online at unsociable hours. The delivery of further online procedures will follow with the next phase by officers being to raise awareness and support to those wishing the use the portal.

3.2 Enforcement

3.2.1 Complaints received from the public are recorded and investigated which is recognised as an effective procedure by the DoT. There were eight reported complaints over the previous period that were followed up by officers. Those relating to parking matters or failing to display a roof sign are managed in a manner of providing verbal, then written guidance to allow compliance as persistent breaches may lead to revocation. One licensed driver was subject of two reports regarding display of the plate and roof sign and confirmation and evidence from future reports may lead to appearing at a licensing sub-committee.

3.2.2 In July officers formally spoke to a licensed driver regarding reports of an inappropriate conversation during a journey reported by a customer. The behaviour had not previously been evident and following a full review, the driver has been notified of driver expectations in writing as any subsequent reports may lead to appearing before a licensing sub-committee.

- 3.2.3 A further complaint regarding inappropriate conversation by a different driver was also reported in August, firstly indirectly before officers were able to speak to the complainant. The route and location of the journey indicated that it may have been a unknown taxi provided in this or two neighbouring districts and it was not possible to identify the driver or company. However as it was potentially a breach of standards, a circulation email was sent to each East Devon licensed driver to remind all of the level of professionalism required and thanking those who continue to maintain high standards.
- 3.2.4 One report concerned potential over charging by a taxi which was reviewed. The licence holder accounted for the costs and was reminded in writing of the need to adhere to the fares set by the council.

3.3 Hearings

- 3.3.1 It has not be necessary to convene a Licensing sub-committee hearing for taxi or private hire related matters over the previous period.

3.4 East Devon Taxi and Private Hire Policy

- 3.4.1 The Committee will be aware that various changes and new regulations are proposed by the Government and DoT regarding vehicle licensing. It will be to include all changes in the Councils Taxi and PH policy as the policy is due to be reviewed. The implementation of other policies and the taxi fares review (twice this year) has taken priority and officers propose to begin work in the forthcoming period. It will then be necessary to consult with the licensees in conjunction with other authorities and the general public next spring.

3.5 Meeting between Councillors, Taxi Proprietors and Officers

- 3.5.1 The previous meeting took place in November 2019 at the council offices and the forum provides a means of communication with the taxi trade on key subjects. The forthcoming review and subsequent consultation for the Taxi and Private Hire Policy will require a meeting in April next year which officers will arrange over the next period.

3.6 Taxi Tariffs Fares

- 3.6.1 A further report to this Committee refers to a recent request from some taxi proprietors seeking an increase to the fares tariff.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

- 4.1.1. This council adopted policy in 2017 for the current street trading regime and a further report today refers to reviewing the policy.

5.1 Temporary Pavement Licences (Business & Planning Act 2020)

- 5.1.1 The extension that allows business to apply to the Licensing Authority to place tables and chair on public highways has been extended for a further year until 30 September 2023 which means there are still two regimes that businesses can apply for, being the temporary 'fast track' arrangements that District Councils administer since 2020, alongside the continuing regime for pavement licences the County Council has held the responsibility for many years.
- 5.1.2 The take up by businesses applying to place tables and chair on highways has remained very low and despite some take up earlier this year, there remain two licences currently granted by this council. The repeated uncertainty caused by extending the temporary measures each

September since 2020 hasn't been helpful for businesses and most retain licences with Devon County Council.

5.1.3 The Government have tabled the Levelling-up and Regeneration Bill which is still progressing in draft before becoming law. The Bill still proposes to make amendments summarised broadly as being:

- a) Increasing the fee councils can charge applicants from £100,
- b) Extend the consultation period and determination period to 28 days,
- c) Extend the maximum duration of pavement licences to 2 years,
- d) Removing granting a tables and chairs licence under the Highways Act 1980 (the regime provided by the County Council)
- e) Providing enforcement powers to local authorities to remove furniture if a premise is not abiding by its pavement licence conditions and hours.

5.1.4 There are information gaps regarding the timing of the transition, the need for new guidance when the law changes, issues concerning smoke free zones and links to alcohol licensing and it is anticipated the changes will occur before September 2023. There are presently 28 [Current Pavement Licences with Devon County Council](#) for businesses across East Devon issued under the 1980 powers. Those businesses will require advanced and clear information prior to any changes in the issuing authority and procedures next year.

5.1.5 Officers will keep developments under review to update this Committee because of the likelihood of need to implement new policy, fee reviews and procedures needed next year.

6. Consultation and Partnership Working

6.1. Safety Advisory Group (SAG) Meetings

6.1.2 Quarterly meetings of this council's Safety Advisory Group (SAG) occur to consider advanced planning for outdoor events. Operating as a multi-agency, non-statutory group, it provides guidance to event organisers to support safely organised events licensed in the district. The prospective events occurring through to the end of this year have been finalised with a SAG meeting being planned for next spring for relevant 2023 events.

6.1.3 The retirement of the Head of Service and the lead manager in Environmental Health, both chairing of the forum resulted in the Licensing Manager temporarily adopting SAG responsibilities and chairing from March until October. That responsibility has returned for Environmental Health following recruitment of managers with administrative support still provided by Democratic Services.

6.2. Devon Licensing Officer Group (DLOG)

6.2.1 It was reported at the last meeting that licensing authorities must accept online applications to comply with the EU Provision of Services Regulations being provided by the GOV.UK service and due to end next year. This authority is working in collaboration with the Devon licensing authorities to implement an alternative process and although the Government has recognised need to maintain it centrally, no other suitable system is proposed currently.

6.2.2 The three Strata licensing teams (EDDC, TDC, ECC) continue to collaborate and to adopt the same web based applications using the 'Firmstep' solution. The EDDC licensing team has led when introducing Firmstep processes for Pavement Licences and Personal Alcohol Licences by sharing programming that allowed Strata to introduce for the other two councils.

6.2.3 Other recent work involves the joint assessment of a suitable licensing database before the current system ceases functionality and with officers collaborating to identify suitable platforms in the future. The involvement of officers working with Strata on current and new IT

projects will be a key area of work next year in addition to the anticipated changes in legislation that are highlighted in the report today

Financial implications:

There are no finance implications

Legal implications:

There are no legal implications requiring comment

Report to: Licensing and Enforcement Committee



Date of Meeting 7 December 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Committee Update – Street Trading Policy & Designation of Streets

Report summary:

Report setting out the background to and the request for public consultation to be undertaken on changing the current Street Trading policy being due for review after its introduction in 2017

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

- (1) That the Committee authorise public consultation in accordance with the legislative requirements on proposals to:
 - (a) Rescind all the Council's previous resolutions to designate streets as 'Prohibited Streets' and 'Consent Streets' within the District, and
 - (b) Resolve to designate all 'streets' in East Devon as 'Consent Streets' as defined in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 save for certain streets in Sidmouth (listed in Appendix D) which shall be 'Prohibited Streets' except during a set period of time each year.
- (2) Commence public consultation on the Council's revised Street Trading policy and to set application fees to be charged for Consent to be granted.
- (3) That the Committee receive a further report that will consider any subsequent representations received during the public consultation exercise and makes further recommendations to be adopted by the Council.

