

# WEST SOMERSET DISTRICT COUNCIL

Meeting to be held on Wednesday 8 August 2012 at 4.30 pm

Council Chamber, Williton

## AGENDA

1. Apologies for Absence

2. Minutes

Minutes of the Meeting of Council held on 27 June 2012 to be approved and signed as a correct record – **SEE ATTACHED.**

3. Declarations of Interest

To receive and record any declarations of interest in respect of any matters included on the agenda for consideration at this meeting.

4. Public Participation

The Chairman to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three-minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

5. Chairman's Announcements

6. Purchase and Sale of Properties at Clanville Grange, Minehead

To consider Report No. WSC 72/12, to be presented by Councillor K V Kravis, Lead Member for Resources & Central Support – **SEE ATTACHED.**

The purpose of the report is to advise council of the cabinet decision to request approval of a supplementary capital estimate for the purchase of a property at Clanville Grange, Minehead.

7. Street Trading/Temporary Markets Policy

To consider Report No. WSC 101/12, to be presented by Councillor K Turner, Lead Member for Housing, Environmental Health and Licensing – **SEE ATTACHED.**

The purpose of the report is to present the amended Street Trading/Temporary Market Policy to Council for adoption.

**8. Delegation of Function for Licensing Authority as Responsible Authority**

To consider Report No. WSC 102/12, to be presented by Councillor K Turner, Lead Member for Housing, Environmental Health and Licensing – **SEE ATTACHED.**

The purpose of the report is to seek delegated authority for the Manager of the Environment and Community Group to act as the Responsible Authority on behalf of the Licensing Authority.

**9. Request for Allocation of Seaside Strategy Funding for Minehead Vision Manager and Apprenticeship Posts**

To consider Report No. WSC 107/12, to be presented by Councillor D J Sanders, Lead Member for Economic Regeneration and Growth – **SEE ATTACHED.**

The purpose of the report is to consider proposals for the allocation and use of an element of the seaside strategy earmarked reserve funding, for the creation of an 18-month Minehead Vision Manager post and a 12-month Apprenticeship role. Cabinet considered this proposal at its meeting on 1 August, and the Portfolio Holder will provide verbal feedback in relation to their deliberations.

**10. Request for Allocation of Planning Obligations Monies**

To consider Report No. WSC 100/12, to be presented by Councillor K V Kravis, Lead Member for Resources and Central Support – **SEE ATTACHED.**

The purpose of the report is to make a proposal for the allocation of capital monies secured through planning obligations to provide a cricket pavilion in Minehead.

**11. Minutes and Notes for Information**

Notes and minutes relating to this item can be found on the Council's website using the following link: <http://www.westsomersetonline.gov.uk/Council---Democracy/Council-Meetings/Full-Council/Full-Council---21-March-2012>

- Standards Committee – draft minutes of the meeting held on 19 June 2012 <http://www.westsomersetonline.gov.uk/Council---Democracy/Council-Meetings/Standards-Committee-Meetings/Standards-Committee---19-June-2012.aspx>
- Draft notes of the Exmoor Panel held on 21 June 2012 <http://www.westsomersetonline.gov.uk/Council---Democracy/Council-Meetings/Exmoor-Area-Panel/Exmoor-Area-Panel---21-June-2012.aspx>
- Draft notes of the Minehead Area Panel held on 20 June 2012 <http://www.westsomersetonline.gov.uk/Council---Democracy/Council-Meetings/Minehead-Area-Panel/Minehead-Area-Panel---20-June-2012.aspx>

- Draft notes of the Watchet, Williton and Quantocks Area Panel held on 12 June 2012 <http://www.westsomersetonline.gov.uk/Council---Democracy/Council-Meetings/Watchet,-Williton-and-Quantock-Area-Panel/Watchet,-Williton---Quantocks-Area-Panel---12-June.aspx>

**COUNCILLORS ARE REMINDED TO CHECK THEIR POST TRAYS**

## RISK SCORING MATRIX

Report writers score risks in reports uses the scoring matrix below

**Risk Scoring Matrix**

<b>Likelihood</b>	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
			<b>Impact</b>				

<b>Likelihood of risk occurring</b>	<b>Indicator</b>	<b>Description (chance of occurrence)</b>
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

- ▶ Mitigating actions for high ('High' or above) scoring risks are to be reflected in Service Plans, managed by the Group Manager and implemented by Service Lead Officers;
- ▶ Lower scoring risks will either be accepted with no mitigating actions or included in work plans with appropriate mitigating actions that are managed by Service Lead Officers.

**WEST SOMERSET COUNCIL**

**Minutes of the Meeting held on 27 June 2012 at 4.30 pm**

**in the Council Chamber, Williton**

**Present:**

Councillor D D Ross ..... Chairman  
Councillor G S Dowding ..... Vice-Chairman

Councillor M J Chilcott	Councillor M O A Dewdney
Councillor G S Dowding	Councillor J Freeman
Councillor S Y Goss	Councillor A P Hadley
Councillor B Heywood	Councillor A F Knight
Councillor K V Kravis	Councillor R P Lillis
Councillor E May	Councillor I R Melhuish
Councillor P H Murphy	Councillor S J Pugsley
Councillor K J Ross	Councillor D J Sanders
Councillor L W Smith	Councillor M A Smith
Councillor T Taylor	Councillor A H Trollope-Bellew
Councillor K H Turner	Councillor D J Westcott

**Officers in Attendance:**

Chief Executive (A Dyer)  
Corporate Director (B Lang)  
Group Manager Resources (G Carne)  
Group Manager Housing and Economy (I Timms)  
Housing Enabler (H Crockford)  
Meeting Administrator (K Kowalewska)

**C16      Apologies for Absence**

Apologies for absence were received from Councillors A M Chick, H J W Davies, P N Grierson, K M Mills and C Morgan.

**C17      Minutes**

(Minutes of the Annual Meeting of Council held on 16 May 2012, circulated with the Agenda.)

**RESOLVED** that, subject to amending 105<sup>th</sup> to 150<sup>th</sup> in the Chairman's Announcements for 31 March 2012, the Minutes of the Annual Meeting of Council held on 16 May 2012 be confirmed as a correct record.

**C18      Declarations of Interest**

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

<b>Name</b>	<b>Minute No.</b>	<b>Member of</b>	<b>Action Taken</b>
Cllr S Y Goss	All	Stogursey	Spoke and voted
Cllr P H Murphy	All	Watchet	Spoke and voted
Cllr K J Ross	All	Dulverton	Spoke and voted
Cllr L W Smith	All	Minehead	Spoke and voted
Cllr A H Trollope-Bellew	All	Somerset County	Spoke and voted
Cllr K H Turner	All	Brendon Hills	Spoke and voted
Cllr D J Westcott	All	Watchet	Spoke and voted

In addition, the following interests were declared:

<b>Name</b>	<b>Minute No.</b>	<b>Description of Interest</b>	<b>Personal or Prejudicial</b>	<b>Action Taken</b>
Cllr D D Ross	C21	Member of the Regal Theatre Board of Directors	Prejudicial	Left the Chamber
Cllr K V Kravis	C21	Business interest	Prejudicial	Left the Chamber
Cllr I R Melhuish	C21	Council Representative on MATA Regal Theatre Co Ltd	Personal	Spoke and voted

**C19 Public Participation**

Item 6 – Request for Allocation of Seaside Strategy Funding to the Regal Theatre

Ray Tew, provided an update on preferred suppliers and timescales for the Regal Theatre Lift Project and asked for the Council's support.

**C20 Chairman's Announcements**

16 May 2012	Attended the High Sheriff's Garden Party at Orchard Wyndham
22 May 2012	Jubilee Evensong at Wells Cathedral
26 June 2012	Attended the Pupil Parliament at Danesfield followed by the Armed Forces Day service. The Chairman thanked staff and Councillors for their attendance and was pleased at the high turnout.

**C21 Request for Allocation of Seaside Strategy Funding to the Regal Theatre**

(Report No WSC 88/12, circulated with the Agenda.)

The purpose of the report was to consider a proposal from the Regal Theatre for the allocation and use of an element of the Seaside Strategy earmarked reserve funding for schemes in Minehead.

The Lead Member for Economic Regeneration and Growth outlined the details in the report and stressed that the £200,000 seaside strategy funding was to be used to deliver projects specific to Minehead only. The Lead Member proposed the recommendations contained in the report which were seconded by Councillor M O A Dewdney.

Members were supportive of the proposal. It was questioned whether the sum of funding was enough to cover the cost of the project and, if required, could the Regal Theatre acquire further funding from the planning obligations section 106 monies. The Leader of Council, as Chair of Cabinet, was unaware of a funding shortfall and as the proposal was supported and endorsed by the Minehead Visioning Group, the seaside strategy funding money was considered the most appropriate source of funding.

**RESOLVED (1)** that the recommendation made by Cabinet on 4 April 2012 to approve a supplementary estimate in the sum of up to £50,000 from the unallocated Seaside Strategy Funding to enable their capital building works (the Lift Project) to be completed be agreed.

**RESOLVED (2)** that Council agree to the funding becoming available to the Regal Theatre upon receipt of invoices and a payment schedule that clearly evidences the requirement for gap funding, and other agreed processes and requirements in line with those made to third parties from Planning Obligations monies.

**C22** **Local Government Ombudsman Annual Review and Corporate Complaints 2011/12**

(Report No. WSC 76/12, circulated with the Agenda.)

The purpose of the report was to bring to Members' attention a summary of the complaints made to the Local Government Ombudsman and an overview of the corporate complaints received in respect of 2011/12.

The Leader presented the report and drew Members' attention to the Local Government Ombudsman's summary report. He advised that the Council's complaint system and performance targets had been debated at Corporate PAG and their recommendations were contained in the report. The Leader proposed the recommendation of the report, which was duly seconded by Councillor M J Chilcott.

**RESOLVED** that the contents of the report be noted.

**C23** **Clean Neighbourhoods and Environment Act 2005 – Dog (Exclusion) Orders**

(Report No. WSC 84/12, circulated with the Agenda.)

The purpose of the report was to review the proposals presented to Council on 21 March 2012 in relation to the Dog Exclusion Order 2012 created under the Clean Neighbourhoods and Environment Act 2005; to amend the order in line with the consultation carried out as part of the adoption process; and to request that Council agree to the adoption of the amended order.

The report was presented by the Lead Member for Community and Customer who for clarification purposes advised that the 'Dogs on Lead Order' meant the dog had to be on a lead at all times and 'Dogs on Lead by Direction Order' was enforced only when a warden or designated officer instructed the owner to put the dog on a lead. He proposed the recommendation and this was seconded by Councillor P H Murphy.

Councillor P H Murphy on behalf of Watchet Town Council expressed thanks that the request to make minor changes to the exclusion zone within the children's play area had been endorsed.

**RESOLVED** that the Dog Exclusion (West Somerset) Order 2012, attached as Appendix A to the report, with effect from 29 June 2012, be adopted.

**C24 Core Members of Policy Advisory Groups (PAGs)**

It was announced that Councillor R P Lillis would replace Councillor B Heywood on the Community and Customer PAG and that Councillor Heywood would become a core member of the Environment PAG.

The Corporate Director advised that the Constitution stated that the membership of a Policy Advisory Group should normally consist of six members, but there was no absolute amount, and there also was a requirement for the core membership to be agreed annually at Full Council; he further advised that all Members were entitled to attend any of the PAG meetings.

