

## **Taunton Deane Borough Council**

At a meeting of Taunton Deane Borough Council held in the John Meikle Room, The Deane House, Belvedere Road, Taunton on 14 December 2010 at 6.30 pm. (Meeting No. 1)

**Present**      The Mayor (Councillor Horsley)  
                  The Deputy Mayor (Councillor Brooks)  
                  Councillors Mrs Allgrove, Beaven, Bishop, Bowrah, Cavill, Coles,  
                  Mrs Copley, Mrs Court-Stenning, Critchard, Denington, D Durdan,  
                  Ms Durdan, Edwards, Gaines, Govier, Guerrier, Hall, Hayward,  
                  Henley, Mrs Herbert, Mrs Hill, House, Miss James, R Lees,  
                  Mrs Lees, Mrs Lewin-Harris, McMahon, Meikle, Morrell, Murphy,  
                  O'Brien, Paul, Prior-Sankey, Slattery, Mrs Smith, P Smith,  
                  Mrs Stock-Williams, Stone, Stuart-Thorn, Swaine, Thorne, Watson,  
                  Mrs Waymouth, Ms Webber, A Wedderkopp, D Wedderkopp,  
                  Mrs Whitmarsh, Williams and Mrs Wilson

Also present : Mrs Anne Elder, Chairman of the Standards Committee.

### **1. Reflection**

The meeting was opened with a reflection offered by Mr David Warr, a member of the Society of Friends.

### **2. Minutes**

The minutes of the meeting of Taunton Deane Borough Council held on 5 October 2010, copies having been sent to each Member, were signed by the Mayor.

### **3. Apologies**

Councillors Farbahi, Mrs Floyd, C Hill, Mrs Messenger and Mullins.

### **4. Communications**

Councillor Williams announced that he had received an unsigned letter titled "Thoughts for a Council meeting" which read as follows:-

"The Government has indicated that any shortfall in a Council's budget can be compensated by a rise in Council Tax and rents. We think we have to have a fairer system across the board where every household pays a contribution."

Councillor Williams reminded Councillors of the Coalition Government's scheme that a 0% Council Tax Rise at budget setting next year would be compensated by additional central funding from the Government amounting to the equivalent of a 2.5% Council Tax increase. Taunton Deane was working hard to achieve this.

As far as rent was concerned, this had to be a balanced increase to reflect increases in both inflation and the cost of maintenance.

The Mayor reported on three matters. He read out a letter of appreciation from the Lord Lieutenant of Somerset, Lady Gass, in connection with the Homecoming Parade last month of 40 Commando Royal Marines.

The Mayor also reported that his Bicycle Ride in aid of his two charities, Tossing a Star Fish and The Taunton Musical Trust had so far raised £4,190.

He went on to say that Councillors would not be receiving a traditional Christmas Card from him this year, but an e-Card had been sent instead.

## **5. Declarations of Interest**

Councillors Govier, Prior-Sankey, Mrs Waymouth and D Wedderkopp declared personal interests as Members of Somerset County Council. Councillor Brooks declared personal interests both as a Member of Somerset County Council and as a recipient of a pension. Councillor Henley declared personal interests both as a Member of the Somerset County Council and as an employee of Job Centre Plus. Councillor McMahon declared personal interests both as a Member of the Somerset County Council and as a Director of Southwest One. Councillor Slattery declared a personal interest as an employee of Sedgemoor District Council. Councillor Miss James declared a personal interest as an employee of Viridor. Councillors Mrs Court-Stenning, Mrs Hill, Mrs Smith and Stone declared personal interests as employees of Somerset County Council. Councillors Hayward and Mrs Whitmarsh declared personal interests as the Council's representatives on the Somerset Waste Board. Councillor Mrs Wilson declared a personal interest as an employee of Job Centre Plus. Councillor Watson declared a personal interest as the alternate Director of Southwest One. Councillor Thorne declared a personal interest as he knew two of the Members of the independent Members' Allowances Panel. Councillor Gaines declared a personal interest as a Member of the Link Centre Board, as the Board used one of the Members of the independent Members' Allowances Panel as its Treasurer. Councillor Murphy declared personal and prejudicial interests as his company dealt with Southwest One.

6. **Public Question Time**

(a) Mr Peter Wren asked "When a planning application has an agreed and legal Section 106 Agreement and a signed planning permission, what is the Council's procedure, consultation and audit trail prior to authorisation of amendments and/or variations to the agreed and legal Section 106 Agreement and signed planning permission?"

(b) Mrs Carol Wren asked "During the consultation period with regard to a planning application, your Planning Officers are given specialist advice by your internal consultees - the experts. Why then do the Planning Officers choose to ignore that advice with no reasons given why? We need, as a community, a proper reasoned response. Can I have that response, either verbally or a written explanation as soon as possible please?"

(c) Mr Andrew Gottlieb stated that he understood that Taunton Deane had had to appease Persimmon Homes by gifting land to Somerset County Council to aid this private developer so that they could maximise their own profits. This was in reference to the Bishops Hull Crossroads, as without this land being available the developer could not proceed. He further understood that the County Council's Highways Department could not legally acquire land itself for a developer for access or building but have now done so with Taunton Deane's help.

Mr Gottlieb asked "Please could you explain and clarify in detail why Taunton Deane Borough Council is aiding a private developer as this has no benefit to the larger community? This will only be of benefit to the developer which I believe is immoral and possibly an illegal act."

In response Councillor Edwards, the Planning and Transportation Portfolio Holder, stated that detailed written responses would be prepared to the questions raised and these would be sent to the questioners in due course.