Reason for recommendation:

To review the amended draft policy and allow public consultation to commence to designate all streets in East Devon as 'Consent Streets' for purposes of street trading

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information

Link to [Council Plan](#)

Priorities (check which apply)

Better homes and communities for all

A greener East Devon

A resilient economy

Report in full

1 Background

- 1.1 This is the Council committee with responsibility for Street Trading being defined as “the selling or exposing or offering for sale of any article (including any living thing) in a street”. Section 3 and schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982) permits local authorities to adopt provisions to control street trading, which this council adopted from 1 December 1982. Streets in the district are designated as either ‘Prohibited’ streets or ‘Consent’ streets where trading may occur upon application and prior approval.
- 1.2 The current Street Trading policy was adopted in 2017 following extensive public consultation. Although the council adopted the legislation in 1982, the majority of the streets in East Devon were uncontrolled and were not designated either way until 2017. In 2009 Sidmouth Esplanade was designated as a ‘Consent Street’ for one week annually and the Council also adopted its initial Street Trading policy in that year.
- 1.3 The Street Trading policy has proved effective over the last five years when the majority of East Devon became Consent streets, although some Sidmouth locations retained the status of being Prohibited streets where applications cannot be considered. Controls can be imposed on any consent granted by way of conditions and the ability to issue a consent is at the discretion of the Council, as is the ability to revoke a consent. A location designated as a Consent street does not automatically qualify for trading as those being narrow, unsuitable or unsafe will not be appropriate to grant trading consent.
- 1.4 It is a criminal offence to trade from a prohibited street or from a consent street without consent although there are some exemptions which permit certain activities (e.g. such as charitable street collections, news vendors and pedlars).
- 1.5 Councils are permitted under the legislation to change any designations at any time through a statutory process, including publication of notices inviting comments prior to any changes being made. The process of changing the designation has the legal requirement for public newspaper notices for each designated change which extends timescales to achieve this.
- 1.6 It is now timely to review the Street Trading policy after five years. Application fees were briefly set in 2017 by this Committee and removed in 2018 due to issues of fee duplication on EDDC land owned with charges in existence for hiring the land. Application fees have remained under consideration by this Committee and now is an appropriate time to do so upon reviewing the policy and to consider need for charging application fees.

2 Proposed changes to the Street Trading Policy

- 2.1 The popularity of street vendors has grown with more outdoor markets and summer food and drink events than previously. The ongoing availability of street food during the period of Coronavirus provided options for the public during challenging times with availability of offerings still growing. That is contrary to the economic downturn as start-up costs can be lower than property based businesses. More trader start-ups are evident when other forms of employment are ending. The need to continue managing the proximity of Street Trading units in relation to premises based businesses is a factor within existing policy. The operating costs and overheads for premises are higher than those of street based vendors.
- 2.2 The intention today is to seek approval to begin public consultation on the updated Street Trading policy. The locations in Sidmouth remaining as prohibited streets since 2009 are also under consideration following engagement with Sidmouth Town Council and the EDDC Events Team. The proposal is to consult on extending the period of time each year when seasonal craft items and non-food/drink trading may occur on The Esplanade, being currently restricted to one week during Sidmouth Folk Festival. The change of designation from Prohibited to Consent streets is also a factor that is now to be considered as applications cannot be accepted for trading in those areas.
- 2.3 Officers working knowledge has grown considerably over the last five years and proposed changes to the policy have been identified through need, experience and good practice in other authorities. Checks and procedures that are in place for each application can identify risks and issues of suitability on each occasion. Control of the regime is being managed and the amendments are necessary to maintain appropriate control whilst enhancing trading opportunities in locations where it is suitable and occurs safely.
- 2.4 Ultimately, the aim is to retain a street trading environment which complements premises based trading, is sensitive to the needs of residents, provides diversity of consumer choice, and seeks to enhance the character and ambience of local environments and provide overall economic benefits.
- 2.5 Designation as a Consent street does not automatically give blanket approval for street trading as applicants still need to apply on each occasion with each being considered on their own merits. A draft of the revised Street Trading policy for consultation is attached at **Appendix A**. Changes based on learning and experience over the last five years are provided in red font in **Appendix B** to assist the Committee today. Using Appendix A for consultation, the responses received will be fully considered and taken into account, as far as possible, for issues that may be sensible to add and to address in policy.
- 2.6 This policy is in draft and further changes may be required. The recommendation ultimately is one of progressing the district wide 'consent street' regime, by consulting on the draft policy to be brought back for consideration and to be adopted through statutory procedures. The recommended changes to the Street Trading Policy enhance current standards with the amendments including:
- General layout and inclusion of an Index
 - Removal of duplication
 - Site safety
 - Control of mobile trading
 - Increased information for land use and permission
 - Suitability of Applicants
 - Addition of Conviction Policy (determining suitability)
 - Improved application procedures
 - Relevance of Public Space protection Orders (PSPO's)
 - Inclusion of applications fees
 - Inclusion of EDDC Safety Advisory Group
 - Enhanced measures for Environmental Factors
 - Removal of Sidmouth Folk Week trading (falling under hire of land)
 - Amended Conditions

❑ Amendment to the Designated Prohibited Streets

- 2.7 The draft Policy does not propose to change the process how consultation will be carried out nor how any responses will be dealt with. The procedures and decisions on how applications are taken has worked effectively over the previous period.

3 Prohibited and Consent Streets

- 3.1 The current list of Prohibited Streets are listed at **Appendix C** to this report. The majority of the streets appearing in the appendix were designated in changes from 1983/84 and in 2009 when Sidmouth Esplanade was re-designated as a 'Consent Street' for the period of one week during the Sidmouth Folk Week festival. A maximum of 60 seafront pitches may operate selling items of a craft and clothing during that week upon prior approval.
- 3.2 Sidmouth Town Council responded to the 2017 consultation by requesting the previously prohibited location of The Ham Recreation Field be included as a Consent location for street trading. The Ham had begun hosting popular food and music events, being a public area managed by the town council and it was designated as Consent Street in 2017 although the prohibited streets in Sidmouth remained.
- 3.3 As outlined in 2.2, both Sidmouth Town Council and EDDC Events Team have expressed an interest to extend the period for trading that is currently restricted to one week on The Esplanade. The consultation proposes to extend seasonal trading on Sidmouth Esplanade to accommodate a longer, seasonal period of trading from 1st May to 1st September annually, the prohibition then returning outside that period.
- 3.4 The proposed change of designation to the list of Prohibited Streets is shown at **Appendix D** to this report.
- 3.5 Current trading arrangements during the week of Sidmouth Folk Week prevents sales of food, drink or alcohol because of the close proximity to outlets already selling items of a similar nature, with the conflict on other nearby food outlets identified under previous consultations. The proposal is to continue to provide sales of craft items and non-food/alcohol should extending the trading period be a consideration with the prohibition returning all other times of the year.
- 3.6 Provision of food on the Esplanade beside and above the seafront is not necessary and increases likelihood of litter joining the sea and the beach. It would remain in contradiction to the Street Trading policy by conflicting with local businesses in the immediate vicinity. Use of glass or plastic eating/drinking utensils is not proposed inline with the responses of previous consultations undertaken. The risks of sale or consumption of alcohol beside the higher seawall and tidal waters are factors that remain and continue to reflect the sale of craft items on the seafront.

4 Application Fees

- 4.1 A number of different departments have been involved in administering Street Trading, with the licensing team managing trader applications since 2008. The council's Environmental Health teams manage food hygiene ratings being consulted on each new application and renewal. Streetscene's Events team has been established over the last five years and officers work closely across all services involved. Trading arrangements for seafront trading on Sidmouth Esplanade during Sidmouth Folk Week has also been successfully managed since 2008 with the Events team taking responsibility from licensing over the last two years.
- 4.2 The post that was provided in the licensing team in 2017 for Street Trading has been fully validated when aligned against the growth of street trading. The post holder has responsibilities for delivering other areas of work too, including those under the Licensing Act and the resourcing need should be assessed each year. Whilst current staffing levels ensure

that the regime is managed effectively, the demographic of East Devon with trading over every season across large a geographic area may require an increase in staff hours in line with the success of street trading. In addition to new applications, the officer work involves trader inspections along with enforcement of unregulated and illegal trading.

