



**Agenda for Licensing and Enforcement
Committee
Wednesday, 12th February, 2020, 10.30 am**

Members of Licensing and Enforcement Committee

Councillors: P Jarvis (Chairman), K Bloxham (Vice-Chairman),
C Brown, M Chapman, I Chubb, S Gazzard, N Hookway,
S Jackson, D Manley, C Pepper, J Rowland, B Taylor, J Whibley,
T Wright and P Millar

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Monday, 3 February 2020

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 are no items which officers recommend should be dealt with in this way.

7 Committee Update - Licensing Act 2003, Gambling Act 2005, Taxi & General (Street Trading) Licensing (Pages 7 - 17)

8 Seaton Taxi Rank (Pages 18 - 25)

9 Street Trading (Pages 26 - 52)

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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 16 October 2019****Attendance list at end of document**

The meeting started at 10.30 am and ended at 11.40 am

16 Public Speaking

There were no questions raised by members of the public.

17 Minutes of the previous meeting

The minutes of the meeting of the Licensing & Enforcement Committee held on 18 September 2019 were confirmed and signed as a true record.

18 Declarations of interest

Minute 22 Seaton Taxi rank: Jack Rowland Seaton Town Councillor and member of Seaton Seafront enhancement Scheme. Personal interest.

19 Matters of urgency

There were no matters of urgency raised at the meeting.

20 Confidential/exempt item(s)

There was one confidential item to be considered.

21 Committee Update -Licensing Act 2003, Gambling Act 2005, Taxis & General (Street Trading) Licensing

The Licensing Manager presented his report to the committee. It provided 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.

The Licensing Manager highlighted that the licensing team covered many things across East Devon. This included:

- All alcohol related matters.
- Taxis and private hire work.
- Gambling (excluding online betting).
- Street trading.
- Charitable collections.
- Cemeteries and burial bookings.

It was noted that the district received more TENs than other Devon authorities due to higher numbers of outdoor events happening in East Devon and during summer months work increased considerably for the licensing team with officers conducting compliance visits to many outdoor festivals including Sidmouth Folk week, Beautiful Days and other large outdoor events.

The licensing team also continued to offer mediation meetings when representations had been made against new licensing applications to ascertain whether objectors and applicants could reach an agreed position. Mediation was often successful and reduced the number of contested hearings that need to go before a licensing sub-committee.

Members noted that changes at the Gambling Commission had seen the withdrawal of the Commission regional officer from undertaking compliance work with officers in the region. This was a positive working arrangement and although licensing officers are suitably trained and knowledgeable regarding gambling legislation, the opportunity for staff from both organisations to undertake joint inspections had been effective in maintaining compliance. It was noted that East Devon had completed a premises inspection rate of 50 to 74% which was above average compared to other licensing authorities. Some of whom had not completed any inspections at all

A Licensing & Enforcement Sub Committee meeting was held on 18 September to consider a new private hire vehicle application for a zero emission vehicle. Being a hybrid electric vehicle without an internal combustion engine it fell outside the criteria set in the Taxi Policy for the minimum of 1000cc engine. A separate report was made to the Committee to allow the current policy to be revised to allow the licensing of electric vehicles without a combustion engine.

It was noted that the number of taxi/private hire drivers was reducing year on year. There is a requirement for licensed drivers to maintain a higher level of medical fitness than general drivers undergoing medical assessments upon first being licensed and upon key anniversary ages to ensure they are fit to carry the public. Activities and strategies were being considered that can support the continued wellbeing of licensed taxi drivers and engagement by the Licensing Manager with management of Leisure East Devon has identified an opportunity to arrange corporate membership at gyms across the district for licensed drivers.

Officers also met with the Council's Public Health Project Officer to consider other options such as using One Small Step and promoting the Stoptober Campaign that encourages smokers to quit.

It was noted that the taxi trade in East Devon should be encouraged to provide more wheelchair accessible vehicles. But the cost of these vehicles was often a barrier to more being purchased.

The Licensing Manager reported that the Sidmouth Folk Festival event took place between 2nd and 9th August and all 60 sea front pitches managed by the licensing team were allocated under the process that had operated since 2008. Officer's work extended hours with a presence in the town from 7am over all eight days. It was noted that the council's move to offices in Honiton had increased the time officers were engaged in the event. The time spent by the licensing team each year from March through to August and the overall commitment involving members of the team is considerable as officers are engaged in trader applications from March through to summer.

This level of involvement through to attending the event impacts upon other areas of licensing work and it was considered timely to consider the future approach given increasing demands on the licensing team by reviewing whether the current process remained cost effective and the best use of council resources. An option that was at an early stage would be for the organisers of Sidmouth Folk week to have responsibility for trading on The Esplanade.

RESOLVED:

1. that the Licensing Manager's update report be noted.
2. that the Licensing Manager prepare a report considering short term incentives in support of reducing emissions within the district for licensed hackney carriage and private hire vehicles for the next meeting.

22 **Seaton Taxi Rank**

The Licensing Manager's report updated the Committee on Seaton Town Council's request to remove the taxi rank in Marine Place and to relocate it on Castle Hill, Seaton. It was noted that the Town Council had made this request which would require a series of legal steps to be taken before adopting the change. It was noted that the local taxi drivers who regularly use the rank in Seaton had been consulted and two responses received which were considered by the Committee.

It was noted that Seaton Town Council were funding the first part of the seafront enhancement scheme and that the cost of the overall scheme would be over £4M.

RESOLVED

that the Committee considered the responses for relocating the Hackney Carriage rank from Marine Place to Castle Hill, Seaton and approve the following, namely;

1. To exercise the Council's powers under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to appoint the rank in Castle Hill, Seaton
2. That the requisite public notice be given of the proposed appointment as required by Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976.
3. That if no written objection or representation is received relating to the notice given under Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976 within the 28 day period following the publication of that notice the rank subject of this recommendation will be deemed appointed.
4. That following the appointment of the taxi rank Devon County Council Highways Authority be requested to put in place the appropriate legal provisions and to mark out the rank

23 **Taxi Licensing Policy**

The Licensing Manager's report asked the Licensing and Enforcement Committee to consider a proposed revision to the current taxi policy in line with recent developments and green priorities to remove the minimum engine capacity requirement for Ultra Low and Zero Emission Vehicles.

RECOMMENDED that the Council meeting on 23 October 2019 adopt the revised Taxi Policy following approval by Committee on 16 October 2019.

24 **Exclusion of the Public**

RESOLVED

that under Section 100(A) (4) of the Local Government Act 1972 the public (including the press) be excluded from the meeting as exempt information, of the description set out on the agenda, is likely to be disclosed and on balance the public interest is in discussing this item in private session (Part

B).

25 **Hackney Carriage Driver Licences suspended under powers delegated to Strategic Lead for Governance and Licensing**

The Licensing Manager's report provided the Licensing and Enforcement Committee with an update regarding suspended Hackney Carriage Driver Licences.

RESOLVED that the report be noted.

Attendance List

Councillors present:

P Jarvis (Chairman)
C Brown
M Chapman
S Gazzard
S Jackson
J Rowland
B Taylor
J Whibley
T Wright

Councillors also present (for some or all the meeting)

Officers in attendance:

Christopher Lane
Giles Salter, Solicitor
Stephen Saunders

Councillor apologies:

K Bloxham
I Chubb
N Hookway

Chairman

Date:

Report to: **Licensing and Enforcement Committee**

Date of Meeting: 12 February 2020

Public Document: Yes

Exemption: None



Agenda item: 7

Subject: **Committee Update - Licensing Act 2003, Gambling Act 2005, Taxis & General (Street Trading) Licensing**

Purpose of report: 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.

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

Financial implications: There are no financial implications.

Legal implications: There are no legal implications requiring comment.

Equalities impact: Low Impact

Risk: Low Risk

Appendices:
Appendix A – Home Office Correspondence

Link to Council Plan: Outstanding Council and Council Services

1 Licensing Act 2003

1.1 Applications Received, Licences Issued and Notices Given

- 1.1.1 This report is to inform the Committee of work undertaken by the licensing team and also with regard to any strategic or national updates for each category of work that the team oversees.
- 1.1.2 Officers undertake compliance visits to licensed premises where the supervisors change and in response to complaints or problems being reported. Visits to licensed premises within East Devon have occurred throughout the previous period with no serious issues being identified.
- 1.1.3 On 5 November 2019, officers attended the Ottery St Mary Tar Barrel event checking the various Temporary Event Notices issued for sales of alcohol sales and late night refreshment

food stalls. 25 licensing checks were conducted and the working arrangements involving licensing and the organisers works effectively over many months prior to the event.

