

West Devon Development Management and Licensing Committee



West Devon
Borough
Council

Title:	Agenda								
Date:	Tuesday, 24th November, 2020								
Time:	9.30 am								
Venue:	Via Skype								
Full Members:	<p style="text-align: center;">Chairman Cllr Yelland Vice Chairman Cllr Pearce</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Cheadle</td> <td>Cllr Moyse</td> </tr> <tr> <td>Cllr Crozier</td> <td>Cllr Ratcliffe</td> </tr> <tr> <td>Cllr Hipsey</td> <td>Cllr Renders</td> </tr> <tr> <td>Cllr Mott</td> <td>Cllr Vachon</td> </tr> </table>	Cllr Cheadle	Cllr Moyse	Cllr Crozier	Cllr Ratcliffe	Cllr Hipsey	Cllr Renders	Cllr Mott	Cllr Vachon
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Cllr Hipsey	Cllr Renders								
Cllr Mott	Cllr Vachon								
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.								
Committee administrator:	Kathy Hoare Senior Case Manager - Democratic Services								

1. Apologies for Absence

2. Declarations of Interest

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

[If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting]

3. Items Requiring Urgent Attention

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

4. Confirmation of Minutes

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Meeting held on 27th October 2020

5. Planning Applications

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To see Letters of Representation and further supplementary information relating to any of the planning applications on the agenda, please select the following link and enter the relevant Reference number: <http://westdevon.gov.uk/searchlanding>

WARD NAME

Okehampton North

APPLICATION NUMBER

0321/20/OPA

LOCATION

"Land at SX 571 979", North of Brandize Cottage, Folly Gate

DEVELOPMENT

READVERTISEMENT (Revised plan received)

Outline application with all matters reserved for 10 new houses (6 local needs housing market and 4 open market)

6. Licensing Policy

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| 7. Annual Licensing Report | 99 - 100 |
| 8. Planning Appeals Update | 101 - 102 |
| 9. Development Management Action Plan | 103 - 114 |

Agenda Item 10 will start no earlier than 12.30pm

- 10. Update on Plymouth Road by Senior Legal Specialist - Verbal Update**

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Agenda Item 4

At a Meeting of the **DEVELOPMENT MANAGEMENT & LICENSING COMMITTEE** held via Skype on **TUESDAY** the **27th** day of **OCTOBER 2020** at **9.30am**

Present: Cllr J Yelland – Chairman
Cllr T G Pearce – Vice Chairman

Cllr R Cheadle	Cllr P Crozier
Cllr S Hipsev	Cllr C Mott
Cllr D E Moyse	Cllr B Ratcliffe
Cllr P Vachon	

Head of Development Management Practice (PW)
Senior Planning Specialist (AHS)
Planning Case Officer (JH)
Solicitor (DF)
Chief Executive (AB)
Assistant Chief Executive (SM)
Democratic Services Manager (DW)
Senior Case Officer, Democratic Services (KH)

Other Members also in attendance:

Cllrs T Bolton, A Bridgewater, L Daniel, C Edmonds, N Jory, T Leech, J Moody, T Southcott and L Wood

***DM&L 20 APOLOGIES FOR ABSENCE**

Apologies were received from Cllr M Renders.

***DM&L 21 DECLARATION OF INTEREST**

Members were invited to declare any interests in the items of business to be considered and the following were made:

Cllr T G Pearce declared a personal interest in all applications by virtue of being a Member of the Devon Building Control Partnership, also as having received a letter from one of the objectors for application 0629/20/ARM. He remained in the meeting and took part in the debate and vote on the item; and

Cllr Yelland also declared a personal interest in application 1726/20/ARM by virtue of being a Member of Okehampton Town Council. For clarity, Cllr Yelland informed that she abstained from the vote on the application when it was brought to the Town Council meeting. In addition, Cllr Yelland declared a personal interest in application 0269/20/ARM by virtue of having received a letter from one of the objectors.

***DM&L 22 URGENT BUSINESS**

There was no urgent business brought forward to this meeting.

***DM&L 23 CONFIRMATION OF MINUTES**

The Minutes of the Development Management and Licensing Committee Meeting held on 29 September 2020 were confirmed as a correct record.

***DM&L 24 PLANNING, LISTED BUILDING, TREE PRESERVATION ORDER AND ENFORCEMENT REPORTS**

The Committee proceeded to consider the applications that had been prepared by the Development Management Specialists and considered also the comments of the Town and Parish Councils together with other representations received, which were listed within the presented agenda report and summarised below, and **RESOLVED** that:

(a) **Application No: 1726/20/FUL** **Ward: Okehampton North**

Site Address: Land to East of Crediton Road, North of Kellands Lane, Okehampton

READVERTISMENT (Revised Plans Uploaded) Approval of reserved matters.

Speakers included:
Supporter (Agent) – Ben Jobson
Local Ward Member- Cllr Tony Leech

RECOMMENDATION: Delegated Authority to Head of Development Management to approve the application, subject to completion of acceptable Deed of Variation to the S106 Agreement and resolution of the outstanding issues identified in the open space, sport and recreation and landscape Sections of this report. If the deed of variation is not completed or substantial progress is not made within 6 months of this resolution authority is granted to the Head of Development Management to refuse the application in consultation with the Chair of Committee and Ward Members.

During discussion, concern was raised about the play area being close to the link road. It was confirmed that there was a tree belt but also the play area would be set down slightly to prevent access to the road. Flood risk was also raised as a cause of concern and the officer assured Members that issues had been satisfactorily addressed.

The Highways Officer confirmed the speed limit would be 30mph and, in replying to a Member, stated that a 20mph would not be suitable as it formed the function of a link road and feeder road.

It was confirmed that the only change proposed to the Section 106 Agreement was the route of the link road.

COMMITTEE DECISION: Delegated Authority to Head of Development Management to approve with the following conditions:

1. Standard Reserved Matters time limit;

2. Adherence to plans including revised Flood Risk Assessment (FRA);
3. Render colours as submitted and biocide treatment unless otherwise agreed in writing by LPA;
4. Adherence to Tree and Hedge Protection plan contained in 0931-AMS-AE Sept 2020;
5. Trigger for landscape scheme implementation and replacement if necessary for 5 years;
6. Private Electric Vehicle Charging Points (EVCP) implementation in all units with on-plot parking;
7. 4 parking spaces provided and serviced with the below ground cabling and capacity infrastructure to provide 4 fast public charge points;
8. Prior to the occupation of the 110th dwelling to provide a management and operation plan to the LPA for the public fast charge EV points;
9. Bricks for facing on boundary wall shall be lbstock multi;
10. Notwithstanding the Permitted developer order, no additional windows in SW elevations on plots 220,216, 215 and 182;
11. SW windows of 215 to be obscure glazed to w/c and bathroom, 216 ground floor w/c to be obscure glazed; and
12. Details of a development specific 'Biodiversity Residents Pack' and a copy of this to be made available to each new resident upon first occupation.

(b) **Application No: 0629/20/ARM** **Ward: Hatherleigh**

Site Address: "Biddicombe" 31 Park Road, Hatherleigh, EX20 3JS

Approval of reserved matters following outline approval reference 1635/18/OPA

Speakers included:
Objector – Mr Kevin Watts
Agent – Mr Jamie Tingle

RECOMMENDATION: Approval with conditions:

1. Accord with plans;
2. Materials to be submitted and approved;
3. Permeable paving for access roads and driveways to be submitted;
4. Detailed design of the visibility splay;
5. The cladding to be applied to the dwelling shall be timber only;
6. No external light;
7. Construction management plan;
8. Unsuspected contamination; and
9. Details of proposed hedgerows and protection of planting gabion baskets and planting proposals for them.

The Planning Officer introduced the report and provided Members with an update following a letter of representation stating that there were

some inaccuracies within the report. During their introduction, the Planning Officer:

- confirmed that the reference to the Conservation Area in the planning report should have been south and west and not east;
- included a series of views from Jubilee Walk which she identified as having been a previous concern;
- added to the summary of representations including:
 - addressing the viability of the hedgerow when it became incorporated into the curtilage of a residential development and suggested that a condition should be imposed regarding the management of the hedgerow;
 - considering parking provision and whether it would be sufficient if the dwellings were used as four bedrooms and concluded that it would;
 - explaining why it was not the Council's usual practice of naming the construction company in reports;
- accepted that she had mixed up Hatherleigh Town Council's comments on outline with those on reserved matters approval and clarified exactly what the Town Council's comments were on the proposal being considered;
- advised the Committee on the proposed changes in height of the dwellings since the original submission on the application, in particular for Plot 1. She said that the footprint was now the same for both plots, and the original footprint for plot 1 had been smaller, but the height of plot 1 originally had been 8 meters from ground level, because of its steeper pitched roof. Therefore both plot heights had been reduced from the original submission. The revised plot 1 height was 7.1 meters from ground level;
- clarified that the hedge had recently been trimmed and so the hedge height had been reduced in recent weeks;
- clarified that the visibility splay would be considered more fully in presentation.

COMMITTEE DECISION: Approval subject to conditions above with the addition of a condition to ensure the current hedgerow is kept to a specified height within a detailed management plan.

Also additional conditions for a parking plan and for installing electric charging points. The wording to be confirmed by the Head of Development Management with consultation with the Chairman & Vice-Chairman of the Development Management & Licensing Committee.

DM&L13 PLYMOUTH ROAD REPORT

Cllr Jory introduced the report and explained that concerns had been raised following the decision to grant outline planning permission at Plymouth Road Tavistock (Application Ref: 3654/18/OPA). As a result, he had commissioned a review and that a report be brought forward of findings by one of the Council's Senior Legal Specialists.

Cllr Mott, as Lead Member for the Environment, introduced the Council's Senior Legal Specialist who took Members through his findings. Before doing so, he advised the Committee that, following receipt of a solicitor's letter from a third party concerning the report, he would be asking the

Committee at the end of his introduction to resolve to exclude the press and public so that he could give the Committee legal advice.

Planning permission for 250 dwellings and 2 hectares of commercial B1 use was granted in June 2020 subject to conditions. In particular, condition 37 had required the parties with an interest to the land to enter into a planning agreement prior to the start of the development. The decision was taken under delegated powers by officers.

Concerns had since been raised as to the Council's Scheme of Delegation to Officer and the deliverability of the Employment land and proposed Section 106 contributions to education.

The officers advised that his review recommendations were grouped under four headings:

- Giving Members more information about planning applications;
- Ensuring that decisions on planning applications are taken on a sound basis;
- Making the Council's decision-making arrangements clearer and more accountable; and
- Encouraging proactive and constructive working with the Town and parish council's on planning applications

At the conclusion of the Senior Legal Specialist's introduction it was **PROPOSED** and **SECONDED** (and when put to the vote declared **CARRIED**) that:

To enable the Committee to receive legal advice, it was "**RESOLVED** that, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved."

Following receipt of the legal advice and once Members had been given the opportunity to ask questions on this advice, it was then **PROPOSED** and **SECONDED** (and when put to the vote declared **CARRIED**) that the public and press be re-admitted to the meeting.

The Senior Legal Specialist then explained that, in light of the legal advice that he had just given, a revised set of recommendations were to be tabled.

These were that the Committee:

- notes the findings and conclusions of the Review of the process followed in connection with Planning Application 3614/08/OPA – Land at SX482425 Plymouth Road, Tavistock;
- does not make a decision at this time in respect of the recommendations in paragraph 5.3 of Appendix B to this report other than to agree to receive a further report at the Committee's next meeting.
- agrees the recommendations made by the Review and which are set out in paragraphs 5.15, 5.16, 5.17, 5.18 and 5.19 of Appendix B to this report.

- asks the Head of Planning to prepare an action plan to implement the recommendations of paragraphs 5.1, 5.2, 5.4-5.19 of Appendix B to this report for approval by the Committee at its next meeting.
- A progress report would be taken to Overview & Scrutiny Committee in six months' time.

During questions it was confirmed that the 3 day response from Members on planning applications was proposed to be extended to 5 days. Member training was discussed and it was confirmed that all Members were invited to all training sessions on offer which included training on the planning process.

The revised recommendations were proposed and seconded and, when put to the vote, it was subsequently **"RESOLVED** that the Committee:

1. notes the findings and conclusions of the Review of the process followed in connection with Planning Application 3614/18/OPA - Land at SX482725 Plymouth Road Tavistock (as set out at Appendix A of the presented agenda report);
2. does not make a decision at this time in respect of the recommendations set out in paragraph 5.3 of Appendix B to this report other than to agree to receive a further report at the next meeting of the Development Management and Licensing Committee;
3. agrees the recommendations made by the Review and which are set out in paragraphs 5.1, 5.2, 5.4 -5.19 of Appendix B to the presented agenda report;
4. asks the Head of Development Management to prepare an action plan to implement the recommendations in paragraphs 5.1, 5.2, 5.4 - 5.19 of Appendix B to the presented agenda report for approval by the Committee at its next meeting; and
5. notes the intention to bring forward a progress review of the planning improvement action plan to a future meeting of the Overview and Scrutiny Committee in six months' time."

***DM&L14 PLANNING PERFORMANCE INDICATORS**

The Head of Development Management took Members through the latest Planning Performance Indicators. It was stated that pre-applications were being dealt with more efficiently as one officer was dedicated to dealing with them on a full-time basis.

***DM&L15 PLANNING APPEALS UPDATE**

The Head of Development Management updated the Members on the outstanding planning appeals.

(The Meeting terminated at 3.00pm)

PLANNING APPLICATION REPORT

Case Officer: Oliver Gibbins

Parish: Inwardleigh **Ward:** Okehampton North

Application No: 0321/20/OPA

Agent:

Mr Jeremy Maddock
Elford Maddock Architect'l Practice
23 Fore Street
Bere Alston
Yelverton
PL20 7AA

Applicant:

Mr & Mrs Seale
Orchard House
EX20 3QS

Site Address: Land at SX 571 979, North of Brandize Cottage, Folly Gate, EX20 3AQ

Development: Outline application with all matters reserved for 10 new houses (6 local needs housing market and 4 open market)

Reason item is being put before Committee: Cllr Leech has requested this application is reported to the Committee for the following reason:

There are a lot of concerns from residents, as well as the Parish Council re this proposed development, plus it is development in the open countryside. I would also want to see the full extent of the proposed 106 contributions for this application before making any decision one way or the other.



Recommendation: Delegate to Head of Practice to Approve subject to the completion of a S106 agreement with the following heads of terms:

60% affordable housing, this scheme will provide for 6 open market discount houses for local people and restricted through a local connection clause. The tenure will be secured through legal agreement and provide at a 20% discount on the open market sale price.

£21,771 towards village hall, sports and recreation. This will be spent on supporting the refurbishment of the Follygate village hall.

£95,538 towards local education including primary school at Okehampton, St James C of E Primary School and Okehampton College as well as school transport.

£5,000 towards a traffic regulation order for the imposition and installation of an extended 30 m.p.h. speed limit

Access and maintenance of the onsite open space.