The Leader reminded Members that the PAGs provided a real opportunity for Members from any political group to come together, to debate matters and work together for the benefit of the Council. He mentioned that it would be helpful if the core members on a PAG considered it as an obligation just like any other formal Committee and to send apologies if they were not able to attend.

The Chairman proposed the core membership of the Policy Advisory Groups, as amended, and this was duly seconded by Councillor M A Smith.

A discussion then took place on the membership and the role of the Council's internal groups which had been listed under this item for information.



**RESOLVED** that, for the 2012/13 municipal year, the core membership of Policy Advisory Groups (PAGs) be approved, as amended, as follows:

**Housing, Environmental Health & Licensing**

\*Councillor K H Turner  
Councillor D J Westcott  
Councillor A M Chick  
Councillor B Heywood  
Councillor A F Knight  
Councillor P N Grierson  
Councillor L W Smith  
Councillor A P Hadley  
Councillor E May

**Community and Customer**

\*Councillor D J Westcott  
Councillor K H Turner  
Councillor G S Dowding  
Councillor R P Lillis  
Councillor A F Knight  
Councillor L W Smith  
Councillor I R Melhuish

**Performance & Corporate Support**

\*Councillor T Taylor  
\*Councillor S J Pugsley  
\*Councillor K V Kravis  
Councillor M J Chilcott  
Councillor R P Lillis  
Councillor M O A Dewdney  
Councillor A H Trollope-Bellew  
Councillor J Freeman  
Councillor I R Melhuish  
Councillor D D Ross

**Environment**

\*Councillor C Morgan  
Councillor G S Dowding  
Councillor P N Grierson  
Councillor K M Mills  
Councillor S Y Goss  
Councillor A H Trollope-Bellew  
Councillor J Freeman  
Councillor I R Melhuish  
Councillor E May  
Councillor M A Smith  
Councillor B Heywood

**Regeneration & Economic Growth**

\*Councillor D J Sanders  
Councillor R P Lillis  
Councillor M O A Dewdney  
Councillor S Y Goss  
Councillor A M Chick  
Councillor M J Chilcott  
Councillor A P Hadley  
Councillor K J Ross  
Councillor E May  
Councillor M A Smith  
Councillor D D Ross

**C25**      **Localism Act 2011 – Preparing for the Implementation of the New Ethical Standards Regime**

(Report No. WSC 82/12, circulated with the Agenda.)

The purpose of the report was to enable the Council to adopt a new code of conduct and arrangements for dealing with complaints in relation to the new code to comply with the requirements of the Localism Act 2011 (the Act) which are to commence from 1 July 2012.

The report was presented by the Lead Member for Executive Support and Democracy who made Members' aware of the fact that they must, under the new regime, withdraw completely from the meeting room if they have a disclosable pecuniary interest in the matter being discussed. He reported that the Corporate Director had recently addressed the Exmoor Area Panel on the new standards regime and the Lead Member commended that this was an excellent way to ensure information about the new regime is communicated between the district council and town/parish councils, and he informed that if this could be replicated to all the other area panels it would be extremely beneficial.

The Lead Member proposed that, in order to reflect the recommendations from the Standards Committee, there be an additional recommendation to the report to read "that all town and parish councils adopt a protocol requiring Councillors to sign an undertaking to observe the code of conduct adopted by the Council".

The Lead Member proposed the recommendations, subject to the amendment set out above, and these were duly seconded by Councillor D J Westcott.

During the course of the debate the following points were raised:

- The National Association of Local Councils had issued its own draft code for parish/town councils and it was thought that this might cause confusion.
- Parish and town councils would be encouraged to adopt West Somerset Council's code of conduct but both options would be endorsed so it would be up to the individual parish/town council to decide which code of conduct it adopts.
- Concern was expressed regarding the requirements relating to disclosable pecuniary interests and the point was made that by excluding Councillors they would be put in a disadvantageous position compared to members of the public.
- From 1 July 2012 the old code would not exist and regardless of whether the Council adopted a new code or not, it would be a criminal offence to not properly disclose a disclosable pecuniary interest.
- Councillors welcomed the amended guidance on bias and predetermination.

The following amendments were proposed to the draft Member Code of Conduct:

- remove the last 'and' in paragraph 1.11, point d) ii.;
- paragraph 1.11, point e) - insert 'in all instances'
- in the 5<sup>th</sup> line of paragraph 2.2, delete the second 'with'

The Chairman expressed his vote of thanks for the tremendous amount of work that had been undertaken in this matter.

**RESOLVED (1)** that a new code of conduct for Members and Co-opted Members of the Council to reflect the requirements of the Act, with the amendments proposed, as set out in Appendix A to the report; be adopted with the operation of the adopted code being the subject of an annual review by the Standards Advisory Committee.

**RESOLVED (2)** all town and parish councils in West Somerset be encouraged to adopt the same form of code of conduct as that referred to in resolution (1).

**RESOLVED (3)** that all councils adopt a protocol requiring Councillors to sign an undertaking to observe the code of conduct adopted by the Council.

**RESOLVED (4)** that arrangements for dealing with complaints about the new code of conduct for district, town and parish Councillors in West Somerset, with or without amendments, as set out in Appendix B to the report, be adopted and such arrangements be the subject of an annual review by the Standards Advisory Committee.

**RESOLVED (5)** that the Monitoring Officer be appointed as the proper officer to receive complaints of failure to comply with the code of conduct in West Somerset with the following delegated powers:

- a) in consultation with the Standards Advisory Committee to take an initial assessment decision of no action, attempt to resolve the complaint informally, or instigate a formal investigation; and
- b) in consultation with the Standards Advisory Committee and the appointed independent person to determine the action to be taken following the receipt of the report on any investigation into an allegation of a breach of the code of conduct.

**RESOLVED (6)** that in regard to the new requirement to the preparation of registers of interest the Monitoring Officer be instructed to:

- a) prepare and maintain any registers of members' interest to comply with the requirements of the Act and of the Council's new code of conduct and ensure that it is available for inspection as required by the Act;
- b) ensure that all members are informed of their duty to register interests;
- c) prepare and maintain the register of members' interests for each parish and town council to comply with the Act and any code of conduct adopted by each parish council and ensure that it is available for inspection as required by the Act; and
- d) arrange to inform the Town/Parish Clerks on the new registration arrangements.

**RESOLVED (7)** that a Standing Order that will require a Member to withdraw from the meeting room, including from the public gallery, during the whole of the consideration of any item of business in which he/she has a disclosable pecuniary or other pecuniary interest, except where he/she is permitted to remain as a result of the grant of a dispensation be agreed.

**C26 Tenancy Strategy and Localism Act Housing Related Requirements**

(Report No. WSC 82/12, circulated with the Agenda.)

The purpose of the report was to outline the Council's Tenancy Strategy and the process that has led to the production of that strategy; to request that Council adopt the Tenancy Strategy to ensure that the Council addresses the requirements of the Localism Act relating to flexible tenancies; and to describe other duties contained within the Localism Act and how they are being discharged.

The report was presented by the Lead Member for Housing, Environmental Health and Licensing who advised that the Localism Act required the Council to adopt a Tenancy Strategy even though it did not own any housing stock, and the strategy would be used as an influencing document to other housing associations who operate in the district.

The Lead Member proposed the recommendation in the report and this was seconded by Councillor M O A Dewdney.

In reply to a question regarding downsizing and whether there would be any guarantee that the remaining tenant would be rehoused in the same town or village that they presently lived in, the Group Manager Housing and Economy confirmed that by working with the housing association every effort would be made to suitably rehouse the tenant in accordance with his/her wishes although there was no absolute guarantee. He reassured that, through the strategy, all housing associations in Somerset would work cooperatively with their tenants.

Concern was expressed regarding the Tenancy Strategy that was attached to the report because reference was made in the heading and throughout the document to the word 'interim'. As a result Councillor P Murphy proposed an amendment that the following be added to the end of the recommendation - 'subject to the removal of the word interim from the document and reserving the right to review the document before the need to adopt formally in April 2013'. It was seconded by Councillor M A Smith.

On being put to the vote the amendment was CARRIED, with one abstention.

This then became the new substantive motion there on which there was no further debate.

**RESOLVED** that the Tenancy Strategy, as attached at Appendix A to the report, be adopted, subject to the removal of the word interim from the document and reserving the right to review the document before the need to adopt formally in April 2013.

**C27 Low Cost Home Ownership**

(Report No. WSC 79/12, circulated with the Agenda.)

The purpose of the report was to outline to Members the proposed amendment to the Council's Low Cost Home Ownership Policy and the circumstances that have led to the proposals being required.

The Lead Member for Housing, Environmental Health and Licensing presented the report and proposed the recommendation in the report, seconded by Councillor D J Westcott.

In response to a question, assurance was provided that the Nationwide Building Society were happy with the policy wording change.

**RESOLVED** that the income restriction be removed from the Low Cost Home Ownership Scheme Policy and the wording "whose housing needs are not able to be met on the open market" be added under Eligibility Criteria.

**C28**      **Minutes and Notes for Information**

(Notes and minutes relating to this item, circulated via the Council's website.)

**RESOLVED** that the draft notes and minutes of the following meetings be noted:

- Hinkley Point Somerset Nuclear Energy Group (SNEG) held on 17 January 2012
- Standards Committee held on 13 March 2012
- Exmoor Panel held on 8 March 2012
- Minehead Area Panel held on 14 March 2012
- Watchet, Williton and Quantocks Area Panel held on 27 March 2012
- Dunster Panel held on 23 April 2012

The meeting closed at 6.11 pm.



REPORT NUMBER WSC 72/12  
 PRESENTED BY COUNCILLOR K V KRAVIS, LEAD MEMBER FOR RESOURCES  
 & CENTRAL SUPPORT  
 DATE 8<sup>TH</sup> AUGUST 2012

## PURCHASE AND SALE OF PROPERTIES AT CLANVILLE GRANGE, MINEHEAD

### 1. PURPOSE OF REPORT

- 1.1. The purpose of the report is to advise council of the cabinet decision to request approval of a supplementary capital estimate for the purchase of a property at Clanville Grange, Minehead.

### 2. RECOMMENDATIONS

- 2.1. Council approve a supplementary capital estimate for the sum of £92,500 to purchase a property at Clanville Grange.

### 3. RISK ASSESSMENT

#### Risk Matrix

Description	Likelihood	Impact	Overall
The Council creates capital demand and increases debt.	2	4	8
<i>Implement the agreed policy to secure sales at the Earliest opportunity.</i>	2	3	6

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

### 4. BACKGROUND INFORMATION

- 4.1. Members will recall that they adopted a refreshed affordable housing policy in July 2010, which deals with issues around the onward sales of properties at a small number of sites one of those being Clanville Grange, Minehead. The policy can be found on the council's website for reference so is not appended to this report.
- 4.2. Further changes have been made to the scheme, which were agreed by full Council on 27<sup>th</sup> June. These have no implications on this purchase as they apply to the application of the scheme from the date of the decision.
- 4.3. We have received notification that one of the property owners wishes to sell their property back. The purchase price based on the affordable housing policy is £92,500. The authority is obliged by the covenants to buy back all properties during the first sale of any property.

4.4. Whilst the authority has identified the risk of purchasing two properties per year within it's budget there is no provision within the capital budgets for these purchases to actually occur. This purchase therefore requires a supplementary capital estimate to be approved by council

4.5. Due to the nature of the legal agreements associated with the site and sale provisions decisions do need to be made more quickly than committee cycles allow. It is therefore sensible to include a sum within the 13/14 capital budgets for purchases to occur. This however will need to be considered by members during the budget setting process.