1.2 Hearings

- 1.2.1 The licensing team continues to offer mediation meetings when representations have been made against new licensing applications to establish whether objectors and applicants can reach an agreed position. Mediation is often successful reducing the number of contested hearings that need to go before a Licensing Sub-committee.
- 1.2.2 Circumstances were reported at the last meeting of this Committee concerning an event organiser who had submitted applications for three time limited licences in quick succession in 2019, one of which led to a Licensing Sub-committee in August. The same applicant submitted another licence application over the last period for an event proposed on New Year's Eve with the situation compounded by the organiser applying to licence the event before seeking land owner permission from StreetScene. The timescales left insufficient time to allow a safely planned event and objections to the licence application were received from a number of responsible authorities. The application was subsequently withdrawn and further guidance has been provided to suggest a more timely approach in the future.

1.3 Correspondence from the Home Office to Licensing Committees

- 1.3.1 In December an email was received from the Home Office sent to all Licensing Committees with an attachment letter from Kit Malthouse MP, Minister for Crime & Policing. The contents were provided for the information of this Committee at **Appendix A** and primarily refer to the new government's desire to improve collaboration between Planning and Licensing committees. To assist members with the background, there was a Lords Select Committee review of the Licensing Act 2003 in 2017 with a recommendation being for Planning Committees to take over the responsibilities of Licensing Committees. That recommendation was not adopted and although there were comments about closer coordination, Planning and Licensing Committees continue to function with their own powers and legislation
- 1.3.2 The government did update its guidance to the Licensing Act in 2018 which can be found here [Revised guidance issued under Section 182 of the Licensing Act 2003.pdf](#). Whilst the revised guidance gave some helpful updates to Licensing Authorities, the actual update regarding Planning and Licensing was brief being limited to one paragraph at point **9.45**. The guidance was fully considered by this Council and some changes included removing the need for Licensing Sub-committees when representations are withdrawn in writing where agreement is reached between applicants and objectors (point **9.2**).
- 1.3.3 With regard to the latest correspondence, this Council like others has Licensing Councillors who also have Planning responsibilities at DMC and Strategic Planning, and Licensing Officers who consult and engage with Planning Officers on new and variation applications. Both Committees continue to operate effectively under separate legislation.
- 1.3.4 However the revised Section 182 guidance did not address the issue of nationally set licensing fees and whilst reference made under point **15**, the fees set by government for alcohol related applications have not increased since the act was first adopted in 2005.
- 1.3.5 In addition to the letter from the Home Office, the Queen's Speech in December 2019 announced government reforms regarding discounts to businesses, including public houses concerning business rates revaluation. The Chair of the Local Government Association (LGA) commented by outlining, *"The newly announced retail discounts will provide support for high street businesses and pubs, but it is crucial that in line with normal government practice, councils are fully funded for this loss of extremely important income."*

1.4 Nationally Set Fees for the Licensing Act 2003

- 1.4.1 In addition to discounted business rates, the continued deficit in the cost to Councils by issuing alcohol related licences with fees that have not changed for 14 years has been raised by some councils with the LGA.
- 1.4.2 The statutory fees are prescribed by virtue of the 'Licensing Act 2003 (Fees) Regulations 2005 (the Regulations) and were calculated as far back as 2004, coming into force under these Regulations on 7th February 2005. From that time Local Authorities became responsible for administering and enforcing a wide range of permissions that relate to the sale of alcohol, regulated entertainment and late night refreshment. Fees for such applications, as well as ongoing annual fees, are centrally set by the Secretary of State as prescribed by virtue of the Regulations. There is no discretion on fees, which must be administered and collected in accordance with the regulations.
- 1.4.3 In 2015, Local Authorities were asked by the LGA to provide evidence of Local Authority costs in delivering licensing functions under the Act. Over 200 Local Authorities responded to the LGA consultation and the majority agreed that fees were far below the level of cost recovery, with some indicating that enforcement abilities were limited due to cost.
- 1.4.4 Officers from EDDC Licensing and Finance services reviewed costs incurred to grant alcohol licences and notices and identified that a Temporary Event Notice (TEN), having a nationally set fee of £21, actually cost the Council in excess of £60 to administer in 2015. The impact of fees not increasing is evident given that the licensing team administered 849 TENs for the year 2018/19 amounting to uncollected fees of more than £30,000. Another Devon Licensing Authority has reviewed their processing costs for TENs since and the recent calculation found an average of over £70 for a notice despite all councils only recovering the fee of £21.
- 1.4.5 In conclusion the Home Office determined not to enact powers in 2015 that could allow Local Authorities to set the fees with more than 4 years since the LGA consultation. The Licensing Manager will attend an event on 3rd February hosted by the Institute of Licensing concerning fee setting. This Committee may wish to consider, when it meets whether there should be a further contact with the LGA and any other bodies with regard to the continuing situation of nationally set fees that were set under the original regulations 15 years ago to this month.

2 Gambling Act 2005

2.1 Applications Received, Licences Issued and Notices Given

- 2.1.1 The Gambling Commission is the regulatory authority nationally and it provides guidance to local authorities that have responsibility to oversee gaming and betting premises in each district. The Commission oversees national operators, all online betting and other functions.

2.2 Enforcement

- 2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continued and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected.
- 2.2.2 In November officers attended a premises licensed for alcohol sales following a report of gaming machines being sited without the necessary permit. The officers clarified that the machines were not yet available for public use and that the relevant permit application was prepared for submission to the licensing authority and so under the circumstances enforcement was not necessary.
- 2.2.3 The Gambling Commission circulates a bulletin for licensing authorities outlining changes in legislation and any enforcement action taken. The latest winter bulletin can be viewed online at [Gamblingcommission/LA-Bulletin/2020/January](https://www.gamblingcommission.gov.uk/LA-Bulletin/2020/January)

2.2.4 The Commissions last summer bulletin in a previous report to this Committee reported the intention of bookmaker William Hill to close 700 betting offices nationally in 2019/20. The company has closed a betting premises in Exmouth over the previous period and now has three betting offices across East Devon. The closures nationally followed changes last year when the stakes on gaming machines in betting offices were reduced from £100 to £2 for Fixed Odds Betting Terminals (FOBT's).

3 Taxis

3.1 Applications Received and Licences Issued

3.1.1 During the previous period, the majority of Hackney Driver and Vehicle licences were renewed by the licensing team and although the previous requirement ceased for all licence holders to renew annually by 31st October, a large proportion of licences still expire on that date. This presents significant work for officers receiving, quality assuring and issuing over 200 licences in a short period. In addition, renewal procedures involve postal applications being sent to licence holders and work continues by officers to manage renewals more efficiently with forthcoming IT solutions being developed this year (see point 5.1).

3.1.2 The October renewal period usually sees a small number of licence holders retiring and deciding not to renew their licences each year. Figures taken on the 1st November 2019, showed that the licensing authority administers:

162 Hackney Driver licences (compared to **206** in 2016/17, **195** in 2017/18, **179** in 2018/19) with a reduction of 44 hackney driver licences over the previous four years.

148 Hackney Vehicle licences (compared to **170** in 2016/17, **165** in 2017/18, **161** in 2018/19) with a reduction of 22 hackney vehicle licences over the same period.

37 Private Hire Driver licences (compared to **22** in 2016/17 and **26** in 2017/18 and **30** in 2018/19) with an increase of 15 over the same period.

31 Private Hire Vehicle licences (compared to **18** in 2016/17 and 20 in 2017/18 and **24** in 2018/19) again being an increase and by 13 vehicles over the same period.

21 Private Hire Operator licences (compared to 15 in 2016/17 and 13 in 2017/18 and 16 in 2018/19), being an increase of 6 operators over that period.

3.1.3 The continuing reduction of taxi driver licence holders over the last four years is still largely attributed to a number of drivers retiring when the October renewals commence with fewer new drivers coming forward to replace them. That trend is reported anecdotally by taxi proprietors commenting upon difficulties in recruiting new drivers to the trade.

3.1.4 A small number have also allowed their hackney licences to lapse and instead have taken up private hire licences with the reduction of hackney drivers being slightly balanced by increases in private hire driver and vehicle licences.

3.2 Enforcement

3.2.1 Officers conduct inspections of taxi vehicles whilst parked on East Devon taxi ranks ensuring that vehicles comply with legislation and meet required safety standards and by inspecting new vehicles when determining applications.

3.2.2 Officers have investigated five licence holders over the previous period, three of which concerned vehicle compliance and two relating to the behaviour of drivers resulting in written warnings being administered.

3.3 Hearings

3.3.1 It has not been necessary to hold a Licensing and Enforcement Sub-committee meeting over the previous period regarding taxis although a recent matter regarding the conduct of a licensed driver has been referred to the Licensing Sub-Committee for consideration today.

3.4 Taxi Licensing and Vehicle Emissions

3.4.1 From January 2020, new regulations introduced by Defra required all licensing authorities in England and Wales to submit details of currently licensed vehicles under the Air Quality (Taxis and Private Hire Vehicles Database) Regulations 2019. The details are publicly available on the council's public register regarding vehicle registration numbers, taxi licence numbers and the period each licence is held. Although this is a weekly requirement, officers have worked with Strata to produce an IT solution to retrieve and submit the information.