Conditions:

- 1.Reserved matters Commencement
- 2.Reserved matters standard condition – Details of all matters except access.
- 3.Adherence to plans
- 4.Highways details to be provided
- 5.Highways access road and layout
- 6.Highways highway details
- 7.Highways Highway free of obstruction
- 8.Highways Highway construction method
9. Landscape and Visual Impact Appraisal
- 10.Detailed hard and soft landscape proposal to include ancillary structures, long term maintenance and hedgerows;
- 11.Arbicultural Impact Assessment and Tree (and hedgerow) Protection Plan based upon the detailed site layout.
- 12.Waste Management Plan and Skills and Training
13. DEV32 carbon reduction/climate change
- 14.DEV10 and SPD JLP external space standards
15. DEV8 Local Housing need
16. No external lighting
17. Landscape and Ecology Management Plan
- 18.Lead Local Flood Authority adoption and maintenance
19. Lead Local Flood Authority overflows
20. Lead Local Flood Authority surface water design
21. Lead Local Flood Authority ground water monitoring
22. Lead Local Flood Authority requested percolation tests
23. Lead Local Flood Authority SUDS layout
- 24.Electric vehicle charging points
- 25.Unexpected contamination

Key issues for consideration:

The principle of the development and the impact on the amenity and the character and appearance of the area.

Site Description:

The application site is 0.7 hectare site located to the north of Follygate.

The site is would be considered to be in the countryside and would have been used for agriculture in the past.

The site is enclosed by hedgerows and the topography is relatively level.

There is a grade II listed Butterford Cottage located to the north of the site.

The Proposal:

This application is for outline planning permission with all matters except access reserved for 10 houses, 6 of these would be affordable housing and 4 would be open market houses and an area of public open space.

Consultations:

- County Highways Authority - From a highway safety point of view, there are no objections to the proposed development subject to the provision of an estate street access with suitable geometry and visibility together with adequate on-site car parking.
- Open Space, Sport and Recreation - Full details of any proposed on-site public open space would be required at reserved matters stage, with public access and on-going management and maintenance being secured via a s106 agreement.Plus request for off site contribution as per heads of terms.
- Lead Local Flood Authority - Our objection is withdrawn and we have no in-principle objections to the above planning application at this stage, assuming that pre-commencement planning conditions are imposed on any approved permission.
- Town/Parish Council- The Councillors voted to Object, for the following reasons: - 1. It would be development in the open countryside, outside of the settlement boundary. 2. The proposed site is in close proximity to a listed building Butterfield Cottage. 3. Drainage issues, the site is very wet land and often waterlogged. A soakaway system was therefore not thought to be suitable. Have percolation tests been carried out? 4. Folly Gate has already exceeded its required allocation of 10 new properties.
- Housing Officer - the development has the support of the Council's housing officer who has identified a need for 10 households in affordable housing need in the local area. There has been no affordable housing developed for many years. The affordable housing stock is council accommodation which was transferred through the large scale voluntary transfer. This will have been subject to the right to buy and many have been sold. This has therefore dwindled the stock numbers leaving limited options for young people to get on to the housing ladder whether this is to rent or buy at an affordable level.

The opportunity of discount market properties would enable young people an option. The stock in Folly Gate is predominantly 3 bed houses which is too large for what is needed or bungalows which lend themselves to older people not singled or couples.

Many applicants may not have registered on either Devon hone choice or help to buy as they do not perceive anything coming forward to meet their aspirations

- Landscape Officer - No objection subject to securing reserved matters.
- Tree Officer - No objection on arboricultural merit
- Planning Policy Officer – has looked at the proposal, and commented that the site would certainly fit the TTV27 requirement of being adjacent to or near the edge of settlement. “Folly Gate is named as a sustainable village, and as such I think the principle can be supported, subject to some clarifications.

It should be noted however that the 40% threshold for open market dwellings is not considered to be the default position with regard to TTV27 sites, instead the open market element should only comprise what is required to cross-subsidise the AH (Affordable Housing) offer. In that regard, I think what is missing is some high level viability work that shows why 40% is required – the site is green field, already owned by the applicant, so unless there are a load of suspected abnormal costs buried in the field, I'm not convinced that the 40% threshold is required – why not 20 or 30%. There is no justification either way.

The other element of TTV27 that should be noted, and may need to be conditioned, is that the open market housing should not only comprise no more than 40% of the overall scheme, but it cannot comprise more than 40% of the land area either. And we will want to condition the housing mix to be considered, for all tenures, at RM too.

We should also be conditioning the DEV32 requirements of 20% carbon reduction from build regs baseline from onsite renewables.”

- Devon CC – Waste – Waste Management Plan required.
- Devon CC – Education - The application has been considered and in order to make the development acceptable in planning terms, an education contribution to mitigate its impact is requested;
- Devon and Cornwall Police - . From a designing out crime and disorder perspective I would like to advise that the police have no objections to the proposal at this stage.

Representations:

31 letters of objection are reported responding, identifying the following;

Concern about the legitimacy of support letters;
Development should conserve the countryside and redevelop brownfield sites;
Highway suitability;
Urbanising impact;

Sustainability and lack of access to facilities;
Integration with existing village;
Car dependent;
Existing sites coming forward;
No local need;
Ecology;
Impact on privacy and amenity;
Design and density;
Impact on listed buildings;
Impact on dark skies and ecology;
Agricultural land;
Parking;
Security and layout Sewage;
Not brownfield;
Flooding;
Traffic;
Need;
Lighting;
Wildlife.

30 letters of support identifying:

Need for affordable housing;
Support villages to thrive;
Important for young people.

Relevant Planning History

None

ANALYSIS

Principle of Development/Sustainability:

Policy TTV1 of the Joint Local Plan identifies a settlement hierarchy within the plan area. Folly Gate is identified as a Sustainable Village where development to meet locally identified needs can be supported.

Policy TTV25 identifies that provision of 550 homes will be sought from the sustainable villages as part of the overall housing supply for the TTV Policy Area.

Within sustainable villages without neighbourhood plans the LPA will still support development that meets the identified local needs of communities and development which responds positively to the indicative housing figures. All development proposals, whether in villages which have neighbourhood plans or not, will be considered against the other policies in the plan.

There is no Neighbourhood Plan in Follygate and it is understood that there is no emerging plan either.

Policy TTV27 – Meeting local housing needs in rural areas identifies that proposals for residential development on sites adjoining to very near to an existing settlement which would not otherwise be released for this purpose may be permitted provided that it can be demonstrated that:

- 1) It meets a proven need for affordable housing for local people;
- 2) It includes a mix of affordable and market housing products where necessary to be financially viable. This includes open market housing, providing it does not represent more than 40 percent of homes or 40 percent of the land excluding infrastructure and services;
- 3) Management of the scheme will ensure that the dwellings continue to meet the identified need in perpetuity;
- 4) The proposal meets the requirement of all other relevant policies of the Plan.

Paragraph 77 of the National Planning Policy Framework identifies that in rural areas planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to support should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.

This application is for outline permission only and seeks to establish the principle for residential development for 10 houses. This comprises a mix of 4 market houses and 6 affordable houses.

As this proposal provides 60% affordable housing and 40% market housing the proposal needs to be considered as a rural exceptions site in terms of Policy TTV27. The proposal has support from the Planning Policy in terms of the site fitting within the adjacent to or near to an edge of a settlement requirement. Follygate is a sustainable village and as such the scheme has policy support in terms of the principle.

It has been confirmed by the Affordable Housing Specialist that there is a proven need for affordable housing for local people in this part of the Borough. The tenure offered by the applicant is for open market discount housing. This is an affordable housing product that will deliver at least a 20% discount on open market housing for local people. The S106 agreement will control and cap this affordable housing product in perpetuity. It must be considered that this does provide a real benefit to assist in meeting local housing needs and weighs strongly in favour of this application. Subject to the clauses of the S106 being agreed it can be concluded that this development will meet Policy TTV27 (1 and 3).

As noted by the Council's Affordable Housing Specialist this will make an opportunity for people to gain access to the property market and there has not been the delivery of affordable housing for many years in Follygate. This will therefore make an important and valuable housing contribution to the local area.

Further clarification and assessment has been undertaken with this application in responding to the points raised by the Planning Specialist, in the form of an independent viability

assessment. The viability assessment confirmed that 40% market housing, when combined with other S106 requirements was the minimum level that could be sought in order to cross subsidise the Affordable Housing. In terms of the land take this is an outline application but planning conditions would need to ensure that the 40% of the site is available for market housing. As a result it can be concluded that the proposal complies with Policy TTV27 (2).

The remaining sections of this report will assess how the development will meet the remaining policies of the plan to comply with Policy TTV27 (4). But subject to these policies being met it can be concluded that this development can be supported in principle through Policy TTV27 of the Joint Local Plan.

Planning Obligations:

Policy DEL1 identifies that a positive and strategic approach will be taken in relation to planning obligations. Part 3 iv) of the Policy identifies that planning obligations will be used to mitigate the impact of the development on infrastructure, including cumulative impact, through direct provision of financial infrastructure contribution.

This development will provide a major scale of development and place new demands on local infrastructure in the Borough. It is therefore important that new infrastructure comes forward in order to support new residential development.

One key element of infrastructure is sport and recreation and policies DEV3 and 4 seek to support the creation of new or the enhancement of existing sport and recreation facilities.

The JLP sets a requirement of 1.91ha/1000 people accessible natural greenspace. Assuming an average household size of 2.36 (based on 2011 census data for West Devon) and 10 dwellings, there would be a requirement for at least 450m² accessible natural greenspace on site or an off-site financial contribution towards improvement of local public open space.

The applicant has revised the plans to increase the site area. As a result the development will be able to provide 450 sq. of natural play space on site. This will be conditioned and an acceptable design and layout achieved at reserved matters stage as it should be noted that public open space should be easily accessible and benefit from a good level of natural surveillance.

With regard to on-site sports and play facilities, as opposed to informal recreation, the site is unable to provide on-site facilities on site and as a result in line with the policy this can be provided off site.

Liaison with the Parish Council has identified that the key priority in the village is refurbishment/replacement of the existing Village Hall. The Village Hall provides an important community facility including opportunities for indoor sports such as yoga, skittles and darts, as well as community events, and refurbishment/replacement would enhance these opportunities. Given the additional pressures that the new residents will bring on the existing village hall, a financial contribution towards its refurbishment/replacement is considered justified to help mitigate this pressure and make the development acceptable in planning terms.

Although the project is not for standard play and sports provision, it is considered reasonable

to use the contributions in the Atkins West Devon OSSR Study as a guide, and on this basis a contribution of £21,771 would be required. Again, it is understood that the requested contribution will need to be assessed and considered in the overall planning balance between the provision of affordable homes and improvements to local facilities to accommodate additional use by new residents.

The applicants have agreed to contribute this amount and it is detailed in the heads of terms. Through achieving this this development will make a meaningful, valuable and important contribution to sport and recreation in the local area. The development therefore complies with Policy DEV4.

The County Highway Authority have requested a contribution of £5000 towards local highway improvements to amend the speed limit in the area.

In terms of education the nearest schools to the development site are located in Okehampton. Okehampton Primary School has no forecasted capacity and a new primary school in Okehampton, St James C of E Primary School has been built. Devon County Council forward funded the delivery of the new primary school in advance of development and requires future development to reimburse the Education Authority as set out in its response to the Okehampton Masterplan.

Devon Local Authority is therefore requesting a contribution towards primary school infrastructure, at the primary new build rate (£16,019.00 per pupil). A development of 10 family dwellings is expected to generate 2.5 primary aged pupil and we are therefore requesting £40,047.00 towards the new Primary School.

A contribution towards land for the new primary school is also sought. Based on a total site requirement of approximately 1.7ha (17,000m²) for a 420 place primary school, each family dwelling (2+bedrooms) will need to contribute the equivalent of 10m² per dwelling. A development of 10 homes will need to provide 100m². A contribution matching its equivalent value is required. Devon County Council identified resources to purchase the school site and construct the school and will require future development to reimburse the Education Authority as set out in its response to the Okehampton Masterplan. The assessment of land required is as follows:

$17000\text{m}^2/420 = 40\text{m}^2$ per pupil

Four dwellings are anticipated to yield one primary pupil

Therefore, 10m² is required per family dwelling A financial contribution will be required to reimburse the appropriate land value at a rate of 10m² (£700) per dwelling.

The County Council are therefore requesting £7,000.00 towards primary school land.

The secondary school within the development area is Okehampton College which has no forecasted capacity for the secondary aged pupils expected to be created by this development, so a request is made for secondary infrastructure at the secondary extension rate (£21,921.00 per pupil). A development of 10 dwellings is expected to generate 1.5 secondary aged pupils, so we are requesting £32,881.00 towards secondary infrastructure. Because of the distance from the development site to Okehampton, a contribution towards primary and secondary school transport is requested. The school coach going to Okehampton from Folly Gate costs £2.76 per pupil per day. We are therefore requesting for primary:

£9,177.00 (being £2.76 x 190 days in the academic year x 7 years at primary school x 2.5 primary pupils). For secondary transport, we are requesting £3,933.00 (being £2.76 x 190 days in the academic year x 5 years at secondary school x 1.5 secondary pupils). Devon's early year's service is requesting a contribution towards early years provision, which is £250.00 per dwelling, based on the estimated delivery cost of provision. We are therefore requesting £2,500.00 towards early years provision in the new primary school.

It should be noted that in accordance with the County Council's Education Infrastructure Plan, education contributions are required from all family type dwellings, including both market and affordable dwellings. Affordable housing generates a need for education facilities and therefore any affordable units to be provided as part of this development should not be discounted from the request for education contributions set out above. Such an approach would be contrary to the County Council's policy and result in unmitigated development impacts.

If approved this development will be deemed built and therefore affect the forecast pupil numbers for future developments in this area.

If this application reaches the stage of preparing a S.106, it is considered that the contribution can be allocated in accordance with the pooling regulations set out in the CIL Regulation 123. The amount requested is based on established educational formulae (which related to the number of primary and secondary age children that are likely to be living in this type of accommodation) and the costs of transporting children from Folly Gate to Okehampton. It is considered that this is an appropriate methodology to ensure that the contribution is fairly and reasonable.

The total amount requested from Devon County Council for education is £95,538. This is a significant amount of capital and the applicants have undertaken a viability exercise which has robustly assessed the amount of contributions which the development can accommodate without making the scheme economically unviable.

The submitted Viability Report concludes that the total amount of planning obligation which could be achieved on the site with a 30% Discount Open Market Housing product on 60% of the total housing would be £95k.

However this was further reviewed during the application process and further viability work was undertaken to assess a scheme that provided a 20% open market discount, which is a policy compliant level of discount on the affordable housing product.

With a 20% discount it was concluded that the scheme would still be viable with the full S106 contribution requested. This includes education, open space sports and recreation (the village hall), and the contribution for highway improvements. To be clear the S106 will secure through legal agreement the following:

£95,538 for Devon County Council as education authority;
£21,771 for West Devon BC to contribute towards off site open space, sports and recreation;
£5,000 for Local Highway Improvements.

This results in this development contributing the full amount of infrastructure contributions requested and will deliver sustainable development and as well as providing 60% affordable housing for local people will deliver £122,309 of local infrastructure improvements.

In considering the benefits of this development the proposal is delivering 60% affordable housing to meet an identified local need and has planning policy support. The scheme is also providing improvements to local infrastructure in terms education and sport and recreation space and as such there are clear benefits for the area.

Design/Landscape:

The site is generally visually contained, with dense, Devon hedgebank field boundaries containing hedgerow trees that screen the field from view from the unnamed lane on the west boundary and from properties within the village. The hedgebank along the lane is notably species-rich and provides a strong visual boundary to the site. Any opening to create access into the site should be carefully designed to minimise loss to this important landscape feature. It is likely that the other field boundaries, which are similarly important features within the landscape, contain a variety of woody plants and trees, and the development should therefore ensure that they are protected and retained.