## 5. **FINANCIAL/RESOURCE IMPLICATIONS**

5.1 The proposed purchase in Paragraph 4.2 requires a supplementary capital estimate of £92,500 in order to meet financial regulations.

## 6. **SECTION 151 OFFICER COMMENTS**

6.1. The sale proceeds of each property essentially repay the borrowing initially required to purchase it, however, the cost of borrowing in the interim and the fees associated with the disposal are borne by the taxpayer.

## 7. **EQUALITY & DIVERSITY IMPLICATIONS**

7.1. This report is not considered to have any issues that require any detailed assessment

## 8. **CRIME AND DISORDER IMPLICATIONS**

There are none identifiable specifically within this report.

## 9. **CONSULTATION IMPLICATIONS**

9.1. The report implements the adopted policy of the Council so there are no current issues identified for consideration.

## 10. **ASSET MANAGEMENT IMPLICATIONS**

10.1. These properties are Council assets for the time that they are in our ownership. We are attempt to ensure that this time is as short as possible by making sales as quickly as possible, which of course depends on market conditions at that time. Whilst they are in our ownership we will incur costs such as council tax if more than six months elapses.

## 11. **ENVIRONMENTAL IMPACT IMPLICATIONS**

There are no clear implications through this report or policy.

## 12. **LEGAL IMPLICATIONS**

12.1. The Council is applying its policy in relation to these properties so there are no identifiable issues for consideration in this report.

## **REPORT TO COUNCIL ON 8<sup>TH</sup> AUGUST 2012**

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REPORT NUMBER WSC 101/12  
 PRESENTED BY CLLR K TURNER, LEAD MEMBER FOR HOUSING,  
 ENVIRONMENTAL HEALTH & LICENSING  
 DATE 8<sup>TH</sup> AUGUST 2012

## STREET TRADING/TEMPORARY MARKETS POLICY

### 1. PURPOSE OF REPORT

1.1. To present the amended Street Trading/Temporary Market Policy to Council for adoption.

### 2. RECOMMENDATIONS

2.1. That Council approve the Policy appended to this report for adoption to take effect from the 9<sup>th</sup> August 2012.

2.2. That the policy be reviewed after an initial 18 month period to ascertain its suitability for purpose. If no revisions are required after the review, the policy to remain in force and reviewed as necessary and at least every five years.

### 3. RISK ASSESSMENT (IF APPLICABLE)

#### Risk Matrix

Description	Likelihood	Impact	Overall
Failure to have a robust policy on Street Trading can lead to variations in how applications are determined	3	2	6
<i>The Policy provides clarity and consistency in decision making</i>	2	2	4
No formal policy in place for Temporary Markets can cause confusion when dealing with special events and temporary stalls	3	3	9
<i>Including provision for Temporary Markets within the Street Trading Policy provides clarity and consistency in decision making</i>	2	2	4
No guidelines in place for Street Trading along Seafronts in West Somerset can lead to applications for unsuitable trading	4	3	12
<i>The policy includes clarification on what type of trading is considered suitable for Seafronts taking into consideration the health, safety and well being of the general public. In each case, applications will be determined on their own merits.</i>	2	2	4

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

#### **4. BACKGROUND INFORMATION**

- 4.1. At the meeting of the Licensing Committee held on 24<sup>th</sup> July 2012, members approved the draft Street Trading/Temporary Market policy for adoption.
- 4.2. The policy was first presented to the Licensing Committee on the 15<sup>th</sup> March 2012, at which time it was approved for consultation.
- 4.3. The policy was put out to consultation on the 29<sup>th</sup> March 2012 to the 4<sup>th</sup> May 2012.
- 4.4. The policy was presented to the Policy Advisory Group on the 12<sup>th</sup> April 2012 when minor amendments were made regarding Minehead Seafront
- 4.5. The policy has been amended taking into account the results of the consultation and some minor typographical errors and is appended to this report for consideration.

#### **5. FINANCIAL/RESOURCE IMPLICATIONS**

- 5.1. The fees for Street Trading Consents are reviewed each year to ensure the cost of providing the service does not fall to the general public.
- 5.2. It is proposed to introduce the following fee scale in respect of Temporary Markets:

	<b>Type of Event/Operator</b>	<b>Fee</b>
1	<b>Charitable Events where the whole or a substantial amount (75%) of the proceeds are allotted to the relevant charity/school</b> 5 - 10 stands/vehicles	£10
2	<b>Commercial Events</b> 5 – 24 stalls/vehicles	£25
3	<b>Commercial Events</b> 25 – 49 stalls/vehicles	£50
4	<b>Commercial Events</b> 50 or more stalls/vehicles	£100

- 5.3. The level of fees proposed for Temporary Markets are anticipated to cover the administrative costs associated with this part of the service. The costs and fees should be reviewed annually to ensure the service is self-financing.

#### **6. SECTION 151 OFFICER COMMENTS**

- 6.1. The policy applies to all streets in West Somerset, irrespective of ownership, to which the public has access without payment.

#### **7. EQUALITY & DIVERSITY IMPLICATIONS**

- 7.1. The policy is applicable to the whole of West Somerset.

#### **8. CRIME AND DISORDER IMPLICATIONS**

- 8.1. Each application will be notified to the Police as part of the consultation process

#### **9. CONSULTATION IMPLICATIONS**

- 9.1. The responses to the consultation process have been incorporated into the policy where applicable.

**10. ASSET MANAGEMENT IMPLICATIONS**

10.1. Where an application is for land that is in the ownership of West Somerset Council, the applicant must first obtain the permission of the Council to use that land. The applications are presented to the Asset Management Meetings for consideration.

**11. ENVIRONMENTAL IMPACT IMPLICATIONS**

11.1. There are no perceived environmental impact implications in respect of this report.

**12. LEGAL IMPLICATIONS**

12.1. There is no right of appeal against the refusal to grant or renew a Street Trading Consent, or against the revocation or variation of a consent.

**REPORT TO A MEETING OF THE COUNCIL TO BE HELD ON 8<sup>TH</sup> AUGUST 2012**

**BACKGROUND PAPERS**

Local Government (Miscellaneous Provisions) Act, 1982

Licensing Committee

15/03/2012

MINUTE NO LEP26

Licensing Committee

24/07/2012

REPORT NO WSC 92/12

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# **West Somerset Street Trading Policy**

## **Application and Information Guidelines**

West Somerset Council  
Housing & Community Team  
With effect from 9<sup>th</sup> August 2012

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**SECTION 1 – GENERAL PRINCIPLES**

These guidelines have been developed to assist persons applying for Street Trading Consents in West Somerset. They were agreed by Council at the meeting held on 8<sup>th</sup> August 2012 and set out the standards for determining applications and the enforcement of street trading activities in West Somerset.

West Somerset has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. The Council has designated all streets in West Somerset as Consent Streets.

West Somerset Council will apply these guidelines to street trading activities in its area to ensure consistency of decision making. However, each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.

**1.1 Definitions Of Terms Used In These Guidelines**

Within the terms of West Somerset Councils Street Trading Consent Scheme, the following definitions apply:

- The Council** Means West Somerset Council
- Street Trading** Means the selling or exposing or offering for sale of any article (including a living thing) in any street
- 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 1989,and also includes any part of a street.
- Consent Street** Means a street in which street trading is prohibited without the consent of West Somerset Council
- Consent** Means a Consent to trade on a street by West Somerset Council
- Consent Holder** Means the person or company to whom the consent to trade on a street has been granted by West Somerset Council
- Static Street Trader** Means a trader granted permission by West Somerset Council to trade from a specified position.
- Mobile Trader** Means a trader who moves from street to street.
- Temporary Market** Means a special event market, held infrequently (less than 14 times per year), where 5 or more stalls/traders are present
- Authorised Officer** Means an officer employed by West Somerset Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982

## 1.2 Exempted Street Trading Activities

Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that the following activities are not 'street trading' and therefore do not require street trading consent:

- a) trading by a person acting as a pedlar under the authority of a pedlars certificate granted under the Pedlars Act 1871;
- b) anything done in a market or fair the right to hold which was acquired by virtue of a grant (including presumed grant) or acquired or established by an enactment or order;
- c) trading in a trunk road picnic area provided by the Secretary of State under section 112 of the Highways Act 1980;
- d) trading as a newsvendor i.e. the sale, exposure or offer for sale of newspapers or periodicals, except from a stall or receptacle that exceeds the dimensions set out in schedule 4 of the Act;
- e) trading which:
  - i) is carried on at premises used as a petrol filling station; or
  - ii) is carried on at premises used as a shop or in a street adjoining premises so used as part of the business of the shop (such business must not obstruct the highway or payment area);
- f) selling things, or offering or exposing them for sale, as a roundsman;
- g) the use for trading under Part VIIA of the Highways Act 1980 of an object or structure placed on, or in or over a highway.;
- h) the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- i) the doing of anything authorised by regulations made under section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916.

With regard to point (f) above, it has been established in law that mobile ice cream sales normally will not be deemed to be exempt from street trading controls, as they are not roundsmen.

## 1.3 Stalls On Private Land

Street Trading Consent is required for trading on private land if the public have access to the land without payment, such as a ticket or entrance fee. If you intend to use land for this purpose for more than 14 days in any one year, you may also need planning consent.

## 1.4 'A' Road Consents

Currently, only three specific 'pitches' on 'A' roads have been designated in West Somerset as suitable for Street Trading from a static pitch. The relevant pitches are:

- Bicknoller Layby on the A358
- Green Triangle Layby at Holford
- Shervage Woods Layby on the A39 at Holford

No more than one stall is permitted at each pitch at any time.



The pitches become vacant very infrequently and are then allocated on a first come first served basis.

All other areas and laybys on 'A' roads within West Somerset are generally considered unsuitable for trading due to highway and road safety issues, consequently consent is unlikely to be given to trade from any area or layby situated on an 'A' road in West Somerset other than for the above-mentioned pitches. (Future alterations to layout of roads in West Somerset may result in previously unsuitable locations becoming available).

You should contact the Licensing Unit to ascertain whether any pitches are available.

### **1.5 Mobile Trading**

Mobile trading (such as Ice Cream vans) relates to traders who move from street to street but trades for less than 30 minutes at any one point and does not return to a similar trading position within 2 hours.

### **1.6 Temporary Stalls/ Markets/Special/Charitable/Community Events**

A market is defined as 'a concourse of buyers and sellers' and normally relates to 5 or more stalls.

Applications will be considered from organisers of Markets, Special, Charitable, Community and similar events on the basis of one Temporary Market Consent for each market or event held. The event organiser in receipt of a Temporary Market Consent will be responsible for all the individual trading activities. A separate consent will be required for each market or event held.

This policy is aimed at promoting events and encouraging more traders to attend them.

Details of the Council's Policy on Temporary Market Consents is attached at appendix 'A'.

The Council's standard conditions for Temporary Market events will be attached where applicable. Details of the conditions can be found at appendix 'B'.

### **1.7 Applications For Consents On Council Owned Land and Minehead Seafont**

#### **Consents on Council Owned Land**

For all sites in the ownership of West Somerset Council, consent to use the land for any event, including markets, must be obtained before any application for Street Trading Consent, will be considered.

#### **Minehead Seafont:**

West Somerset Council is keen to encourage a vibrant and diverse street scene along the Seafont, which enhances the character, ambience and safety of local environments.