- 4.3 The implementation of fees to administer applications will be beneficial as street trading in the district is unlikely to diminish. The effect of the designation of so many streets will continue to require resourcing in the licensing team to meet expectations and to maintain a safe, effective regime.
- 4.4 The legislation permits the council to recover its costs in running the licensing scheme from the fees charged, although no licensing regime is permitted to make a profit. The fee regime proposed at **Appendix E** will support the recovery of costs that are incurred by officers managing each application and consulting authorities prior to granting consent. The calculation of the proposed fees are based upon the time of a Scale 5 officer delivering the work from point of receipt of each acceptable application through to consultation and granting consent. If approved, the level application fees will be reviewed annually. The requirement to charge Consent fees will be kept under review future.
- 4.5 Charging for pre-application advice has been considered as all applicants make initial contact for a variety of reasons, often regarding the suitability of locations and times. However charging for pre-application advice may cause some traders to avoid those fees and to commence trading without submitting an application.
- 4.6 Charges for hiring locations owned by East Devon District Council are the responsibility for the Events team. Other charges set by EDDC such as those for land contract leases, concessions or for pitches in Queens Drive space are the responsibility of other departments and fall outside the requirements of street trading.

5 The Next Step

- 5.1 The consultation will be widely undertaken to include all Town and Parish Councils within the district, the Highways Authority and agencies, along with seeking responses from traders, businesses and the public.
- 5.2 All responses will be collated and reported back to this Committee at its next meeting upon which, the first public notice will be required to provide notice of any changes. Then if the Committee resolves to confirm their decision to change the Street Trading designation, a further final advertisement process will be required. A notice must be placed in the local press for two consecutive weeks to give notice of the Council's decision and of the date it comes into force.
- 5.3 If this Committee gives approval to change and to designate the district as a Consent street, the legislation requires a legal notice advertising the proposal to pass the resolution at a future meeting before final determination can be reached. The legal notice will be required for a period of 28 days and being necessary to change the current designation of any prohibited locations and consent locations.
- 5.4 The proposed full timetable of all consultation and public notices is provided at **Appendix F**.

Financial implications:

Costs incurred of delivering the proposal to the public to be covered by existing advertising budget by means of public notice to be advertised in the newspaper.

If the approval of the reinstatement of application fees are re-introduced this will provide Street Trading income to the scheme.

Legal implications:

There are no legal implications requiring comment



EAST DEVON DISTRICT COUNCIL

Street Trading Policy

December 2022

East Devon District Council
Licensing Team
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

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1. OVERVIEW

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. 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.

In 2017 the Council designated all of its administrative area as a Consent Street for street trading purposes, although street trading has remained prohibited in a small part of Sidmouth. This means that in the consent streets anyone wanting to street trade must obtain consent from the Council first.

The purpose of this policy is to provide a framework for applicants looking to gain consent to trade within the district. 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. It sets out the standards for determination of applications and the enforcement of street trading activities to ensure a consistent approach.

Each application will be considered on its merits. Public safety will be a key consideration with each application as well as the prevention of crime, disorder, and nuisance.

This policy supports a street trading experience that is diverse, vibrant and adds to the social and cultural fabric of East Devon that maintains, protects and enhances our environment. The policy aims to ensure that it meets the needs of traders, residents, businesses and visitors to East Devon

2 WHAT IS STREET TRADING

Within this document the following definitions apply:

<i>Street Trading</i>	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.
<i>Street</i>	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.
<i>Consent Street</i>	Means a street in which street trading is prohibited without the consent of East Devon District Council.
<i>Consent</i>	Means a consent to trade on a street by East Devon District Council.
<i>Consent Holder</i>	Means the person or company to whom the consent to trade on a street has been granted by East Devon District Council.
<i>Authorised Officer</i>	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

3. EXEMPTIONS (Statutory and Local)

- 3.1 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. Operating properly as a Pedlar (see our [Guidance for pedlars selling on the streets of East Devon - East Devon](#)),
 - c. Markets or fairs where the right is granted through any enactment or order,
 - d. Trading in a trunk road picnic area,
 - e. News vendors (unless the stall exceeds a certain size) and
 - f. Roundsmen, for the purposes of exemption, being defined as a person who regularly travels a set route making deliveries to regular customers. The legal precedent in case law (Kempin t/a British Bulldog Ice Cream V Brighton and Hove Council), ruled that a roundsman was someone who delivered pre-ordered goods within a locality.
- 3.2 The following are exempt from the need to obtain a street trading consent as a matter of policy choice;
- g. 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.
 - h. 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.
 - i. Non-commercial car boot sales (where the event organiser whether an individual or company does not profit).
 - j. 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.
 - k. 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.
- 3.3 The following activities do not fall within the requirement for a street trading consent;
- l. Educational / information / charity stands not selling any articles.
 - m. Charitable street collections (there is a separate policy for this) including those with one or two tables selling items which solely benefit the charity.

4. LOCATIONS, PERMISSIONS

Council Owned Land

When deciding where to trade, you must consider which permissions you may need

- a) Any trading from any parks, car parks, open spaces, beaches or other land owned by East Devon District Council will require prior consent to hire the land and to conduct the activity before trading can be approved. The Council aims to ensure that only one fee is charged for use of land, although other chargeable contracts, permits or licenses may be required.
- b) Consent for trading on the Councils land should be sought and initial confirmation received from Events/Property & Estates before any consideration to receiving a street trading application. The licensing team reserve the right to decline the commencement of Stage 3 consultation for street trading that does not have the initial approval to use the land.
- c) Officers cannot contact other departments on your behalf. All permissions should be in place before you submit your street trading application.

- d) Public Liability Insurance which will not be provided by the Council. The responsibility for reviewing and confirming all necessary insurance cover, including trading will be required by the Events team ensuring sufficient insurance cover exists for any events occurring on EDDC land.

Privately Owned And Enclosed Land

If you wish to trade on **private land** written approval from the land owner must be obtained prior to making an application. Trading on privately owned land that abuts or joins any highway will usually require consent and persons wishing to trade from such areas should contact the licensing team prior to submitting an application or commencing trading. Trading on privately owned land may also require Street Trading Consent.

Street trading consent may not be required for privately owned land where access is restricted to the public as a result of;

- (a) The public being required to make payment for entering, or
- (b) Permanent, raised structural boundaries surrounding the trading location (walls, fencing and gates), or where access is gained by entering a building or premises, or
- (c) On land within the approved plan of any premises being licensed for sale of alcohol, for example public house gardens and other licensed outdoor areas. Licensing reserve the right to review areas of land sought for trading that are outside the defined plan (for example beside, nearby and otherwise not part of a currently licensed area).
- (d) Caravan and camping sites where the public do not have free or unobstructed access will be reviewed on a case by case basis. Where public access is restricted and where trading is not conducted on to a public area, trading consent will not be required.
- (e) Where existing businesses seek to allow trading or traders directly outside that premises selling products of a different nature or by providing access to an unrelated trader. The circumstances will be reviewed to consider inviting an application as commercial trader outside the premises.
- (f) Consent for trading on from privately owned land and all land other than EDDC land should be confirmed in writing to the licensing team. Licensing may decline commencement of street trading consultation for trading that does not have the written approval to use the land.
- (g) Where trading is conducted directly onto any road or highway from an unrestricted location, street trading consent will be required. It is the responsibility of each applicant, in the first instance, to identify the location(s) they wish to consider trading from as there is no designated list of street trading 'pitches' provided by the licensing team.

Consents

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 in residential areas/housing estates in a way that involves continuously moving around, but trade for less than 15 minutes at any one point and who don't return to a similar trading position within 24 hours (e.g. an ice-cream van).

Mobile street traders must adhere to relevant traffic legislation and conduct business in a safe manner. Conflict with an existing business in the immediate vicinity will not support trading under these circumstances.

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.

5 SUITABILITY OF APPLICANTS

When determining an application for the grant or renewal of a street trading consent, or a block booking consent the Council will consider all relevant information relating to the suitability of the applicant to hold such a consent. Street Traders are subject to minimum levels of supervision, they interact closely

with members of the public and it is important that the public, especially vulnerable people are protected from harm, and from those who may harm them, wherever possible.

The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a consent unless satisfied that the applicant is suitable. In determining this, the Council may have regard to any information, which it considers relevant including:

- a. Relevant responses received during each consultation
- b. Whether the applicant has been convicted of a relevant offence outlined in the policy appendix
- c. Refusal or neglect in paying fees due to the Council for a street trading consent, or for any other charges due for other services rendered by the Council to the applicant as the holder of a street trading consent;
- d. Any previous enforcement action;
- e. Any previous refusal of an application for the grant or renewal of a Street Trading Consent;
- f. Any previous revocation of a Street Trading Consent
- g. Any abusive, offensive, aggressive or insulting language or behaviour towards reception or licensing staff will not be tolerated. It will lead to contact ceasing instantly and the licensing process stopped.