7. **Licensing Act 2003 – Licensing Policy Adoption**

Considered report previously circulated, which updated Members on the tri-annual review of the Council's Licensing Policy and the results of the consultation process.

Under the Licensing Act 2003 it was the responsibility of the Council to develop and publish a Statement of Licensing Policy. The published Policy then provided the framework for all decisions on applications relating to the Act and the way the Authority carried out its functions in relation to the legislation.

The Act required that the Policy must be reviewed at least every three years. The Council's current Policy had been adopted on the 14 December 2007 and an amended Policy had therefore to be adopted by 14 December 2010.

Over the past three years the current policy had been kept under review by the Licensing Unit. As a result, a number of small changes had been proposed to reflect current practices and updated guidance issued under Section 182 of the Licensing Act. There was however little change to the main aim and purpose of the current policy document adopted in 2007. As such, very few responses had been received in respect of the revised draft during the public consultation period

At its meeting on 6 October 2010, the Licensing Committee noted the results of the consultation and had recommended that the revised Policy should be adopted.

**Resolved** that the Taunton Deane Licensing Act 2003 Policy, appended to these minutes (Appendix A), be adopted.

#### 8. **Members' Allowances 2011/2012**

Submitted report previously circulated of the Members' Allowances Panel following its annual review of Members' Allowances. A copy of the report and recommendations had been circulated to all Councillors.

Details of the Members' Allowances Scheme that had been recommended by the independent Panel were submitted. The Panel had again recommended increases to the Special Responsibility Allowance paid to the two Scrutiny Committee Chairmen and the allowance paid to the independent Members of the Council's Standards Committee to recognise the increased responsibility they now had following the introduction of the Local Assessment Framework in May 2008.

In addition, the Panel had recommended that the Parish Council representatives on the Standards Committee should also receive the same allowance as the independent Members and that the rate paid to carers of Councillor's dependents be increased from £5.73 per hour to £5.93 per hour, to reflect the current National Minimum Wage.

Moved by Councillor Williams, seconded by Councillor Edwards that:-

The second bullet point of the Summary of Recommendations be amended to delete the words "except that paid to the two Scrutiny Chairmen (proposed £300 per year increase)".

The amendment was put and was carried.

Moved by Councillor Henley, seconded by Councillor Mrs Smith that:-

The fourth and fifth bullet points of the Summary of Recommendations, relating to the proposed increase to the allowance paid to the independent Members of the Standards Committee and the proposed payment of the same allowance to the Parish Council representatives on the same Committee, be deleted in total.

The amendment was put and was carried.

The substantive Motion, which is set out below, was put and was carried:-

“Summary of Recommendations

- No increase to the Basic Allowance;
- No increase to Special Responsibility Allowances;
- No increase in the Mayor or Deputy Mayor Allowance;
- To increase the rate paid to carers of Councillor’s dependents from £5.73 per hour to £5.93 per hour, to reflect the National Minimum Wage.”

## 9. **Recommendations to Council from the Executive**

### (a) **General Fund Earmarked Reserves Review**

A review had recently been undertaken of a number of earmarked reserves held by the Council to ensure that the level of each reserve was adequate and that the purpose for which the funds were set aside still applied. The level of earmarked General Fund reserves as at 31 March 2010 was £8,827,000.

As a result of the review, there were various earmarked reserves, totalling £62,028.55, that were no longer required.

The remaining earmarked reserves would be challenged as part of the budget setting process for the 2011/2012 financial year. The result of this challenge would be reported as part of the budget setting proposals.

On the motion of Councillor Williams, it was

**Resolved** that £62,028.55 of surplus earmarked reserves be transferred

to the General Fund Revenue Account in the current financial year.

**(b) Minimum Revenue Provision**

Before the start of each financial year, the Council was required to determine the basis on which it would make provision from revenue for the repayment of borrowing undertaken for the purpose of financing capital expenditure.

This annual provision, known as Minimum Revenue Provision (MRP), was designed to ensure that authorities made prudent provision to cover the ongoing costs of their borrowing. For the current financial year, the Council had determined to calculate MRP as follows:-

- for supported borrowing, 4% on outstanding debt; and
- for unsupported borrowing, the debt associated with asset divided by the estimated useful life of the asset.

The Executive had agreed that this option should be continued for the 2011/2012 financial year.

On the motion of Councillor Williams, it was

**Resolved** that the basis of calculating the Minimum Revenue Provision in 2010/2011 be retained for 2011/2012.

**(c) Deane Direct Labour Organisation (DLO) Internal Transformation – Interim Improvement Proposals**

Earlier in the year Full Council had agreed to a 'twin-track' approach to the transformation of services provided by the DLO. This involved embarking on a procurement process towards full outsourcing of DLO services and the development of an internal transformation option.

However, following the publication of the Comprehensive Spending Review by the Coalition Government, Full Council had agreed at its last meeting to an alternative timetable for the DLO Project. This involved rescheduling work towards outsourcing of DLO services, pending completion of a four year budget strategy and a revised specification for DLO services. Procurement activity towards outsourcing was now scheduled to begin in Summer 2011, with potential solutions being presented to Members in Spring 2012.

It had also been agreed that the internal transformation option should be brought forward for Members' consideration and that the interim plan should be based on the current levels of service. This would be subject to

further review in line with any future changes to the DLO service specification.