Minehead Seafont is within the ownership of West Somerset Council and any application for use of the land must be approved by the Council prior to an application for Street Trading Consent or Temporary Market.

~~Generally, most street trading requests for Minehead Seafont are not considered suitable, due to health and safety and highway issues.~~ Commercial consents for the sale of hot or

cold food, including ice cream or food sales from vans/trailers/units, are generally considered unsuitable due to:

- Highway restrictions – there is very limited parking on the road and trading is not permitted from any parking bay.
- Health and Safety and wellbeing of the general public – the seafront is a heavily populated area utilised by all ages including elderly persons and people with small children.
- Potential damage to the site - vans/trailers sited on the land can leave deposits/indents on the pathway.

Similarly, trading which takes up a large area of the seafront or which requires a trailer or similar to be stationed on the seafront are not considered suitable due to the number and proximity of the general public.

The Council is, however, keen to promote the use and ambience of the Seafront and will therefore consider Temporary Markets on the Seafront for charitable/special events.

In addition, Street Trading applications such as portrait painting, face painting, hair braiding or similar, where only a small table or easel is used and where the trading is totally portable will be considered.

Notwithstanding the above, the Council will consider each application on its own merits.

#### **Concessions:**

Concessions that do not involve street trading (the sale of goods), such as the provision of deck chairs or similar for hire may also be considered on application to the Asset Management Group.

For further information on the use of Council owned land, and/or concessions, contact the Environment & Services Unit on 01643 703704 or email [Customerservices@westsomerset.gov.uk](mailto:Customerservices@westsomerset.gov.uk)

For further information on Street Trading, contact the Licensing Unit, on 01984 635282 or email [licensing@westsomerset.gov.uk](mailto:licensing@westsomerset.gov.uk)

## SECTION 2 – SUBMISSION OF APPLICATION

An application for a Street Trading Consent must be made to West Somerset Council in writing. The relevant application form and, where applicable, Notice of Application are available to download from our website at [www.westsomersetonline.gov.uk](http://www.westsomersetonline.gov.uk) or [on](#) request. If you need any assistance in completing the form please contact the Licensing Unit on 01984 63282.

The following documents must accompany the application:

- a) Fully completed application form
- b) The relevant fee
- c) 2 copies of a map of the trading site. The map should clearly identify the proposed site position by marking the boundary with a red line. Applications for mobile consents (i.e. ice cream vans) must detail specific routes they wish to trade from. Separate consents must be obtained to trade in Minehead or Dunster or on 'A' roads.
- d) A photograph to passport standard (~~recent passport size and type photograph with no headgear worn~~) of the applicant and one standard photograph of the stall/vehicle/barrow to be used. (If any assistant is to be named on the Consent, a photograph (as detailed above) of each assistant to be included together with the additional fee for each assistant to cover the cost of the additional badge(s)).
- e) Original copy of the certificate of insurance that covers the street trading activity for third party and public liability risks up to a maximum of £5m.
- f) Written permission from the owner of the land where the street trading is to be carried out on land which is not a public highway. Permissions given by leaseholders to use land for street trading purposes will only be accepted where the terms of the lease permits the type of street trading activity being applied for.
- g) Planning approval or written confirmation from the relevant Planning Authority that approval is not required (new applications only)
- h) For static consents (excluding temporary consents) the completed Notice of Application.

For Temporary Market consents, item (d) above is not required, however the applicant must retain a list of stall holders and must provide a copy to West Somerset Council on request.

An application for a Street Trading Consent will not be considered where permission of the landowner for the proposed trading site to carry out street trading has not been provided for whatever reason.

Applications should be submitted to the Licensing Unit, West Somerset Council, Killick Way, Williton, Taunton, Somerset, TA4 4QA or online at the Councils website at [www.westsomerset.gov.uk](http://www.westsomerset.gov.uk)

Further information regarding making an application can be obtained from the Licensing Unit, West Somerset Council, Killick Way, Williton, Taunton, Somerset, TA4 4QA. Tel: 01984 635282. Email: [Licensing@westsomerset.gov.uk](mailto:Licensing@westsomerset.gov.uk)

For information regarding the use of Council owned land, please contact the Environment & Services Unit, West Somerset Council, Killick Way, Williton, Taunton, Somerset, TA4 4QA. Tel: 01643 703704. Email: [Customerservices@westsomerset.gov.uk](mailto:Customerservices@westsomerset.gov.uk)

## SECTION 3 – CONSULTATIONS ON APPLICATIONS

Before a Street Trading Consent is granted or renewed, the Council will carry out a consultation process with various persons and organisations. In particular, we will consult with the following:

- The Highways Authority for West Somerset Council
- Avon and Somerset Constabulary
- Devon and Somerset Fire and Rescue Service
- West Somerset Council Environmental Health Unit
- West Somerset Council Pollution Unit
- Relevant Ward Members (who can object as an individual or on behalf of constituents)
- Relevant Parish/Town Council
- The owner(s) of the land where the proposed street trading is to take place on private land if applicable.

In the case of temporary markets, the consultation process will be determined on the individual merits of the application and may not include all on the list.

For new applications where traders will remain in a fixed location, in addition to the above, a Notice of Application must be displayed at the site giving details of the application made. The notice must remain on site for a period of at least 28 days after an application has been made to the Council. The Council may also carry out further consultations with property owners within the immediate vicinity of the proposed trading site by sending copies of the Notice of Application to those owners who will be immediately affected by the proposed trading site. This requirement does not relate to temporary markets.

Applications for the grant of a first time commercial Street Trading Consent should give a minimum of 60 days notice to the Council to allow for the consultation process. For a temporary market a minimum of 30 days is required.

The consultation period with the above organisations and persons will be 28 days from the date of a **complete application** being made to the Council, or in the case of a temporary market, 14 days from the date of application.

Written observations from the above bodies, organisations and occupiers of properties will be taken into consideration when determining an application.

#### **SECTION 4 – SITE SAFETY ASSESMENT**

Street Trading Consents from static locations will not be granted where:

- a) a significant effect on road safety would arise either from the siting of trading activity itself, or from customers visiting or leaving the site, or
- b) where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- c) there is a conflict with Traffic Orders such as waiting restrictions, on street parking, etc, or
- d) the site or pitch obstructs either pedestrian or vehicle access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- e) the trading unit obstructs the safe passage of users of the footway or carriageway, or
- f) the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- g) the site does not allow the Consent holder, staff and customers to park in a safe manner, or
- h) 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.

## **SECTION 5 – INSPECTION OF THE TRADING UNIT**

Where considered necessary, the vehicle, van, trailer, stall or other device to be used for the proposed street trading activity will be inspected by an Authorised Officer of the Council, prior to the issue 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 2006
- The General Food Regulations 2004
- Regulation 852/2004 on hygiene of foodstuffs
- Food Safety Act 1990
- Health and Safety at Work etc. Act 1974 and any Regulations made under this Act
- Environmental Protection Act 1990.
- Gas Safety (Installation and Use) Regulations 1998

Further advice on any of the above requirements can be obtained from the Environmental Health Unit on 01643 703704.

## **SECTION 6 – DETERMINATION OF APPLICATIONS**

The Council's Licensing Panel, or (where no representations have been received against the application) officers on a delegated basis may approve applications meeting the criteria detailed at Section 7.

If relevant objections are received against the granting of a Street Trading Consent from occupiers of properties within the immediate vicinity of the proposed site or any of the consultees, the application will be referred to the Councils Licensing Panel for determination.

Before such referral is made, Officers will assess the objections on the following criteria:

- 1 Potential, or actual, nuisance to a property occupier from noise, fumes or smells
- 2 Whether any road safety issues have been identified
- 3 Compliance with food and health and safety legislation
- 4 Concern of public order problems resulting from the proposed street trading activity
- 5 Whether there are any fire safety issues present
- 6 Whether the objection is relevant, vexatious or repetitive.

If a written objection from the person or organisations listed above is received and deemed appropriate, and not withdrawn, the application will be referred to the next available meeting of the Licensing Panel for consideration and determination. The applicant will be informed in writing of the referral to the Licensing Panel and notified of the date when the application will be considered.

Persons making written objections will also be informed of a decision to refer an application to the Licensing Panel and notified of the date of the hearing of the application.

The appropriate West Somerset Council Ward Member for the proposed street trading site will be informed of a referral of an application to the Licensing Panel for consideration.

## **SECTION 7 – RELEVANT CRITERIA**

The Licensing Panel and Officers on a delegated basis will use the criteria listed below in the determination of Street Trading Consents. All the criteria should normally be satisfied, and equal weight will be applied to the criteria listed. Each case will be assessed on its own merits and individual circumstances, where appropriate, may be taken into consideration.

### **7.1 Site Safety**

The location of the proposed street trading activity should not present additional risks to the public in terms of road safety, obstruction and fire hazard. The term 'public' refers to both customers frequenting the street trading activity, and other members of the public using the street. In particular, reference will be made to the guidelines set out in SECTION 54 on site safety assessment criteria and observations made by the Highways Authority.

### **7.2 Public Order**

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

### **7.3 Avoidance of Nuisance**

The street trading activity should not present a substantial risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from the Councils Environmental Protection Team shall be taken into consideration under this heading.

### **7.4 Conflict with other like trading outlets and school premises**

The presence of other like trading outlets and proximity of schools shall be taken into consideration as follows:

- 1 The presence of like trading outlets already existing in the immediate locality of the proposed street trading site.
- 2 Fast food vendors will not normally be permitted to trade within 500m of a school.

### **7.5 Compliance with legal requirements**

The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation. Observations made on the compliance with the requirements of Food Safety and Hygiene, Health and Safety, Environmental Protection and Fire Safety legislation shall be taken into consideration.

### **7.6 Observations from Members of the Public**

In relation to points 7.1 – 7.4 above, consideration will also be given to written observations from other persons or organisations. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made under the criteria set out under Section 6 above.

### **7.7 Permitted Trading Hours**

The Council will consider each application on its own merits before agreeing permitted trading times. Any trading between 2300 to 0500 hours will be subject to a separate application under the Licensing Act 2003 where hot food is proposed to be sold.

The Council retains the right to specify permitted hours of trading that are less than those applied for if local circumstances require it.

## 7.8 Compatibility of the Proposed Street Trading Operation

The proposed trading operation should compliment the trading area in which it is situated. 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.

### SECTION 8 – CONSIDERATION OF APPLICATIONS BY THE LICENSING PANEL

The Council's Licensing Committee has been established to consider applications in relation to licensing matters. The Committee consists of elected members of West Somerset Council who have received specific training in licensing issues. A panel of three members are drawn from the Licensing Committee to hear applications. The Panel is supported by a clerk and a Solicitor. Licensing Panels are normally held in public unless there are matters to be considered that are of a confidential nature.

The role of the Licensing Panel is to:-

- 1 Determine applications to which objections, as defined in section 6 above, have been made;
- 2 Review existing Street Trading Consents where a breach or breaches of the permission granted have occurred.
- 3 Review Street Trading Consents where relevant representations have been received regarding the operation of a current trading site.

On receipt of a written objection, breach of a Consent condition or an unresolved application that does not meet the criteria in these guidelines, arrangements will be made to have the application or matter heard at the next available Licensing Panel.

Once arrangements have been made for the application to be heard by the Licensing Panel, persons making the objection or reference to the Panel will be advised in writing of the date, time and place where the application will be heard. The Council will endeavour to have applications heard as quickly as possible.