3.4.2 On 28th November 2019 licensing officers attended the Council's 'Climate Change Workshop' raising staff awareness of the climate change challenge to reduce our carbon footprint and in the future shaping Service Plans and policies going forward.

3.4.3 On 15th January 2020 licensing officers attended a licensing briefing organised by the Institute of Licensing where staff from Defra provided an update on the Air Quality Regulations including progress made by the cities creating Clear Air Zones (CAZ's). A CAZ is the term for an area in which a local authority has introduced measures to improve the air quality. CAZ's apply to buses, taxis, good vehicles and vehicles owned by the public. The creation of CAZ's to date has started in major UK cities as part of the government's broader Air Quality plan which includes the aim of banning all new petrol and diesel vehicles from 2040.

3.4.4 There are four classes of CAZ ranging from A to D and are distinguished by the vehicle type under a European Emissions Standard which are based upon the age of registration under 6 bands. Each city can decide what level of restrictions to apply to include charging and not charging vehicles to enter CAZ's. Since 2018 five cities outside London have been moving forward with introducing CAZ's and whilst Birmingham and Leeds have taken that on, others stepped back insisting they can cut emissions through other means. More recently Bristol, being the closest to this authority, has announced its aim of preventing privately owned diesel vehicles from entering the central zone in the daytime whilst proposing that taxis and buses will pay a charge to enter the CAZ.

3.4.5 It is this aspect of CAZ's that has generated most interest from the East Devon taxi trade particularly regarding possible plans for other south west cities considering CAZ's in the future. Currently Bristol will be the closest without any clear indications of any nearer cities taking that course of action. Contact by officers with those hackney and private hire drivers who undertake journeys to inner London where charges are payable confirms that proprietors pass any additional charges on with the customer being aware when making a booking.

3.4.6 This Council has identified climate change as a priority and has reflected this with the need for delivering greener policies along with examples being the possible uptake of Ultra-Low and Zero emission vehicles. The recent briefing by Defra last month confirmed that any package of loans or grants has concluded, being directed at urban areas and cities. It is proposed that communication with our taxi and private hire proprietors should continue with further work by officers over the next period that will allow this Committee to consider options in the Taxi Policy regarding vehicle age restrictions for older vehicles and those with higher emissions. Closer consideration of the present fleet of licensed taxis inline with the European Emissions Standard (under 3.4.4) may also be a consideration.

3.5 Fares Review for Hackney Carriages

- 3.5.1 Members have approved an increase to the Hackney Carriage Fare Tariff and resolved that Tariff 1 be increased on the first half mile by £0.50 to £3.50 along with the vehicle soiling/cleaning charge being increased from £50 to £80. This followed a lengthy period of deliberation and consultation with the taxi trade with the proposal being widely supported by the Exmouth Taxi Association but with less support for a low increase elsewhere.
- 3.5.2 Before the resolution can proceed, the relevant legislation requires that before any alteration to the tariff can take effect that a public notice explaining the changes must be placed in a local newspaper. The public will have 14 days to make comment and if no adverse comments are received the approved changes can take effect with this being the next course of action.
- 3.5.3 If adverse comment/objection is received on the next process then the matter must be returned to allow this Committee to consider the representations.
- 3.5.4 Over the last period officers have been preparing the ground work to introduce the fare increase prior to preparing the newspaper notice which comes with a cost to the Council for the notice. The final stage will require every hackney carriage having the meter changed in each vehicle and so before incurring the cost of the advert, officers have been engaging with the companies that complete the work on taxi meters. That work with the companies has identified that a number of taxis in this district operate on outdated taxi meters and whilst they currently function correctly, the old meters would not have the technical capacity to accept another tariff upgrade. In simple terms this will be similar to an older mobile phone no longer being able to accept new software updates. This recent development will be communicated by the Licensing Manager at a taxi association meeting taking place on 3rd February which meets after publishing this report. It will be necessary to identify how many taxis in the district will be affected and to contact taxi owners to establish the exact number of outdated taxi meters because of the need to replace them to allow the new fares to be added. The approximate cost will be £300 to replace an old meter quoted by the companies and this being a cost to be met by the taxi proprietors. Officers will bring the findings to this Committee when the full number of outdated taxi meters has been confirmed.
- 3.5.5 The need for proprietors to replace outdated meters will represent an additional cost, particularly to companies having to replace taxi meters for fleets and the trade may consider it necessary to request revisiting the proposed fare increase given that they had strived to keep it as low as possible. Incurring extra costs by replacing their taxi meters is considered likely to increase the frustration of those being required to do so. However the preparation and contact by officers with the meter companies has prevented this obstacle being identified after the costs of the newspaper notice has been incurred and then having to complete the notices again if there is to be a change. It also allows the update to be passed to the trade to consider their options now and should the trade perceive a need to seek a higher increase than that approved, it could be considered by this Committee accordingly.

3.6 Wellbeing Initiative for Taxi and Private Hire Drivers

- 3.6.1 The ongoing reduction in the number of licensed taxi drivers over the last four years was reported at the last meeting of this Committee with the latest figures being confirmed after the last renewal period. The previous briefing to members regarding the increasing health issues was also a factor as the higher level of medical assessments required of licensed drivers can be a barrier when certain illnesses occur. The continued wellbeing of licensed taxi drivers is therefore considered as important.
- 3.6.2 Engagement by the Licensing Manager with management of Leisure East Devon (LED) has confirmed an opportunity to arrange corporate membership at gyms across the district for

licensed drivers and LED staff have offered to attend taxi trade meetings to provide support and information. In a similar way, One Small Step, the Devon County commissioned health & wellbeing service with an interest in offering a wellbeing pop-up promotions has offered to support the taxi trade with current initiatives. The previous meeting of the taxi trade, members and officers that took place on 6th November 2019 confirmed a level of interest from drivers who attended. This initiative is being progressed over the next period to promote further healthy, wellbeing options.

3.7.1 Taxi Ranks

3.7.1 In addition to the report today regarding a taxi rank in Seaton, officers have received further submissions regarding one request to consider a new taxi rank in Honiton High Street that would be of benefit to the public along with representations made to a District Councillor regarding the need of the tank rank located in Mill Street, Ottery St Mary. The Licensing Manager has raised the feasibility of both locations with Devon County Council Highways and will provide updates for this Committee with any progress.

3.7.2 Those matters that have been raised with officers regarding taxi ranks in Seaton, Honiton and Ottery St Mary generated further work to assess the suitability and need of all taxi ranks across the district. Work completed by officers over the previous period identified a number of taxi ranks are poorly marked and an assessment of each rank and the level of work that may be necessary by Devon County Council Highways will be reported to this Committee.

4. General Licensing – Street Trading Consents

4.1 Applications Received Street Trading Consents Issued

4.1.1. This council adopted the Local Government (Miscellaneous Provisions) Act 1982 provisions with effect from 1982 that provided legislation for local authorities to control street trading and in October 2017, the council introduced the current street trading regime by designating most of the district where street trading can be conducted with prior consent.

4.1.2 The uptake of street trading has been high for events occurring in villages and towns since October 2017 and implementation has identified changing trends in locations being sought by applicants with Cranbrook being an area where consents have been granted over the last two years. Licensing officers have worked closely in conjunction with Cranbrook Town Council and in December officers attended a meeting of the Town Council to consider the suitability of the town for future trading. The meeting was considered as being worthwhile as officers have gained a greater understanding of the issues that are now relevant to the town, in particular the continued growth in housing along with higher volumes of traffic presenting increased risks from trading vehicles on narrow roads in the town.

4.1.3 During December, applications were received from applicants seeking to trade from vans being parked in locations at Younghayes Road and Burrough Fields and as a result of the Town Council providing detailed reasoning for objecting during consultation, officers then completed an assessment of traffic confirming a far higher frequency of buses and cars. Both applications were refused on grounds of road safety and officers have provided new guidelines relevant to Cranbrook in the revised Street Trading Policy report today.

4.2 Enforcement

4.2.1. The Council has a Regulatory Enforcement and Prosecution Policy and officers provide guidance and support to new applicants in the first instance for securing compliance. During previous periods licensing officers attended a location in the east of the district following reports of an unlicensed food trader operating. The visit confirmed the presence of a roadside food seller and whilst the trader had obtained food hygiene certificates, they had not applied or gained street trading consent and were required to cease trading until an application and local consultation can be undertaken. This work is now considered of high importance to

ensure the safety of the public and to maintain the current standards of the street trading regime.

4.3 Street Trading during Sidmouth Folk Week

4.3.1. The Sidmouth Folk Week event is due to take place between 31st July and 7th August and the licensing team manages sea front trading pitches along The Esplanade being a process that has operated since 2008. Officer's work extended hours from 7am over all eight days and a review over the previous period has indicated that the high level of resourcing together with the weeklong compliance visits may no longer be cost effective. The Council's move to offices in Honiton increased the time officers are engaged at the event and the time spent by the licensing team from March through to August processing trading application places increasing demands on the team.