6. APPLICATION PROCEDURE

The council will only accept and validate applications in the prescribed format. Contact can be made with the Council's Licensing Team by emailing licensing@eastdevon.gov.uk. Licensing officers cannot provide landowner permission to trade.

The application and approval procedure comprises certain stages, detailed below. Applications must be submitted no earlier than one calendar year of the proposed trading date. The Licensing team reserves the right to consult closer to the date requested. Applicants are advised to apply no later than 6 weeks prior to the proposed trading date.

There is no statutory requirement to consult before determining street trading consent, however, to ensure openness and transparency the Council has chosen to carry out consultation in relation to applications that meet the criteria for consideration.

STAGE 1 - SUBMISSION OF THE APPLICATION

In addition to a completed and signed street trading application applicants will need to submit a fully completed application and with the following documents (payable at the applicants own expense):

- 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. 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.
- 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. Consent holder to provide photographic ID and evidence of right to work in the UK (not being relevant to applications under block bookings below)
- e. A Basic Disclosure with your application form being no older than 3 calendar months from date of issue, which can be obtained from the Disclosure and Barring Service <https://www.gov.uk/government/publications/basic-checks> (not being relevant to applications under block bookings below). An update will be necessary after 3 years from obtaining or if

circumstances change, when the Licensing team should be notified.

- f. Any assistant staff working alone at a consent location must be a minimum of 17 years old and have a sound understanding of the conditions outlined on the consent document. You will need to complete their details on the application form and supply a Basic DBS check (no more than three months old).
- g. 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 (being a discretionary requirement to applications under block bookings below).
- h. Traders gaining consent for at least one location for the period of one year, may provide notification to Licensing to allow consent for trading at other temporary events if trading will be for less than 24 hours and the number of the trading days are less than 7 each year.
- i. Written approval from the land owner must be obtained prior to making an application

BLOCK BOOKING APPLICATIONS

An event organiser may apply for a single block consent for a short term event where there is to be a number of traders (e.g. farmers markets) using the application form. The event organiser will need to obtain confirmation from all stall holders carrying out a street trading activity that they comply with the requirements of 17(b) and 17(c) above, along with the details of what is being sold. A traders list will need to be provided to the Council as part of the application at least 10 working days prior to the event commencing. Event organiser(s) in receipt of a block consent will be expected to take reasonable responsibility for trading activities by ensuring compliance with the block consent conditions.

Compliance with laws and legislation (Food Hygiene, Health and Safety, waste disposal and so on) will be the responsibility of each trader and failure to comply may result in the trader consent being revoked, subsequent applications being refused and enforcement action occurring.

FEES

The fees set by the District Council for the grant, variation or renewal of a street trading consent must be paid to validate and process the application. Council services may set different fees relating to nature of each contract, concession, licence or consent upon application. Market forces may be taken into consideration to a certain extent in determining the different fee levels for concessions.

Application fees will be reviewed annually on a cost recovery basis and any variation will be approved by Council. Details of the current fees can be found on the Council's website via this link [[add here](#)].

Application fees must accompany the application for grant or renewal of the consent. If an application does not proceed to commencing Stage 3 Consultation, a refund will be repaid by the Council to the applicant. Failure to make payment may result in the consent not being renewed. If an Applicant does surrender their consent or the consent is revoked, the Council shall not refund the application fee being paid for work undertaken to consult, determine, grant or renew the consent.

It is not possible to process incomplete or unpaid applications or applications received by using the online portal.

STAGE 2 – CONSULTATIONS

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)
- Other appropriate organisations or businesses that may have a relevant need to be consulted, being considered on a case by case basis.

Where practicable, 28 days will be given for representations to be received, where appropriate consultation may conclude sooner. Tacit consent does not apply. Trading cannot begin without consent as it is in the public interest that applications are processed before they can be granted.

Consultation for street trading applications will be separate to those consultations by other council services (for example for use or hire of council owned land).

SAFETY ADVISORY GROUP

The popularity and increase of live musical and similar entertainment in the open with associated trading can provide opportunities for community involvement, civic pride and attracts visitors to East Devon. The success of such events depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event. The council has established a multi-agency Safety Advisory Group (SAG) to assist organisers co-ordinating events comprising of agencies having an interest in, or legislative role relevant to, such events together with representatives of the emergency services.

Where necessary a SAG meeting will consider any issues that will require to be addressed and to open up lines of communication with organisers. This is important as it will assist with measures that organisers need to put in place to plan the event. Risks can be adequately mitigated by the submission of an up to date, relevant, detailed and complete Event Management Plan specific to the proposed event on each separate occasion. It is a requirement when planning events on EDDC land.

The Council recommends that organisers of public trading events should contact the Safety Advisory Group coordinator at least six month before any event being considered emailing SafetyAdvisor.group@eastdevon.gov.uk

Stage 2 consultations may be delayed or not progressed in circumstances where an event organizer has not consulted or attended the SAG in advance of submitting an application.

STAGE 3 – SITE ASSESSMENT

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

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 through the existence of any trading vehicle on a road or highway increasing risks to road users, 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.
- The impact of proposed trading within an area managed under Public Spaces Protection Orders - East Devon will be considered on its own merits at the application stage. Where trading consent is subject of anti-social behavior and/or breaches of a PSPO, the council reserves the right to revoke trading consent and to refuse future trading consents.
- Street trading requests for locations in Cranbrook will be considered on their merits. Emergence of issues including the growth of the town and transport identified that most roads are unsuitable for the purposes of street trading. Cranbrook is a designated healthy New Town (HNT) and that status is recognized by Licensing when receiving applications in the town. East Devon District Council and Cranbrook Town Council have prepared guidelines when considering new applications (see document Policy Guidelines – Cranbrook).

In certain circumstances and for larger events or markets, it may be necessary for a road closure order to be obtained by the event organiser to mitigate risks to safety.

STAGE 4 – INSPECTION OF STREET TRADING UNIT

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
- The Modern Slavery Act 2015
- Immigration Act 2016

Further advice on any of the above requirements can be obtained from Environmental Health Teams by emailing environmentalhealth@eastdevon.gov.uk.

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

STAGE 5 – CONSIDERATION OF APPLICATIONS

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.

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

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. Trading consent should not be granted where there is insufficient space, undue interference to pedestrians/road users, where the existence of trading will cause heightened risk or where it would be prejudicial to highway safety.

Public Order

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. Traders will conduct themselves in a professional manner, having respect for, and treating other traders, council staff and the public fairly and courteously.

Avoidance of Annoyance

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 Teams shall be taken into consideration under this heading.

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

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).
- Factors include the articles for sale and the geographical location of the proposed site. Each application will be considered on its own merits and on a case by case process.
- Mobile food vendors will not normally be permitted to trade within 500m of a school during the school opening hours.
- On lay-bys there shall only be one street trading consent granted.

Compliance with Legal and Environmental requirements

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.

The impact of the proposed street trading activity on the local environment including street surfaces, power supply, coastal and inland waters, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste generated by customers. Provision of adequate measures to minimise the environmental impact of the proposed operation.

The Council Plan for 2020 to 2024 highlights key priorities, principles and values including working towards reducing our carbon footprint and enhancing our environment, along with supporting initiatives that promote the health and well-being of our residents. The Licensing team works in support of the Council Plan noting the potential impact to the environment from time limited, outdoor licensed events and will expect applicants to be familiar with initiatives that reduce and mitigate the impact upon the environment. For example the relevance of avoiding of single use plastic drink containers, avoidance of materials that have a detrimental effect to the environment and similar initiatives. The use of biodegradable materials and packaging wherever possible not relying on single use plastics in support a reduction in plastic waste.