The person making a representation against an application or an existing Street Trading Consent to the Licensing Panel will normally be expected to attend the hearing. The applicant can be represented by a solicitor, or supported by a friend or colleague. The Licensing Panel will follow a set procedure that will be notified to the applicant in advance of the meeting, along with any officer reports that will be presented at the meeting.

In determining an application, the Licensing Panel will consider presentations from the applicant, a person or organisation making an objection and the Council's Licensing Officer. Applicants and persons making objections to an application should notify the Council at least five working days in advance of the meeting of any witnesses they intend to call and details of any evidence (written, photographic or other material or media) they intend to present at the hearing.

Where objections have been raised to the granting of a Street Trading consent the Licensing Panel will consider the objections or representations made. Only persons who have raised objections to the application will be allowed the opportunity to address the Licensing Panel and ask questions relating to the application. Letters of objection or support that have been received by the Council will be published in full in advance of a meeting where a contested application is being considered. The letters of objection or support will also be sent to the applicant.



The Licensing Panel will consider all the evidence presented to it during the hearing and members may ask questions of the applicant, officers and persons making an objection. After hearing the evidence presented to it, the Licensing Panel will retire or, if applicable, ask all parties to leave the room, and come to decision on the application. When a decision has been reached, the Licensing Panel will inform the applicant of their decision, and the reasons for coming to that particular decision. The decision of the Licensing Panel will be confirmed in writing to the applicant within 5 working days of the meeting at which the application was considered.

The Licensing Panel will always strive to ensure that when it is considering an application that all persons get a fair hearing through:

- 1 Considering each case on its own merits
- 2 Using these guidelines to assess applications where it is felt appropriate
- 3 Dealing with the application in a balanced and impartial manner
- 4 Ensuring that the rules of natural justice are applied in any hearings held.
- 5 Giving a person making an application or an objection sufficient opportunity to present their case, ask questions of officers and members of the Licensing Panel and present information for consideration in support of their application or objection.

## **SECTION 9 – ISSUE OF STREET TRADING CONSENTS**

Street Trading Consents (excluding Temporary Stalls/Market Consents) will be issued for a maximum period of 12 months and a minimum period of 3 months.

On approving the application the Council will issue a Street Trading Consent to which conditions will be attached. The Consent will also contain specific terms such as days and hours when street trading is permitted, and goods that may be sold. A copy of the Council's standard conditions, which are attached to Street Trading Consents are shown at Appendix 'D' and 'E'. Additional conditions may be attached to the Standard Conditions if special circumstances apply to the Consent being granted by the Council.

The conditions attached to the Consent form part of the approval to carry out street trading in West Somerset. They MUST be complied with at all times and failure to do so could lead to the Consent being either revoked, or not being renewed. Consent holders are therefore requested to familiarise themselves with the terms and conditions attached to the street trading permission and comply with the requirements at all times.

## **SECTION 10 - REFUSAL OF APPLICATIONS**

Where the Council refuses an application, the applicant will be informed in writing of the reasons for not granting the application.

There is no right of appeal to the Magistrates Courts against decisions of the Council in relation to Street Trading Consents under the Local Government (Miscellaneous Provisions) Act 1982. A person aggrieved by a decision of the Licensing Panel may make an application to the High Court for Judicial Review of the decision. There are strict time limits for making such applications. For further information about the potential grounds for Judicial Review and the procedure for making an application, applicants should seek legal advice from a solicitor as soon as they receive notice of the decision.

## **SECTION 11 – FEES**

Fees for Street Trading Consents are reviewed on an annual basis.

Separate fees are applicable to Temporary Market Consents.



Fees for annual 'A' Road Consents may be paid either in full in advance or on a three monthly basis with the fee being due on the following dates:

- 1 April (with renewal application)
- 1 July
- 1 October
- 1 January

Invoices will be sent out for the July, October and January payments. The April payment must accompany your renewal application.

Failure to maintain payments of the fee on a three monthly basis will be a breach of the conditions attached to the Consent. If fees paid on an instalment basis are not made to the Council, the Consent issued by the Council will be considered for revocation. It is essential that traders electing to pay on an instalment basis ensure that such payments are made on the due dates.

Cheques should be made payable to 'West Somerset Council'.

Please note, if a cheque is dishonoured by a bank this will result in the consideration of revocation of the Street Trading Consent issued by the Council unless payment of the outstanding fees is made in cash within 5 working days. In such cases, an administration charge may also be imposed on the Consent holder.

In the event of an application being refused, the Council will refund the fee paid, minus a 20% administrative fee.

Where a Consent has been revoked or surrendered, the Council will refund 15% of the Consent fee in respect of each unexpired calendar month.

## **SECTION 12 – GENERAL INFORMATION ON STREET TRADING CONSENTS**

### **12.1 Planning Permission**

The issue of any street trading consent in relation to any particular land does NOT constitute the grant of any permission under the Town & Country Planning Act 1990 or any other legislation for the use of the land for that purpose. Use of the land for trading may, therefore, amount to a material change of use for which planning permission is required notwithstanding that a street trading consent may have been granted. You should contact ~~the~~ West Somerset Council's Planning Department on 01643 703704 email: [planningemail@westsomerset.gov.uk](mailto:planningemail@westsomerset.gov.uk) or Exmoor National Park Planning Department on 01398 323665 email: [info@exmoor-nationalpark.gov.uk](mailto:info@exmoor-nationalpark.gov.uk) and seek advice as to whether an application for planning permissions needs to be made in respect of the proposed use of the land. Planning enforcement action could be taken in situations where planning permission is required but not obtained.

### **12.2 Use of Biodegradable Materials for Food Packaging**

Whenever possible, food traders will be expected to use biodegradable materials in connection with the packaging of food served to members of the public.

### **12.3 Persons under the Age of 17**

The Council will not grant a Street Trading Consent to persons under the age of 17 years.

### **12.4 Access by Council and Police Officers**

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 West Somerset Council. If you have any doubts about a person claiming to be from West Somerset Council ask to see their official identification card. If you remain uncertain, please contact the Council on 01643 703704 and ask to speak to a Senior Officer.

## **12.5 Sale of Trading Unit(s)**

The conditions attached to all Street Trading Consents stipulate that a Consent holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent.

The Consent granted is specific to the person it is issued to and is non-transferable.

A change of ownership of the business will require a new application to be made to the Council and the full application and consultation process will apply.

For A Road consents only, where a business has been sold complete with the trading unit, the Council will consider an application from the new owner on receipt of a completed application and including a letter from the current consent holder confirming that the business has been sold, and stating the name of the new owner. The Council will consult with the Police on the proposal. The Council reserve the right to refuse such change of owner where the condition of the trading unit is considered to be unsuitable or the new trader deemed unsuitable.

No changes to mode of operation or hours will be permitted through the transfer process.

Should a consent holder wish to change their operating hours, by extending them in some way, during the course of their existing consent period, they must apply to the Council using the normal application form and clearly specifying that this is for a change of hours only. The application will be subject to the full consultation process.

## **SECTION 13 – ENFORCEMENT OF STREET TRADING**

### **13.1 Enforcement**

West Somerset Council will actively enforce the provisions of the Street Trading Scheme within its area in a fair and consistent manner. In doing so all enforcement activities will comply with the Councils Enforcement Policy which can be viewed on the Councils website at [www.westsomerset.gov.uk](http://www.westsomerset.gov.uk)

The following principles will be adhered to when carrying out street trading enforcement activities;

**Openness:** The Council will be open about how it enforces the legislation in relation to street trading. It will consult with interested parties and ensure that officers discuss compliance failures or problems with persons experiencing difficulties.

**Helpfulness:** The Council will work with people to advise on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers

**Proportionality:** The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk or wider public benefit. Officers will have regard to the human rights of all parties involved in its enforcement activities.

**Consistency:** The Council will carry out its duties in a fair, equitable and consistent manner. Officers will have regard to national codes of Practice and guidelines and the contents of this document.

### 13.2 Complaints against the Service

West Somerset 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 Services, you should in the first instance contact the Environmental Health & Licensing Manager at West Somerset Council, West Somerset House, Killick Way, Williton, Taunton, Somerset, TA4 4QA.

If the matter cannot be resolved, advice will be given on how to further your complaint under the Council's Complaints Scheme.

## SECTION 14 – LICENSING ACT 2003

Under the Licensing Act 2003, persons selling hot food and/or drink between the hours of 23:00 and 05:00 are required to hold a Premises licence. Further information is available from the Licensing Unit on 1984 635282. This requirement is in addition to the requirement to hold a Street Trading Consent.

These notes are intended to cover Street Trading permissions only, and separate application and consultation arrangements are applicable under the Licensing Act 2003.

## SECTION 15 – RENEWALS AND REVIEWS OF CONSENTS

The Licensing Unit will send out a reminder to static consent holders together with a renewal form prior to a cConsent expiring. The final responsibility for renewing a cConsent remains with the consent holder.

In all cases, when a cConsent has expired and an application has not been submitted to the Council for renewal prior to the expiry, a new application will have to be made. In such cases, the application will be required to go through the full consideration process outlined in these guidelines and trading cannot be undertaken until such time as the consent has been issued.

Consultation with the following organisations will be undertaken to ensure they are satisfied that the consent should be renewed:

- Avon & Somerset Constabulary
- Devon & Somerset Fire and Rescue Service
- Environmental Health Unit (Food/Health & Safety/Pollution)
- Somerset Highways Authority

A consent will normally be renewed unless objections are received from the organisations detailed above.

If during the lifetime of a Consent, relevant objections/complaints are received from the organisations or members of the public regarding the operation of the permission, the Licensing Authority will endeavour to resolve any non-compliance with the consent granted with the consent holder. If the matters raised remain unresolved they will be reported to the Licensing Panel for consideration.

## SECTION 16 – FOOD HYGIENE REGISTRATION

Registration of premises used for a food business (including market stalls, delivery vehicles and other moveable structures) is required by law. Registration allows local authorities to

keep an up-to-date list of all those premises in their area so they can visit them when they need to. The frequency of the visits depends on the type of business.

Anyone starting a new food business must register with the local authority at least 28 days before doing so.

If you operate a mobile food business, you must register with the local authority where your vehicle is normally kept when not being used.

For further advice please contact the Environmental Health Unit on 01643 703704.

## **TEMPORARY MARKETS POLICY (Temporary Markets/Special/Charitable/Community Events Etc)**

### **Responsibilities of the Applicant**

- Any application for consent to operate a Temporary Market must be made by an individual(s) or an organisation who will take full responsibility for the planning and operation of each event.
- A named person will be specified by the applicant and will be responsible for the management of the market at all times. The named person will be contactable and have authority to make decisions and take actions when required.
- The applicant or their named person must be present during the set up and take down of the market to ensure that all conditions of the consent are complied with.
- £5 million public liability insurance must cover any activity arising from the trading covered by the Temporary Market Consent. The applicant shall ensure that a blanket public liability insurance policy covers the entire market or that individual traders hold their own valid policy.
- The applicant will ensure that the infrastructure to support the market is adequate, including facilities for collection and removal of waste, power, lighting etc.
- If the sale of alcohol or any other licensable activities are proposed, it is the responsibility of the applicant to ensure that appropriate licences are secured.