4.3.2 One option raised in the previous report to this Committee would be for the organisers of Sidmouth Folk week to have responsibility for trading on The Esplanade which mirrors arrangements in other areas of the town with StreetScene hiring areas of Council owned land. Discussions have taken place with the organisers of Sidmouth Folk Week who confirm an interest although it is still uncertain whether the sea front area would be hired this year being certainly more likely for year 2021. The present charging structure used by StreetScene would be applied and officers will provide further updates accordingly.

4.4 Street Trading Policy and Review of Application Fees

4.4.1. At the last meeting of this committee members confirmed a need for officers to progress the review to re-introduce application charges for commercial street trading consents. Officers now present a detailed structure to allow full consideration for charging fees going forward.

5.1 Change of Licensing Database

5.1.1 It was reported at the last meeting that officers have been extensively involved in an IT project to replace the current licensing database in use since 2005. This work continues with staff engaged in daily testing and programming work with Strata.

5.1.2 The benefits of adopting the new Uniform licensing system will provide many improvements on the existing system, however the current level of work being undertaken on the project impacts on the team being necessary to prioritise operational work.

6. Consultation and Partnership Working

6.1. Officers attend Licensees meetings in the East Devon area whenever possible as these meetings should be supported and are a useful forum for the exchange of ideas, information and keeping up to date with issues. Officers have not attended licensees meetings over the previous period and have had to prioritise all other demands and priorities (see 5.1.2 above).

6.2 Safety Advisory Group (SAG) Meetings

6.2.1 Officers do attend quarterly meetings of this council's Safety Advisory Group (SAG) including to consider advanced planning for outdoor events. The SAG operates as a multi-agency, non-statutory group that meets providing guidance to event organisers and the officers attend to support safely organised events that are licensed in the district.

6.3 Meeting between Members, Taxi Proprietors and Officers

- 6.3.1 The council previously held two meetings annually with taxi proprietors and the Licensing officers and members in April and November. The Licensing Committee's Chair and Vice Chair normally attend these meetings and all members are welcome. The last meeting took place on 6th November 2019 and allowed communication by discussing relevant topics. The taxi trade is appreciative of the interest from the members of this Committee whilst accepting it is now necessary for the frequency to revert to being an annual meeting.
- 6.3.2 The Licensing Committee's Chair and Licensing Manager will attend a meeting of the Exmouth Taxi Association on 3rd February, this being the only association of taxi drivers across East Devon. Following a positive meeting (under 6.3.1), it is anticipated that membership will grow and drivers from other towns may join the Exmouth meetings.



05 November 2019

Dear Councillor,

I am writing to you as Minister for Crime, Policing and the Fire Service regarding your important work as Chair of your local Licensing Committee.

I have responsibility for alcohol policy and maintaining a robust and effective licensing regime. You will be acutely aware of how the decisions of your Committee can have significant consequences for the livelihood of applicants, and the wellbeing of local residents and the wider community. As such, the functioning of licensing committees is extremely important, and we know there is some excellent practice in the field.

As you may be aware, in 2017 the House of Lords Select Committee for the Licensing Act 2003 published their post-legislative scrutiny of the Act. That report was a welcome contribution towards our understanding of the functioning of the Act on the ground. The Government formally responded to the report later that year and has taken forward a number of recommendations, including revising the statutory Section 182 Guidance.

The Select Committee raised an important issue about collaboration between licensing and planning committees. The Government did not agree with the Committee's main recommendation that there should be a trial merger of licensing committees with planning committees. This is because a local planning authority is already listed in the Act as a responsible authority and therefore already has a statutory role in considering applications for the grant, variation or review of a premises licence. The Act also allows that where a matter relates to a licensing function and to another function of the local authority (for example, planning), the matter may be referred to either committee. This allows for the licensing committee to discharge functions other than licensing matters, and vice-versa, for a planning committee to discharge a licensing function.

However, there are instances where the synergy between licensing and planning regimes could be improved. For this reason, we amended the Section 182 Guidance to clarify the issue of coordination between the decisions of licensing and planning committees and have worked with the Local Government Association to address the synergy between licensing and planning in their handbook for councillors on the Act, which was published in July.

We are supporting the Institute of Licensing (IoL) in identifying opportunities for improving collaboration between the two regimes and gathering examples of best practice where the regimes interact effectively at a local level. The IoL surveyed stakeholders on this issue and the responses informed two workshops held this year to explore potential solutions in both the short and longer term. We are also supporting the IoL as they scope and develop training for councillors. The IoL have taken an active role in driving this work and we are grateful for their commitment to this important issue.

In addition to ensuring that your local licensing and planning committee (should there be one) work together where necessary and communicate effectively, I would like you to continue to give particular consideration to the importance of engaging local residents and identifying ways to provide additional support to them in framing and presenting their concerns about applications to licensing committees.

Thank you for your important work as Chair of your local Licensing Committee and for taking forward these expectations to ensure the most effective application of the Licensing Act 2003 in your local area.

A handwritten signature in blue ink, appearing to read 'Kit Malthouse', with a long horizontal flourish extending to the right.

KIT MALTHOUSE MP
Minister of State for Crime, Policing and the Fire Service



Report to: Licensing and Enforcement Committee

Date of Meeting: 12 February 2020

Public Document: Yes

Exemption: None

Agenda item: 8

Subject: **Update on Seaton Town Council's request to remove the taxi rank in Marine Place and to relocate it on Castle Hill, Seaton.**

Purpose of report: To consider accommodating the change needed for the redevelopment of Seaton town centre seafront.

Recommendation: **That the Committee note the update**

Reason for recommendation: The Town Council has made this request which will require a series of legal steps to be taken before adopting the change.

Officer: Steve Saunders, Licensing Manager

Financial implications: Advertisement costs for public notices and officer time

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

Equalities impact: Low Impact

Risk: Low Risk

Appendices:

Appendix A – Letter to DCC Highways 21.10.2019
 Appendix B – Letter to DCC Highways 11.12.2019
 Appendix C – Email from DCC Highways

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

1 Background

- 1.1 At the last meeting of this Committee on 16th October 2019 it was reported that a request had been received from Seaton Town Council for removal of the taxi rank currently sited on Marine Place, Seaton and for it to be relocated to Castle Hill, being a short distance on the same side of the road. The reason for this request is that Seaton seafront is being redeveloped to update the road layout including pedestrianisation and other alterations to enhance the area. That work is anticipated to begin in early 2020.
- 1.2 The Committee considered the responses for relocating the taxi rank and resolved to approve the following, namely;
- a) To exercise the Council's powers under Section 63 of the Local Government (Miscellaneous Provisions) Act 1976 to appoint the rank in Castle Hill, Seaton
 - b) That the requisite public notice be given of the proposed appointment as required by Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976.

- c) That if no written objection or representation is received relating to the notice given under Section 63(2) of the Local Government (Miscellaneous Provisions) Act 1976 within the 28 day period following the publication of that notice the rank subject of this recommendation will be deemed appointed.
- d) That following the appointment of the taxi rank Devon County Council Highways Authority be requested to put in place the appropriate legal provisions and to mark out the rank

1.3 Following the meeting, the Licensing Manager submitted the necessary letter (**Appendix A**) to the head of the highway authority to seek engagement and views of the authority in accordance with point 1.2 (d) on 21st October 2019, Although the district council has the responsibility to appoint ranks it has to be done with the approval of the highway authority at Devon County Council to designate each rank with a traffic order and to have it signed and marked. The Licensing Manager had previously sought the views of Devon County Highways Neighbourhood Highway Engineer reporting to the members in October that a response was then awaited. The latest letter further raised the question of Devon County Highways engaging in this matter without which it will not be possible to proceed.

1.4 The Licensing Manager provided an update to the Seaton Town Council project team and to the appointed architect upon writing again to Devon County Highways.

1.5 On 11th December 2019, the Licensing Manager submitted a further letter to the Devon County Highways Neighbourhood Highway Engineer because a response had not been received to that sent in October (**Appendix B**). The later letter was sent in conjunction with unrelated issues regarding taxi ranks in Honiton and Ottery St Mary that have been raised by the taxi trade with Licensing Authority.

2 Devon County Highways Response

2.1 On 11th December 2019, the Licensing Manager received an email in response to the letters sent to the Devon County Highways (**Appendix C**). The response outlined concerns that do not presently allow progress for re-siting the rank in Seaton and seeking a further update from the project developer, namely;

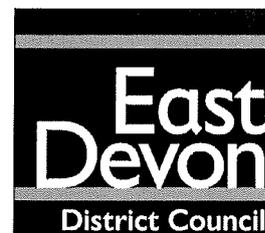
- a) Concerns about the accuracy of the plan (the size and layout),
- b) Concerns about taxis accessing the rank and buses accessing the bus stop,
- c) Concerns that relocating the bus stop nearer the junction with Seahill will severely restrict visibility at the junction and therefore could not approve this, which in turn is likely to prevent the provision of a taxi space behind,
- d) Requesting a more detailed plan that clearly shows the access to Beaumont so that we, and the residents of this property, can clearly see the impact on this access.
- e) Insufficient information to make an informed decision on the proposed relocation and therefore cannot support the proposal at this time.
- f) No comments were offered regarding the reduction of spaces and were deferred to the licensing authority regarding this element.