Permitted Trading Hours

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.

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

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). Consents should not be granted when there already exists sufficient retail outlets in the area

The stall or vehicle must be maintained in good condition, smart appearance and meet criteria, including size, laid down in the standard Consent conditions. Photographs including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area. A trading or towing vehicle must be compliant with DVSA MOT standards being maintained in a roadworthy condition to include tax and insurance.

Avoidance of duplication

Street Trading has the potential for the overlapping of trading activities covered by different regulatory regimes and services within the Council, for example food charitable collections, sale of alcohol or late night refreshment. In addition, street trading activities may require Planning, Highways or land owner permissions depending on the nature of the trading location. So far as is reasonably practicable the Council will avoid duplication with other regulatory regimes that already place obligations. Street traders are required to ensure all relevant provisions are satisfied with the relevant responsible authority in these respects.

Pavement licences require a separate application, approval and fee procedure.

General

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.

Varying a consent

The Act gives the council the power to vary the conditions attached to a consent at any time. Should the holder of a consent wish to change any of the conditions on their consent, they can, at any time, submit a written request to vary the consent. This would be required where the consent holder wishes to change the operating days and/or times or from a different location. A fee will apply to the variation.

The Council will determine a request to vary a condition or conditions in the same way it would

consider a new application by carrying a consultation and making a decision based on the criteria listed in this policy.

There is no provision for transferring a street trading consent in the Act.

STAGE 6 – DETERMINATION OF APPLICATION

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.

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.

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 by making a written request within 10 working days. The review will be completed and the applicant notified of the outcome within 10 working days of the request.

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

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.

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).

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.

ENFORCEMENT

The Council has a duty to carry out enforcement where it becomes aware of or receives allegations which concern unauthorised trading (trading in a street without first obtaining a consent) or non-compliance with street trading consents that have been granted.

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 - Principles of Enforcement - Policy - East Devon](#) 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.

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 01404 515616 to confirm the identity of an employee

East Devon District Council has an agreed [Complaints procedure](#) for dealing with complaints about the services it delivers.

Appendices

Street Trading Application Fees (Proposed) East Devon District Council

Application Fees

Application fees are non-refundable, being the administrative payment to the Council to receive, review and start consultation. Payment will be required when submitting each application to Licensing using the online portal.

New Consent to Trade	£45	Payable for each location. When applying for more than one location, an additional fee of £45 for each location.
Renewal of Existing Consent upon Application	£45	When applying for renewal (previously granted location). Where an application is sought for any new location the fee payable is that for a new application (above).
Application for Block Booking (multiple trading)	£45	Payable for any public area, highway or open space (not falling under EDDC ownership). *Fees for hiring any EDDC gardens or open spaces to hold an event will incur a charge payable under Event Fees 2022/2023 - East Devon
Variation	£25	If applying to vary an existing Consent for the same unit/vehicle in the existing granted location.
Late submission (Traders List)	£25	Provided late as part of an application at least 10 working days prior to the event commencing.

Additional Notes:

- a) Fees are payable where trading in any location where the public can access freely.
- b) Fees will be reviewed annually and any variation will be approved by Council
- c) *This fee will be charged by StreetScene for land hire (owned by EDDC).

Relevant Convictions

Determining suitability of an applicant for street trading consent

Each case will be decided on its own merits. Although an applicant may have convictions that would fall under the guidelines in this policy, the Council will always consider the full facts of the case and any mitigating or other circumstances before reaching a decision. The overriding consideration is the safety of the public.

Dishonesty

A street trading consent will not be granted unless 4 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

Violence

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted. In other cases a street trading consent will not be granted unless 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

Drugs Offences

A street trading consent will not be granted unless 10 years have lapsed since a conviction relating to the supply or importation of controlled drugs or completion of any sentence imposed whichever is the later. A Street trading consent will not be granted unless 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

Sexual and Indecency Offences

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

Exploitation

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

Street Trading Legislation

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction unless 5 years have lapsed.

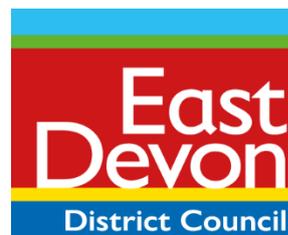
Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

Existing Consent Holders Convicted Of An Offence

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

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 or trading unit, 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.
19. Consent holders must notify the Licensing team of any variation to trading times or frequency, including absence in excess of 4 weeks. The reasons for any absence will be treated according to the individual circumstances provided.

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.

REVOCAION 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.

DON'T FORGET TO ADD THE PROHIBITED STREETS



EAST DEVON DISTRICT COUNCIL

Street Trading Policy

December 2022

~~Schedule 4 of the Local Government~~

~~(Miscellaneous Provisions) Act 1982~~

And

~~Application Guidance~~

(Version 5)

East Devon District Council
Licensing Team
Blackdown House
Border Road
Heathpark Industrial Estate
Honiton
EX14 1EJ

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OVERVIEW 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.
2. ~~In 2017~~ the Council ~~has~~ designated all of its administrative area as a consent street for street trading purposes although ~~except street trading remained prohibited in~~ 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.
3. ~~In 2022/3, the Council sought to re-designate the district to increase the councils reach with regards to issuing Street Trading Consents.~~
4. ~~The purpose of this policy is to provide a framework for applicants looking to gain consent to trade within the district.~~ 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. These guidelines have been developed to assist those applying for street trading consents in East Devon introduced its policy in 2017. and~~
5. It 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 ~~of contravention~~ will be considered on its merits. ~~so that individual circumstances, where appropriate, are taken into consideration.~~
6. Public safety will be a key consideration with each application as well as the prevention of crime, disorder, and nuisance.
7. ~~Initial contact should be made with 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.~~ This policy supports a street trading experience that is diverse, vibrant and adds to the social and cultural fabric of East Devon that maintains, protects and enhances our environment. The policy aims to ensure that it meets the needs of traders, residents, businesses and visitors to East Devon

WHAT IS STREET TRADING

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

EXEMPTIONS (Statutory and Local)

Activities that are exempt or do not require consent

8. 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) Operating properly as a Pedlar (see our [Guidance for pedlars selling on the streets of East Devon - East Devon](#)), 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).
9. 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) 'Roundsman' for the purposes of exemption, being defined as a person who regularly travels a set route making deliveries to regular customers (*Dover Council*). There is legal precedent in case law (*Kempin t/a British Bulldog Ice Cream V Brighton and Hove Council*), which ruled that a roundsman was someone who delivered pre-ordered goods within a locality.
 - (f) 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.
10. 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.

9 LOCATIONS, PERMISSIONS

COUNCIL OWNED LAND

When deciding where to trade, you must consider which permissions you may need

- a) Any trading from any parks, car parks, open spaces, beaches or other land owned by East Devon District Council will require prior consent to hire the land and to conduct the activity before trading can be approved. The Council aims to ensure that only one fee is charged for use of land, although other chargeable permits or licenses may be required (see point 37).
- b) Consent for trading on the Councils land should be sought and initial confirmation received from Events/Property & Estates before any consideration to receiving a street trading application. Licensing reserve the right to decline the commencement of street trading consultation for trading that does not have the initial approval to use the land.
- c) Officers cannot contact other departments on your behalf. All permissions should be in place before you submit your street trading application.
- d) Public Liability Insurance which will not be provided by the Council. The responsibility for reviewing and confirming all necessary insurance cover, including trading will be required by the Events team ensuring sufficient insurance cover exists for any events occurring on EDDC land (HSE & Safety Advisory Group guidance).

10 PRIVATELY OWNED AND ENCLOSED LAND

If you wish to trade on **private land** written approval from the land owner must be obtained prior to making an application (*Scarborough Council*). Trading on privately owned land that abuts or joins any highway will usually require consent and persons wishing to trade from such areas should contact the Licensing Team prior to submitting an application or commencing trading. Trading on privately owned land may also require Street Trading Consent.