Appropriate development in this location could be assimilated into the settlement pattern of the village, although building heights beyond two storeys should be avoided. The local vernacular building materials are stone and slate, noting that much of the modern residential development has rendered and painted finishes (often white). The design and materials of the development should reflect the local vernacular, and this includes all areas of hard landscape within the development.

The soft landscape proposals for the development should also be designed to conserve and enhance local landscape character.

In assessing the wider the landscape character and visual amenity, the overall position is conserved, but it is acknowledged that at a local level, changes will occur from a loss of a small area of pasture land adjacent to the existing settlement, and the construction of a vehicle access to the site from the existing highway affecting the hedgebank. The site hedgerows should be otherwise retained.

The detailing of the highway visibility splay and the site entrance will be important considerations, and should be sympathetic in scale and design to the rural location and the landscape character. The long views across the landscape will be protected and largely unaffected by the proposals as set out in the outline.

The indicative design and layout of the new development lacks any detail. Development within the site should be limited in scale and there will be opportunities to mitigate at RM by controlling the layout, mass, form and orientation of the dwellings, to ensure that the development will conserve and enhance the local character.

A Landscape and Visual Impact Appraisal should be undertaken to inform the design of the scheme, and the development of a landscaping scheme that will enhance the proposals, and to ensure that the development does not conflict with the LCT landscape guidelines.

In terms of heritage Butterford Cottage, located to the north of the site is a grade II listed building. Brandize cottage located to the south is a thatched cottage but it is not listed and is a non-designated heritage asset. .

Policy DEV21 of the JLP identifies that the significance, character, setting and local distinctiveness of heritage assets should be considered to determine the impact. Great weight shall be given to the conservation of designated heritage assets. Development which harms the significance of locally important non designated heritage assets or their contribution to the character of a place will only be permitted where it can be justified on the basis of a balanced judgement.

In terms of this application it is at outline stage only with all matters reserved. As confirmed by the Landscape Officer the site is well screened to the north by hedgerows and separated by a field. It is not considered that this development will result in any harm to the designated heritage asset or setting.

Whilst Brandize Cottage is a traditional thatched cottage it is not listed. The development of the site to the north will be subject to a reserved matters application where careful consideration will be given to the layout, scale, bulk and massing, and design will be given. It is considered that a well designed development would not give rise to harm to the non designated heritage asset.

Policy DEV8 requires that new housing provides a size, type and tenure appropriate to the area. This proposal has the support of the Housing Officer and the delivery of 6 local needs housing will make a valuable important contribution towards meeting local housing need.

It is important that the new housing seeks to address any imbalance of the existing housing stock. The data the Council holds is at Parish level only and Follygate falls within the Inwardleigh Parish. This shows that there is a 5% 1 bed, 25% 2 bed, 43% 3 bed and 28% 4 beds. As this is an outline application any reserved matters application will need to respond to this need (secured by condition here). It is however noted that the viability work has identified that the market housing is larger to improve the viability of the proposal.

In terms of space standards Policy DEV10 and the Supplementary Planning Document requires that National Space Standards are achieved as well as sufficient garden areas and parking. This will need to be considered at Reserved Matters Stage but secured through condition at this outline stage.

Neighbour Amenity:

The site is located to the north of existing dwellings and as such any future application would need to consider the impacts of the development on the amenity of these properties. But the size of the site together with the separation distances available result in the development not be considered to give rise to a significant loss of residential amenity. The layout and orientation of the dwellings will need to be considered at reserved matters stage.

Highways/Access:

From a highway safety point of view, there are no objections to the proposed development subject to the provision of an estate street access with suitable geometry and visibility together with adequate on-site car parking.

A contribution towards the investigation and, if approved, the imposition and installation of an extended 30 m.p.h. speed limit (currently in place because of the street lighting) is also recommended.

Drainage:

Devon County Council Lead Local Flood Authority have removed their objection from the scheme, subject to a series of planning conditions which will be agreed through future applications.

The site is not in a flood risk zone and it is not considered that matters to deal with surface water could not be mitigated through condition and in line with the advice from Devon CC.

Devon County Council as Waste Authority have also requested that a Waste Audit Statement is submitted with any future applications. This will be conditioned.

Trees:

The submitted information has been reviewed in accordance with the Plymouth & South West Devon Joint Local Plan 2014-2034, BS5837:2012 Trees in relation to Design, Demolition & Construction & further additional industry best practise guidance, policies and legislation as required.

Review of the submitted information has been made and it is considered that there are no significant arboricultural constraining features present internally to the site. Mature bounding hedges with trees within may be affected by any RM consent principally attention is drawn to concerns regarding the relationship between trees on the Southern elevation and proposed units. Easement of the units to the North would be encouraged at final layout stage to achieve arboricultural support at that stage.

The following would be required as part of any future RM application. a. Baseline Tree Survey, Arboricultural Impact Assessment, Tree Protection Methodologies, Tree Constraints Plan, Site Monitoring Schedule.

Ecology

As this is outline with all matters, except access reserved it has not been possible to assess the full impact of the development on ecology. It is important that this is considered at the outset of any future design and layout as this will need to shape the form of the development it respond to any constraints. Therefore a baseline ecology survey will be conditioned and this would need to be evidenced to inform and development a Landscape and Ecology Management Plan.

Energy

Policy DEV32 of the JLP requires that major development needs to be considered in relation to the energy hierarchy and incorporate low carbon or renewable energy generation to achieve regulated carbon emission levels of 20% less than that required to comply with Building Regulations Part L.

As this is an outline application this will be conditioned to ensure that it can be delivered and considered at reserved matters stage.

Conclusion

This development will deliver an exception site which will help meet local affordable housing need as well as provide important local infrastructure. Subject to conditions to mitigate the impact of the development this application is recommended for approval,

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 **Planning Policy**

Section 70 of the 1990 Town and Country Planning Act requires that regard be had to the development plan, any local finance and any other material considerations. Section 38(6) of the 2004 Planning and Compensation Act requires that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of decision making, as of March 26th 2019, the development plan for Plymouth City Council, South Hams District Council and West Devon Borough Council (other than parts of South Hams and West Devon within Dartmoor National Park) comprises the Plymouth & South West Devon Joint Local Plan 2014 - 2034.

Following adoption of the Plymouth & South West Devon Joint Local Plan by all three of the component authorities, monitoring will be undertaken at a whole plan level. At the whole plan level, the combined authorities have a Housing Delivery Test percentage of 166%. This requires a 5% buffer to be applied for the purposes of calculating a 5 year land supply at a whole plan level. When applying the 5% buffer, the combined authorities can demonstrate a 5-year land supply of 6.5 years at the point of adoption.

Adopted policy names and numbers may have changed since the publication of the Main Modifications version of the JLP.

The relevant development plan policies are set out below:

The Plymouth & South West Devon Joint Local Plan was adopted by South Hams District Council on March 21st 2019 and West Devon Borough Council on March 26th 2019.

SPT1 Delivering sustainable development

SPT2 Sustainable linked neighbourhoods and sustainable rural communities

SPT3 Provision for new homes

TTV1 Prioritising growth through a hierarchy of sustainable settlements

TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area

TTV25 Development in the Sustainable Villages

TTV26 Development in the Countryside

TTV27 Meeting local housing needs in rural areas

DEV1 Protecting health and amenity

DEV2 Air, water, soil, noise, land and light

DEV3 Sport and recreation

DEV4 Playing pitches

DEV8 Meeting local housing need in the Thriving Towns and Villages Policy Area

DEV9 Meeting local housing need in the Plan Area
DEV10 Delivering high quality housing
DEV19 Provisions for local employment and skills
DEV20 Place shaping and the quality of the built environment
DEV21 Development affecting the historic environment
DEV23 Landscape character
DEV26 Protecting and enhancing biodiversity and geological conservation
DEV27 Green and play spaces
DEV28 Trees, woodlands and hedgerows
DEV29 Specific provisions relating to transport
DEV30 Meeting the community infrastructure needs of new homes
DEV31 Waste management
DEV32 Delivering low carbon development
DEV35 Managing flood risk and Water Quality Impacts
DEL1 Approach to development delivery and viability, planning obligations and the Community Infrastructure Levy

Neighbourhood Plan

None

Other material considerations include the policies of the National Planning Policy Framework (NPPF) including but not limited to paragraphs 77 and 79 and guidance in Planning Practice Guidance (PPG). Additionally, the following planning documents are also material considerations in the determination of the application: JLP SPD.

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

Conditions in full

1. In the case of any matter reserved by this permission application for approval of any reserved matter must be made not later than the expiration of three years beginning with the date of grant of outline planning permission.

The development to which this permission relates must be begun not later than whichever is the later of the following dates:

- (i) the expiration of three years from the date of the grant of outline planning permission; or if later
- (ii) the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby authorised shall be carried out in accordance with detailed drawings which shall previously have been submitted to and approved by the Local Planning Authority. These detailed drawings shall show the following: (a) the design and external appearance of the proposed building(s); (b) its/their siting; (c) existing (and proposed) (i) site levels (together with proposed (ii) slab levels); (d) the materials for their construction (e) the areas for (i) parking (ii) (and turning) of vehicles (in accordance with the Devon County Council's parking standards); (f) all other works including walls fences means of enclosure screening. (g) the design, layout, levels, gradients, materials, drainage, lighting and method of construction of all new roads and connection with existing roads.

Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals.

3. The development hereby approved shall in all respects accord strictly with drawing number(s) Amended Site Location Plan REV8 432 received by the Local Planning Authority on 18/10/2020

Reason: To ensure that the proposed development is carried out in accordance with the drawings forming part of the application to which this approval relates.

4. The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins, For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that adequate information is available for the proper consideration of the detailed proposals.

5. No part of the development hereby approved shall be commenced until:

- A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway
- B) The ironwork has been set to base course level and the visibility splays required by this permission laid out
- C) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority

Reason: To ensure that adequate on site facilities are available for all traffic attracted to the site during the construction period, in the interest of the safety of all users of the adjoining public highway and to protect the amenities of the adjoining residents

6. The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:

- A) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
- B) The cul-de-sac shared surface, footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
- C) The cul-de-sac visibility splays have been laid out to their final level;
- D) The street lighting cul-de-sac and footpaths has been erected and is operational;
- E) The car parking and any other vehicular access facility required for the dwelling by this permission has/have been completed;
- F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined;
- G) The street nameplates for the cul-de-sac have been provided and erected.

Reason: To ensure that adequate access and associated facilities are available for the traffic attracted to the site

7. When once constructed and provided in accordance with condition 3 above, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority

Reason : To ensure that these highway provisions remain available

8. No development shall start until a Method of Construction Statement, to include details of:

- (a) parking for vehicles of site personnel, operatives and visitors
 - (b) loading and unloading of plant and materials
 - (c) storage of plant and materials
 - (d) programme of works (including measures for traffic management)
 - (e) provision of boundary hoarding behind any visibility zones
- has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction period.

Reason :- In the interest of highway safety

9. Not later than the submission of the first reserved matters following this approval, a Landscape and Visual Impact Appraisal (LVIA) shall be submitted to and approved in writing by the Local Planning Authority. The LVIA shall assess the impact of the development on the landscape and inform the design, siting and layout of the reserved matters application.

Reason: As this is an outline planning permission further consideration of the development on the landscape needs to be fully understood.

10. The building works/change of use shall not be implemented until a landscaping scheme and Detailed hedgerow removal and replacement to accommodate the site access, to include any ancillary structures, has been submitted to and approved by the Local Planning Authority, indicating the boundary treatment of the proposed plots/development.

The scheme submitted shall be fully implemented in the planting season following the completion of the development and the plants shall be protected, maintained and replaced as necessary for a minimum period of five years following the date of the completion of the planting.

Reason: In the interest of visual amenity in order to protect and enhance the amenities of the site and locality.

11. A Tree Survey to BS 5837;2012 and Hedgerow Protections Plan should be submitted alongside the reserved matters submission of layout details (this should be undertaken by a qualified Arboriculturalist). This survey should include layout design showing the Root Protection Area and representing the effect that the mature height and spread of retained trees will have on the layout through shade, dominance etc. An accompanying plan should identify the Construction Exclusion Zone.

Reason: To ensure adequate protection of landscape features

12. Not later than the submission of the first reserved matters following this approval, a Waste Management Plan which deals with construction waste and a Skills Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To provide local skills and training and minimise waste.

13. Not later than the submission of the first reserved matters following this approval a scheme to demonstrate how the requirements of JLP policy DEV32: Delivering Low Carbon Development will be delivered shall be submitted to the Local Planning Authority and approved in writing. Development shall take place in accordance with the approved details prior to the occupation of the dwelling/building to which they relate.

Reason: To ensure the development contributes toward delivering a low carbon future for West Devon and supports the Plan Area target to halve 2005 levels of carbon emissions by 2034 and increase the use and production of decentralised energy.

14. Not later than the submission of the first reserved matters following this approval, a scheme to demonstrate compliance with the Nationally Described Space Standards and demonstrating adequate external amenity space or private gardens, shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: in the interests of providing high quality housing, good living standards and meet the needs of the housing needs of the area, in accordance with policy DEV10 of the Joint Local Plan.

15. Not later than the submission of the first reserved matters following this approval, a scheme to demonstrate compliance with Policy DEV8 of the Plymouth and South West Devon Joint Local and demonstrate that the development meets local housing needs shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure the development meets local housing needs.

16. There shall be no external lighting within the site unless otherwise agreed in writing with the Local Planning Authority. Any submitted lighting scheme shall include details of the position, type, luminance and cowling of all external lights to the building and external areas. Upon the commencement of the use the external lighting shall accord strictly with the approved details.

Reason: To safeguard the appearance of the locality and biodiversity.

17. Prior to commencement of the development hereby approved a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the LPA and the development, including any future development under reserved matters applications, shall be undertaken in accordance with the LEMP as approved. The LEMP shall detail ongoing management of the boundary features and structure planting to maximise wildlife value and deliver a net gain in bio-diversity. The LEMP should also include details of provision of inbuilt/tree mounted bat and bird boxes, and reptile hibernacula with details of ongoing management and replacement.

Reason: in the interests of ecology.

18. No part of the development hereby permitted shall be commenced until the full details of the adoption and maintenance arrangements for the proposed permanent surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development's permanent surface water drainage management systems will remain fully operational throughout the lifetime of the development.

Reason for being a pre-commencement condition: These details need to be submitted prior to commencement of any works to ensure that suitable plans are in place for the maintenance of the permanent surface water drainage management plan, for the reason above.

19. No part of the development hereby permitted shall be commenced until details of the exceedance pathways and overland flow routes across the site in the event of rainfall in excess of the design standard of the proposed surface water drainage management system have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the surface water runoff generated from rainfall events in excess of the design standard of the proposed surface water drainage management system is safely managed.

20. No part of the development hereby permitted shall be commenced until the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction has been submitted to, and approved in writing by, the Local Planning

Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the construction site.

Reason: To ensure that surface water runoff from the construction site is appropriately managed so as to not increase the flood risk, or pose water quality issues, to the surrounding area.

Reason for being a pre-commencement condition: A plan needs to be demonstrated prior to the commencement of any works to ensure that surface water can be managed suitably without increasing flood risk downstream, negatively affecting water quality downstream or negatively impacting on surrounding areas and infrastructure.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

21. No part of the development hereby permitted shall be commenced until the full results of a groundwater monitoring programme (should infiltration is viable), undertaken over a period of 12 months, has been submitted to, and approved in writing by, the Local Planning Authority. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

Reason: To ensure that the use of infiltration devices on the site is an appropriate means of surface water drainage management.

Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it could affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.