An interim Improvement Plan had recently been published for consultation. The plan had been built around a set of clear improvement priorities which were:-

- (1) A lean, efficient and resilient service, able to respond flexibly to the changing demands of the Council and external clients;
- (2) A thriving business, focused on commercial success;
- (3) Excellence in performance management (financial and service);
- (4) Excellent customer service and quality; and
- (5) A committed and empowered workforce.

Both the priorities and the associated action plan were geared towards the achievement of reduced running costs for the DLO, additional income from external sources, raised levels of customer satisfaction, reduced CO2 emissions, greater levels of staff attendance and increased numbers of properties maintained per FTE.

The following list captured the 'direction of travel' that was proposed to facilitate service transformation and improvement:-

- (a) Instead of the current six separate DLO functions, services would be brought together in order to streamline and simplify internal accountancy arrangements, improve transparency of DLO costs, reduce internal administration and bureaucracy and free up time to concentrate on delivering front-line services to customers;
- (b) Two areas of Building Services and Open Spaces would be created. Building Services would comprise functions involving housing repairs and maintenance and Open Spaces will comprise Parks, Nursery, Transport, Cleansing and Highways functions;
- (c) Bringing together support and administration staff who were currently located in different DLO functions into a single Business Support Team;
- (d) Closer working with all client functions to ensure a smarter and more efficient work flow from initial service request through to completion of works and record holding;
- (e) Greater emphasis on area based and multi-disciplinary working, where staff would be equipped and empowered to deal with a wider variety of service requirements, improving the customers' experience as well as operational efficiency;

- (f) Introduction of mobile phones and vehicle tracking technology to improve communications between management and workforce, enable better planning and scheduling of works and reduce the need for journeys to and from Priory Depot. Smarter and more efficient use of the vehicle fleet;
- (g) The introduction of more rigorous project management of all works, where co-ordination between different trades was improved to yield greater efficiency and better outcomes;
- (h) To continue fostering a working environment where staff at all levels were encouraged to question and challenge existing working practices and suggest ways of generating efficiencies and taking advantage of potential commercial opportunities.
- (i) To strengthen processes for customer engagement and feedback, ensuring that all views received informed further service development and improvement.
- (j) To encourage a culture of learning and continuous improvement, informed by best practice from other organisations in the public and private sector.

An interim management structure had been put in place pending the outcome of a favoured option for DLO services.

The financial benefits of the Interim Improvement Plan amounted to savings of over £1,000,000 during the next four year period. The projected efficiencies were likely to increase as further improvements were identified through the internal transformation process.

A potential procurement saving of £712,000 over a five year period had also been identified following discussions with Southwest One. A procurement category plan was to be developed to outline how these savings could be realised.

Procurement activity towards outsourcing was scheduled to start in the Summer 2011, with a potential solution ready for Members in the Spring 2012. A comparison report would provide evidence to assist Members in making a decision as to whether outsourcing or internal transformation should be followed as the preferred model for DLO services in the future.

The interim improvement proposals for the DLO had been unanimously supported by the Corporate Scrutiny Committee at its meeting on 22 November 2010.



On the motion of Councillor Williams, it was

**Resolved** that the interim improvement proposals for the internal transformation of Deane DLO be approved.

(d) **Financial and Performance Monitoring – Quarter 2 2010/2011 Underspend**

The Executive had received an update on the financial position and performance of the Council to the end of Quarter 2 of the 2010/2011 financial year (as at 30 September 2010).

The General Fund Revenue Account had shown a potential underspend of £299,000 against the budgeted net expenditure of £14,428,000. Much of this underspend (£250,000) related to savings arising from the revised Sort It Plus Waste Collection and Recycling Contract.

On the motion of Councillor Hall, it was

**Resolved** that a Budget Reduction of £250,000 in respect of the savings from the Waste Collection and Recycling Contract be approved, with these funds being returned to the General Fund Reserves.

(e) **Delegation of Southwest One Shareholder powers in relation to new business/partners**

The intention with the Southwest One Partnership had always been to expand it beyond the original founding partners to include other public authorities within the South-West region. Although no further partners had joined to date, the current economic climate was likely to result in many authorities looking for quick and innovative solutions to deliver savings. The ability to win new business would require Southwest One to make quick decisions and/or to consider taking on business from outside of the region.

Taunton Deane would play a key part in this decision making process. Consequently there was a need to ensure that the Council could quickly turn around any decisions which needed to be made.

The contract with Southwest One provided for certain 'Reserved Matters', which could not be changed without the agreement of all of the shareholders. These included the extension of the business outside the South-West of England or to enter any material new contract. Full Council was the shareholder for the Council and currently a decision by it was required in respect of every new joiner to the partnership.

To ensure that decisions were not delayed with potential partners being lost as a result, it had been proposed that the authority to make all decisions as to the entering of any new material contracts and/or extending the business outside of the region should be delegated by Full Council to the three Group Leaders who would be advised by the Section 151 Officer, the Solicitor to the Council and the Chief Executive or, in the absence of any of the foregoing, their nominated deputies.

All decisions made by the Group Leaders would need to be agreed unanimously, otherwise the matter would be referred to Full Council to determine. This approach was consistent with the other partners who already had a system of delegated responsibility in place.

When the Corporate Scrutiny Committee considered this matter, Members were reluctant to support the dilution of Full Council's current powers particularly as meetings of Full Council could generally be convened at relatively short notice.

The motion was put and was lost

(f) **Firepool, Taunton – Acquisition of remaining Third Party Interests**

The Council had been working with its appointed partner, St Modwen Developments Limited, to bring forward the planned development of the Firepool site in Taunton. Master and phasing plans had been produced and good progress had been made with the acquisition by negotiation of any required third party interests.