Street trading consent may not be required for privately owned land where access is restricted to the public as a result of;

- (a) The public being required to make payment for entering, or
- (b) Permanent, raised structural boundaries surrounding the trading location (walls, fencing and gates), or where access is gained by entering a building or premises, or
- (c) On land within the approved plan of any premises being licensed for sale of alcohol, for example public house gardens and other licensed outdoor areas. Licensing reserve the right to review areas of land sought for trading that are outside the defined plan (for example beside, nearby and otherwise not part of a currently licensed area).
- (d) Caravan and camping sites where the public do not have free or unobstructed access will be reviewed on a case by case basis. Where public access is restricted and where trading is not conducted on to a public area, trading consent will not be required.
- (e) Where existing businesses seek to allow trading or traders directly outside that premises selling products of a different nature or by providing access to an unrelated trader. The circumstances will be reviewed to consider inviting an application as commercial trader outside the premises.
- (f) Consent for trading on from privately owned land and all land other than EDDC land should be confirmed in writing to the licensing team. Licensing may decline commencement of street trading consultation for trading that does not have the written approval to use the land.

Where trading is conducted directly onto any road or highway from an unrestricted location, street trading consent will be required.

It is the responsibility of each applicant, in the first instance, to identify the location(s) they wish to consider trading from as there is no designated list of street trading 'pitches' provided by the licensing team.

Consents

- 11 ~~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 in residential areas/housing estates in a way that involves continuously moving around, but trade for less than 20 15 minutes at any one point and who don't return to a similar trading position within 2 24

hours (e.g. an ice-cream van and bikes), ~~a general consent will be issued for a specified period of time. General consents will only be issued.~~ Mobile street traders must adhere to relevant traffic legislation and conduct business in a safe manner. ~~for consent streets and not for prohibited locations.~~ Conflict with an existing business will not support trading under these circumstances.

- 12 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 DUPLICATION

- 13 ~~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.~~

SUITABILITY OF APPLICANTS (Pembrokeshire)

When determining an application for the grant or renewal of a street trading consent, or a block booking consent the Council will consider all relevant information relating to the suitability of the applicant to hold such a consent. Street Traders are subject to minimum levels of supervision, they interact closely with members of the public and it is important that the public, especially vulnerable people are protected from harm, and from those who may harm them, wherever possible.

The Council will determine whether the applicant is a suitable person to carry on business as a street trader and may not issue a consent unless satisfied that the applicant is suitable. In determining this, the Council may have regard to any information, which it considers relevant including:

- a. Relevant responses received during each consultation
- b. Whether the applicant has been convicted of a relevant offence outlined in Appendix -;
- c. Refusal or neglect in paying fees due to the Council for a street trading consent, or for any other charges due for other services rendered by the Council to the applicant as the holder of a street trading consent;
- d. Any previous enforcement action;
- e. Any previous refusal of an application for the grant or renewal of a Street Trading Consent;
- f. Any previous revocation of a Street Trading Consent
- g. Any abusive, offensive, aggressive or insulting language or behaviour towards reception or licensing staff will not be tolerated. It will lead to contact ceasing instantly and the licensing process stopped.

APPLICATION PROCEDURE

- 14 ~~The council will only accept and validate applications in the prescribed format. The online application form can be found on the council's website portal (insert link once published). 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. Contact can be made with the Council's Licensing Team by emailing licensing@eastdevon.gov.uk. Licensing officers cannot provide landowner permission to trade. 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.~~
- 15 The application and approval procedure comprises certain stages, detailed below. Applications must be submitted no earlier than one calendar year of the proposed trading date. The Licensing team reserves the right to consult closer to the date requested. Applicants are advised to apply no later than 6 weeks prior to the proposed trading date.
- 16 ~~Please note that there is a separate section dealing with consents for Sidmouth Folk Week at the end of this guidance document.~~ There is no statutory requirement to consult before determining street trading consent, however, to ensure openness and transparency the Council has chosen to carry out

consultation in relation to applications that meet the criteria for consideration.

STAGE 1 - SUBMISSION OF THE APPLICATION

- 17 In addition to a completed and signed street trading application applicants will need to submit a fully completed application and with the following documents (payable at the applicants own expense):
- 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. 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.
 - 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. Consent holder to provide photographic ID and evidence of right to work in the UK (not being relevant to applications under block bookings below)
 - e. A Basic Disclosure with your application form being no older than 3 calendar months from date of issue, which can be obtained from the Disclosure and Barring Service <https://www.gov.uk/government/publications/basic-checks> (not being relevant to applications under block bookings below). An update will be necessary after 3 years from obtaining or if circumstances change, when the Licensing team should be notified.
 - f. Any assistant staff working alone at a consent location must be a minimum of 17 years old and have a sound understanding of the conditions outlined on the consent document. You will need to complete their details on the application form and supply a Basic DBS check (no more than three months old).
 - g. 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 (being a discretionary requirement to applications under block bookings below).
 - h. Traders gaining consent for at least one location for the period of one year, may provide notification to Licensing to allow consent for trading at other temporary events if trading will be for less than 24 hours and the number of the trading days are less than 7 each year.
 - i. Written approval from the land owner must be obtained prior to making an application

Block Booking Applications

An event organiser may apply for a single block consent for a short term event where there is to be a number of traders (e.g. farmers markets) using the application form. The event organiser will need to obtain confirmation from all stall holders carrying out a street trading activity that they comply with the requirements of 17(b) and 17(c) above, along with the details of what is being sold. A traders list will need to be provided to the Council as part of the application at least 10 working days prior to the event commencing. Event organiser(s) in receipt of a block consent will be expected to take reasonable responsibility for trading activities by ensuring compliance with the block consent conditions.

Compliance with laws and legislation (see paragraph 30 - Food Hygiene, Health and Safety, waste disposal and so on) will be the responsibility of each trader and failure to comply may result in the trader consent being revoked, subsequent applications being refused and enforcement action occurring.

FEES

The fees set by the District Council for the grant, variation or renewal of a street trading consent must be paid to validate and process the application. Council services may set different fees relating to nature of

each contract, concession, licence or consent upon application. Market forces may be taken into consideration to a certain extent in determining the different fee levels for concessions.

Application fees will be reviewed annually on a cost recovery basis and any variation will be approved by Council. Details of the current fees can be found on the Council's website via this link [\[add here\]](#).

Application fees must accompany the application for grant or renewal of the consent. If the application is refused or does not proceed to conducting Stage 3 Consultation, a refund will be repaid by the Council to the applicant. Failure to make payment may result in the consent not being renewed. If an Applicant does surrender their consent or the consent is revoked, the Council shall not refund the application fee being paid for work undertaken to consult, grant or renew the consent.

It is not possible to process incomplete or unpaid applications unless submitting by using the online portal.

STAGE 2 – CONSULTATIONS

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)
- **Other appropriate organisations or businesses that may have a relevant need to be consulted, being considered on a case by case basis.**

18 Where practicable, 28 days will be given for representations to be received, where appropriate consultation may conclude sooner. Tacit consent does not apply. Trading cannot begin without consent as it is in the public interest that applications are processed before they can be granted.

19 Consultation for street trading applications will be separate to those consultations by other council services (for example for use of council owned land). ~~No consultation will be carried out on applications for established events or sites (such as Sidmouth Folk Week, regular applications from registered local charities for consents on the Seaton Esplanade or sites which become established as consent sites in the future including events on land owned by the Council for which other consultations occur).~~

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 through the existence of any trading vehicle on a road or highway increasing risks to road users, 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.
- **The impact of proposed trading within an area managed under [Public Spaces Protection Orders - East Devon](#) will be considered on its own merits at the application stage. Where trading consent is subject of anti-social behavior and/or breaches of a PSPO, the council reserves the right to revoke trading consent and to refuse future trading consents..**
- Street trading requests for locations in Cranbrook will be considered on their merits. Emergence of issues including the growth of the town and transport identified that most roads are unsuitable for the purposes of street trading. Cranbrook is a designated healthy New Town (HNT) and that status is recognized by Licensing when receiving applications in the town. East Devon District Council and Cranbrook Town Council have prepared guidelines when considering new applications (see document Policy Guidelines – Cranbrook).