22. No part of the development hereby permitted shall be commenced until a programme of percolation

tests has been carried out in accordance with BRE Digest 365 Soakaway Design (2016), and the results approved in writing by the Local Planning Authority. A representative number of tests should be conducted to provide adequate coverage of the site, with particular focus placed on the locations of the proposed infiltration devices/permeable surfaces.

Reason: To ensure that surface water from the development is discharged as high up the drainage hierarchy as is feasible.

Reason for being a pre-commencement condition: This data is required prior to the commencement of any works as it will affect the permanent surface water drainage management plan, which needs to be confirmed before development takes place.

23. No part of the development hereby permitted shall be commenced until the detailed design of the proposed permanent surface water drainage management system has been submitted to, and approved in writing by, the Local Planning Authority. The application for the detailed drainage should be submitted and agreed at the same time that the reserved matters for layout are submitted and agreed. The design of this permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems, and those set out in the Drainage Statement Storm in relation to Planning Application 0321/20/OPA Proposed 10 New Dwellings with All Matters Reserved land North of Brandize Cottage EX20 3AQ (Rev. B, dated 12th May 2020). No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall be retained and maintained for the lifetime of the development.

Reason: To ensure that surface water runoff from the development is managed in accordance with the principles of sustainable drainage systems.

Advice: Refer to Devon County Council's Sustainable Drainage Guidance.

24. Unexpected Contamination If, during development, contamination not previously identified is found to be present at the site then no further development (unless

otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an investigation and risk assessment and, where necessary, a remediation strategy and verification plan detailing how this unsuspected contamination shall be dealt with.

Following completion of measures identified in the approved remediation strategy and verification plan and prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

Reason: No site investigation can completely characterise a site. This condition is required to ensure that any unexpected contamination that is uncovered during remediation or other site works is dealt with appropriately.

25. Prior to the occupation of the development hereby approved each of the dwellings shall be provided with electric vehicle charging points.

Reason: To provide low carbon facilities.

Report to: **Development Management and Licensing Committee**

Date: **24 November 2020**

Title: **Review of Statement of Licensing Policy for 2021 - 2026**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **Council Meeting on 8 December 2020 – see below recommendation**

Author: **Naomi Stacey** Role: **Specialist - Licensing**

Contact: **01803 861268 / naomi.stacey@swdevon.gov.uk**

Recommendations:

1. That the Licensing Committee considers the draft Licensing Policy (**Appendix A**) and responses received during the public consultation and makes any changes it deems necessary.
2. That the Licensing Committee recommends to Council that the draft Licensing Policy, as amended, is adopted at the meeting on 8 December 2020 for the period 7 January 2021 to 6 January 2026.

1. Executive summary

- 1.1 Section 5 of Licensing Act 2003 (the 'Act') requires that Licensing Authorities have in place a Statement of Licensing Policy with respect to the exercise of its licensing functions and that this policy is reviewed at least every five years. West Devon Borough Council's current Licensing Policy was adopted in December 2015 and came into effect on 7 January 2016. It is therefore necessary for an updated Statement of Licensing Policy to be adopted in advance of 7 January 2021.

2. Background

- 2.1 The purpose of the Licensing Policy is to assist the Licensing Authority in determining applications and to provide clarity for applicants, residents and members of the business community. It provides information and guidance on the general approach that the Licensing Authority will take when assessing applications and sets out expected operating standards.
- 2.2 This Licensing Authority covers a wide variety of licensed premises undertaking a range of activities, including pubs, restaurants, private members' clubs, village and community halls, cinemas, off-licences and late night food premises. It is therefore important that the Licensing Policy is sufficiently flexible to reflect their differing needs and characteristics.
- 2.3 The proposed draft document is attached at **Appendix A**. A summary of the changes that have been made from the current version (2011-2016), is provided at **Appendix B**. Included are new sections on safeguarding, film classifications and partnership working, as well as amendments due to updated legislation and statutory guidance. Much of the previous policy has not changed, but sections have been re-ordered and put under different headings, to make the document flow more logically. New sections and amendments have been highlighted in red in the draft document.
- 2.3 Before determining the Licensing Policy, Licensing Authorities must first consult with certain persons or bodies, namely:
- The Chief Officer of Police;
 - The Fire and Rescue Authority;
 - Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
 - Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
 - Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
 - Such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- 2.4 A list of the organisations/persons that have been consulted is provided at Appendix D of the Licensing Policy document (**Appendix A**). The Statement was subject to a public consultation during the period 21 July to 16 October 2020. During this time the document was available on the Council website and promoted through a press release, as well as through social media.

- 2.5 A summary of the consultation responses, together with suggested amendments can be found at **Appendix C**. The suggested amendments have been provisionally incorporated into the revised draft.
- 2.6 The current Statement of Licensing Policy for 2016-2021 and the original consultation responses are included within the background documents and are available upon request.
- 2.7 In determining its Licensing Policy, the Authority must have regard to Guidance issued by the Secretary of State under Section 182 of the Act, and give appropriate weight to representations made within the consultation period.
- 2.8 The Licensing Authority must carry out its licensing functions with a view to promoting the licensing objectives. These are:-
- a) The prevention of crime and disorder
 - b) Public safety
 - c) The prevention of public nuisance
 - d) The protection of children from harm
- The Licensing Authority must also have regard to its Licensing Statement of Policy and guidance issued by the Secretary of State under section 182 of the Act.
- 2.9 The draft Licensing Policy was prepared with regard to other Licensing Authorities' policies in Devon. We have tried to align our policies to promote a consistent approach to regulation. This is particularly helpful for Responsible Authorities, such as the police, which cover the whole Devon area.
- 2.10 At the meeting of the Licensing Committee on 24 November 2020, Members will have a final opportunity to make any further amendments before the Licensing Committee is asked to recommend the approval of the draft to Council.

3. Outcomes/outputs

- 3.1 Legislation prescribes that Full Council is empowered to adopt the Draft Statement of Licensing Policy. Adoption cannot be delegated to the Licensing Committee.
- 3.2 The following timetable is proposed in respect of the consultation and adoption of the Statement of Principles:

Action	Date
Draft Statement of Licensing Policy published and distributed for consultation	21 July 2020
Consultation concludes	16 October 2020
Licensing Committee approval of revised Statement of Licensing Policy and agrees to recommend to Council for adoption	24 November 2020

Revised Licensing Policy approved by Council	8 December 2020
Licensing Policy comes into effect	7 January 2021

4. Options available and consideration of risk

- 4.1 Failure to produce a licensing policy statement in accordance with the Act and accompanying Regulations is a breach of statutory duty and will render the Authority susceptible to criticism and legal challenge. Without adoption of the Statement of Licensing Policy the Licensing Authority is powerless to make decisions or exercise the licensing objectives in its locality.
- 4.2 The consultation process was undertaken between 21 July and 16 October 2020. Members will need to consider the consultation responses and give proper weight to comments, amending the draft policy as considered appropriate. The consultation responses and provisional suggested amendments can be found in **Appendix C**.
- 4.3 Following meeting of Licensing Committee on 24 November 2020, on track for adoption of Statement of Principles at Council meeting on 8 December 2020.

5. Proposed Way Forward

- 5.1 The Licensing Committee recommends to Full Council that the draft Statement of Licensing Policy, as amended, is adopted at the meeting on 8 December 2020 for the period 7 January 2021 to 6 January 2026.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	Y	<p>Section 5 of Licensing Act 2003 requires that Licensing Authorities have in place a Statement of Licensing Policy with respect to the exercise of its licensing functions and that this policy is reviewed at least every five years.</p> <p>Before determining the Licensing Policy, Licensing Authorities must first consult with certain persons or bodies, namely:</p> <ul style="list-style-type: none"> • The Chief Officer of Police; • The Fire and Rescue Authority' • Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority; • Such persons as the licensing authority

		<p>considers to be representative of holders of club premises certificates issued by that authority;</p> <ul style="list-style-type: none"> • Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and • Such other persons as the licensing authority considers to be representative of businesses and residents in its area. <p>Legislation requires the Statement to take effect from 7 January 2021.</p>
Financial		The associated preparation and publication costs will be met in full from Licensing Act 2003 applications and annual fees income. Therefore, there are no financial implications to the Council from this report.
Risk		<p>Failure to produce a Statement of Licensing Policy in accordance with the Licensing Act 2003 and its accompanying Regulations is a breach of statutory duty and will render the Council powerless to make decisions or exercise the licensing objectives in its locality.</p> <p>Not adopting a Licensing Policy could leave the Council open to criticism and legal challenge.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		There is the duty on Council when considering applications or enforcement action to comply with Human Rights Act 1998. Equality Impact Assessment carried out prior to publication.
Safeguarding		The protection children from harm is one the licensing objectives underpinning the Licensing Act 2003.
Community Safety, Crime and Disorder		The prevention of crime and disorder is one of the licensing objectives underpinning the Licensing Act 2003.
Health, Safety and Wellbeing		Since 2011 health bodies (directors of public health) have been included as responsible authorities under Licensing Act 2003. They are able to make representations in relation to applications or apply to review licences should they have reason to do so in relation to the licensing objectives.
Other implications		

Supporting Information

Appendices:

Appendix A – Draft Statement of Licensing Policy

Appendix B – Summary of changes

Appendix C – Summary of consultation responses and suggested amendments

Background Papers:

- Licensing Act 2003 and associated relevant Regulations
- Guidance issued under section 182 Licensing Act 2003
- West Devon Borough Council's Statement of Licensing Policy, which expires January 2021
- Consultation responses

Process checklist	Completed
Portfolio Holder briefed	Yes/No
SLT Rep briefed	Yes/No
Relevant Exec Director sign off (draft)	Yes/No
Data protection issues considered	Yes/No
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	Yes/No



West Devon Borough Council

DRAFT

**Statement of
Licensing Policy**

UNDER THE LICENSING ACT 2003

For the period **January 2021 to January 2026**

(Approved by Full Council on **XXXXXX**)

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1. Introduction

- 1.1 This is the **fourth** review of our Statement of Licensing Policy which West Devon Borough Council ('the Council') is required, by law, to carry out every five years. Such a policy must be published before the Authority carries out any function in respect of individual applications made under the Act.
- 1.2 Since the Licensing Act 2003 came into force in November 2005, the Authority has gained valuable experience in the administration and enforcement of the legislation. We have been keen to develop good working relationships with all licence holders and hope we have succeeded in achieving this aim. We recognise that licensed premises come in all shapes and sizes – whether they are a pub, a restaurant, a community hall or the village shop selling a few bottles of wine – and that our licensing policy must be sufficiently flexible to reflect their differing character and needs. This policy therefore seeks to provide information and guidance to applicants, licence holders, interested parties and responsible authorities on the general approach that the Authority will take when assessing applications and sets out the operating standards we will expect to see.
- 1.3 This revision of our Policy has been carried out as part of the closer working arrangements between Devon authorities. It also makes good sense – given similar characteristics and demographics of some of the Districts and Boroughs – to align our policies as closely as practicable in order to achieve a consistent approach to regulation. This should assist the Responsible Authorities – particularly the police – as it will provide a common baseline for regulation throughout the Authority area.
- 1.4 We will endeavour to apply the Policy fairly, consistently and in a way which promotes the objectives set out in the legislation. Good decision-making makes for good licensing regulation. Officers and Members of the Authority are trained to have a sound understanding of licensing law and the principles which underpin it. This means that applicants and licence holders can be confident that their applications will be dealt with competently and professionally.
- 1.5 The leisure and entertainment industry is a major contributor to the economy of the Borough. It attracts tourists and visitors to our area, makes for vibrant towns and communities and is a major employer. The Council recognises the value of the industry to the economic health of the area and is keen to promote well managed premises. However, the Council – as the Authority – also has to take account of the needs of its residents who have the fundamental human right to the peaceful enjoyment of their property and possessions. Through this policy, the authority will try to reconcile these often conflicting demands, balancing the legitimate needs of business with the rights of persons living near licensed premises.
- 1.6 In the preparation and publication of this policy West Devon Borough Council as the Licensing Authority has had regard to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003, including the amended guidance published in **April 2018**. Nothing in this policy document should be

regarded or interpreted as an indication that any requirement of licensing or other law may be overridden. Applicants and licence holders who require legal advice on a specific licensing topic are advised to consult a licensing solicitor.

1.7 The Licensing Authority will keep the policy statement under regular review and make such revisions it feels appropriate. Where revisions are made, the Licensing Authority shall publish a statement of revisions or a revised licensing policy statement.

1.8 **Purpose and scope of the Licensing Policy**

1.8.1 This Statement of Licensing Policy is based upon the Licensing Act 2003 ("the Act") and is in line with the Home Office Guidance to local authorities and takes effect from **7 January 2021**.

1.8.2 **The Policy has four main purposes:**

- **To assist the Licensing Authority in determining licence applications in a consistent and equitable manner;**
- **To inform and advise applicants;**
- **To inform and advise residents and businesses; and**
- **To inform a court at appeal.**

1.8.3 **The Policy will support the Licensing Authority in its obligation to promote the following four licensing objectives:**

- **The prevention of crime and disorder;**
- **Public safety;**
- **The prevention of public nuisance;**
- **The protection of children from harm.**

1.8.4 **Any departure from the Policy would only be considered when doing so would be of benefit to the promotion of the licensing objectives. Reasons must be given for any departure from policy and it is expected that this would only happen in exceptional circumstances.**

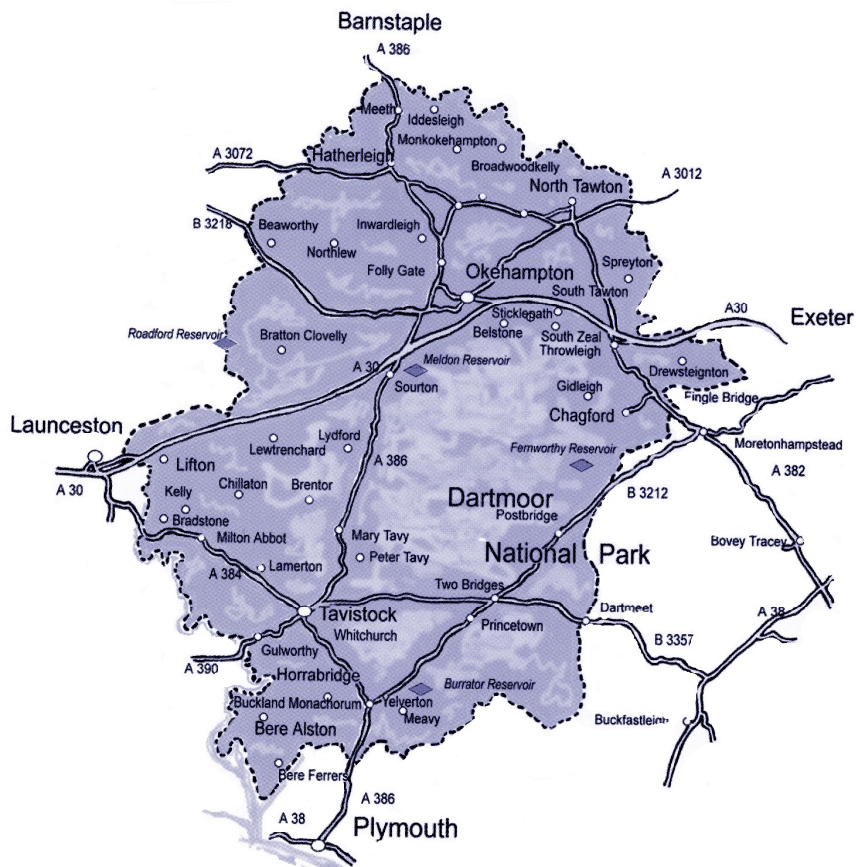
1.8.5 This policy relates to all those licensable activities identified as falling within the provisions of the Act wherever they take place, namely: -

- Retail sale of alcohol
- Supply of alcohol to club members
- The supply of hot food and /or hot drink from any premises including food stalls between 11pm and 5am.
- Provision of 'regulated entertainment' - to the public, to club members or with a view to profit, including raising money for charity, where the entertainment involves:
 - A performance of a play
 - An exhibition of a film
 - An indoor sporting event
 - Boxing or wrestling entertainment
 - A performance of live music

- Any playing of recorded music
- A performance of dance
- Entertainment of a similar description to live music, recorded music or dance

1.8.6 The policy encompasses new applications, variations (including transfers and changes of designated premises supervisors), reviews, notices and existing licences.