### **General Principles**

- Temporary Markets will be limited to one per calendar month per organisation (this is in addition to the Farmers Market), or at the discretion of the Licensing Officer as necessary.
- Where possible, temporary markets will not clash with other markets within the District.
- Traders will provide their own stalls, unless provided by West Somerset Council.
- A temporary market should normally consist of more than 5 individual stalls.
- A temporary market will normally be permitted to last no longer than 2 days unless specifically agreed with West Somerset Council prior to the market being held.
- Temporary Markets will have a theme in relation to the goods being sold, i.e. Christmas Market or Arts market.
- Music will not normally be permitted. If you wish to provide music and feel that there are exceptional circumstances to support this you must give notification with the application. Music will only be permitted where specific consent is granted in that case.
- West Somerset Council will publicise temporary markets via the Councils website.

### **Location**

Proposed areas for temporary markets will be considered on their individual merits, taking into consideration the size of units, type of trade and nature of any event. The

applicant must submit a detailed plan including the location of each stall and any street furniture.

## **Criteria**

In all cases, consent will only be given if the following detailed criteria are satisfied:

- 1 No market may locate in a position or manner which will cause an obstruction to the free flow of pedestrians or to the access of emergency service vehicles.
- 2 No substantial stall will be permitted close to buildings over 9 metres height to ensure that emergency vehicles can gain access to building frontages. This applies to items that cannot quickly and easily be removed.
- 3 No activity will be permitted within a minimum of 2 metres of a shop frontage or doorway, at the Councils discretion. In determining the appropriate distance, the need to ensure swift and safe evacuation will be a prime consideration, having regard also to the volume of people likely to be in the building.
- 4 The Council must be assured that granting the consent will not give rise to problems associated with crime and disorder.
- 5 The appearance of the market must ideally enhance, or at least not be detrimental to the street scene. A colour photograph of the market as it would be conducted in the street must be submitted with the application and precise measurements of height, width and depth of proposed stalls.
- 6 The market must not cause environmental problems or detract from the amenities of adjacent retailer/occupiers. There must be no litter problems. Smells from food sales or noise from any type of trade must not cause nuisance or annoyance.
- 7 Any trading unit must be capable of being easily and conveniently serviced and removed.
- 8 Justifiable adverse comments from relevant consultees will be taken into account/ This may include proprietors of premises which front directly onto the proposed trading area.
- 9 A total prohibition against gaming or betting on the site.

NOTE: The Councils standard conditions for Temporary Markets will be applied to all Temporary Market Conditions. Special conditions may also be imposed where considered necessary.

All applications will be considered on their individual merits, taking into consideration the above points.

## TEMPORARY MARKET CONSENTS – STANDARD CONDITIONS

Appendix 'B:'

### These conditions will be attached to any Temporary Market Consent:

- 1 The holder of this Consent (which expression where appropriate includes joint holders of this Consent) and any person employed by him to assist him in his trading shall produce it, on demand when so required by a Police Officer, Trading Standards Officer or duly authorised Officer of West Somerset Council.
- 2 The holder shall return this Consent to West Somerset Council immediately on revocation or surrender of the Consent.
- 3 The holder shall not trade otherwise than strictly in accordance with this Consent.
- 4 The holder shall notify the Licensing Officer of West Somerset Council, West Somerset House, Killick Way, Williton, Taunton, Somerset, TA4 4QA immediately of any convictions or proceedings arising out of the use or enjoyment by the holder of this Consent.
- 5 Set up and break down times, including the movement of vehicles will be specified in the consent and must be adhered to. The applicant or their named person must be present during the set up and take down of the market to ensure that all conditions of the consent are complied with
- 6 Any holder shall not cause any obstruction of the street outside the consent area or danger to persons using ~~the street or~~ and shall not permit persons to gather around him or any van, cart, barrow, other vehicle or stall included in this consent so as to cause a nuisance or annoyance or danger to persons lawfully using the street and shall not park any such van etc on the footway or verge of the street.
- 7 The holder shall not use or suffer or permit any music playing, music re-producing or sound amplification apparatus or any musical instruments, radio or television receiving sets whilst trading under this Consent save as varied by a special condition of this Consent.
- 8 The holder shall not place on the street or affix to any equipment placed on the street (excluding the trading unit itself) any advertising material of any description whatsoever. The holder shall not make any excavations or indentations of any description whatsoever in the surface of the street, grass or planted area or place or fix any equipment of any description in the said surfaces. The holder must not attach anything to any street furniture.
- 9 The holder shall not use the street for any trading purpose other than the purpose as permitted by the Consent and then only during the permitted hours.
- 10 The holder shall not place on the street any furniture or equipment other than as permitted by the Consent and s/he must maintain the same in a clean and tidy condition and not place them so as to obstruct the entrance to or exit from any premises.
- 11 The holder shall not do or suffer anything to be done in or on the street which in the opinion of the Council may be or become a danger, nuisance or annoyance to or cause damage or inconvenience to the Council or to the owners or occupiers of any adjacent or neighbouring premises or to members of the public.
- 12 The holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof but s/he may surrender it at any time.

- 13 The holder shall observe and comply with any directions in relation to the use of the street given by the Council, Police, Utilities or Highways Authority (including authorised representatives of any of these bodies). The trading units must be removed if requested by one of these bodies. No claim can be made for loss of trade.
- 14 The holder shall keep the trading area and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.
- 15 The holder shall provide at his own cost and expense litter bins or similar receptacles for the deposit of cartons, wrappings, containers and similar discarded items and remove them and their contents at the end of each daily period of use under this Consent.
- 16 The holder shall retain with any van, cart, barrow or other vehicle or stall included within this Consent any water used or waste products until the end of each daily period of use under this Consent and then remove it and dispose of it elsewhere and in particular shall not deposit any such waste near or into any street drain or channel or any public litter bin.
- 17 The holder shall remove all equipment from the street outside trading hours.
- 18 The holder shall indemnify and save harmless the Council and their agents, servants and workmen from and against all proceedings, damages, claims or expenses in respect of any injury (including personal injury) which may be sustained by the Council or any person or persons body or company whatever arising out of or in any way connected with his trading and the provision of facilities under this Consent.
- 19 £5 million public liability insurance must cover any activity arising from the trading covered by this Consent.
- 20 This Consent may be revoked by the Council at any time and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
- 21 The holder must ensure compliance with the requirements of any regulations including the Health and Safety at Work etc Act 1974 and Food Hygiene Regulations.
- 22 The Consent holder or any person employed by him to assist him in his trading shall **at all times** display the Consent Certificate issued by West Somerset Council whilst trading from the pitch. The Consent Certificate shall be displayed in a conspicuous position.
- 23 The holder shall return the Consent Certificate to West Somerset Council immediately on revocation or surrender of the Consent.



**1.0 SCHEDULE 1 - STANDARD CONDITIONS**

- 1.1 The holder of this Consent (and where appropriate joint holders of this Consent) and any person employed by him to assist in trading shall produce it on demand when so required by a Police Officer or a duly authorised officer of the West Somerset Council. The badges issued to the licence holder must be worn at all times when trading.
- 1.2 The holder shall return this Consent and any badges issued to him immediately on revocation or surrender of the Consent.
- 1.3 The holder shall not trade otherwise than strictly in accordance with this Consent and shall not use the street for any trading purpose other than the purpose and times as permitted by the Consent.
- 1.4 The holder shall notify the Environmental Health & Licensing Team Leader at West Somerset Council, 20 Fore Street, Williton, Taunton, Somerset, TA4 4QA immediately of any convictions or proceedings arising out of the use or enjoyment of the permit by the holder of this Consent.
- 1.5 Where appropriate, the holder of any street trading consent and the stall and/or vehicle must comply with all relevant road traffic and highways legislation.
- 1.6 Where appropriate, the holder of the street trading consent and the stall and/or vehicle must comply with all relevant food hygiene legislation.
- 1.7 The consent holder shall only trade from a stall or vehicle approved by the Council in writing.
- 1.8 The consent holder shall maintain the stall or vehicle in a clean state and its structure shall be kept in good order, repair and condition to the satisfaction of an Officer of the Council authorised in writing under the appropriate legislation.
- 1.9 The consent holder shall conduct his/her business in such a manner to ensure that he/she does not:
- a) cause a nuisance to the occupiers of adjoining property;
  - b) cause an obstruction to the vehicles or pedestrians in the street;
  - c) cause a danger to occupiers of adjoining property or to other users of the street;
  - d) cause an obstruction to the emergency services.
  - e) trade from any areas where parking restrictions are in existence,
  - f) compromise junction visibility and visibilities to any pedestrian crossing locations,
  - g) trade from areas where it is considered unsafe for the public to wait and shall not reduce the width of available footpath requiring pedestrians to enter the carriageway or onto adjacent unsurfaced areas.
- 1.10 Refuse storage must be provided adjacent to the sale area. The storage must be of a substantial construction, waterproof and animal proof. The trade waste must be removed at the end of each working day, or if the amount of refuse warrants it, when the container is full, whichever is the sooner.
- 1.11 The consent holder shall keep his trading position and the immediately adjacent area in a clean and tidy condition during the permitted hours and also leave the same in a clean and tidy condition and unobstructed at the end of each daily period of use under the terms of this Consent.

- 1.12 A copy of the consent, suitably protected against the weather shall be displayed in a prominent position on the stall or vehicle at all times when trading is taking place.
- 1.13 Any stall or authorised vehicle used for trading shall be immediately removable at all times in the event of an emergency or at any other time be removed at the request of any officers of the emergency services, Highways Authority or officer of the Council.
- 1.14 No process or operation shall be carried out which would give rise to a nuisance by reasons of noise, vibration, smoke or smell.
- 1.15 Nothing in this Consent shall purport to grant to the holder any other licence or permissions required under any other Enactment or requirement and the holder is specifically advised to obtain such other approvals as may be required.
- 1.16 All L.P.G. installations shall be in accordance with the code of practice.
- 1.17 Any Consent holder who sells food shall be registered with the Council's Environmental Health Unit in accordance with the relevant regulations and shall comply with the additional conditions attached as schedule 2 to these conditions.
- 1.18 No signage/objects/advertising shall be placed on the highway or area surrounding the vehicle/cart/stall/barrow. If seats and/or tables are to be provided, a pavement licence must be obtained from the Highways Authority and notified to the Local Authority prior to installation of the tables/chairs.
- 1.19 The name and address of the operator and other address at which the trailer is normally kept or garaged must be conspicuously and legibly displayed upon it in a place where the public may view it.
- 1.20 Failure to comply with any condition attached to the Street Trading Consent may result in the revocation of such consent.
- 1.21 The Council reserve the right to vary the conditions attached to the Consent or to revoke such Consent at any time.
- 1.22 The Consent remains the property of West Somerset Council and is not transferable. The Consent cannot be sold to a third party.
- 1.23 Itinerant street traders (i.e. those who move from place to place) shall not remain for more than 30 minutes in any street and shall not return to that place within 2 hours.
- 1.24 Trading may not be undertaken from any parking place within the area administered by West Somerset Council, in accordance with the West Somerset (Off-Street Parking Places) Order 1992: Part II; S16.