22 In certain circumstances and for larger events or markets, it may be necessary for a road closure order to be obtained by the event organiser 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
- **Modern Slavery / Immigration**

Further advice on any of the above requirements can be obtained from Environmental Health Teams by emailing environmentalhealth@eastdevon.gov.uk.

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

Safety Advisory Groups

The popularity and increase of live musical and similar entertainment in the open with associated trading can provide opportunities for community involvement, civic pride and attracts visitors to East Devon. The success of such events depends upon the quality, levels of safety and consideration for the rights of people who live or work in the vicinity and the standard of provision of facilities for those coming to enjoy the event. The council has established a multi-agency Safety Advisory Group (SAG) to assist organisers co-ordinating events. The SAG includes council departments having an interest in, or legislative role relevant to, such events together with representatives of the emergency services.

Where necessary a SAG meeting will consider any issues that will require to be addressed and to open up lines of communication with organisers. This is important as it will assist with measures that organisers need to put in place to plan the event. Risks can be adequately mitigated by the submission of an up to date, relevant, detailed and complete Event Management Plan specific to the proposed event on each separate occasion. It is a requirement when planning events on EDDC land.

The Council recommends that organisers of public trading events should contact the Safety Advisory Group co-ordinator at least six months before any event being considered emailing SafetyAdvisor.group@eastdevon.gov.uk

Stage 3 consultation may be delayed or not progressed in circumstances where an event organizer has not consulted or attended the SAG in advance of submitting an application.

STAGE 5 – CONSIDERATION OF APPLICATIONS

- 25 Any comments received from the consultation process which are relevant will be taken into 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. Trading consent should not be granted where there is insufficient space, undue interference to pedestrians/road users, where the existence of trading will cause heightened risk or where it would be prejudicial to highway safety. (DOVER COUNCIL)

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. Traders will conduct themselves in a professional manner, having respect for, and treating other traders, council staff and the public fairly and courteously.

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 Teams 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).
 - Factors include the articles for sale and the geographical location of the proposed site. Each application will be considered on its own merits and on a case by case process.

- Mobile food vendors will not normally be permitted to trade within 500m of a school during the school opening hours.
- On lay-bys there shall only be one street trading consent granted.

Compliance with Legal and Environmental requirements

- 32 a) 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.
- b) The impact of the proposed street trading activity on the local environment including street surfaces, power supply, coastal and inland waters, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste generated by customers. Provision of adequate measures to minimise the environmental impact of the proposed operation.
- c) The use of biodegradable materials and packaging wherever possible not relying on single use plastics in support a reduction in plastic waste.
- d) **The Council Plan for 2020 to 2024 highlights key priorities, principles and values including working towards reducing our carbon footprint and enhancing our environment, along with supporting initiatives that promote the health and well-being of our residents. The Licensing team works in support of the Council Plan noting the potential impact to the environment from time limited, outdoor licensed events and will expect applicants to be familiar with initiatives that reduce and mitigate the impact upon the environment. For example the relevance of avoiding of single use plastic drink containers, avoidance of materials that have a detrimental effect to the environment and similar initiatives.**

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). **Consents should not be granted when there already exists sufficient retail outlets in the area**
- 36 The stall or vehicle must be maintained in good condition, smart appearance and meet criteria, including size, laid down in the standard Consent conditions. Photographs including dimensions, must be provided with all new applications and requests for approval of changes to or replacement of a stall or vehicle. The general appearance of the vehicle or stall will also be considered in order to determine that the unit will not detract from the appearance of the surrounding area. A trading or towing vehicle must be compliant with DVSA MOT standards being maintained in a roadworthy condition to include tax and insurance.

Avoidance of duplication

- 37 Street Trading has the potential for the overlapping of trading activities covered by different regulatory regimes and services within the Council, for example food charitable collections, sale of alcohol or late night refreshment. In addition, street trading activities may require Planning, Highways or land owner permissions depending on the nature of the trading location. So far as is reasonably practicable the Council will avoid duplication with other regulatory regimes that already

place obligations. Street traders are required to ensure all relevant provisions are satisfied with the relevant responsible authority in these respects. **Pavement licences require a separate application, approval and fee procedure.**

General

- 38 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.

Varying a consent

The Act gives the council the power to vary the conditions attached to a consent at any time. Should the holder of a consent wish to change any of the conditions on their consent, they can, at any time, submit a written request to vary the consent. This would be required where the consent holder wishes to change the operating days and/or times or from a different location. A fee will apply to the variation.

The Council will determine a request to vary a condition or conditions in the same way it would consider a new application by carrying a consultation and making a decision based on the criteria listed in this policy.

There is no provision for transferring a street trading consent in the Act.

STAGE 6 – DETERMINATION OF APPLICATION

- 39 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.
- 40 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.
- 41 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 by making a written request within 10 working days. The review will be completed and the applicant notified of the outcome within 10 working days of the request.
- 42 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

- 43 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.

- 44 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).
- 45 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

- 46 ~~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).~~
- 47 ~~The Council will not grant a street trading consent to persons under the age of 17 years.~~
- 48 ~~The consent granted is specific to the person it is issued to and is non-transferable~~
- 49 ~~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 & COMPLAINTS

- 50 ~~The Council has a duty to carry out enforcement where it becomes aware of or receives allegations which concern unauthorised trading (trading in a street without first obtaining a consent) or non-compliance with street trading consents that have been granted.~~ 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 - Principles of Enforcement - Policy - East Devon](#) ~~Regulatory Enforcement and Prosecution Policy, copies of which are available on the council's website.~~ 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.

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 01404 515616 to confirm the identity of an employee

- 52 East Devon District Council has an agreed [Complaints procedure - East Devon 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 Service or the council's Complaints team, details of which can be found on the website.~~

SIDMOUTH FOLK WEEK

- 53 ~~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.~~

- ~~54 All applications will be considered individually and up to 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 although the council reserves the right to change the date. 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.~~
- ~~55 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.~~
- ~~56 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.~~
- ~~57 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.~~
- ~~58 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 or trading unit, 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.
19. Consent holders must notify the Licensing team of any variation to trading times or frequency, including absence in excess of 4 weeks. The reasons for any absence will be treated according to the individual circumstances provided.

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.

REVOCAION 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.

APPENDIX C

Designated Streets in Sidmouth (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 D

Designated Prohibited Streets (7 December 2022)

It is proposed to change the designation of the following Prohibited Streets (where street trading is at all times forbidden by law) to designate as Consent Streets;

- 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 shall only be granted during **Sidmouth Folk Week a period annually from 1st May to 1st September;**

- Esplanade & Promenade

Proposed Street Trading Application Fees

East Devon District Council

Application Fees

Application fees are non-refundable, being the administrative payment to the Council to receive, review and start consultation. Payment will be required when submitting each application to Licensing using the online portal.

New Consent to Trade	£45	Payable for each location. When applying for more than one location, an additional fee of £40 for each location.
Renewal of Existing Consent upon Application	£45	When applying for renewal (previously granted location). Where an application is sought for any new location the fee payable is that for a new application (above).
Application for Block Booking (multiple trading)	£45	Payable for any public area, highway or open space (not falling under EDDC ownership). *Fees for hiring any EDDC gardens or open spaces to hold an event will incur a charge payable under Event Fees 2022/2023 - East Devon
Variation	£25	If applying to vary an existing Consent for the same unit/vehicle in the existing granted location.
Late submission (Traders List)	£25	Provided late as part of an application at least 10 working days prior to the event commencing.

Additional Notes:

- a) Fees are payable where trading in any location where the public can access freely.
- b) Fees will be reviewed annually and any variation will be approved by Council
- c) *This fee will be charged by StreetScene for land hire (owned by EDDC).

PROCEDURE FOR DESIGNATING STREETS

The Local Government (Miscellaneous Provisions) Act 1982 prescribes a statutory process to be followed in relation to the designation of prohibited and consent streets for street trading.