The Priory Bridge Road Car Park was the agreed first phase of development. Planning permission had been granted for both the necessary public realm works and for the associated first phase of built development and its related infrastructure. Although the Council now owned almost all of this site, there remained various interests which required to be either acquired or overridden.

Progress with the planned first phase of development had now reached the stage where it was felt appropriate to seek a formal resolution to proceed with the making of a Compulsory Purchase Order (CPO).

There were two residential properties within the "CPO Land" - 92 and 94 Priory Bridge Road, Taunton. The remaining land was within the Council's freehold ownership and was subject to any existing third party rights.

There were powers contained in Section 237 of the Town and Country Planning Act 1990 to prevent such rights being a bar to development

where land had been appropriated for planning purposes. In this respect the Executive had already agreed to appropriate this land.

Negotiations with the owners and/or any beneficiaries of the affected interests would continue in parallel with the CPO making process and every effort would be made to ensure that all matters were resolved by agreement.

On the motion of Councillor Cavill, it was

**Resolved that:-**

- (1) The making of a Compulsory Purchase Order under Section 226(1) (a) of the Town and Country Planning Act 1990 (as amended) be agreed in respect of the land edged by a bold, black line at Priory Bridge Road Car Park, Taunton indicated on the plan included with the report; and
- (2) The Chief Executive and the Solicitor to the Council be authorised to:-
  - (i) take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices, statement of reasons and presentation of the Council's case at public inquiry to secure confirmation of the Compulsory Purchase Order by the Secretary of State;
  - (ii) approve agreements with landowners to secure the withdrawal of objections to the Compulsory Purchase Order, including where appropriate seeking exclusion of land from the Order;
  - (iii) negotiate and agree terms for the acquisition by agreement of any of the outstanding land interests detailed in the report considered by the Executive;
  - (iv) make any necessary payments of compensation (including interim payments) either as agreed with landowners or as determined by the Lands Chamber of the Upper Tribunal in relation to acquisition/overriding of properties/interests; and
  - (v) dispose of the land interests acquired either voluntarily or by way of the Compulsory Purchase Order to St Modwen Developments Limited in accordance with the Development Agreement dated 15 April 2009 and made between the Council, St Modwen Properties plc and St Modwen Developments Limited.

## 10. **Reports of the Leader of the Council and Executive Councillors**

The following reports were made to the Council on the main items of current and future business.

### (i) **Leader of the Council (Councillor Williams)**

Councillor Williams's report covered the following topics:-

- 40 Commando Homecoming Parade;
- Northern Inner Distributor Road;
- Firepool Development, Taunton;
- Local Enterprise Partnerships;
- Regeneration of Taunton;
- The Council Budget Situation;
- Castle Green Car Park, Taunton;
- Sharing Services and Management with other Councils.

### (ii) **Housing Services (Councillor Mrs Court-Stenning)**

Councillor Mrs Court-Stenning submitted her report which drew attention to the following:-

- Housing Property Services Review;
- Affordable Housing;
- Regeneration of Halcon, Taunton;
- Estate Team and Anti-social Behaviour;
- Sheltered Housing;
- Somerset West Private Sector Housing Partnership;
- Fire Safety in Flats;
- Negative Subsidy.

### (iii) **Corporate Resources (Councillor Hall)**

The report from Councillor Hall provided information on the following areas within his portfolio:-

- Revenues and Benefits;
- Southwest One;
- Legal and Democratic Services;
- Performance and Client Team.

(iv) **Planning and Transportation (Councillor Edwards)**

The report from Councillor Edwards provided information on the following areas within his portfolio:-

- Localism White Paper;
- Consultation on overhaul of Planning Application Fees;
- New Homes Bonus;
- Core Strategy;
- Heritage.

(v) **Community Leadership and Communications (Councillor Mrs Lewin-Harris)**

Councillor Mrs Lewin-Harris presented the Community Leadership and Communications report which focused on the following areas within that portfolio:-

- Local Strategic Partnership;
- Youth Initiatives Fund;
- Rural Deprivation Fund;
- Community Development Team;
- Crime and Disorder Partnership;
- Member Briefings;
- Communications.

(vi) **Economic Development and the Arts (Councillor Cavill)**

The report from Councillor Cavill covered:-

- The Economic Development Delivery Plan;
- Stimulating Business Growth and Investment;
- Ensuring a Skilled and Entrepreneurial Workforce;
- Creating an Attractive Business Environment.

(vii) **Environmental Services (Councillor Hayward)**

The report from Councillor Hayward drew attention to developments in the following areas:-

- Environmental Health Teams;
- Crematorium;
- Waste Management;
- Climate Change / Carbon Management.

(viii) **Sports, Parks and Leisure (Councillor Mrs Herbert)**

The report from Councillor Mrs Herbert dealt with activities taking place in the following areas:-

- Parks;
- Community Leisure and Play;
- Tone Leisure (Taunton Deane) Limited Activities;
- Environmental Investment.

(Councillor Mrs Smith declared a personal interest during the discussion of the above report as her son-in-law was a Police Community Support Officer.)

11. **Exclusion of the Press and Public**

**Resolved** that the press and public be excluded from the meeting for the following item because of the likelihood that exempt information would otherwise be disclosed relating to Clause 3 of Schedule 12A to the Local Government Act, 1972 and the public interest in withholding the information outweighed the public interest in disclosing the information to the public.