1.9 Description of the Licensing Authority Area



1.9.1 West Devon is one of the largest, geographical local authorities in England with a rural area of 458 square miles, or 1160 square kilometres.

1.9.2 The Borough extends from the northern outskirts of Plymouth to within 13 kilometres of Exeter. Its western boundary is the River Tamar on the Cornish border, from which it stretches eastwards and northwards to encompass a major part of the Dartmoor National Park (520 square kilometres).

1.9.3 With its historic market towns and beautiful countryside, West Devon is a highly desirable area in which to live.

- 1.9.4 Being predominantly rural in nature; West Devon has a population of 55,800¹ (2019). The largest towns are Tavistock and Okehampton, with populations of 12,280 and 7,647 respectively (National Census 2011) however, nearly 66% of the population of West Devon live outside of these two settlements in the surrounding villages, hamlets and isolated cottages in the countryside.
- 1.9.5 The Borough has a higher proportion of older people than the national average, with a small but steady outward migration of younger people.
- 1.9.6 At the time of preparing this Policy (August 2020), the Authority has responsibility for regulating:
- 287 alcohol-licensed premises and members' clubs
 - 52 non alcohol licensed premises
 - 421 temporary events (2019 figure).
- 1.9.7 This Policy promotes the Council's Core Purpose which is: 'To make a positive impact on the lives of local people by providing valued and easy to use services.' The Council's Core Strategy Themes are 'Homes, Wellbeing, Communities, Council, Enterprise and Environment.'

1.10 Consultation

- 1.10.1 Before determining this Policy, the Licensing Authority (the Authority) consulted with the following statutory consultees, in accordance with the requirements of Licensing Act 2003: -
- the Chief Officer of the Devon & Cornwall Constabulary
 - the Devon & Somerset Fire & Rescue Service
 - Public Health Devon
 - such persons as the Licensing Authority considered to be representative of the holders of premises licences issued by this authority
 - such persons as the Licensing Authority considered to be representative of holders of club premises certificates issued by this authority
 - such persons as the Licensing Authority considered to be representative of holders of personal licences issued by this authority
 - such other persons as the Licensing Authority considered to be representative of businesses and residents in the area
- 1.10.2 The Licensing Authority may consult beyond the statutory requirements to seek comments from particular bodies or representatives of groups associated with the entertainment industry, arts and culture, Community Safety Partnership and the legal profession. Those consulted include a body competent to advise on child protection, Weights and Measures (Trading Standards), Health and Safety Executive, Environmental Health, Planning and Building Control, Maritime and Coastguard Agency and the Environment Agency.

¹ Facts and Figures, Devon County Council: <https://www.devon.gov.uk/factsandfigures/data-table/?postId=mid-year-population-estimates&geography=464>

- 1.10.3 A full list of all of the bodies that this Licensing Authority consulted with can be found at Appendix D.
- 1.10.4 Proper weight has been given to the views of all those consulted prior to implementing this Policy.
- 1.10.5 The Policy was formally adopted by the Council on XXXXXX
- 1.10.6 The policy statement will remain in existence for a maximum period of 5 years and will then be subject to review and further consultation.

2. The Licensing Function

2.1 Regulation

2.1.1 Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events within the terms of the Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.

2.1.2 It is the Licensing Authority's wish to facilitate well-managed premises with licence holders displaying sensitivity to the impact of the premises on the quality of life of persons living and/or working in the vicinity of the premises. The aim of the licensing function is to regulate licensable activities so as to promote the licensing objectives.

2.1.3 The licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as a panacea for solving all problems within the community. In addition to the licensing function there is a breadth of other strategies and mechanisms for addressing these problems, for example:

- planning controls
- **community safety partnerships**
- police enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- powers of police and local authorities under the Anti-Social Behaviour, Crime and Policing Act 2014
- the prosecution of any personal licence holder or member of staff selling alcohol to people who are drunk
- confiscation of alcohol from adults and children in designated areas (Public Spaces Protection Orders – **see 2.4.4**)
- police powers to close some premises for up to 24hrs in extreme cases of disorder or excessive noise (Licensing Act ss. 160 & 161)
- the power of the police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate (**see 6.2**)

2.1.4 The Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of West Devon, attracting tourists and visitors, making for a vibrant Borough and is a major employer. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses. The Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.

2.1.5 Licensing law is not the primary mechanism for the general control of nuisance

and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

2.1.6 Functions under the Act are to be taken or carried out by its licensing committee who may delegate these functions to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. Many of the decisions and functions will be purely administrative in nature and so will be delegated in the interests of speed, efficiency and cost-effectiveness.

2.1.7 **The Authority will ensure that all Officers and Members have received adequate and appropriate training for their roles under the Licensing Act 2003.**

2.1.8 The schedule of delegated authority in accordance to which applications will be dealt, is attached at Appendix A.

2.2 The Licensing Authority as a Responsible Authority

2.2.1 The Licensing Authority is included as one of the Responsible Authorities under the Act. This enables the Licensing Authority to make representations about an application for a premises licence or a club premises certificate, or to apply for a review of a premises licence or club premises certificate.

2.2.2 When the Licensing Authority is acting as a responsible authority it is important to maintain a separation of responsibilities within the Authority's Licensing Team so that there is procedural fairness and to avoid a conflict of interest.

2.2.3 In these cases, different responsibilities will be allocated to different officers within the Authority. This procedure is set out within the Environmental Health Community of Practice delegation of powers.

2.3 Partnership Working

2.3.1 **The Licensing Authority will continue to work in partnership with its neighbouring authorities, South Devon and Dartmoor Community Safety Partnership (CSP), the Responsible Authorities, local businesses and local people in a co-ordinated approach to tackling alcohol-related crime and anti-social behaviour, as well as for the overall promotion of the licensing objectives.**

2.3.2 Police and Community Safety Partnership

2.3.3 **The Licensing Authority looks to the police as the main source of advice on crime and disorder, but where appropriate, we will also seek to involve the local Community Safety Partnership (CSP). It should be noted however that any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations**

2.3.4 Security Industry Authority

2.3.5 In the exercise of its functions, the Licensing Authority seeks to co-operate with the Security Industry Authority (“SIA”) as far as possible and will consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, appear intoxicated by drugs, drug dealers, known sex predators or people carrying firearms do not enter the premises and ensuring that the police are kept informed and / or paramedics called where there are health concerns.

2.3.6 Home Office Immigration Enforcement

2.3.7 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. The Licensing Authority will work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

2.3.8 Public Health

2.3.9 The Director for Public Health in Devon is a responsible authority under the Act, and may make representations in respect of applications for premises licences and club premises certificates, and apply to review licences and certificates.

2.3.10 There is no licensing objective relating purely to public health, and as such any representations or applications made by the Director for Public Health must be based upon one or more of the current licensing objectives. Representations relating solely to public health issues are not relevant under the Act.

2.3.11 However, Public Health may hold relevant data which can be used within the licensing process. In particular, the authority may seek to rely upon public health data if it considers the introduction of a special licensing policy, such as a cumulative impact policy or an early morning alcohol restriction order.

2.3.12 The Licensing Authority will work in partnership with Public Health and other Responsible Authorities with an overall aim to reduce alcohol-related harm.

2.3.13 Fire Service

2.3.14 Devon and Somerset Fire and Rescue Service are a responsible authority under the Act and a key source of advice under the public safety licensing objective. The Licensing Authority will work together with the Fire Service in respect of concerns about safety at licensed premises or large events, ensuring relevant information is shared.

2.3.15 Better Businesses for All (BBfA)

2.3.16 West Devon Borough Council are fully committed to the Devon and Somerset Better Business for All (BBfA) Regulatory Services Partnership, which is endorsed by the Better Regulatory Delivery Office (BRDO), part of the Department for Business, Innovation and Skills (BIS). The purpose is to build a local partnership between businesses and regulators across Devon and Somerset to promote economic prosperity, whilst maintaining public protection. This document will ensure that the Regulator will work in accordance with the BBfA principles. In doing so the Authority will create an environment and culture which will support our local businesses by making the activity that is being regulated easy to access, simple and clear to understand, whilst ensuring public protection.

2.3.17 The Council will listen to business needs and act in an open and transparent way to help shape the way support is provided, this will be done following business consultations and throughout service use.

2.3.18 Better Business for All is business-focused, using business-led improvements to create better regulation, support business growth and create a level playing field for businesses. In order to achieve this the Policy will be implemented in a consistent manner with competent enforcement staff who are working with the right attitudes and behaviours for the benefit of our Communities.

2.4 **Related Legislation, Policies and Guidance**

2.4.1 When making licensing decisions, the Licensing Authority will have regard to and take into consideration other legislation, strategies, policies and guidance, including: -

(i) Legislation

- Crime and Disorder Act 1998 (in particular obligations under section 17 relating to the prevention of crime and disorder)
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- Equality Act 2010
- Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- Health and Safety at Work etc Act 1974
- Environmental Protection Act 1990
- Anti-Social Behaviour, Crime and Policing Act 2014

- Building Regulations
- Regulatory Reform (Fire Safety) Order 2005
- Town and Country Planning Act 1990
- Private Security Industry Act 2001
- Violent Crime Reduction Act 2006
- Police Reform and Social Responsibility Act 2011
- Live Music Act 2012
- Immigration Act 2016

(ii) Strategies

- Community Safety Partnership Peninsula Strategic Assessment
- Department for Business Innovation & Skills – Age Restricted Products and Services: A Code of Practice for Regulatory Delivery
- Current South Devon and Dartmoor Community Safety Strategy
- Current Government alcohol strategy

(iii) Policies

- Better Regulation Delivery Office: Regulators' Code
- Hampton Principles (see glossary)
- Plymouth and South West Joint Local Plan
- Devon County Council Transport Plan
- West Devon Borough Council's Enforcement Policy
- Enforcement Policies of each Responsible Authority

(iv) Guidance

- Guidance issued under s.182 of the Licensing Act (Home Office)
- Guidance to Health and Safety at Outdoor Events (The Purple Book)
- Guide to Fire Precautions in Existing Places of Entertainment and Like Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network.
- HSE Managing Crowds Safely: A guide for organisers at events and venues
- Technical Standards for Places of Entertainment
- Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
- Home Office guide to 'Safer Clubbing'
- Local Government Regulation policy on licensing large events
- The Security Industry Authority's guidance on security at events.

2.4.2 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder.

- 2.4.3 The grant of a licence does not imply the approval of other legislative requirements.
- 2.4.4 Public Spaces Protection Order
- 2.4.5 Under the provisions of the Act, consumption of alcohol is not a licensable activity. However, the Authority recognises that consumption of alcohol can be a major contributory factor to disorder and nuisance both within and outside licensed premises. The Council adopted the relevant powers under the Criminal Justice and Police Act 2001 to designate parts of the Borough as places where public consumption of alcohol may be restricted.
- 2.4.6 The Designated Public Place Order (DPPO) has since been replaced by the Public Spaces Protection Order (PSPO) in the Anti-Social Behaviour Crime and Policing Act 2014. PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable.
- 2.4.7 A PSPO may not have effect for a period of more than 3 years, unless extended prior to expiration of the order by the local authority in accordance with regulations.
- 2.4.8 There are currently no PSPOs in relation to alcohol consumption within the West Devon area.
- 2.4.9 Live Music Act 2012; The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013; The Legislative Reform (Entertainment Licensing) Order 2014
- 2.4.10 Since 2012, the Government has de-regulated various types of entertainment which previously fell under the control of the Licensing Act 2003.
- 2.4.11 Included in this de-regulation are the following:
- the provision of live and recorded music at certain times of the day (dependent upon the nature of the premises and other licences in place);
 - removal of requirement to licence the provision of facilities for making music or dancing;
 - Performance of plays or performance of dance for audiences up to 500 persons;
 - Indoor sporting events for audiences up to 1000 persons
 - Greco-Roman and freestyle wrestling between 8am and 11pm for audiences up to 1000 persons;
 - Exhibition of film that is incidental to another activity;
 - Reduced requirements for travelling circuses.
- 2.4.12 Full details of the de-regulation can be found on GOV.UK. If further clarification is required, it is recommended that applicants contact the Licensing Team prior to providing entertainment.

- 2.4.13 The Authority recognises the importance of encouraging live music as part of the Authority's wider cultural strategy and will endeavour to promote this activity through its licensing function. However, applicants and licence holders must be aware that, although certain types of live music are no longer licensable, this does not mean that such activity is totally exempt from licensing controls. Also, the Authority would draw to the organisers' attention the legislation within The Environmental Protection Act 1990 to limit noise nuisance. The legal duty on licence holders to promote the licensing objectives remains. A Responsible Authority or any other person may apply for a review of a premises licence where it can be demonstrated that live music provided under the provisions of the Live Music Act undermines any of the licensing objectives.
- 2.4.14 When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance constitutes live music or not. If in doubt, organisers of events should check with the Licensing Team prior to the event.
- 2.4.15 Sexual Entertainment Venues
- 2.4.16 Performances of dance which are "relevant entertainment" within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") are not affected by The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, regardless of the size of the audience or the time of day. "Relevant entertainment" is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.
- 2.4.17 In almost all cases where a performance of dance is potentially licensable as both the provision of relevant entertainment (under the 1982 Act) and regulated entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act will be required where:
- the premises are not licensed as a sex entertainment venue under the 1982 Act, and
 - relevant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.
- 2.4.18 Where the promoter of a sexual entertainment venue wishes to provide any of the licensable activities as outlined in the Licensing Act 2003, in addition to relevant entertainment, a premises licence will also be required to authorise such activities.