The Act requires the publication of a notice of intention to make a resolution to designate streets in a local newspaper. The notice will include a draft of the resolution and state that representations concerning it may be made in writing to the Council within a period of not less than 28 days from the date of the publication of the notice.

Notification will also be made to the Chief Officer of Police and to the Highway Authority.

The Licensing and Enforcement Committee must consider any representations in response to the Notice. Should such a resolution be made, a post resolution notice must be published in a local newspaper at least 28 days before the day specified in the resolution for the coming into force of the resolution to designate the streets. The following table is an indicative timetable for the making of the resolution and publication of statutory notices in 2023.

7 December 2022	Recommendation to the Licensing & Enforcement Committee to consult on policy revision
JANUARY 2023	Public Consultation Exercise to be conducted for 8 weeks to the end of February 2023
MARCH 2023	Licensing & Enforcement Committee to consider/approve any revisions to policy. Approval is then required for commencing public notices.
20 MARCH 2023 17 APRIL Ends	<p>STATUTORY Consultation</p> <ul style="list-style-type: none"> ▪ Notice to be published in local newspaper inviting representations in respect of the Council’s intention to pass resolution to designate streets (statutory period for representations begins – minimum of 28 days) ▪ A copy of the Notice served on the chief officer of police and the highway authority for the area
26 APRIL 2023	Licensing & Enforcement Committee to consider any such representations from advert of w/c 20 March 2023, and to make resolution.
1 MAY 2023	<p>STATUTORY</p> <p>Post resolution notice to be published for 2 consecutive weeks in a local newspaper circulating in the area (minimum 28 days before resolution comes into effect). 28 days expires on 29 MAY</p>
29 MAY 2023	Minimum of 28 days after post resolution Notice published
1 JUNE 2023	Designation would come into force as the process has ended.

Report to: Licensing and Enforcement Committee



Date of Meeting 7 December 2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Hackney Carriage Fares – Adoption of New Fare Table

Report summary:

To provide an update to the Licensing and Enforcement Committee regarding the public consultation to increase to the Hackney Carriage (Taxi) Fare Tariff and to set a date on the new table of fares being implemented.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

That the Committee;

- 1. Note the results of the public consultation undertaken to increase the Hackney Carriage Table of Fares, and**
- 2. Recommend to Council on 7 December 2022 that the fare increase be adopted from that date.**

Reason for recommendation:

To enable the taxi trade within the District to continue to operate economically whilst still maintaining an efficient, safe and cost effective service for those residents of and visitors to East Devon who need to use the services of a Hackney Carriage

Officer: Steve Saunders, Licensing Manager (Governance and Licensing)

Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Link to [Council Plan](#)

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

Report in full

1 Background Information

- 1.1 Section 65 of the of the Local Government (Miscellaneous Provisions) Act 1976 permits District Councils to set the fares tariff for Hackney Carriages licensed in the District and this Council, in common with most other Councils, have used this power for many years. The setting of fares for hackney carriages is a function for this Council's Licensing and Enforcement Committee.
- 1.2 The previous meeting of this Committee resolved to advertise public notices for a new fare tariff by proposing an increase of 15% for Tariff 1 and with Tariffs 2 and 3 increasing by 20%. This followed a request from taxi licensees for a fare increase.
- 1.3 The process to review and increase the taxi fare tariff has been given all due consideration by this Committee which resolved to approve circulating the necessary public notices to take this matter forward. Legislation requires that before any alteration to the tariff table can take effect, a public notice explaining the changes must be placed in a local newspaper. The public and the taxi trade should be provided with a period of at least 14 days to make comment on the proposals and if no adverse comment/objection is received, the approved changes must take effect. Alternatively if adverse comment/objection is received then the matter must be returned to allow the Committee to consider the representation(s).
- 1.4 The necessary public notice was placed in newspapers circulating throughout the District setting out the new table of charges and explaining the procedure should anyone wish to make representations. The statutory period for objections ended on 18 November 2022 and no objections were received. The notice is shown at **Appendix A**.

2 Conclusion

- 2.1 The purpose of this report is to update the Committee that there were no objections received in response to the public notices. As explained earlier in this report, where no objections to a table of fares are made within the period specified in the notice, the table of fares shall come into operation.
- 2.2 The new fares tariff will require taxi meters in all licensed hackney vehicles to be changed, with details of the new tariff table being calibrated by the meter suppliers. This occurs at the expense of each owner through arranging appointments with the meter engineers. From the point of the new table of fares coming into operation, any hackney carriage byelaws fixing the rates, fares or any table of fares previously made for the district will cease to have effect upon adoption.
- 2.3 Officers will inform the taxi trade of the requirement under 2.2 above upon the resolution to set the new table of fares. The frequency of fares changes since 2020 will require that all hackney carriage licence holders will need to change their vehicle meters to the new tariff.

- 2.4 Given the forthcoming Christmas period, it is proposed that all East Devon licensed taxis arrange for their meters be completed by 1st March 2023. This date allows a period of almost three months from adopting the new tariff to make the change. In addition, the desire and need for taxi proprietors to be able to charge increased fares was clear from those attending the previous meeting and it will be necessary that all applicants renewing hackney vehicle licences after 1st March 2023 confirm the new meter calibration when applying.
- 2.5 From this date forward, all newly licensed hackney carriages will be required when applying for a licence to obtain the new tariff meter calibration.

3 Future Reviews of the Hackney Carriage Fares Tariff

- 3.1 The taxi trade in East Devon has received three fare increases in two years. The procedure adopted by this Committee requires any further requests for increasing the hackney carriage fare tariff in East Devon being on an annual basis to allow for a period of twelve months prior to considering any further requested change.
- 3.2 It is the intention of officers to review the fares each summer before bringing a review for this Committee to consider at its meeting each November.

Financial implications:

No direct financial implications

Legal implications:

The legislative framework is set out within the report.

Maximum Fares for Hackney Carriages

Effective from 7 December 2022

	<u>TARIFF 1</u> For hirings begun between 0700 hrs and 1900 hrs Monday to Saturday inclusive other than those subject to tariff 2 or 3	<u>TARIFF 2</u> For hirings begun on any day between 1900 hrs and 0700 hrs and all day Sunday other than those subject to tariff 3	<u>TARIFF 3</u> For hirings between 1900 hrs 24 December to 0700 hrs 27 December and 1900 hrs 31 December to 0700 hrs 2 January and all Bank Holidays between 12 midnight & 12 Midnight
For the first 880 yards (½ mile) or uncompleted part thereof	£3.50 (£4.00)		
For each subsequent 251.43 yards (1/7 of a mile) or uncompleted part thereof	£0.30 (£0.35)		
For the first 880 yards (½ mile) or uncompleted part thereof		£4.00 (£4.80)	
For each subsequent 176 yards (1/10 of a mile) or uncompleted part thereof		£0.25 (£0.30)	
For the first 880 yards (½ mile) or uncompleted part thereof			£5.20 (£6.20)
For each subsequent 251.43 yards (1/7 of a mile) or uncompleted part thereof			£0.40 (£0.50)
<u>Extra Charges</u>			
For each passenger after the first	£0.20	£0.20	£0.20
For each item of baggage	£0.20	£0.20	£0.20
For each dog (not including assistance dogs)	£0.20	£0.20	£0.20
Toll, ferry & car park fees incurred with journey	Actual Fee	Actual Fee	Actual Fee
<u>Waiting Time</u>	£0.30 for 37.50 secs.	£0.25 for 31.25 secs.	£0.40 for 50 secs.
<u>Soiling Charge</u>	£80.00	£80.00	£80.00
<u>Booking Charge</u> At the discretion of the operator for each booking made by telephone and which requires the driver to drive to the hirer's designated pick up point, the hirer must have been informed of the charge at the time of making the booking.	Maximum £12.00		
<u>Extras</u> An extra charge of 10p added to the total fare when the South West average price of fuel oil exceeds £1.75 per litre based on the latest available AA Fuel Price Report with a further 10p added for each subsequent increase of 10p per litre.	Maximum £0.10		

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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