**2.0 SCHEDULE 2 – CONDITIONS RELATING TO THE SALE OF HOT AND/OR COLD FOOD**

- 2.1 The general conditions applicable to all street traders must be complied with.
- 2.2 All floor areas to be covered with suitable material properly fitted with a minimum of joints.
- 2.3 Wall and ceiling finishes should be smooth, impervious and all joints properly sealed to provide surfaces which can be effectively cleaned.
- 2.4 Doors should be flush finished. All windows should be properly decorated and free from ornamentation, such as curtains.
- 2.5 Suitable locker provision to be made for any shoes, handbags or outdoor clothing kept on the stall.
- 2.6 All working surfaces and cupboard areas should be of laminated plastic or preferably stainless steel construction so as to be smooth, hard, impervious and capable of being effectively cleaned.
- 2.7 An impervious container with plastic liner should be provided on the stall for temporary reception of refuse and waste prior to disposal.
- 2.8 All meat products (not stored in sealed cans or vacuum packed) intended for human consumption shall be maintained at a temperature below 5 degrees C. or above 70 degrees C. prior to sale. The core temperature of cooked food must be checked to ensure it has reached above 75 degrees C. for 30 seconds before the heat source is removed.
- 2.9 All cooking equipment should be maintained in a clean and hygienic condition, and if gas fired, should be provided with a suitable shut-off tap between the gas distribution pipework and each appliance. This tap must be sited so as to enable easy access to it for isolation of the appliance in case of emergency.
- 2.10 A stainless steel sink of suitable size must be provided for the washing of utensils and equipment only. A supply of hot and cold water or water at a suitably controlled temperature must be provided over the sink. Cold water only is acceptable where the sink is used solely in connection with the sale of fish, fruit or vegetables.
- 2.11 A separate wash hand basin for the exclusive use of staff must be provided with an adequate supply of hot and cold water at a suitably controlled temperature. Soap, nailbrush and suitable drying facilities should be available at the basin.
- 2.12 Waste water must be collected from washing facilities into sealed containers outside the trailer and the waste disposed of into a foul drainage system.
- 2.13 A first aid kit comprising suitable and sufficient bandages and blue waterproof dressings must be available on the vehicle (stall) at all times.

2.14 The trader must at all times maintain a broadly compliant standard of food hygiene rating at all times.

## Relevant Offences

### Extract from the Local Government (Miscellaneous Provisions) Act 1982

- (1) A person who –
- a) engages in street trading in a prohibited street; or
  - b) engages in street trading in a licence street or consent street without being authorised to do so under this schedule; or
  - c) contravenes any of the principal terms of a street trading licence; or
  - d) being authorised by a street trading consent to trade in a consent street, trades in that street:-
    - i) from a stationary van, cart, barrow or other vehicles; or
    - ii) from a portable stallwithout first having been granted permission to do so under paragraph 7 (8) above; or
  - e) contravenes a condition imposed under paragraph 7(9) of the Act, shall be guilty of an offence, (i.e. where permitted to trade and the permitted hours).
- (2) it shall be a defence for a person charged with an offence under sub-paragraph (1) above to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.
- (3) Any person who, in connection with an application for a street trading licence or for a street trading consent, makes a false statement which he knows to be false in any material respect, or which he does not believe to be true, shall be guilty of an offence.
- (4) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

REPORT NUMBER WSC 102/12  
 PRESENTED BY CLLR K TURNER, LEAD MEMBER FOR HOUSING,  
 ENVIRONMENTAL HEALTH & LICENSING  
 DATE 8 AUGUST 2012

## DELEGATION OF FUNCTION FOR LICENSING AUTHORITY AS RESPONSIBLE AUTHORITY

### 1. PURPOSE OF REPORT

- 1.1. To seek delegated authority for the Manager of the Environment & Community Group to act as the Responsible Authority on behalf of the Licensing Authority.

### 2. RECOMMENDATIONS

- 2.1. That Council delegate authority under the terms of the Licensing Act 2003, to the Manager of the Environment & Community Group, to act as the Responsible Authority on behalf of the Licensing Authority where it is deemed necessary to promote the licensing objectives.

### 3. RISK ASSESSMENT (IF APPLICABLE)

#### Risk Matrix

Description	Likelihood	Impact	Overall
Failure to provide clear division between the licensing function and the function of Responsible Authority could lead to challenge in the courts in the event of appeals against decisions	4	4	16
<i>The delegation of the role of 'Responsible Authority' for the Licensing Authority to the Manager of the Environment Group will provide clear division between the functions.</i>	2	3	6

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measurers have been actioned and after they have.

### 4. BACKGROUND INFORMATION

- 4.1. The Police and Social Responsibility Act 2012 made various amendments to the Licensing Act 2003. One of those amendments added two Authorities to the list of Responsible Authorities that must be consulted on applications for new and variation applications for Premises Licences and Club Premises Certificates. One of the new Responsible Authorities is the Health Authority, the other being the Licensing Authority itself.
- 4.2. Responsible Authorities also have the power to trigger a review of a Premises Licence/Club Premises Certificate where it is deemed necessary to promote any or all of the licensing objectives.
- 4.3. Currently, the Responsible Authorities falling under the auspices of the Council are:
- Health and Safety
  - Pollution Control
  - Planning Authority

4.4 It is considered that the Licensing Team is too small to give adequate separation of functions to allow them to act as the Responsible Authority without compromising their neutrality in dealing with licensing applications and issues.

4.5 The Health and Safety Authority and the Pollution Control Authority are both within the Housing and Economy Team and it is therefore considered advisable that the new Responsible Authority does not rest within these areas.

## **5. FINANCIAL/RESOURCE IMPLICATIONS**

5.1. It is uncertain what impact this proposal will have on resources for the Environment and Community Group as the number of applications and/or reviews are unknown.

## **6. SECTION 151 OFFICER COMMENTS**

6.1. I have considered the report and have no comments to add.

## **7. EQUALITY & DIVERSITY IMPLICATIONS**

7.1. There are no perceived equality and diversity implications in respect of this report.

## **8. CRIME AND DISORDER IMPLICATIONS**

8.1. There would be the opportunity to make representations and trigger reviews to comply with the licensing objective to reduce crime and disorder.

## **9. CONSULTATION IMPLICATIONS**

9.1. No consultation is required in respect of this report.

## **10. ASSET MANAGEMENT IMPLICATIONS**

10.1. There are no perceived asset management implications in respect of this report.

## **11. ENVIRONMENTAL IMPACT IMPLICATIONS**

11.1. There are no perceived environmental impact implications in respect of this report.

## **12. LEGAL IMPLICATIONS**

12.1. If the delegation of this function is not approved by Council, to be lawful, representations and the triggering of any reviews deemed necessary by the Licensing Authority would require a resolution by the Licensing Authority. Due to the statutory timescales associated with applications and the potential requirement to act in a timely manner for reviews, this would be an impracticable method of working. Consequently, it is requested that Council delegate this function as detailed within the report.

## **BACKGROUND PAPERS:**

The Police and Social Responsibility Act 2012

The Licensing Act 2003

Licensing Committee

24/7/2012

Report No. WSC/93/12

## **REPORT TO A MEETING OF THE COUNCIL TO BE HELD ON 8 AUGUST 2012**

**CONTACT OFFICER:** IAN TIMMS

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REPORT NUMBER WSC 107/12  
 PRESENTED BY CLLR DAVID SANDERS  
 DATE 8<sup>TH</sup> AUGUST 2012

## REQUEST FOR ALLOCATION OF SEASIDE STRATEGY FUNDING FOR MINEHEAD VISION MANAGER AND APPRENTICESHIP POSTS

### 1. PURPOSE OF REPORT

- 1.1. The purpose of this report is to consider proposals for the allocation and use of an element of the seaside strategy earmarked reserve funding, for the creation of an 18-month Minehead Vision Manager post and a 12-month Apprenticeship role.
- 1.2. Cabinet considered this proposal at their meeting on 1 August, the Portfolio Lead will provide verbal feedback in relation to their deliberations.

### 2. RECOMMENDATIONS

- 2.1 That Council, approve a supplementary estimate in the sum of £70,000 to Minehead Development Trust from the unallocated Seaside Strategy Funds to employ an 18-month Minehead Vision Manager post and 12-month Apprentice role as described in section 4 of this report

### 3. RISK ASSESSMENT (IF APPLICABLE)

#### Risk Matrix

Description	Likelihood	Impact	Overall
Risk: Unable to Recruit for the proposed posts	2	4	8
<i>Ensure posts are advertised widely and through appropriate networks, (in the case of the apprenticeship post through local schools and colleges, jobcentre etc)</i>	1	4	4
Risk: Additional resource for Minehead fails to progress the Minehead Vision Group Action Plan	3	4	12
<i>Mitigation: Detailed job description has been produced and an agreed programme of works will be drawn up in line with the Minehead Visioning Group Action Plan to ensure that the managerial resource is engaged to best effect.</i>	1	4	4
Risk: Failure to spend monies will result in a return to the general reserve	2	3	6
<i>Mitigation: Agreed programme of works in line with the Minehead Visioning Group Action Plan to effectively use funding</i>	1	3	3

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

#### **4. BACKGROUND INFORMATION**

- 4.1. Members will be aware of the proposals for the allocation and use of an element of the £200,000 seaside strategy funding earmarked reserve for schemes in Minehead. The proposals were discussed at the Cabinet meeting of 7 March 2012 when it was agreed to allocate a total of £28,937.50 toward schemes within the town, with a further £50,000 allocated in principle to the Regal Theatre which was agreed by Council at their meeting on 27<sup>th</sup> June
- 4.2. The report also outlined a proposal for a Minehead Vision Manager role, which would commit a further £70,000 of the fund over an 18 month period. A copy of the full report of 7<sup>th</sup> March is available at <http://www.westsomersetonline.gov.uk/getattachment/Council---Democracy/Council-Meetings/Cabinet-Meetings/Cabinet---7-March-2012/Agenda-Item-8---Request-for-Allocation-of-Seaside-Strategy-Funding.pdf.aspx>
- 4.3. Members will recall that the Minehead Vision Group has developed a vision for Minehead, establishing a series of objectives feeding into an action plan, which links the vision and objectives to clear and deliverable tasks and outcomes. The Plan was attached as Appendix C to the Cabinet report and is available to view at <http://www.westsomersetonline.gov.uk/getattachment/Council---Democracy/Council-Meetings/Cabinet-Meetings/Cabinet---1-August-2012/Agenda-Item-10---WSC-99-12-Appendix-C.pdf.aspx>.
- 4.4. The Vision Manager role is felt to be essential at this stage to drive forward the priority actions contained within the vision. There is a very clear role at the present time to provide additional resource for working up funding bids to full application stage. Particularly those which require community engagement prior to the full application. The creation of this post also links directly to key task 1.2 of the Action Plan, "Create capacity to deliver next steps through employment of vision manager".
- 4.5. The role of the Vision Manager will be to work with communities and key stakeholders in Minehead to coordinate the delivery of the Minehead Vision Action Plan making sure that activity is undertaken that delivers measurable socio economic outcomes for Minehead.
- 4.6. The Vision Manager role links specifically to delivering the following overarching priorities of the current action plan:
  - Establish and deliver a business plan for the regeneration of Minehead by fleshing out the detail on how priority actions can be delivered and proactively maximising funding opportunities for priority projects
  - Ensuring access to training, skills, enterprise and business support is well publicised to maximise uptake within the Minehead communities and establish provision for business incubation
  - Developing a cultural focus for the town including maximising opportunities for events
  - Ensuring the amenities of the town are best marketed to maximise benefit to residents and visitors
  - Supporting community safety initiatives
  - Communicating the work of the Minehead Vision Group and ensuring a wide-ranging cross-section of the community is engaged to build capacity for the Group
- 4.7. A working-group of the Minehead Visioning Group met on 17 May 2012 to agree the content of a job description and person specification for the Minehead Vision Manager role. Membership of this Group included Member representation from West Somerset Council,