2.2 NDM Collins Architects and the project team from Seaton Town Council were informed of the response received from Devon County Council Highways and have had further contact since with regard to how this matter may proceed.

3 Next Steps

- 3.1 In order to progress relocating the taxi rank in Seaton it is still necessary to undertake the full steps that this Committee resolved under point 1.2 (d) of this report. Given that the highways authority has required the need for further information from the project team before it can provide the necessary engagement, the Licensing Authority cannot proceed further with the resolution at this time.
- 3.2 It is the responsibility of the highway authority to properly design, plan and maintain road schemes ensuring the safety of all road users.
- 3.3 The Licensing Manager maintains contact with NDM Collins Architects of Seaton who in turn maintain contact with Devon County Highways. Should the redevelopment project and those involved subsequently reach agreement regarding requirements for relocating the taxi rank, then the requisite public notice to propose appointment of a new rank can be undertaken (under point 1.2 (b)).
- 3.4 Should a further location or different option be proposed to that agreed under this resolution, it will require a fresh review and decision from this Committee.
- 3.5 Any updates or proposed changes that are passed to the Licensing Authority will be notified to this Committee.

Date:
 Direct email: ██████████@eastdevon.gov.uk
 Our ref: SS/Lic



Chief Officer Highways
Devon County Council
County Hall
Topsham Road
Exeter
EX2 4QD

Dear Sir or Madam

Application by Seaton Town Council to Relocate Taxi Rank

East Devon District Council licensing authority has received a request from Seaton Town Council for the removal of the taxi rank sited on Marine Place, Seaton and for it to be relocated to Castle Hill, Seaton being a short distance on the same side of the road. The existing taxi rank in Marine Place is one of four dedicated taxi ranks in Seaton that according to district council records was formally adopted for that use in 2010 by both the district and county councils.

The request for relocating the rank is because of the Seaton seafront redevelopment project across a wider area of roads and highways than just Marine Place and those alterations require removal of the taxi rank from its existing place. Local consultation has been undertaken with the taxi trade receiving two responses objecting to the proposal. The Licensing and Enforcement Committee at its meeting on 16th October approved the next step that the district council holds responsibility for by approving the required public notice to be circulated on the proposal.

Although the district council has the responsibility to appoint ranks it has to be done with the approval of the highway authority at Devon County Council and before a rank can be utilised, the highway authority needs to designate the rank with a traffic order and also have it signed and marked on the highway. The district council has not budgeted for any costs incurred by this work which may be the case for the county council and there may be options for costs incurred to be borne by Seaton Town Council under the redevelopment project which is reaching a late stage.

The purpose of this letter is to inform Devon County Council highway authority of the proposal and to seek clarification whether the highways authority will be prepared to complete the necessary work in adopting and marking the proposed taxi rank in Castle Hill, Seaton. If that were to be the case, the possible timescales for doing so would also be helpful.

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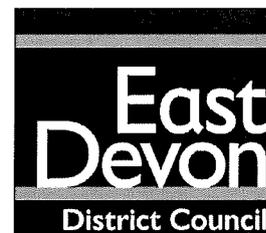
I would be extremely grateful for an early response on this matter and if I can assist with further information please do not hesitate to contact me.

Yours faithfully

Stephen Saunders
Licensing Manager
East Devon District Council

Direct email: [REDACTED]@eastdevon.gov.uk

Our ref: SS/Lic



Mr Chris Rook
Traffic Management team
Devon County Council
County Hall
Topsham Road
Exeter
EX2 4QD

Dear Mr Rook

Application by Seaton Town Council to Relocate Taxi Rank

I am contacting you further to previous correspondence sent to Devon County Council in October. East Devon District Council licensing authority has received a request from Seaton Town Council for the removal of the taxi rank sited on Marine Place, Seaton and for it to be relocated to Castle Hill, Seaton being a short distance on the same side of the road. The existing taxi rank in Marine Place is one of four dedicated taxi ranks in Seaton that according to district council records was formally adopted for that use in 2010 by both the district and county councils.

The request for relocating the rank is because of the Seaton seafront redevelopment project across a wider area of roads and highways than just Marine Place and those alterations require removal of the taxi rank from its existing place. Local consultation has been undertaken with the taxi trade receiving two responses objecting to the proposal. The Licensing and Enforcement Committee at its meeting on 16th October approved the next step that the district council holds responsibility for by approving the required public notice to be circulated on the proposal.

Although the district council has the responsibility to appoint ranks it has to be done with the approval of the highway authority at Devon County Council and before a rank can be utilised, the highway authority needs to designate the rank with a traffic order and also have it signed and marked on the highway. The district council has not budgeted for any costs incurred by this work which may be the case for the county council and there may be options for costs incurred to be borne by Seaton Town Council under the redevelopment project which is reaching a late stage.

The purpose of this letter is to further inform Devon County Council highway authority of the proposal and to seek clarification whether the highways authority will be prepared to complete the necessary work adopting and marking the proposed taxi rank in Castle Hill, Seaton.

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If that were to be the case, the possible timescales for doing so would also be helpful. I would be extremely grateful for an early response on this matter and if I can assist with further information please do not hesitate to contact me.

Yours faithfully

Stephen Saunders
Licensing Manager
East Devon District Council

Enc:
Letter to Devon County Council (October 2019)

Dear Mr Saunders

Taxi Rank Relocation – Marine Place, Seaton

Thank you for your correspondence regarding the proposal to relocate the taxi ranks in Seaton. I apologise for the delay in responding.

We do not seem to have received a plan showing the location but I note there is one attached to the Licensing and Enforcement Committee report. I am concerned about the accuracy of the plan as the size of the existing rank is significantly shorter than the one currently marked on site (which provides space for up to 3 vehicles). I am also concerned that this does not seem to reflect the proposed layout shown on the plans submitted as part of planning application 17/0369/FUL.

However, based on the plan considered by the licensing committee, I have concerns about taxis accessing the rank and buses accessing the bus stop. The developer will need to provide vehicle tracks to show how these vehicles can safely access the parking bays provided.

I do have concerns that relocating the bus stop nearer the junction with Seahill will severely restrict visibility at the junction and therefore could not approve this, which in turn is likely to prevent the provision of a taxi space behind.

I would also want to see a more detailed plan that clearly shows the access to Beaumont so that we, and the residents of this property, can clearly see the impact on this access.

I have no comments regarding the reduction of spaces and will defer to the licensing authority regarding this element.

In summary I do not believe we have been provided with sufficient information to make an informed decision on the proposed relocation and therefore cannot support the proposal at this time. If we are provided with a more detailed plan that shows exactly what is proposed then we can make an informed decision.

I hope this is helpful, but if you require any further information then please let me know.

Yours sincerely

James Bench
Traffic Orders and Policy Team

Devon County Council Phone: 0345 155 1004
Highway Management Fax: 01392 381459
Lucombe House E-mail: James.Bench@devon.gov.uk
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Exeter
EX2 4QD

Disclaimer: <http://www.devon.gov.uk/email.shtml>



Report to: **Licensing and Enforcement Committee**

Date of Meeting: 12 February 2020

Public Document: Yes

Exemption: None

Review date for release None

Agenda item: 9

Subject: **Street Trading**

Purpose of report: Following introduction of a new street trading regime in October 2017, there have been a number of changes, including removal of application fees in 2018. Through gaining a clearer understanding of how the regime has grown there is a proposal to further revise the policy. It is also proposed to commence the necessary work to require applicants to pay fees for obtaining consent, as detailed in the report. If approved, the changes are to recover costs incurred and to ensure standards are maintained for obtaining street trading consent across the district.

Recommendation: **That the Licensing and Enforcement Committee;**

- (1) Consider charging fees for Street Trading Consents with Application and Trading Fees (Appendix B) and if approval is given, to authorise a consultation,**
- (2) Adopt the revised Street Trading Policy including new guidelines relevant to Cranbrook Town (Appendix E)**
- (3) Note the actions that will be taken as a consequence of the above being agreed**

Reason for recommendation: Having established the impact and understanding of street trading, the changes are proposed as a consequence.

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

Financial implications: If approval is granted, costs incurred would be officer time spent on the consultation and one off future cost of public notices. If approved the re-introduction of fee income would contribute towards the cost of the Council carrying out the responsibilities relating to street trading.

Legal implications: It is considered good practice to consult with the existing traders on the level of fees to be charged.