- 2.4.19 The Council's Sexual Entertainment Venues Policy is the subject of separate public consultation and the adopted policy stands separate from this Licensing Policy. The Sexual Entertainment Venues policy can be viewed on the Council's website.
- 2.4.20 [Gambling Act 2005](#)
- 2.4.21 The provision of gaming machines and certain forms of low-stakes gambling (e.g. poker, bingo) are permitted in alcohol-licensed premises and qualifying clubs under the Gambling Act 2005. The type of gambling allowed and stakes and prizes are specified in regulations and are set at levels which are designed to keep this form of gaming a low-risk, sociable activity. Generally, such gaming should be ancillary to the primary use of the premises. The Authority may take action against a premise where it believes that gaming is becoming the dominant activity or is having a detrimental effect on the licensing objectives.
- 2.4.22 The Council has adopted a Gambling Act Policy which stands separate from this Licensing Policy. The Policy may be viewed on the Council website.
- 2.4.23 [Health Act 2006](#)
- 2.4.24 The introduction of the Health Act 2006 which prohibited smoking in enclosed or substantially enclosed spaces in England has had a significant impact on alcohol-licensed premises and qualifying clubs. In many premises, customers wishing to smoke must do so in beer gardens, outdoor patio areas or in the street. This can result in noise, nuisance and anti-social behaviour for nearby residents, businesses and passers-by, especially late at night when background noise levels are low. The Authority will expect applicants and licence holders to have particular regard to the management of customers in the immediate vicinity of their premises to ensure that their behaviour does not cause offence or undermine the licensing objectives.
- 2.4.25 [Immigration Act](#)
- 2.4.26 The commencement of the Immigration Act 2016 made it a requirement for licensing authorities to be satisfied that an applicant has the right to work in the UK. An application made by someone who is not entitled to work in the UK must be rejected. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work related to the carrying on of a licensable activity. A premises or personal licence issued in respect of an application made on or after 6 April 2017 will lapse if the holder's permission to live or work in the UK comes to an end.
- 2.4.27 [Coronavirus Act 2020](#)
- 2.4.28 The Coronavirus Act 2020 and subsequent regulations were implemented in March 2020 as a response to the global pandemic. While in effect (at the time of writing this policy) these restrictions have far-reaching consequences on the

operation of licensed premises and licensed events throughout the country. The Licensing Authority is committed to supporting licensed businesses at this difficult time to operate within the regulations. However, a dim view is taken of those licensed premises that do not comply and subsequently put their local communities at risk. Evidence of non-compliance with the Coronavirus legislation may be taken into consideration through a review of the premises licence and action can be taken, such as additional conditions, removal of the DPS or ultimately revocation of the licence. The Licensing Authority will work together with Environmental Health to promote the advice of Public Health England during any contact with licensed businesses.

2.4.29 Promotion of Equality and Human Rights

2.4.30 This policy recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Actions of the Licensing Authority will be undertaken with due regard to equality obligations and where necessary, information will be published at least annually by the Council.

2.4.31 The Human Rights Act 1998 incorporated the European Convention on Human Rights and makes it unlawful for the Authority to act in a way that is incompatible with a convention right. The Authority will have regard to the Human Rights Act when exercising its licensing functions.

2.4.32 Conditions relating to disabled access will not be attached to licences, as this would duplicate existing statutory requirements. The Authority therefore takes this opportunity to remind holders of premises licences and club premises certificates of their duties under the Equality Act 2010.

2.5 Integrating Strategies and Avoiding Duplication

2.5.1 By consulting widely prior to this policy statement being published, the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

2.5.2 The Licensing Authority will integrate its various strategies to achieve the licensing objectives in the interests of clarity for applicants and effective determination.

2.5.3 Where any protocols to be agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which lead to disorder and disturbance, the Licensing Authority will aim to inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.

2.5.4 The Licensing Authority's Licensing Committee will keep itself informed and consider wider issues which may need to be given due consideration when making licensing decisions. These may include:-

- needs of the local tourist economy
- cultural strategy for the area
- employment situation in the area and the need for new investment and employment where appropriate

2.5.5 The Licensing Authority recognises that it is a fundamental principle of the Act that the licensing function should not duplicate other statutory regulation. In particular, the Authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there is no legal basis to refuse a licence application because it does not have planning permission. It is however recommended that appropriate planning permissions be obtained before an application for a premises licence or club premises certificate is made.

2.5.6 In order to avoid duplication with other statutory regimes as far as possible the Licensing Authority will not attach conditions on a licence unless they are considered appropriate for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation e.g. The Health and Safety, At Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

2.5.7 Planning and Licensing

2.5.8 The planning and licensing systems involve consideration of different (albeit related) matters. Home Office guidance makes it clear that Licensing committees are not bound by decisions made by a planning committee, and vice versa. There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time.

2.5.9 An alternative example would be if a planning condition relating to noise control was imposed at a premises and the owner subsequently applied for a premises licence. If a planning officer had evidence that there had been a breach of the planning condition it may be appropriate for said officer to make a representation in respect of the licence application. This is because it would relate to the Prevention of Public Nuisance licensing objective.

3. Promotion of the Licensing Objectives

3.1 The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. These are: -

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

3.2 These objectives are the only matters to be taken into account in determining the application and any conditions attached must be appropriate to achieve the licensing objectives. Each objective is of equal importance. A licence will only be granted where the Licensing Authority is satisfied that these objectives have been met.

3.3 The Licensing Authority requires applicants to address the licensing objectives in their operating schedules having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location, and the needs of the local community. If there are no relevant representations then an application must be granted and subject only to mandatory conditions and conditions consistent with the applicant's operating schedule.

3.4 Applicants are advised to contact the Licensing Team and other Responsible Authorities for advice on addressing the licensing objectives prior to submission of a premises licence or club premises certificate application

3.5 Prevention of Crime and Disorder

3.5.1 The Authority will endeavour to reduce crime and disorder throughout the Borough, in accordance with its statutory duty under section 17 of the Crime and Disorder Act 1998.

3.5.2 The Authority will expect applicants to take appropriate and proportionate measures to promote the crime and disorder objective. Examples of the sources of crime and disorder which the Authority would require applicants to take into consideration may include, but are not limited to:

- Underage drinking;
- Drunkenness on the premises
- Public drunkenness
- Drugs
- Violent behaviour
- Overcrowding/occupancy capacity;
- Anti-social behaviour

3.5.3 Such measures to be taken to promote the crime and disorder objective may

include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

3.5.4 Drugs / Illegal Substances

3.5.5 The Licensing Authority recognises that drug use is not something that is relevant to all licensed premises. However, if relevant representations are made, special conditions may need to be imposed for certain types of venues in support of the prevention of the sale and consumption of drugs and to create a safer environment for those who may have taken them.

3.5.6 **Examples of such measures may include, but are not limited to:**

- Ensuring a highly visible staff presence throughout the premises.
- Regular checks by staff of ancillary areas such as lobbies, toilets, cloakrooms and corridors.
- Redesigning toilet facilities to remove horizontal surfaces, and niches and other areas where illicit items could be concealed.
- Ensuring that all staff, and door staff in particular, are trained to recognise visible signs that a person is under the influence of an illegal substance, and to refuse such persons entry to the premises.
- Operating robust 'search on entry' policies, with procedures in place to confiscate controlled drugs found during searches and hand these to police at the earliest opportunity.
- Carrying out testing on surfaces within the premises to detect the presence of traces of controlled drugs.
- Enforcing a zero tolerance policy to the use or supply of controlled drugs within the premises, ejecting or refusing entry to persons known to be linked to the use or supply of controlled drugs, and reporting to the police any person suspected of supplying controlled drugs.

3.5.7 In all cases where the Authority deems such conditions are appropriate for the promotion of the licensing objectives, advice will be taken from the Police.

3.5.8 Door Supervisors

3.5.9 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises.

3.5.10 The Licensing Authority, having regard to advice from relevant Responsible Authorities, may consider that certain premises, because of their nature of operation, their capacity, their licensing hours and the licensable activities provided, may require stricter supervision for the purpose of promoting the reduction of crime and disorder and public nuisance. In such cases, if relevant representations are made, the Licensing Authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

3.5.11 The Authority recognises that door supervisors have an important function in terms of supervising customers not only inside premises but also outside. Door supervisors will therefore be expected to take a pro-active role in managing the behaviour of customers within the immediate vicinity of the premises in order to minimise disturbance and nuisance to nearby residents. Licence holders should ensure in particular that, at closing times, they have sufficient door supervisors to effectively control 'surges' of customers leaving premises.

3.6 **Public Safety**

3.6.1 The Act covers a wide range of premises that may require licensing. Each type of premises presents a mixture of safety risks, with many common to most premises and others unique to specific operations. It is essential that the premises are constructed or adapted and operated so as to safeguard occupants against these risks.

3.6.2 The Licensing Authority will have regard to the measures to be taken by applicants to ensure that the physical safety of any person visiting or working in licensed premises is not compromised. This should be demonstrated in an applicant's operating schedule. Factors that may be considered include, but are not limited to:

- The total occupancy capacity (staff, customers, others) of the premises
- Physical environment of the premises
- Customer profile
- Traffic management including access for emergency vehicles
- Crowd management
- Special arrangements for large events
- Use of special effects
- Lighting – emergency and general
- Temporary electrical installations

3.6.3 The Licensing Authority recognises that the Regulatory Reform (Fire Safety) Order 2005 replaced the previous fire safety legislation. Accordingly the Authority will not seek to impose the fire safety conditions on a licence/certificate where the Order applies.

3.6.4 Such measures to be taken to promote the public safety objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

3.6.5 **It is recognised that special issues may arise in connection with outdoor and large scale events. Risk assessments must be used to assess whether any measures are necessary in the individual circumstances of any premises, see section 4.5 on large scale events and the ESAG.**

3.7 **Prevention of Public Nuisance**

3.7.1 Public nuisance can include low level nuisance affecting a few people living

locally, as well as a major disturbance affecting the wider community. Nuisance is generally attributable to noise (from loud music or from rowdy customers), vibration, light pollution, noxious smells and litter. Applicants will be required to demonstrate that they have adequate measures in place in their applications to prevent nuisance and disturbance.

3.7.2 The Authority would expect applicants to have demonstrated in their operating schedule that public nuisance concerns have been identified, with suitable control measures implemented and maintained. Factors that may be considered include, but are not limited to:

- The location of the premises and proximity to residential and other noise sensitive premises.
- The hours of opening, including times when licensable activities may not be taking place, last admission time and 'wind down period'.
- Nature of activities provided.
- Supervision of customers including managing dispersal.
- Odour and light nuisance
- Litter and waste disposal
- Noise management plan (where appropriate)

3.7.3 **The Licensing Authority recommends that applicants and licensees apply a higher standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises where:**

- **They are located in a residential or noise sensitive area**
- **They have or are proposing extended open hours**

3.7.4 The Licensing Authority will normally expect premises selling hot food or hot drink that is taken off the premises for consumption, or the distribution of flyers or other promotional literature, to make adequate arrangements for the disposal of litter in the vicinity, which is discarded as a result.

3.7.5 Such measures to be taken to promote the public nuisance objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

3.7.6 The Licensing Act 2003 does not exempt licence holders from their statutory obligations under the Environmental Protection Act 1990. But in certain circumstances where existing legislation does not provide adequately for the prevention of public nuisance and representations have been received, consideration might be given to imposing conditions.

3.8 **Protection of Children from Harm**

3.8.1 The Authority recognises the great variety of premises for which licences may be sought. These include theatres, members' clubs, sports clubs, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls, schools and off-licences. The Authority will not restrict access by children to any particular type of premises unless it is considered appropriate to do so in order to protect

them from harm.

- 3.8.2 The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives for example in the context of film exhibitions or where adult entertainment is provided.
- 3.8.3 The Licensing Authority will expect applicants to demonstrate in their operating schedule that they have considered how they will ensure children using their premises will be protected from harm. Factors that may be considered include, but are not limited to:
- Limitation of access dependent on the nature of activities.
 - Specific underage policy – e.g. Challenge 21 or Challenge 25 with staff fully trained on its use.
 - Use of British Board of Film Classification for film exhibition.
 - Limitation of access to areas used for gambling purposes.
 - Child Sexual Exploitation
- 3.8.4 Such measures to be taken to promote the protection of children from harm objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.
- 3.8.5 Children and Licensed Premises
- 3.8.6 When deciding whether to limit the access of children, the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children would include premises:
- where entertainment of an adult or sexual nature is provided
 - where there is a strong element of gambling taking place
 - with a known association with drug taking or dealing
 - where there have been convictions of current management for serving alcohol to those under 18
 - where the supply of alcohol for consumption on the premises is exclusive or primary purpose of the services provided at the premises.
 - where there are unsupervised areas (for example toilets, beer gardens, play zones).
- 3.8.7 One of the risks at licensed premises is that of sexual exploitation. To minimise the risk to children and young people, premises need to have preventative systems in place, [see section 3.8.25 on Safeguarding and Appendix F](#).
- 3.8.8 In such circumstances as listed in paragraph 3.8.6 above the Licensing Authority would expect for the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the operating schedule, then if relevant representation are made the Licensing Authority will consider making such restrictions as are deemed appropriate to meet the licensing objectives.

- 3.8.9 Where relevant representations have been received, the Authority may impose conditions on licences for premises where children will be present at places of regulated entertainment so that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may also be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances.
- 3.8.10 The Licensing Authority will take strong measures to protect children where any licence holder is convicted of serving alcohol to minors, premises have a known association with drug taking or dealing, gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. The options available for limiting access by children would include:-
- a limit on the hours when children may be present
 - a limitation or exclusion when certain activities are taking place
 - the requirement to be accompanied by an adult
 - access may be limited to parts of the premises but not the whole
 - an age limitation (for under 18s)
 - full exclusion of people under 18 from a premises when any licensable activities are taking place.
- 3.8.11 In relation to exhibition of films a mandatory condition will apply requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification or by the Licensing Authority itself.
- 3.8.12 In relation to theatrical entertainment it may be appropriate to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be appropriate where entertainment is provided specifically for children to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.
- 3.8.13 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.
- 3.8.14 The Licensing Authority recognises Children and Young People's Services of Devon County Council as being competent to advise on matters relating to the protection of children from harm.
- 3.8.15 [Film classifications](#)
- 3.8.16 Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the licensing authority. Where recommendations have been made by both bodies, and the licensing authority has notified licence-holders of this, the licensing

authority's recommendation will take precedence.

- 3.8.17 For the purposes of sections 20 and 74 of the Act, the licensing authority recognises the British Board of Film Classification (BBFC) as the film classification body, and will specify this body within the licences and certificates it issues.
- 3.8.18 The licensing authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or licensing authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 3.8.19 Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a licensing authority recommendation should be displayed at or near the entrance to the screening.
- 3.8.20 The licensing authority anticipates that the BBFC's recommendations will apply to the vast majority of films shown at licensed premises within the Borough. However in a small number of cases, the licensing authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the Borough. Such situations can be approximately characterised in one of three groups:
- In cases where the licensing authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
 - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
 - In cases where the licensing authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 3.8.21 The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation, therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The licensing authority is aware that some cinemas across the country have agreed schemes whereby the applicable licensing authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and very young children to special screenings of that film with only parents of such children in attendance.
- 3.8.22 It is recommended that any premises considering the provision of such screenings contacts the licensing authority to discuss the proposals firstly. The

authority will typically expect special provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.

- 3.8.23 When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, the authority will adhere to the BBFC's Classification Guidelines (<https://www.bbfc.co.uk/about-classification/classification-guidelines>), and where possible will issue a recommendation which is in accordance with one of the standard classification bands.
- 3.8.24 In such circumstances, the authority will require the organiser of the exhibition to provide a copy of the film for classification purposes. Due to the time required, a fee will be payable to the licensing authority to provide a film classification.
- 3.8.25 Safeguarding
- 3.8.26 Safeguarding children, young people and adults with care and support needs is everyone's responsibility and it is important that we all work together to ensure that we can all safely enjoy leisure, cultural and entertainment activities in our area.
- 3.8.27 Safeguarding not only includes physical or sexual harm, but psychological, emotional and financial harm and neglect. Where there are risks to children's and vulnerable adults' wellbeing, every step should be taken to ensure their safety.
- 3.8.28 The risks to children and adults with care and support needs in licensed premises will depend on the type of establishment and the age of the children. If underage children are allowed to drink, they may become more vulnerable and could be at risk of abuse or exploitation.
- 3.8.29 Adults with care and support needs could be financially abused or subject to other forms of exploitation.
- 3.8.30 Adults working in licensed premises may also pose a risk to children or adults with care and support needs if they exploit their position by establishing relationships with them for inappropriate reasons.
- 3.8.31 The Licensing Authority is working together with other agencies to help tackle issues surrounding safeguarding, particularly child sexual exploitation, human trafficking and modern slavery. Further information for operators and their employees on the types of issues to be aware of and good practice in relation to safeguarding is at Appendix F.