12. **Former Nursery Site at Mount Street, Taunton**

Reference Minute No. 18 of the Minutes of the meeting of Full Council held on 5 October 2010, reported that the proposed disposal of the site at Mount Street, Taunton had been market tested using the three proposed methods of sale set out in the report. Formal bids would now be invited from the companies who had expressed an interest in the land.

It was intended to set up a Working Party comprising the Group Leaders and the appropriate Executive Councillors and their Shadows to evaluate which method of sale would be the most beneficial to the Council and assess the final bids received. This would enable a recommendation to be made to the Executive and Full Council.

**Resolved** that:-

- (1) A Working Party be set up on the lines indicated above, to meet on 19 January 2011, to assess both the method of sale and the final bids received in respect of the land at the former Nursery Site, Mount Street, Taunton; and
- (2) A recommendation as to the sale of the land be made to the Executive; and

(3) Any decision taken by the Executive be ratified by Full Council.

(The meeting ended at 9.14 pm.)

# Appendix A

Taunton Deane Borough Council  
Draft Statement of Licensing Policy  
January 2011

**(Proposed changes to the text of the previous Policy are highlighted)**



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## Adoption & Contact Details

This Statement of Licensing Policy was considered by the Licensing Committee on 6 October 2010 and by the Executive Board on 1 December 2010 and was recommended to the full Council for adoption.

The full Council of Taunton Deane on 14 December 2010 adopted this Statement of Licensing Policy for the period 2011 – 2014.

This Statement of Licensing Policy became operative from 7 January 2011.

For further information regarding this document please contact:

The Licensing Team, Taunton Deane Borough Council, The Deane House, Belvedere Road, Taunton, Somerset. TA1 1HE. Tel: 01823 356343 Fax: 01823 351801 Email [licensing@tauntondeane.gov.uk](mailto:licensing@tauntondeane.gov.uk)

## 1.0 Introduction

### 1.1 Background

1.1.1 Taunton Deane Borough Council (the Council) is the Licensing Authority under the Licensing Act 2003 (the Act). It is empowered to administer the following in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment within the District:

- premises licences including provisional statements, variations, transfers, interim authorities and reviews
- club premises certificates
- temporary events notices
- personal licences

1.1.2 Unless otherwise stated this licensing policy will not depart from the Secretary of State's Guidance. Therefore to reduce repetition if matters are detailed in the Guidance they may not be included in this policy.

### 1.2 Aim

The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives.

The aim of this Licensing Policy is to set out how the Licensing Authority seeks to promote the four licensing objectives, which are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

These four objectives will be the paramount considerations when determining a course of action in relation to the Licensing Authority's licensing functions. Each objective will be given equal importance.

### 1.3 Purpose

The main purpose of this policy is to provide clarity to applicants, interested parties and responsible authorities on how the Licensing Authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment.

### 1.4 Consultation

1.4.1 Before determining its policy for any three year period, the Licensing Authority will consult the following:

- the Chief Officer of Police
- the Fire Authority
- persons/bodies representative of local holders of premises licences
- persons/bodies representative of local holders of club premises certificates
- persons/bodies representative of local holders of personal licences
- persons/bodies representative of businesses and residents in the District

1.4.2 The Licensing Authority may consult beyond the statutory requirements, and seek comments from additional bodies, groups or individuals.

## 1.5 Fundamental Principles

1.5.1 This Policy sets out the Licensing Authority's general approach to the making of licensing decisions and is consistent with the provisions of the Act. Nothing in the Policy will undermine the right of any individual to apply for permissions and to have any such application considered on its individual merits. Similarly, nothing in the policy will override the right of any person to make representations on an application or to seek a review of a licence or certificate where provisions have been made to do so in the Act.

1.5.2 The Licensing Authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations. Any conditions attached to the licence must relate to the promotion of the Licensing Objectives.

1.5.3 The Licensing Authority acknowledges that the Government believes that in some circumstances flexible hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided.

1.5.4 It is necessary to consider national guidance in the context of local circumstances. Where licensed premises are surrounded by housing, unrestricted extensions of hours could extend the time of such disturbance to later in the night. The Guidance acknowledges that tighter control may be justified in residential areas and the Licensing Authority considers that this is particularly relevant to parts of its administrative area, always having regard to the individual merits of any application.

1.5.5 In general terms the Licensing Authority will closely scrutinise applications for premises licences showing a late terminal hour so as to be satisfied that they will have no adverse impact on the licensing objectives.

1.5.6 Once people are beyond the control of the individual, club or business holding the relevant authorisation licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour. Licensing law will always be part of a holistic approach to the management of the evening and night-time economy in this Borough.

## 2.0 General Principles

In all applications relating to premises, the Legislation requires applicants to specify methods by which they will promote the four licensing objectives in their operating schedules. The operating schedule should include reference to the measures the applicant intends to use to promote the licensing objectives.

## 2.1 Revisions to Policy.

2.1.1 The Licensing Authority have a duty to review their Licensing Policy and have therefore consulted with Responsible Authorities and other stakeholders since the implementation of the legislation in order to identify topics that may need to be added or removed from the Licensing Policy.

2.1.2 Specific areas of concern include:

- **Sales of alcohol from “On” and “Off” licensed premises to underage drinkers.**
- **Glass related injuries.**
- **Noise from music on the premises.**
- **Nuisance and disturbance from smokers immediately outside premises.**

2.1.3 Applicants for a premises licence are advised to include in their Operating Schedule, (where applicable) specifically how they prevent sales of alcohol to persons under 18, minimise glass related injuries and or assaults, prevent noise from licensed premises becoming a nuisance and manage customers outside their premises who are smoking.