Equalities impact: Low Impact

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

Risk: Low Risk

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

Links to background information:

- [Licensing and Enforcement Committee - 23rd August 2017](#)
- [Licensing and Enforcement Committee - 21st March 2018](#)

- [Current Street Trading Policy](#)

Link to Council Plan: Outstanding Council and Council services

Report in full

Background

1. In October 2017, the Council introduced a new street trading regime with the intent of facilitating economic growth and increasing footfall within the district. Prior to the changes, street trading in many locations where it would normally be beneficial (Exmouth Strand, for example) was illegal due to its previous designation as a prohibited street. The Council undertook a significant amount of public engagement in taking the decision to implement the changes, which was overall supportive of the principle of having a consent regime. The changes resulted in the whole of the district being a consent street, apart from parts of Sidmouth which remain prohibited. In the consent street areas, trading can only occur if consent is obtained first. The changes were accompanied with a new policy, new application process and with fees for obtaining consent.
2. Having introduced the scheme, and in receiving feedback from event organisers and those applying for consent in 2018, it was evident there were issues with the complexity of the initial application process and the payment of a fee for obtaining consent. Applicants for short term community based events previously reported the cost was prohibitive and that the initial fee arrangement had required two fees for obtaining trading consent when using land owned by the Council along with land hirer fees.
3. In listening to the concerns, this Committee chose in March 2018 to retain control over street trading activity by revising policy, ensuring that standards were maintained whilst removing application fees. Application forms were streamlined for short term community based events improving feedback in 2018 whilst maintaining street trading within the district. Those revisions in 2018 have seen the growth and popularity of food markets and similar community trading events in villages and towns, with many occurring under the revised block booking arrangements and often for less than the period of one day.
4. In February 2019, this Committee approved further amendments to the Street Trading policy by providing better guidance to pedlars, ensuring that commercial vendors are properly assessed having right to work in the UK, together with increasing environmental factors to reduce single use plastics and ensuring the standards of commercial trading units. The policy changes were made under Version 3 following increases in applications from commercial traders, many being in the west of the district.
5. The Street Trading policy sets out the Councils expectation of the street traders in the district and provides a clear understanding of what this Council will consider when administering applications, dealing with issues and undertaking any enforcement activities. It supports Licensing Officers in their day to day role in ensuring the Councils licensing aims within this policy are met and ensuring good minimum standards are met and maintained.

Charges

6. When setting the fees in 2017, there was a benchmarking exercise that ensured fees were reasonable, proportionate and being compared to other authorities. The fees set in 2017 were only sufficient to recover the costs for administration and enforcement of each consent. Indeed a number of commercial street trading applicants subsequently paid the original annual fee of £1200 in 2017, then being reimbursed in spring 2018 when fees were withdrawn. Notwithstanding this, other district and city councils having longer periods of established street trading regimes continue charging fees for vendors carrying out the activity.

7. In light of the above, it is proposed that this Council revert to charging fees being payable for obtaining consent. When bringing in the regime originally it was intended that the regime would be cost neutral in that it would achieve income to meet costs and removal of the fees in 2018/19 saw costs being met from within the service budget. As the regime has settled and continued to grow it is timely and necessary to recover reasonable costs for administering street trading.
8. Since 2017, the growth of trading in locations where the Council is the landowner has been managed by other services charging fees for hire of Council land with those service engaging in local consultation on each occasion with the Licensing Team being a consultee. As Licensing can only be cost neutral, it continues to be logical that it would be beneficial for Streetscene to charge maximum income from our assets and having one fee payable rather than the income coming to Licensing, or requiring double fees for events taking place on Council land.
9. When fees for obtaining trading consent were removed in 2018, the pragmatic approach was to not charge at all with the position held by this Committee that fees could be revisited in time. Through gaining a clearer understanding of how the street trading regime has grown since that time it is evident that a number of traders conduct commercial businesses without a need to pay costs that similar food sellers have to meet if operating from a building (for example planning and business rates). The rationale of the Council seeking to recover costs for receiving, consulting and determining applications for road side trading is evident and by gaining a clearer understanding of the regime over the previous two years it has identified the costs in completing this work and for managing applications that are not suitable or indeed require enforcement.
10. The Committee should note that one of the consequences of reinstating a fee for commercial trading consent is that there will be current consent holders that have operated without charges being required since 2018 and also having not being consulted previously. In May 2019, the Licensing Manager sent a letter to each commercial trader granted a street trading consent in the district outlining the proposal to introduce application fees for which there was a low return of just three written responses. One clarified they would be happy to pay a fee and with two requiring further notification and clarification for the reasons for this course of action. Respondent One outlined in summary that “a fee should only be introduced on a pro rata basis” considering frequency and number of days per week that trading occurs along with not understanding why a small business should be charged fees in a difficult economic climate. The current response is to set a pro rata weekly/monthly fee arrangement taking into consideration the feedback. Respondent Two outlined in summary that as a small business there are a number of checks in place with costs of wages and insurance to pay and that any fee setting “is unfair for those small traders trying to make a simple living.” Respondent Three clarified that they had obtained a street trading consent but had not yet started trading at that time, planning to work for two days each week and concluding “we are happy to pay the fee” but they await a right to work permit.
11. Officers have now prepared a detailed structure to allow consideration for re-introducing fees in line with the principles for setting fees. This requirement is necessary for delivering the work required to manage applications;
 - i. Supporting new applicants in the requirements of making an application (pre-application)
 - ii. Visiting proposed trading locations across the district where trading has not previously been allowed or undertaken to consider suitability (pre-application)
 - iii. Processing applications and all associated documents
 - iv. Consulting other authorities for street trading applications,
 - v. Responding to objections and representations,
 - vi. Determining new and variation applications,
 - vii. Responding to requests to appeal refusals,
 - viii. Administering new consents (up to 12 months),
 - ix. Preparing reviews and appeal on refusal where necessary,

- x. Compliance visits to traders following grant,
- xi. Enforcement / investigation of traders operating without consent,
- xii. Potential prosecution of unlawful traders being unwilling to engage.

12. A benchmarking exercise was carried out comparing street trading application fees set by other district and city councils when initially setting fees in 2017. Comparisons have been updated showing the fees being charged by other Councils in 2017 and in 2020 in **Appendix A**.
13. At previous meetings of this Committee members raised a need for officers to consider a further review of the street trading policy exploring options to re-introduce application charges for commercial street trading consents. The “Open for Business” guidance from LGA on locally set licence fees outlines that local authorities should consider fees that are charged for both administering and processing licences along with subsequent compliance arrangements. When taking the decision to remove fees in 2017, this Committee outlined that a future proposal may consider introducing fees along with giving sufficient notice given to those who would be affected. Further work was undertaken last year when all traders holding consent were contacted although there may be others trading now who may not have been contacted. It is now considered timely to consider introducing application fees for applicants applying to trade in new locations or when renewing existing consent granted. Legislation allows for this to happen and also for consent to be revoked in certain circumstances regarding non-payment.

Procedure

14. One of the previous criticisms made in that the process was overly complicated in 2017 has been addressed by streamlining application procedures. This does not detract from the consideration / assessment criteria and rigour that is being applied at the application stage ensuring that only relevant information is obtained and the process is not onerous. It is evident there are two general types of trading arrangements occurring in the district, these being;
- (a) Short term multiple trading at markets, community and charitable events, often promoted or requested by parish and town councils (usually lasting for a day or weekend), and
 - (b) Commercial mobile trading businesses for repeated, long term trading in single or rotational locations trading throughout the year (static/mobile food sellers).
15. To that end it is proposed that to continue retaining control over street trading activity, ensuring the nature and quality of what is being sold, where it takes place and to ensure trading is acceptable and safe for the public, that application fees should be reinstated for trading under 14 (b).

It is not proposed to;

- a. Return Trading fees in 2020 that are in excess of the annual fees set in 2017 although the addition of an Application Fee is new,
 - b. Charge more than one fee for events on land owned by this Council, instead keeping one charge payable for hire/right to use of the land (under 8 above),
 - c. Set rigid, disproportionate fees for all and instead to structure fees on a pro-rata basis against the number of trading days each week
16. Accordingly it is recommended that the fees as shown in **Appendix B** be considered by this Committee. This includes a requirement for applicants to provide an **Application Fee**, being a payment required when submitting each new or renewal application. This fee is necessary for the costs to receive, review, input and begin the consultation process for each application.
17. **Trading Fees** are those payable upon an application being approved following the consultation process to be paid before consent is issued. Trading fees are aligned to the relevant number of days for consent sought and will be granted for each trading unit or vehicle. Where an applicant

operates two or more trading units or vehicles, the Trading Fee is relevant to each unit. The maximum Trading Fee for one trading unit with consent granted for seven days per week, for a maximum of a year, will be £1200. This acquants to the annual fee that was set in 2017.