4. The Licensing Process

4.1 Applications

- 4.1.1 Application forms can be downloaded from our website or GOV.UK. Prior to submitting an application for a premises licence or club premises certificate (or variation to such authorisation), applicants are advised to contact the Licensing Team to discuss. This will usually aid the avoidance of errors when completing the application and will often help to avoid potential representations to the application.
- 4.1.2 Applications may be submitted electronically (apart from personal licences) or in hardcopy. Applications, notices or relevant representations shall be treated as having been “given” to the Authority in accordance with the principles of “deemed service” as set out in the Civil Procedure Rules.
- 4.1.3 Where an application or notice is sent via an electronic facility, the application will be deemed to have been ‘given’ when the applicant has submitted a valid application form and paid the prescribed fee and the application becomes accessible to the Licensing Authority by means of the facility. Where a representation is submitted electronically, it will be treated as having been ‘given’ at the point when it is submitted and becomes accessible to the Authority.
- 4.1.4 Once submitted, applications for premises licences and club premises certificates must be advertised in accordance with regulations. If an application has not been correctly advertised, the Licensing Authority may reject the application. The Licensing Authority will publish on its website a summary of all new, variation and review applications for premises licences and club premises certificates.
- 4.1.5 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 4.1.6 Applicants should consider the benefits of exceeding their statutory consultation requirements by proactively seeking the views of parties on the application and proposed licensable activities. This includes proactively liaising with local residents, local ward Councillors, businesses and responsible authorities.

4.2 Repeat applications

- 4.2.1 The Licensing Authority will give particular attention to applications which have the effect of replicating to a large extent, the terms of a previous application(s) at the same premises / club which may have been refused or granted subject to conditions.

4.2.2 Where representations are made, the Licensing Committee will consider each application on its merits including:

- The applicants' justification or explanation as to the change of circumstances warranting a different decision by the Committee
- The extent to which the terms of the new application overcome previous concerns
- The extent to which the new application (including the operating schedule and any suggested conditions) will promote the Licensing objectives.

4.2.3 This policy does not apply to applications for:

- Changes to Designated Premises Supervisors
- Changes to the address of someone named on a licence
- Temporary Event Notices and is not designed to inhibit applications to make variations from 'time to time'.

4.3 **Beer gardens and other outdoor spaces**

4.3.1 Applicants should consider whether they might want to use a garden or other outdoor space as a location from which alcohol will be consumed. The sale of alcohol is treated as taking place where the alcohol is appropriated to the contract. This means that where drink orders are taken by a member of staff in the garden or outdoor space and the member of staff then collects the drinks from the licensed premises and returns to deliver them to the customer, this would be treated as an off-sale and any conditions that relate to off-sales would apply.

4.3.2 In such cases it will not be necessary to include the garden or other outdoor space on the plan as part of the area covered by the premises licence, assuming the licence authorises the sale of alcohol for consumption off the premises. However, it will be necessary for the applicant to include the garden or other outdoor space on the plan as part of the area covered by the premises licence if the intention is to provide a service whereby drinks are available for sale and consumption directly from that area (i.e. the provision of on-sales). This would apply in the case of an outdoor bar or a service whereby a member of staff who is in the garden or outdoor space carries with them drinks that are available for sale (without the need for the staff member to return to the licensed premises to collect them).

4.3.3 If the beer garden or other outdoor area is to be used for the consumption of off-sales only, there is no requirement to show it on the plan of the premises, but the prescribed application form requires the applicant to provide a description of where the place is and its proximity to the premises.

4.4 **Mobile Vehicles, Remote, Internet and Other Delivery Sales**

4.4.1 The Licensing Authority shall have regard to sales of alcohol which are made remotely, by mobile methods, internet or by other delivery sales.

4.4.2 The expectation of the Authority is that conditions suggested by way of operating schedules for these types of activities are extremely robust in order to negate any perceived issues.

4.4.3 Persons who wish to run premises providing 'alcohol delivery services' should notify the Licensing Authority that they are operating such a service in their operating schedule. Premises with an existing licence permitting 'off-sales' who wish to include such a service as a new way of operating should consider applying to vary their licence to incorporate additional conditions to address the licensing objectives (this would usually be by way of a minor variation).

4.5 **Large Scale Public Events and the Event Safety Advisory Group (ESAG) Function**

4.5.1 Organisers of large scale public events such as festivals, outdoor music concerts, sporting events etc, are recommended to contact the Council to discuss licensing requirements as soon as practicable.

4.5.2 The Licensing Authority will expect organisers to work with them and other Responsible Authorities to ensure a co-ordinated approach to the organisation of these types of events. When planning a large scale event – whether this involves licensable activities or not – organisers are likely to be invited to attend an Event Safety Advisory Group (ESAG). The ESAG consists of representatives of relevant statutory authorities to provide advice and guidance to help ensure public health and safety. An ESAG meeting would generally be recommended for those organising large scale events, however, where there are perceived high risks to public safety, smaller events for up to 500 persons usually authorised by a temporary event notice may also require an ESAG meeting.

4.5.3 See Appendix E for a list of those authorities included in the ESAG meetings.

4.6 **Licensed Vessels**

4.6.1 There are additional Responsible Authorities stipulated in the Act which relate to the licensing of vessels (see Appendix C). The Licensing Authority will consider any representations made by these Responsible Authorities when considering applications for premises licences in respect of vessels. Where, in the opinion of the Licensing Authority, any of the four licensing objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.

4.7 **Fees**

4.7.1 **Part 2 of the Police Reform and Social Responsibility Act 2011** that came into force in October 2012, requires a Licensing Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

4.7.2 It is the practice of this Authority to issue an invoice for the annual fee. Non-payment will then result in a suspension notice being served. Regulations state that the premises licence or club premises certificate holder will be given notice

of a suspension that is at least 2 working days before the suspension is to take place. This Authority allows 5 working days.

- 4.7.3 The Authority will not generally refund fees for licensing applications, particularly where the Authority has incurred costs in accepting and processing applications. Each case will be decided on merit.

4.8 **Late Night Levy**

- 4.8.1 At the time of approving this Policy, this Authority has taken no decision to implement the Late Night Levy, but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives.
- 4.8.2 The Late Night Levy is a power conferred on Licensing Authorities by Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This provision came into force on 31st October 2012 and enables the Authority to charge a levy on premises in the Authority's area which are licensed to sell alcohol late at night as a means of raising a financial contribution towards the costs of policing the late-night economy. The levy applies to the whole of the Authority's area.
- 4.8.3 The levy will be payable by the holder of any premises licence or club premises certificate in the Authority's area which authorises the sale or supply of alcohol on any days during the 'late night supply period'. This is a period beginning at or after midnight and ending on or before 6am.
- 4.8.4 The decision to introduce the levy is for the Licensing Authority to make. Before making any such decision, the Licensing Authority must consult the Chief Officer of Police, the Police and Crime Commissioner and the holders of relevant late night licences or certificates. Local residents can use existing channels and forums to put forward views and call for the implementation of the levy in their area if they wish to do so.
- 4.8.5 The Licensing Authority must pay at least 70% of the net levy to the police. A Licensing Authority can deduct the costs it incurs in connection with the introduction, administration, collection, variation and enforcement of the levy prior to the levy revenue being apportioned between the police and Licensing Authority. The Licensing Authority has discretion to exempt certain premises – prescribed by regulations – from the levy and to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes
- 4.8.6 The Authority will review the need for a Late Night Levy at least every five years in conjunction with the review of this policy. The Authority will, however, consider the introduction of a Late Night Levy at any time if circumstances change and evidence supports this course of action.
- #### 4.9 **Early Morning Restriction Orders**
- 4.9.1 Early Morning Restriction Orders (EMROs) are a licensing power conferred on Licensing Authorities by s.119 of the Police Reform and Social Responsibility Act and came into force on 31st October 2012. This power enables a Licensing

Authority to prohibit the sale of alcohol for a specified time period between the hours of midnight and 6am in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

- 4.9.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol-related anti-social behaviour which are not directly attributable to specific premises.
- 4.9.3 The decision to implement an EMRO must be evidence based. Evidence will be considered from partners including Responsible Authorities and local Community Safety Partnerships alongside the Authority's own evidence to determine whether an EMRO is appropriate for the promotion of the licensing objectives.
- 4.9.4 Measures that may be considered in advance of making an EMRO include:
- introducing a Cumulative Impact Policy
 - reviewing licences of specific problem premises
 - encouraging the creation of business-led practice schemes in the area
 - other mechanisms designed for controlling cumulative impact see 8.4
 - encouraging licence or certificate holders to make variations with respect of hours of licensable activities
- 4.9.5 The only exemptions relating to EMROs are premises which are authorised to sell alcohol between midnight and 6am on New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.
- 4.9.6 At the time of approving this Policy, this Authority has taken no decision to introduce an EMRO, but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives.
- 4.10 **Temporary Event Notices (TENs)**
- 4.10.1 The Licensing Act 2003 makes provision for regulating temporary events involving the supply of alcohol, the provision of regulated entertainment or the provision of late night refreshment at a premises which are not authorised by a premises licence or club premises certificates to authorise extensions to their permitted hours.
- 4.10.2 The system of temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the 'premises user') gives notice to the Licensing Authority of the event (a 'temporary event notice' or 'TEN').

- 4.10.3 A number of limitations are imposed on the use of TENs by the Act. The limitations apply to:
- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and 5 times in a calendar year for other people);
 - the number of times a TEN may be given for any particular premises (15 times in a calendar year);
 - the maximum duration of an event authorised by a TEN is 168 hours;
 - a maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
 - the maximum number of people attending at any one time (fewer than 500); and
 - the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).
- 4.10.4 A TEN can be used for any 'premises'. This could be a building, a room in a building, a vehicle, a marquee, an open field etc. A TEN may only be given by an individual (aged over 18) and not by an organisation or club or business.
- 4.10.5 There are two types of TEN; a standard TEN and a late TEN. A standard TEN must be given no later than ten working days before the event to which it relates; a late TEN must be given not before nine and no later than five working days before the event. (NB. Notice periods do not include the day the Notice is given to the Licensing Authority or the day of the event. If this minimum period of notice is not given, the Authority will reject the Notice and the licensable activities may not take place).
- 4.10.6 The Police and West Devon Borough Council's Environmental Health ('relevant persons') may object to a TEN. If the Authority receives an objection notice from a relevant person that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The Authority must consider any objection on the basis of the licensing objectives and decide whether the event should go ahead. Relevant persons may also intervene by agreeing a modification of the proposed arrangements directly with the person giving the TEN.
- 4.10.7 Where an objection is received, the Authority may impose conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. The Authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded.
- 4.10.8 When giving a TEN, the premises user should consider the promotion of the four licensing objectives. Organisers are strongly advised to contact relevant persons for advice at the earliest opportunity when planning events. Planning at an early stage may well minimise or avoid potential objections. Where amplified music is to be provided after 11pm, it is recommended that organisers provide a noise management plan with their TEN, as this is likely to be required by

Environmental Health to avoid a representation.

4.10.9 Where the TEN includes the supply of alcohol, the responsibility for the supply rests with the person giving the Notice (the 'premises user'). The premises user does not have to be on the premises for the entire duration of the event but will be liable for any offences committed.

4.11 **Personal licences**

4.11.1 The Police have the right to object to a person applying for a personal licence if that person has a relevant unspent conviction (at the time of application) or if they obtain a relevant conviction during the application period of their licence.

4.11.2 The Licensing Authority can revoke or suspend a licence in relation to convictions obtained after 6 April 2017.

4.11.3 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act are strongly encouraged to first discuss their intention to apply for a Licence with the Police and Licensing Authority before making an application.

4.11.4 There is no longer a requirement to renew a personal licence and the licence is portable, although changes of name and home address or updates to photos must be notified to the issuing Licensing Authority for a prescribed fee.

5. Decision Making

5.1 Determining Applications

- 5.1.1 In determining a licence application, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits in the context of the four licensing objectives.
- 5.1.2 Where relevant representations are received in respect of an application, it will be considered at a licensing sub-committee meeting (or hearing). Any application for a review of a licence will be considered at such a hearing.
- 5.1.3 A hearing is not required where an application has been properly made and no Responsible Authority or other person has made a relevant representation. In these cases, the Licensing Authority must grant the application on the terms sought subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the Act.
- 5.1.4 A key consideration of the Licensing Authority when determining applications will be the adequacy of measures proposed by the applicant to promote the licensing objectives. The Licensing Authority will also have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems appropriate to promote the licensing objectives. The Authority may depart from the guidelines in this policy if it has justifiable and compelling reasons to do so. The Authority will give reasons for any such departure from policy.
- 5.1.5 The Authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, anti-social behaviour, littering, fouling, noise and the capacity of the infrastructure and police resources to cope with the movement of large numbers of people, particularly late at night and in the early morning.
- 5.1.6 In reaching a decision on whether or not to grant a licence, the Licensing Authority may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.
- 5.1.7 When determining an application, the Authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant may be disregarded. The Authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the Authority will consider their application or representation but may attach less weight to it.
- 5.1.8 When determining an application, the Authority is making a judgement about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened, but to make an informed assessment of the risk of such things occurring if a licence is granted.

The Authority will then take such steps as it considers appropriate to prevent or minimise such risks.

- 5.1.9 The Authority will generally give its decision on an application at the end of a hearing and will give clear reasons for its decision. In all other cases, the authority will make its determination within five working days.
- 5.1.10 Applicants, Responsible Authorities and any person who has made a representation in respect of an application, may appeal the Licensing Authority's decision to the Magistrates' Court. An appeal must be made within 21 days of formal notification of the decision.

5.2 Representations

- 5.2.1 Representations must be made to the Licensing Authority in writing within the statutory consultation period. For this purpose, a representation made by email or a website submission will be deemed acceptable.
- 5.2.2 To be considered 'relevant', representations must relate to the likely effect of the grant of a licence on the promotion of one or more of the four licensing objectives. Both positive and negative representations will be considered. However, if a representation is deemed to be repetitious, frivolous or vexatious it may be disregarded.
- 5.2.3 Where relevant representations are received in respect of an application, it will be considered at a licensing sub-committee meeting (or hearing). Any application for a review of a licence will be considered at such a hearing. If no relevant representations are received, the application will be granted as applied for.
- 5.2.4 The Act provides that decisions and functions may be taken or carried out by Licensing Committees or delegated to Sub-Committees or in appropriate cases, to delegated officers supporting the Licensing Authority. The Licensing Committee will consist of between 10 and 15 elected members of the Council and will establish Sub-Committees consisting of 3 members of the Committee.

5.3 Irrelevant, Vexatious and Frivolous Representations

- 5.3.1 The Licensing Authority follows the guidance of the Secretary of State concerning the judgments of representation as being irrelevant, vexatious and frivolous. A representation would be 'irrelevant' if it does not relate to the application or to the promotion of the licensing objectives in the context of the application. In considering whether or not a representation is 'vexatious or frivolous' the Licensing Authority must determine whether any ordinary and reasonable person would consider the matter to be vexatious or frivolous.
- 5.3.2 Vexation may arise where, for example, there is a dispute between rival businesses.
- 5.3.3 Frivolous representations would be categorised by a lack of seriousness. Such

judgments should be objective and not based on political judgments and as such are best made by officers following enquiries as may be necessary. Where a representation is found to be irrelevant, vexatious or frivolous, the person making it will be informed and that representation will be disregarded.