2.1.4 **Crime Statistics locally have indicated that a last time of entry condition has assisted in the promotion of the licensing objectives. It is therefore expected that applicants for late licensed premises will be expected to provide detailed reasons in their operating schedules for seeking to allow any new entry to the premises after 1am."**

## 2.2 Children and cinemas

2.2.1 The Act requires applicants for premises licences and club premises certificates to copy details of their applications to a body which:

- a) **represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and**
- b) **is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters.**

2.2.2 **The Licensing Authority’s policy is that the “Responsible Authority” in relation to the protection of children from harm will be Somerset County Council’s Social Services Department at County Hall, Taunton, TA1 4DY.**

2.2.3 The Licensing Authority will expect licensees of premises giving film exhibitions to include, in their operating schedules, arrangements for restricting children from

viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, (BBFC) or in specific cases where such certificates have not been granted, the Licensing Authority.

- 2.2.4 The Licensing Authority does not intend to adopt its own system of film classification but reserves the right to amend the classification imposed by the British Board of Film Classification.
- 2.2.5 If the Licensing Authority attaches an age-restriction to any film that differs from the BBFC classification or attaches one to an unclassified film, the information about the Licensing Authority's classification will be published on the Council's website at [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk).

## 2.3 Licensing Hours

- 2.3.1 With regard to licensing hours the Licensing Authority will consider each application on its individual merits.
- 2.3.2 Applications for premises licences with a terminal hour later than 12 midnight where the sale or supply of alcohol for consumption on the premises is the main activity or where the sale or supply of alcohol is accompanied by musical entertainment, will be subject to close scrutiny by the Responsible Authorities to ensure that there will be no adverse impact on the licensing objectives. Specifically, the applicant should ensure that the operating schedule for such a premises demonstrates how the licensing objectives will be met. Applicants are strongly recommended to seek the advice of both the Council's Licensing Officers and the Police in this regard.
- 2.3.3 This is a general policy and does not automatically mean that all applications will result in licences being granted until midnight or that no applications will be granted with a closing hour after midnight.
- 2.3.4 In considering these issues the Licensing Authority will give careful consideration to the nature of the venue proposed. For example, the Council is keen to promote establishments at which the service and consumption of alcohol is not the primary activity. These may include restaurants, theatres, cinemas, comedy clubs, galleries, museums, and similar venues. The Licensing Authority's experience is that such venues are liable to give rise to fewer public concerns and so applications for such premises to operate past midnight are more likely to be successful.
- 2.3.5 The Licensing Authority will pay special regard to the proximity of residential uses to the proposed premises, the parking areas and routes taken by customers when arriving at and leaving the premises. Consideration will be given to the imposition of stricter noise control conditions, if representations are received in areas with a concentration of residential property.

- 2.3.6 The Licensing Authority considers that these issues will be of less significance where proposed premises are not within 250 metres of any residential property.
- 2.3.7 The Licensing Authority will expect premises to be cleared of patrons within a reasonable time of the terminal hour set for the premises. Applicants should state in their operating schedule the time they require to clear the premises. In normal circumstances, this will not exceed 30 minutes from the last sale of alcohol. Where the applicant can show that an extended period would assist in the promotion of the licensing objectives, the Council will consider permitting longer than 30 minutes.
- 2.3.8 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons for restricting those hours. An example would be where the Police make representations that the premises are a focus of disorder and disturbance.

## 2.4 Maximum Capacities

- 2.4.1 The type of entertainment offered on licensed premises and the closing hour of premises permitted to provide alcohol to the public often have a direct link to crime and disorder, public nuisance and public safety issues. For example, there is generally more likelihood of crime and disorder and public safety problems occurring in a music and dance venue permitted to sell alcohol and open until 3 am than there is in a well managed public house located in a quiet back street that provides limited regulated entertainment and closes at 11 pm.
- 2.4.2 The Licensing Authority believes that some of the problems that may occur in late night licensed premises may be controlled by good management practices. However, controlling the numbers of customers allowed into the premises will also assist in promoting the following three licensing objectives:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance

## 2.5 Late Night Refreshment

The Licensing Authority will expect applicants for licences, in respect of late night refreshment premises, to detail in their operating schedules how they intend to promote the licensing objectives and in particular how they intend to address queue management, litter and noise disturbance.

## 3.0 Licensing Approach

### 3.1 Partnership Working

- 3.1.1 The Council recognises that Licensing functions are not the only means of promoting the licensing objectives. Delivery must involve working in partnership

with Planning, Environmental Health, the Police, the Fire Authority, the Crime and Disorder Reduction Partnership, the Town Centre Manager, Pubwatch, local businesses and residents, Somerset County Council, transport operators and those involved with child protection.

- 3.1.2 The Council recognises that co-operation and partnership remain the best means of promoting the licensing objectives.

## 3.2 Integrating Strategies

- 3.2.1 There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case the Council will aim, as far as possible, to coordinate them.

- 3.2.2 Cultural Strategy – The Council will monitor the impact of any decisions on the provision of regulated entertainment. The aim is not to deter live music, but to ensure that the licensing objectives are promoted. The Council will monitor the effect of licensing on the provision of regulated entertainment, particularly live music and dancing, to ensure that any licensing conditions that impose any restrictions, on such events, are proportionate and reasonable.