18. By setting Trading Fees on a pro-rata basis according to the number of trading days each week, it will be proportionate to the business model of each consent holder, being a factor fed back by traders last year and starting from the lowest annual fee of £480 for trading one day weekly up to £1200 for seven days each week. The cost for a full annual fee, trading seven days per week will be equivalent to £23.07 per week or £3.29 a day. The option for traders to operate seasonally exists by charging according to the number of weekly days and months required.
19. If the proposed fees shown under Appendix B are considered appropriate by this Committee, approval will be sought to conduct a further consultation with all current consent holders to allow representations to be received. This action is necessary under the legislation as not all current holders of consent were subject of consultation last year and the proposed fees were not circulated to them either. All fees will be reviewed on an annual basis.

Policy

20. The Policy has been amended to take into account all of the points above and a revised version is attached at **Appendix C**. There are a number of consequential amendments as a result of greater understanding of the trading regime. The reasons and backgrounds to those changes that are highlighted in red font are provided in **Appendix D**.
21. Changes include a new appendix to the policy following applications that have been considered unsuitable for traders seeking consent in Cranbrook Town. The guidelines follow a coordinated approach involving Cranbrook Town Council and East Devon District Council Licensing shown in **Appendix E**.
22. In addition the policy has been changed to give greater clarity on locations which, by choice, the Council does not consider will comprise street trading. This includes trading on land or grounds of any premises licensed for the sale of alcohol or land where the public have to pass through or enter any building to gain access.
23. In light of the changes identified and if agreed, officers will progress revising the application forms, guidance and details on the website.
24. If approved, it is proposed that officers complete the necessary changes to allow the introduction of the revised policy from 1st March 2020. If consultation of new Application and Trading fees is approved by this Committee, officers will complete that work and report back when this Committee next meets.
25. The Street Trading Policy will be due for a full review in conjunction with conducting a further consultation in October 2022 to allow all residents and those affected in the district to be considered.

Appendix A

Street Trading Fee Comparison Table

Council	Annual Consent 2017	Annual Consent 2020
East Devon	£1200	No Charge
South Somerset	£1300	£1340 https://www.southsomerset.gov.uk/services/licensing/house-and-street-trading/apply-for-street-trading-consent/
Torbay	£810	£999 Torbay/street-trading-fees
Plymouth	£1281	£1337 (Link not available)
Exeter City	£1825	£1880 Exeter CC-street-trading-fees
Dorset Weymouth	£3300	£3300 (Link not available)
Dorset Purbeck	£3400	£3400 Dorset.Purbeck-street-trading-licences-fees
Wiltshire	Not provided	£3935 Wiltshire-street-trading-fees

(Figures relevant February 2020)

Appendix B

DRAFT East Devon District Council Street Trading Fees

Application Fees

Application fees are non-refundable being administrative payment to receive, review and commence each application to begin consultation. Application fee payment is required upon submitting each application to the Licensing Team.

New Application	£30	If applying for more than one application for the same vehicle/unit, an additional £30 for each location being applied for.
Renewal Application	£25	If applying for renewal in the previously granted location. Where an application is sought for any new location the fee is payable for a new application (above).
Variation	£25	If applying to vary existing Consent for the same unit/vehicle in the existing granted location.

Trading Fees

Trading fees are payable when each application is approved and relevant to how many days of each week trading takes place and over how many calendar months.

Trading fees are payable prior to Consent being granted as follows:

Occasional Day*	£37.00 per day	
1 day each week	£40 per month	£480 per year
2 days each week	£50 per month	£600 per year
3 days each week	£60 per month	£720 per year
4 days each week	£70 per month	£840 per year
5 days each week	£80 per month	£960 per year
6 days each week	£90 per month	£1080 per year
7 days each week	£100 per month	£1200 per year

Additional Notes:

- The fee for an Occasional Day* is also the daily rate charged by StreetScene Services for the daily hire fee for events occurring on land owned by East Devon District Council.
- Fees are payable where trading in any location where the public can access freely, including locations where fees may be required of the trader by private land owners.
- Trading occurring repeatedly, for example at different events on different days where the public do not pay to enter, requires the payment of the appropriate fee.
- In circumstances where trading is for a seasonal or reduced period, the fee will be according to number of days per week for the number of months



APPENDIX C

EAST DEVON DISTRICT COUNCIL

Street Trading Policy And Application Guidance

(Version 4)

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

1 March 2020

INTRODUCTION

1. East Devon District Council (“the Council”) has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. This means the Council can properly regulate those traders who sell articles without the use of ordinary business premises and those traders who move from place to place. The Council has designated all of its administrative area as a consent street for street trading purposes, except a small part of Sidmouth in which street trading is prohibited. This means that in the consent streets anyone wanting to street trade must obtain consent from the Council first.
2. The requirement to obtain a consent for any street trading is wide-ranging and would include, for example, all hot and cold food vendors selling burgers, kebabs, doughnuts, ice cream, drinks etc., and all vendors of non-food products from any vehicle, stall, barrow, trailer, bike or any other moveable or static structure. Mobile artists who sketch or paint, or similar artisans who sell their own work may also be subject to the requirement to have consent depending on the circumstances.
3. These guidelines have been developed to assist those applying for street trading consents in East Devon and set out the standards for determination of applications and the enforcement of street trading activities in the East Devon area to ensure a consistent approach. However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.
4. 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.
5. Within this document the following definitions apply:

Street Trading Means the selling or exposing or offering for sale of any article (including a living thing) in any street. From this definition, any person offering purely a service e.g. a shoeshine (where there are no tangible goods such as a picture or sketch) will not be subject to the street trading legislation.

Street Includes:
(a) Any road, footway, beach or other area to which the public have access without payment.
(b) A service area as defined in section 329 of the Highways Act 1980,
and also includes any part of a street.

Consent Street Means a street in which street trading is prohibited without the consent of East Devon District Council.

Consent Means a consent to trade on a street by East Devon District Council.

Consent Holder Means the person or company to whom the consent to trade on a street has been granted by East Devon District Council.

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

Activities that are exempt or do not require consent

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

- (b) Operating properly as a Pedlar (see our Guidance for Pedlars), markets or fairs where the right is granted through any enactment or order, trading in a trunk road picnic area, news vendors (unless the stall exceeds a certain size) and roundsmen (although this does not include mobile ice cream sellers).
7. The following are exempt from the need to obtain a street trading consent as a matter of policy choice;
- (a) School, church or village fetes or fetes organized by town or parish Councils (or similar such events) where the event is not in close proximity to a commercial area.
 - (b) Funfairs or circuses where the primary purpose is the funfair or circus and the street trading activity is ancillary to the purpose, related to and in close proximity to the funfair or circus.
 - (c) Non-commercial car boot sales (where the event organiser whether an individual or company does not profit).
 - (d) Residential properties selling items which are surplus to domestic requirements (e.g. home grown / produced jams, fruit, vegetables, eggs etc) provided the sale is within the curtilage of the property or immediately adjacent to it and it is not a commercial concern.
 - (e) Those activities that are so minor in nature that in the opinion of the Strategic Lead (Governance and Licensing) or Licensing Manager a street trading consent is not justified.
8. The following activities do not fall within the requirement for a street trading consent;
- (a) Educational / information / charity stands not selling any articles.
 - (b) Charitable street collections (there is a separate policy for this) including those with one or two tables selling items which solely benefit the charity.

9 Council Owned Land

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).

10 Privately Owned, Enclosed Land

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.

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

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 but trade for less than ~~30~~ 20 minutes at any one point and who don't return to a similar trading position within 2 hours (e.g. an ice-cream van and bikes ~~or fish & chip van~~), a general consent will be issued for a specified period of time. General consents will only be issued for consent streets and not for

prohibited locations.

- 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

- 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.

PROCEDURE

- 14 An application for a street trading consent must be made to the Licensing Team at East Devon District Council in writing or online through the Council's street trading section of the [website](#). ~~If you need any help in completing the application form please~~ Contact can be made with the Council's Licensing Team ~~on 01395 517411~~ or by emailing licensing@eastdevon.gov.uk. ~~The Council offices are open to members of the public between the hours of 8.30 am and 5.00 pm Monday to Fridays.~~ Appointments should be made in advance of visiting the council offices to ensure being seen and to allow staff to prepare documentation that might be needed.
- 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.

STAGE 1 - SUBMISSION OF THE APPLICATION

- 17 In addition to a completed and signed street trading application ~~you~~ **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. 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).

- g. 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.

Block Bookings

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 15(b) and 15(c) above, along with the details of what is being sold. Forms will need to be provided to the Council as part of the application at least **7 10** working days prior to the event commencing. The relevant form for the individual stall holders can be found [here](#). 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.

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)
- 18 Where practicable, 28 days will be given for representations to be received, where appropriate consultation may conclude sooner.
- 19 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.
- **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 (Appendix E).**

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

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.