Somerset County Council, Minehead Development Trust, Minehead Town Council and Somerset Skills & Learning. The job description was attached to the Cabinet report as Appendix A and can be viewed here

<http://www.westsomersetonline.gov.uk/getattachment/Council---Democracy/Council-Meetings/Cabinet-Meetings/Cabinet---1-August-2012/Agenda-Item-10---WSC-99-12-Appendix-B.pdf.aspx>

- 4.8. Given the current high levels of youth unemployment and linking this to the priorities within the Council's Corporate Priorities for providing more employment opportunities for young people, the sub-group also proposed a 12-month apprenticeship opportunity to support the Vision Manager. The Apprentice would undertake a Level Three qualification in business management, whilst also gaining valuable work experience. The job description for the apprenticeship role was attached Appendix B to the Cabinet report and can be viewed here <http://www.westsomersetonline.gov.uk/getattachment/Council---Democracy/Council-Meetings/Cabinet-Meetings/Cabinet---1-August-2012/Agenda-Item-10---WSC-99-12-Appendix-B.pdf.aspx>
- 4.9. Minehead Development Trust has agreed to take on the role of employer to the Vision Manager and Apprentice posts. The Trust would be able to provide office accommodation within the Minehead Information Centre.
- 4.10. Minehead Development Trust will be accountable for funds associated with covering the costs of the employment of both the Vision Manager and Apprentice. Employment responsibilities including staff performance and reviews will be the responsibility of Minehead Development Trust.
- 4.11. A sub-group of Minehead Vision Group comprised of Minehead Development Trust, West Somerset Council and Minehead Town Council would be set up. The role of the Group will be to agree the work plan for the Vision Manager on a quarterly basis, and provide a steer to the Vision Manager in the delivery of the action plan. The Vision Manager will be required to provide a quarterly progress report to the Group, to enable regular monitoring of progress and results. An update on progress of this project will be included in an annual report to Scrutiny Committee by Minehead Development Trust.
- 4.12. Funding is currently available from government schemes to support the costs of the training element of engaging an apprentice. This means that the creation of the 12-month apprentice post would not incur a significant cost, therefore both posts would be included within the £70,000 budget.
- 4.13. It also needs to be noted that the £70,000 budget would also include the on-costs for the employees (National Insurance etc) and office start-up costs including IT equipment, mobile telephone as well as travel expenses and office rental. It is envisaged that the annual salary of the Vision Manager would be between £25 - £30K .

## **5. FINANCIAL/RESOURCE IMPLICATIONS**

- 5.1. The proposed sum of £70,000 will need to be allocated from the Seaside Strategy Fund earmarked reserve for use on this project. Following the allocation of £28,937.50 in March 2012 to Minehead related projects and £50,000 to the Regal Theatre in June 2012, the current total of the reserve stands at £121,062.50.
- 5.2. If Members agree to the recommendation to allocate £70,000 to this initiative, the balance remaining in the Fund will stand at £51,062.50
- 5.3. The budget breakdown for the project is as follows

<b>MINEHEAD VISION MANAGER - BUDGET (18 MONTH DURATION)</b>								
Manager Salary (18 months)	On -costs (25%) 18 months	Apprentice	Recruitment	Travel	Office Costs (rent)	IT Equipment inc mobile phone	Contingency / Management Cost	<b>TOTAL</b>
45,000	11,250	3640	1,000	1,000	2,000	1,500	4,610	<b>70,000</b>

5.4 If Members agree the recommendation, it would be proposed that MDT would draw down the £70,000 in three separate stages at six monthly intervals, and that this would be paid in the form of a grant. The Sub Group (as detailed in paragraph 2.11) would be responsible for monitoring the outputs and outcomes against the agreed Minehead Vision Action Plan.

## **6. SECTION 151 OFFICER COMMENTS**

The seaside town grant initiative (or 'seaside strategy' as it is known) was developed and funding distributed by the previous government. To quote directly from the strategy document (March 2010), the aim of the strategy (and associated funding of £200,000 that Minehead received) is to " ensure seaside towns have the support they need to build on their heritage and take advantage of new opportunities to develop strong economies and communities for the future.

## **7. EQUALITY & DIVERSITY IMPLICATIONS**

7.1. The proposals within this report should not have any adverse effects on specific groups. The proposals are beneficial to the area by creating an opportunity for a young person. Within the recruitment processes for the role equality issues will be taken into consideration.

## **8. CRIME AND DISORDER IMPLICATIONS**

8.1. As part of the role of the Vision Manager will be to liaise with the appropriate authorities on security issues there are only positive implications identified in association with these proposals.

## **9. CONSULTATION IMPLICATIONS**

9.1. The proposals have been developed in conjunction with Minehead Visioning Group which is made up of key partner organisations and their representatives.

9.2. The Council has made efforts to engage as widely as possible on the use of these monies and will continue to carry this work on through its contacts with the Town Council, Visioning Group, Development Trust and other key businesses, groups and individuals in the area.

9.3. Minehead Town Council received a report about the initiative at their meeting on 17<sup>th</sup> July, where Members asked questions of detail of Cllr Sanders and Corinne Matthews. The report was noted.

## **10. ASSET MANAGEMENT IMPLICATIONS**

10.1. Beyond the lifetime of the project there are no implications for the Council in terms of asset management or maintenance issues.

## **11. ENVIRONMENTAL IMPACT IMPLICATIONS**

11.1. None linked to this project.

## **12. LEGAL IMPLICATIONS**

- 12.1. The funding within this report is drawn from the Seaside Strategy Funding which the Council has been allocated in order to address deprivation and economic issues in Minehead. The council has set these funds aside, earmarked to address these issues.
- 12.2. The Council is seeking through this report and through its engagement with local groups to ensure that the money has been allocated to appropriate projects and that it meets the wider vision that has been developed. This approach provides a clear and transparent way of allocating and using these funds.

### **REPORT TO A MEETING OF COUNCIL TO BE HELD ON 8<sup>TH</sup> AUGUST 2012**

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REPORT NUMBER WSC 100/12  
 PRESENTED BY CLLR KATE KRAVIS  
 DATE COUNCIL 8TH AUGUST 2012

## Request for Allocation of Planning Obligations Monies

### 1. PURPOSE OF REPORT

- 1.1. The purpose of the report is to make a proposal for the allocation of capital monies secured through planning obligations to provide a cricket pavilion in Minehead.

### 2. RECOMMENDATIONS

- 2.1 Council consider the recommendation of cabinet relating to the allocation of £50,000 for the provision of a cricket pavilion in Minehead for inclusion in the current year's capital programme.

### 3. RISK ASSESSMENT (IF APPLICABLE)

#### Risk Matrix

Description	Likelihood	Impact	Overall
Failure to allocate monies correctly in line with legal agreements causing requirements to repay	3	4	12
<i>The Proposals within the report are matched to the legal agreements and monies available in that area.</i>	1	4	4
Failure to spend monies before date required in any legal agreements and trigger a requirement to repay	2	3	6
<i>The recommended projects use funds that are available and in date requirements</i>	1	3	3
Projects do not progress in accordance with plan and therefore money remains unspent	2	2	4
<i>Set timescale for delivery of project. Reallocate money if required.</i>	1	2	2

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

### 4. BACKGROUND INFORMATION

- 4.1. The authority has established arrangements to allocate monies secured through planning obligations. These match schemes to the authorities priorities. This mechanism has now also begun to identify projects that may be funded through new development.
- 4.2. Proposals are considered by the internal planning obligations group against priorities, appropriate strategies and any identified local priorities to create recommendations for Cabinet to consider on a quarterly basis. Any individual proposals beyond £25,000 require

approval by full Council. Proposals are considered against set criteria as a part of the formal consideration of projects to allow allocation of funds and subsequent release of monies.

- 4.3 Each planning obligations agreement has individual requirements and must be carefully matched to any project that is suggested. Any project must meet those requirements and be “relevant and related” to mitigating the effects of the development that provides the funding.
- 4.4.1 Following the recent report to cabinet monies have become available to support a project to build a cricket pavilion in Minehead. The commitment of monies by this council is key to securing further funds of £100,000 from the England and Wales Cricket Board with this being time limited to the end of August 2012.
- 4.4.2 This project had previously been identified as being one that met the requirements of a number of agreements in Minehead. There were however at that time a number of issues to be resolved and further funds to secure. This was reported to council initially in the meeting of cabinet on October 5<sup>th</sup> 2011 (WSC 122/11) with a further short update on January 11<sup>th</sup> 2012 (WSC10/12).
- 4.4.3 The issues related to support from the Minehead Town Council (MTC) and the West Somerset Community College (WSCC) plus an agreement to access the area through land owned by this authority. Letters of support have been received from MTC and WSCC and this authority is in the process of agreeing a licence to access the site of the proposed pavilion. In addition to this funds are now available through the signing of the agreements relating to developments in Bircham Road.
- 4.4.4 In addition to those issues planning permission has been secured, lease arrangements made and agreements for the use of the adjacent hospital car park made. Funding is also being secured from a range of other organisations to contribute to the construction.

## **5. FINANCIAL/RESOURCE IMPLICATIONS**

- 5.1. The proposed sums will need to be allocated from holding accounts into the Council's capital programme. The current total within the holding accounts for Minehead is £252,453. This report proposes allocating £50,000 of that balance to this project. This would leave available sums of £202,453.
- 5.2. Planning obligations sums by their nature can only be spent once. These proposals meet local needs for recreational facilities in Minehead and produce a building that has potential for wider community use.

## **6. SECTION 151 OFFICER COMMENTS**

- 6.1.1 In accordance with Financial Regulations, a virement in excess of £10,000 (but below £25,000) needs to be authorised by Cabinet, to demonstrate proper processes are being followed in the management of budgets.
- 6.1.2 The proposal for this project totals £50,000 and will therefore require the approval of council for inclusion in the council's capital programme.

## **7. EQUALITY & DIVERSITY IMPLICATIONS**

- 7.1. The application relates to the provision of community facilities, which will initially cater for the cricket club. The cricket club is talking to a range of other groups such as the running

club, hockey club and rotary club about potential uses of the building, which would widen access.

- 7.2. The building will of course be physically accessible with work being needed to ensure that access to all groups is achieved.

## **8. CRIME AND DISORDER IMPLICATIONS**

- 8.1. The application will develop facilities for sport in this area this will provide facilities for a range of individuals and group to mitigate effects in this area.

## **9. CONSULTATION IMPLICATIONS**

- 9.1 Minehead Town Council support the proposals which features in their top ten priorities for the town. The project therefore has their support.
- 9.2 The West Somerset Community college support the project, which will compliment their existing area and use the facilities. The club has consulted the adjacent hospital in order to tackle car parking issues and arrangements put into place to share the car park.

## **10. ASSET MANAGEMENT IMPLICATIONS**

- 10.1. The council is in the process of agreeing a license to access the land through a site currently in our ownership. This has been included in plans for development for the land and therefore has no negative impact on these plans.

## **11. ENVIRONMENTAL IMPACT IMPLICATIONS**

- 11.1. No negative implications associated with the report. The applicant aims to use existing facilities in the surrounding area to minimise any impacts.

## **12. LEGAL IMPLICATIONS**

- 12.1 The allocations are in line with the requirements of the legal agreements in Minehead.

## **REPORT TO A MEETING OF COUNCIL TO BE HELD ON 8<sup>TH</sup> AUGUST 2012**

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