- 3.2.3 Racial Equality – The Council is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The impact of these issues on the Licensing Policy will be monitored and amendments will be made as necessary.

- 3.2.4 Enforcement Policy – All licensing enforcement will be conducted in accordance with the Enforcement Concordat and the Environmental Health Enforcement Procedures.

## 3.3 Avoiding Duplication

- 3.3.1 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes such as health and safety at work, fire safety, building control and planning. Conditions will not be imposed if the matters concerned are already provided for in other legislation. However, other legislation may not always cover the unique circumstances that arise in connection with licensable activities and in such cases tailored conditions may be necessary but only if relevant representations are received.

- 3.3.2 Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether or not to grant a licence but only if relevant representations are received.

## 3.4 Vicinity

- 3.4.1 The term “vicinity” is used in the Act on a number of occasions and, in particular, with reference to those “interested parties” who may lodge objections to



applications for premises licences and who may make representations concerning existing premises licences. The Act defines an “interested party” as being “a person living in the vicinity, a body representing persons living in the vicinity, a person involved in a business in the vicinity or a body representing those persons”.

However, the Act does not define the term “vicinity”.

- 3.4.2 The Licensing Authority has decided that in order to assist applicants and residents it would be helpful to provide guidance as to how it will approach the meaning of the term “vicinity.” The Licensing Authority will normally treat the term “vicinity” as meaning within a 100 metre radius of the premises in question. However, this is a guideline and the Licensing Authority will consider representations from those who live or work outside that distance if they can demonstrate that they are (or, in the case of new premises, are likely to be), affected by disorder and disturbance occurring (or potentially occurring) on those premises. It is also open to an applicant to argue that, in particular instances, an objection from an “interested party” within this radius is not relevant, for example, where a major traffic route lies between the resident and the premises and noise from the premises is highly unlikely to affect the resident. Similarly it is also open to an “interested party” located outside of this radius to argue that a representation is valid, for example, where the resident lives on the route from the premises to bus stops, main taxi ranks or main pedestrian routes to residential areas.

### 3.5 Conditions

- 3.5.1 Conditions may only be attached if relevant representations are received, any such conditions attached to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned.
- 3.5.2 However, where it is considered necessary to promote one or more of the licensing objectives the Licensing Authority will consider attaching conditions, if relevant representations are received, drawn from the Pool of Model Conditions set out in the Secretary of State’s Guidance. This list is not exhaustive and additional conditions may be attached to any licence or authorisation, if a representation is received.

### 3.6 Enforcement

- 3.6.1 The Council when planning and carrying out enforcement activities will always have regard to the principles in the Regulators’ Compliance Code.
- 3.6.2 The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and any licence conditions. It will also be important to monitor the District for unlicensed activities that require a licence.

3.6.3 The Licensing Authority has established protocols with Avon and Somerset Police Authority, Somerset County Council Trading Standards and Devon and Somerset Fire Authority on enforcement issues to ensure an efficient deployment of Police and Council officers.

### 3.7 Live Music, Dancing and Theatre

3.7.1 The Council recognises the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of the community and, in particular, for children and young people.

3.7.2 When considering applications for such events and the imposition of any conditions if representations are received on licences or certificates, the Licensing Authority will carefully balance the need to promote the licensing objectives against these wider cultural benefits.

## 4.0 Administrative Issues

### 4.1 Temporary Event Notices

4.1.1 The Act states that the organiser of a Temporary Event must give the Licensing Authority a minimum of 10 working days' notice. However, in a significant number of cases this time period would not allow enough time for the organiser to liaise with the fire authority, the police and the relevant Council officers to ensure that the event passes off safely with minimum disturbance to local residents.

4.1.2 The Licensing Authority recommends that the Licensing Authority and the Avon and Somerset Police receive Temporary Event Notices at least 28 days before the planned event.

### 4.2 Applicants for Personal Licences

The Licensing Authority places particular emphasis on the role of premises supervisors and licensees and, where the Police object, on the grounds of prevention of crime and disorder there will be a presumption against issuing a personal licence to any applicant with an unspent conviction for a relevant offence. If the applicant can demonstrate exceptional and compelling reasons for disregarding the conviction, this will be taken into consideration.

### 4.3 Large Scale Events

Large Scale events of a temporary or more permanent nature will generally require detailed planning and more consultation with responsible Authorities and possibly representatives of other organisation concerned with safety. For such events it is therefore recommended that applicants contact the Licensing Team at the earliest opportunity to discuss their proposals.

#### 4.4 Reviews of Licence or Club Premises Certificate

- 4.4.1 The Licensing Act details that; where a premises licence or club premises certificate has effect, an interested party or a responsible authority may apply to the relevant licensing authority for a review of the licence. The relevant licensing authority may, at any time, reject any ground for review specified in an application under this section if it is satisfied that the ground is not relevant to one or more of the licensing objectives, or in the case of an application made by a person other than a responsible authority, that the ground is frivolous or vexatious, or the ground is a repetition.
- 4.4.2 The Licensing Authority can, on review of licence or certificate, revoke the licence or certificate, suspend the licence or certificate, remove the DPS, reduce hours or licensable activity or add conditions to the licence or certificate.
- 4.4.3 The Licensing Authority recommends that Persons or Bodies considering seeking a review should discuss the matter with the Licensing Team to discuss possible alternatives and to ascertain the correct procedure.