STAGE 5 – CONSIDERATION OF APPLICATIONS

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

26 The criteria listed below will be used to consider whether or not an application should be approved. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case though will be assessed on its merits and individual circumstances, where appropriate, may be taken into consideration;

Site safety

27 The location of the proposed street trading activity should not present additional risks to the public in terms of road safety, obstruction and fire hazard. The term “public” refers to both customers frequenting the street trading activity, and other members of the public using the location. In particular reference will be made to the guidelines set out in Stage 3 on site safety assessment criteria and

observations made by the Highways Authority.

Public Order

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

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).

- 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.

37 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.

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.

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 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.
- 50 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

- 51 The Council will actively enforce the provisions of this Policy and street trading within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Council's Regulatory Enforcement and Prosecution Policy, copies of which are available 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.

COMPLAINTS

- 52 East Devon District Council has an agreed procedure for dealing with complaints about the services it delivers. If you wish to complain about the delivery of street trading you should contact the Licensing 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.



Explanation of Revisions to Policy

Street Trading Policy

And

Application Guidance

Draft Revision to Policy	Reason for Revision
<p>9 Council Owned Land</p> <p>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 will ensure that only one fee is charged for use of land, although other chargeable permits or licenses may be required (see point 37).</p>	<ul style="list-style-type: none"> • Experience of the regime over the last three years. • The requirement for payment of one fee for applicants using EDDC promotes the 'once council team' approach in the new Council Plan. • One fee will support clients/applicants when applying to use EDDC
<p>10 Privately Owned, Enclosed Land</p> <p>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.</p> <p>Street trading consent may not be required for privately owned land where access is restricted to the public as a result of;</p> <p>(a) The public being required to make payment for entering, or</p> <p>(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</p> <p>(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.</p> <p>Where trading is conducted directly onto any road or highway from an unrestricted location, street trading consent will be required.</p>	<ul style="list-style-type: none"> • Experience of the regime over the last three years. • The requirement for Street Trading is exempted when an entry fee is charged of the public (a) • Guidance from Institute of Licensing (Nov 2019) - James Button (Solicitor on licensing matters) outlining that the requirement for Street Trading within boundaries that impede direct public access may not be regulated (b) • Licensed premises are subject of other fees being payable (upon application & annually) and with legal requirements and conditions as a result of the premises licence (c)

<p>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 but trade for less than 30 20 minutes at any one point and who don't return to a similar trading position within 2 hours (e.g. an ice-cream van and bikes</p>	<ul style="list-style-type: none"> • Experience over the last three years • Reducing the time period that completely mobile sellers operate to 20 minutes will prevent complaints of trading in a single location continually/unlawfully
<p>15The 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.</p>	<ul style="list-style-type: none"> • Experience over the last three years. • The need to have applications that are relevant to the period and time of the consultation avoiding any changes by being submitted too early or too late
<p>17 In addition to a completed and signed street trading application you applicants will need to submit a fully completed application, paying the relevant fees to the Council and with the following documents (payable at the applicants own expense):</p>	<ul style="list-style-type: none"> • Update includes the requirement to pay a fee if approved
<p>17e 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.</p>	<ul style="list-style-type: none"> • Renewal or new DBS checks are required every 3 years to assess suitability (convictions) of consent holders
<p>17g In circumstances where an applicant applies to trade for a maximum of one Occasional Day only within any calendar year, items (d) and (e) shall be waived</p> <p>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</p>	<ul style="list-style-type: none"> • Experience over the last three years. • Removal of right to work or DBS checks for applicants applying to trade for one day only • Experience over the last three years. • Existing consent holders to notify short term event where already holding an annual consent

<p>Block Bookings</p> <p>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 15(b) and 15(c) above, along with the details of what is being sold. Forms will need to be provided to the Council as part of the application at least 7 10 working days prior to the event commencing.</p>	<ul style="list-style-type: none"> • Experience over the last three years • Environmental health teams request 10 working days minimum to be sufficient to check and assess food hygiene rating prior to the start date of an event/trading
<p>21</p> <p><i>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,</i></p> <p>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 .</p>	<ul style="list-style-type: none"> • Experience over the last three years. • Recent food vans on a highway causing other road users to deviate and placing road users at risk through presence • Experience over the last three years • New guidelines drafted by CTC and EDDC Licensing as a result of identifying higher volumes of transport and increasing growth in the town
<p>31</p> <p>Mobile food vendors will not normally be permitted to trade within 500m of a school during the school opening hours</p>	<ul style="list-style-type: none"> • Experience over the last three years • Traders may seek to trade in a location within the 500m location being restricted to an extra hour after closing time

<p>37 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.</p>	<ul style="list-style-type: none"> • Other permits or licences may still be required even when obtaining Street Trading consent and consent does not negate need for licences to sell alcohol for example
<p>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.</p>	<ul style="list-style-type: none"> • Specific time to seek a review or to complete a review provides improved understanding to applicants who may be refused an application

(DRAFT) STREET TRADING GUIDELINES IN CRANBROOK

Introduction

East Devon District Council is the licensing authority for street trading and Cranbrook Town Council will be consulted when applications for new licences or renewals come forward.

East Devon District Council's policy statement 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.

Town Council experience to date has identified that there are a number of issues which have emerged in connection with previous consultations. These include the fact that the Main Local Route (MLR), now experiences increased vehicle movements including more buses per hour, is unsuitable as a street trading location and that no applications on the MLR could be supported and the fact that residential (in parcel) streets are generally narrow and are unsuitable as locations for street trading. Equally, street trading in residential parcels is likely to lead to impacts on residential amenity. These factors were confirmed by East Devon District Council and the Town Council in December 2019.

Cranbrook is a designated Healthy New Town (HNT) and one of ten NHS pilots. The basic aim of the HNT project was to reduce the impact on the NHS by encouraging lifestyle changes leading to a healthier population. Whilst it is an argument that people should have a choice about what they purchase and consume, the reality is that the pressures on the NHS created by unhealthy lifestyles is unsustainable. Cranbrook Town Council therefore takes the view that health and lifestyle considerations are material in this context.

In considering the balance of established shops and street traders, it is noted that the number of take-away premises in existing shops is limited by planning condition to no more than two. The Town Council therefore takes the view that the number of street trading permissions should be commensurate with this restriction.

Guidelines

Both the District and Town Council will consider each individual application on its merits.

The Street Trading Policy adopted by the District Council includes criteria listed under 'Stage – 5 Consideration of Applications' that allow licensing officers to accept relevant factors received from the consultation process.

The current criteria includes:

Site Safety

Public order

Avoidance of Annoyance

Conflict with other like trading outlets and school premises

Compliance with legal and Environmental requirements

Permitted Trading Hours

Compatibility of the proposed street trading operation General Factors

Emergence of the issues identified in this report may add further weight to the Stage 5 criteria already listed in the Street Trading policy providing further grounds to refuse approval of an application. Where any of the following factors sit outside the Stage 5 criteria, due consideration will still be given by licensing officers.

The following factors will be taken into consideration:

Location

Is there enough space for the applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street?

How many traders are already trading in the vicinity (from shops or other stalls) in the type of goods in which the applicant desires to trade?

Is there undue concentration of traders trading in the street in which the applicant desires to trade?

Residential amenity

Will the consent, if granted, result in nuisance to members of the public, residents and local businesses due to the likely noise, smell, litter, disturbance or other problems which will be caused by granting the consent?

Highway safety

Is the proposed location on a main local route and likely to result in highway obstruction?

Is the proposed location likely to result in highway obstruction caused by parking of customers' vehicles?

Is the size, nature or appearance of the proposal (and any associated signage or equipment) appropriate for the proposed location in terms of amenity or public or highway safety?

Economic considerations

Are the proposed trading hours outside the usual business hours of shops in the vicinity?

How close is the proposed location to established shops trading similar goods?

Would the proposal lead to the number of traders exceeding the number of permitted established shops trading in similar goods?

Health considerations

Is the proposal consistent with the aspiration of Cranbrook as a Healthy New Town?

Operating History

Is there a history of complaints or any other issues which might impact on a decision to grant or refuse an application?

Potential acceptable sites

Town Council may wish to work with the Licensing Authority in identifying potential sites which may be acceptable as venues for street trading. In doing so, it is proposed that this be based on the provision of services to those parts of the town which are not as well served because they are located remotely from established services, are sufficiently removed from existing established providers to mitigate unfair competition and are situated away from locations which might give rise to highway or amenity issues. For example, until the town centre comes forward there may well be locations in that part of the town which are acceptable in all respects and meet the needs of residents. Such potential locations may have a lifespan and require revision as the town builds out.

Recommendations

- a) To adopt the guidelines set out in this document as a basis for consideration of any application for a new or renewal street trading licence. The Licensing Manager will seek approval from the District Council's Licensing and Enforcement Committee to adopt these guidelines when it next meets in February 2020.
- b) The Town Council to work with the Licensing Authority to identify potential acceptable locations for street trading.