#### 4.5 Administration, Exercise and Delegation of Functions

- 4.5.1 The Council has a Licensing Committee, consisting of 15 elected members, to carry out its licensing functions and to make licensing decisions, except those functions relating to the making of a statement of licensing policy.
- 4.5.2 In the interests of speed, efficiency and cost-effectiveness the Committee will delegate certain decisions and functions to sub-committees and officers.
- 4.5.3 For example, where there are no relevant representations on an application for the grant of a premises licence or club premises certificate or Police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers.
- 4.5.4 The following table sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and officers.
- 4.5.5 This scheme of delegation does not prevent the referral of matters to a higher authority if considered appropriate in the circumstances of any particular case.

<b>MATTER TO BE DEALT WITH</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for personal licence	If an objection is made	If no objection is made
Application for personal licence, with unspent convictions	All cases	

Application for premises licence/club premises certificate	If a representation is made	If no representation is made
Application for provisional statement	If a representation is made	If no representation is made
Application to vary premises licence/club premises certificate	If a representation is made	If no representation is made
Application to vary designated premises supervisor	If a police objection is made	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection is made	All other cases
Application for interim authority	If a police objection is made	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a temporary event notice	All cases	

## 5.0 Further Information

### 5.1 Further information about the Licensing Act 2003 and this statement of Licensing Policy can be obtained from:

The Licensing Team,  
Taunton Deane Borough Council, The Deane House, Belvedere Road,  
TAUNTON. TA1 1HE  
Tel: 01823 356343 Fax: 01823 351801  
Email: [licensing@tauntondeane.gov.uk](mailto:licensing@tauntondeane.gov.uk)  
Website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk)

### 5.2 Information is also available from the Department for Media Culture and Sport

2- 4 Cockspur Street, London SW1Y 5DH.  
Tel: 020 7211 6200 Email: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk) Website:  
[www.culture.gov.uk](http://www.culture.gov.uk)

## APPENDIX A GLOSSARY OF TERMINOLOGY

Club Premises Certificate	means a certificate granted to a qualifying club under the Act in respect of premises occupied, and habitually used for the purposes of a club. Alcohol must not be supplied other than to members by or on behalf of the club.
Entertainment facilities	are defined as facilities for enabling persons to take part in entertainment for the purpose of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).
Hot food or hot drink	<p>food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:</p> <p>(i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,</p> <p>or</p> <p>(ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.</p>
Interested Party	<p>is defined as:</p> <p>(i) a person living in the vicinity of the premises</p> <p>(ii) a body representing persons who live in that vicinity</p> <p>(iii) a person involved in a business in that vicinity</p> <p>(iv) a body representing persons involved in such businesses.</p> <p><b>(v) a member of the relevant licensing authority.</b></p>
Licensable activities and qualifying club activities	<p>are defined in the Licensing Act as:</p> <p>(i) the sale by retail of alcohol</p> <p>(ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club</p> <p>(iii) the provision of regulated entertainment</p>

	<p>(iv) the provision of late night refreshment - for those purposes the following licensable activities are also qualifying club activities:</p> <p>(i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place</p> <p>(ii) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place</p> <p>(iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.</p>
Operating Schedule	<p>means a document that must be prepared by or on behalf of an applicant for a premises licence or club premises certificate containing a statement including the following matters:</p> <ul style="list-style-type: none"> <li>• the relevant licensable activities</li> <li>• the times at which licensable activities are to take place and any other times the premises are to be open to the public</li> <li>• information about the Designated Premises Supervisor</li> <li>• whether any alcohol sales are on and/or off sales</li> <li>• the steps being taken to promote the licensing objectives.</li> </ul>
Personal Licence	<p>authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence.</p>
Premises Licence	<p>authorises the premises to be used for one or more licensable activity.</p>
Provision of late night refreshment	<p>is defined as the provision of hot food or hot drink to members of the public, or a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am</p> <p>or</p> <p>at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.</p>

Regulated Entertainment	<p>is defined as:</p> <ul style="list-style-type: none"> <li>(a) a performance of a play</li> <li>(b) an exhibition of film</li> <li>(c) an indoor sporting event</li> <li>(d) a boxing or wrestling entertainment</li> <li>(e) a performance of live music</li> <li>(f) any playing of recorded music</li> <li>(g) a performance of dance</li> <li>(h) entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the present of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).</li> <li>(i) Entertainment Facilities. This definition is subject to Part 1 of Schedule 1 to the Licensing Act 2003 (interpretation).</li> </ul>
Responsible Authority	<p>is defined as:</p> <ul style="list-style-type: none"> <li>(i) Chief Officer of Police for any Police area in which the premises are situated</li> <li>(ii) the Fire Authority for any area in which the premises are situated</li> <li>(iii) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any area in which the premises are situated</li> <li>(iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated</li> <li>(v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health</li> <li>(vi) a body which: <ul style="list-style-type: none"> <li>(a) represents those who, in relation to any such area, are</li> </ul> </li> </ul>

	<p>responsible for, or interested in matters relating to the protection of children from harm, and</p> <p>(b) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters</p> <p>(vii) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated</p> <p>(viii) in relation to a vessel:</p> <p>(a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be, navigated at a time when it is used for licensable activities</p> <p>(b) the Environment Agency</p> <p>(c) the British Waterways Board, or</p> <p>(d) the Secretary of State</p> <p>(e) a person prescribed for the purpose of this subsection.</p>
Temporary Event	is defined as the use of premises for one or more of the licensable activities during a period not exceeding 96 hours usually where a premises licence covering the licensable activity is not in place.
Temporary Event Notice	a document giving notice to the Licensing Authority of intention to hold a temporary event.