5.4 **Anonymous Representations**

- 5.4.1 The Licensing Authority cannot accept anonymous representations. Full details of all representations must be made available to the applicant, including names and addresses. However, in exceptional circumstances, a person wishing to make a representation may be reluctant to do so because of fears of intimidation or harassment if their personal details are disclosed.
- 5.4.2 Where the authority considers that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation, the authority may consider alternative approaches. For example, the authority may advise the individual to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations, if appropriate and justified.
- 5.4.3 Alternatively, the authority may advise the individual to request their local councillor make a representation to WDBC on their behalf. Where appropriate, the authority may decide to withhold some or all of the person's details from the applicant. The authority will only withhold such details where the circumstances justify such action.
- 5.4.4 Any petitions received will be treated as one representation from the person sending it in, supported by the other signatories. Petitions will not be treated as individual representations from everyone who has signed them. Petitions will only be accepted if on each sheet it clearly shows:
- the name and address of the application site
 - the licensable activities and their hours
 - reasons for the representation
 - which of the 4 Licensing objectives are relevant
- 5.4.5 Each petitioner must give their name and full address including post code. Failure to comply with any of the above requirements could lead to the petition being rejected.
- 5.4.6 All valid representations will form part of a committee report that will become a public document. It will be given to the applicant, his agent and any other party requesting a copy as well as the Licensing Sub-committee 10 working days prior to the hearing.
- 5.4.7 Whilst representations cannot be made to the Licensing Authority anonymously we will in all cases, remove an objector's name and house number and other personal details from individual representations in publicly published documents.

5.5 Licensing Hours

- 5.5.1 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application, but the presumption will be to grant the hours requested unless there are relevant objections to those hours raised on the basis of the licensing objectives.
- 5.5.2 However, when issuing a licence with hours beyond midnight it is more likely that relevant representations will be made unless there are higher standards of control included within operating schedules in order to promote the licensing objectives, especially for premises which are situated near residential areas or in areas where anti-social disorder takes place.
- 5.5.3 The Licensing Authority will consider extensions of hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. Entertainment providers will be encouraged to provide and promote a range of entertainment during their opening hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community. There is no presumption that applications for extended hours will take precedence over the human rights of local residents and businesses.
- 5.5.4 When relevant representations are made to the Licensing Authority, the discretion of the Licensing Authority will be engaged. The Authority strongly encourages the adoption of best practice. This includes the expectation, as an item of best practice that CCTV will be provided in those premises that wish to trade in the sale of alcohol beyond midnight, for the purpose of preventing crime and disorder and to promote public safety. Applicants for such licences should undertake a risk assessment with regard to CCTV and are expected to include CCTV in their operating schedule. Where they elect not to do so, they are strongly advised to provide information explaining that omission. For example, that the risk assessment has shown CCTV to be unnecessary.
- 5.5.5 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the Licensing Authority believe it appropriate to restrict the hours required due to the nature of the activities and the amenity of the area. If the Licensing Committee or a sub-committee believes that granting longer hours would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 5.5.6 It is important for applicants to note that there is no additional 'drinking up time' in the Act. Applicants must stipulate on their operating schedule the times during which they propose to sell or supply alcohol to customers and also stipulate the overall times the premises will be open. It therefore follows the applicant may wish to build into their operating schedule sufficient time to allow customers to

consume their alcohol and allow sufficient time for the customer to vacate the premises in a quiet and orderly manner and to achieve the licensing objectives. The Licensing Authority will generally require there to be a greater time gap between the terminal hour for the sale or supply of alcohol and the closing time, in premises used primarily for the consumption of alcohol on the premises such as nightclubs and pubs, than those premises where alcohol is very much ancillary to a substantial meal.

- 5.5.7 The Licensing Authority recognises that fixed trading hours within a designated area can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Flexible licensing hours in relation to the sale of alcohol may therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other 'flashpoints' in areas where there have been incidents of disorder and disturbance.
- 5.5.8 Because opening hours, (even those when no licensable activity is taking place) may themselves impact on the licensing objectives, the Authority will require any proposed change to opening hours for an existing licence to be authorised by way of a variation to the licence. In many cases this could be achieved by way of a minor variation application.
- 5.5.9 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance. This could be if an individual shop is known to be a focus of disorder and disturbance and relevant representations have been received. Another such reason may be a particularly early opening time, **or 24hrs opening**, where there are reasons to believe that the availability of alcohol at that hour could impact adversely on the licensing objectives.

5.6 Licence Conditions

- 5.6.1 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not generally be imposed where other regulatory regimes provide sufficient protection to the public (e.g. health and safety at work and fire safety legislation) unless considered appropriate. The Licensing Authority will only be able to consider imposing conditions if a relevant representation has been received. If no representations are received, the application must be granted in the terms sought and no additional conditions imposed.
- 5.6.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. There are three types of condition:

- mandatory conditions set out in the Act;
- conditions consistent with the operating schedule; and
- conditions imposed by the Licensing Authority

- 5.6.3 Conditions will relate to the premises being used for licensable activities and the impact of those activities in the vicinity. In this regard the Licensing Authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 5.6.4 Conditions attached to licences and the various other permissions issued under the Act will focus on matters falling within the control of individual licence holders. It is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned. However, the Licensing Authority's discretion may be engaged if there is an evidential link between the disorderly behaviour and the licensed premises.
- 5.6.5 The Licensing Authority will avoid imposing disproportionate and over burdensome conditions on premises. The Authority may, however, impose conditions where existing legislation does not provide adequate controls and additional measures are considered to be appropriate for the promotion of the licensing objectives.
- 5.6.6 Failure to comply with any condition attached to a licence or certificate is a criminal offence. It is therefore paramount that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:
- be appropriate, reasonable and proportionate
 - be enforceable
 - not duplicate other statutory requirements
 - be relevant to the particular type, location and character of the premises concerned
 - not be standardised
 - not replicate offences set out in the Act or in other legislation
 - be written in a prescriptive format
- 5.6.7 The conditions proposed by an applicant within their operating schedule should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which should be undertaken before making their application.
- 5.6.8 The Licensing Authority encourages applicants to consult with responsible authorities (such as Police and Environmental Health) when preparing their operating schedules to allow for liaison before representations (objections) prove necessary. The Licensing Authority's experience has shown that many of the conditions requested on applications have been vague, uncertain, imprecise and unenforceable. As an aid to applicants or their representatives, the Licensing Authority will provide a pool of conditions which applicants are invited to use when preparing their operating

schedules.

5.6.9 In line with Home Office guidance, the Licensing Authority may amend the wording of proposed conditions where this is unclear, ambiguous or unenforceable, in consultation with the applicant. A condition will be interpreted in accordance with the applicant's intention.

5.7 Designated Premises Supervisors (DPS)

5.7.1 It is a requirement that all premises licensed for the sale of alcohol (other than certain Community Premises and Members' Clubs) must have a Designated Premises Supervisor (DPS) specified on the licence. This person must be a Personal Licence Holder. The Licensing Authority will normally expect the DPS to be given the day-to-day responsibility for running the premises by the premises licence holder and therefore be present on the premises on a regular basis in order to ensure the licensing objectives are being complied with.

5.7.2 Although not a legal requirement, the Licensing Authority recommends as good practice – in respect of premises licensed to sell or supply alcohol for consumption on the premises – that a Personal Licence Holder is on the premises at all times to make or authorise such sales or supplies. The Authority is keen to encourage the presence of properly trained staff on licensed premises. Applicants may wish to consider including this as a condition of licence, where appropriate, as a measure to promote the licensing objectives.

5.7.3 Should the DPS or other Personal Licence Holder be unavailable for a significant length of time, a responsible person should be authorised to oversee the sale of alcohol in their place. The Authority will expect the authorisation to be made in writing, kept securely on the premises and made available for inspection by an authorised person if requested.

5.8 Disapplication of Certain Mandatory Conditions for Community Premises

5.8.1 An amendment to the Licensing Act 2003 made in 2009 allows certain community premises which have or are applying for a premises licence that authorises alcohol sales to also apply to include the 'alternative licence condition' instead of the usual mandatory conditions in sections 19(2) and 19(3) of the Act (requirement for a DPS and for alcohol sales to be made or authorised by a Personal Licence Holder). Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises. The Licensing Authority will expect such applicants to provide information about the committee structure, how events will be managed and a robust hiring agreement.

5.8.2 Where it is not clear whether premises are community premises, the Authority will approach the matter on a case by case basis. The main consideration will be how the premises are predominantly used. If they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which

include those beneficial to the community as a whole, the premises will be likely to meet the definition.

5.9 Cumulative Impact

- 5.9.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. 'Cumulative impact assessments' were introduced in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018.
- 5.9.2 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 5.9.3 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.
- 5.9.4 While the cumulative impact of licensed premises on the promotion of the licensing objectives can be taken into account, this should not be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 5.9.5 If the Licensing Authority receives relevant representations suggesting that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type and thereby creating exceptional problems of disorder and nuisance over and above the impact of the individual premises, the Authority may consider the issue of cumulative impact when determining an application. The onus is on any person or organisation making such representations to prove the assertion that the addition of the premises concerned would cause the cumulative impact claimed.
- 5.9.6 The Licensing Authority does not propose to operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, cinemas and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community and the licensing

objectives.

5.9.7 There must be an evidential basis for the Authority to make the decision to publish a CIA. The Community Safety Partnership, the Police and Environmental Health, may hold relevant information which would assist the Licensing Authority when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specified area to be covered by the CIA. Information which the Authority may be able to draw on includes:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- statistics on local anti-social behaviour offences;
- health-related statistics such as alcohol-related emergency attendances and hospital admissions;
- environmental health complaints, particularly in relation to litter and noise;
- complaints recorded by the local authority, which may include complaints raised by
- local residents or residents' associations;
- residents' questionnaires;
- evidence from local and parish councillors; and
- evidence obtained through local consultation.

5.9.8 The Licensing Authority may consider this evidence, alongside its own evidence of the impact of licensable activities within its area and consider in particular the times at which licensable activities are carried on. Information which may form consideration of these issues includes:

- trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- changes in terminal hours of premises;
- premises' capacity at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

5.9.8 Section 5A of the 2003 Act sets out what a Licensing Authority needs to do in order to publish a CIA and review it, including the requirement to consult with the persons listed in section 5(3) of the 2003 Act. The 2003 Act does not stipulate how the CIA should be used once published, because the requirements for determining applications for new licences or variations are the same in areas with a CIA as they are elsewhere, as set out in sections 18, 35, 72 and 85 of the Act. However, any CIA published by a Licensing Authority must be summarised in its statement of licensing policy. Under section 5(6D) a Licensing Authority must also have regard to any CIA it has published when determining or revising its statement of licensing policy.

5.9.9 If a CIA is published the Licensing Authority must, within three years, consider whether it remains of the opinion set out in the assessment. In order to decide

whether it remains of this opinion it must again consult the persons listed in section 5(3).

5.9.10 Having published a CIA a Licensing Authority must have regard to the assessment when determining or revising its statement of licensing policy. It is therefore expected that, in respect of each relevant application in the area concerned, the Licensing Authority will be considering whether it is appropriate to make a representation to its committee as a responsible authority in its own right. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the Licensing Authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.

5.9.11 The Licensing Authority recognises that as well as the licensing function there are a number of mechanisms for addressing issues of unruly behaviour that occurs away from licensed premises. These include:

- planning control
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practise schemes such as Best Bar None, Pubwatch or Business Improvement District
- Community Protection Notices
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- the confiscation of alcohol from adults and children in designated areas
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)
- Raising a contribution to policing the late night economy through the Late Night Levy
- Early Morning Alcohol Restriction Orders

5.9.12 The absence of a CIA does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives, However, in each case it would be incumbent on the person 114 | Revised Guidance issued under section 182 of the Licensing Act 2003 making the representation to provide relevant evidence of cumulative impact.

5.9.13 Additional information on Cumulative Impact can be found in s.182 guidance. This Authority has not published a CIA at the time of writing this policy

6. Enforcement

6.1 Enforcement Activity and Policy

- 6.1.1 The Licensing Authority has established protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.
- 6.1.2 The Licensing Authority will continue to liaise with the Police Licensing Section and the Devon & Somerset Fire & Rescue Service, as well as other responsible authorities, to inspect licensed premises. This joint partnership approach is intended to maximise the potential for controlling crime, disorder and hazards at premises and to ensure compliance with relevant conditions as appropriate.
- 6.1.3 In general, action will only be taken in accordance with agreed enforcement principles and in line with the Authority's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained. **Inspection and enforcement will be risk-based with a lighter touch being adopted for premises which are well managed and where there is little or no evidence of crime and disorder, public nuisance or other problems.**
- 6.1.4 **A graduated approach will be adopted starting with a verbal or written warning for infringements of the law or failure to comply with licence conditions. Failure to respond to such warnings will result in stronger enforcement measures being taken, which could lead to a prosecution or an application being made for a review of the licence or club premises certificate (see 6.2). (Please refer to section 4.7 with regard to the suspension of a premises licence or club premises certificate for non-payment of an annual maintenance fee).**

6.2 Review

- 6.2.1 A Responsible Authority or any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the Licensing Authority to review the licence/certificate because of concerns arising at the premises which may have an adverse impact on any of the licensing objectives. The Authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Sub-Committee at a hearing.
- 6.2.2 Any application for a review should be treated seriously. Responsible authorities will aim to give licence/certificate holders early warning of any concerns identified at a premises, and talk to the licence/certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. Similarly those seeking a review which are not a responsible authority are encouraged to take initial steps such as:
- Asking the Licensing Authority to talk to the licence/certificate holder on their behalf
 - Asking their local MP or Councillor to speak to the licence/certificate holder on their behalf

- Talking to the relevant responsible authority to establish whether there is other action that can be taken to resolve the problem

- 6.2.3 The review process is not intended as a means of challenging the grant of a licence following the failure of representations to persuade the Licensing Authority on an earlier occasion. No more than one review from a person other than a Responsible Authority will be entertained in relation to a particular premises within a period of twelve months on similar grounds, save in compelling circumstances (e.g. where new problems have arisen) or where it arises following a closure order made under s.160 or s.161 of the Act.
- 6.2.4 When considering a review of a premises licence or club premises certificate, the Authority will expect applicants for the review to provide evidence of previous infringements of licensing regulations, failure to comply with the licence conditions and/or failure to promote the licensing objectives.
- 6.2.5 Following a review, the Authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable and proportionate to the nature of the problems giving rise to the review. Options available are:
- to modify the conditions of the premises licence
 - to exclude a licensable activity from the scope of the licence);
 - to remove the designated premises supervisor
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
 - to take no action
- 6.2.6 In cases where the crime and disorder objective has been undermined or where it can be demonstrated that a premises has a history of persistent offending, suspension or revocation of a licence, even in the first instance, may be seriously considered as a form of deterrence.
- 6.2.7 **In cases of serious crime and disorder at premises, the Police may apply for a summary review. On receipt of such an application, the authority has 48 hours to determine whether any interim steps are required.**
- 6.2.8 Any person aggrieved by a decision of the Authority has the right of appeal to the Magistrates' Court. An appeal must be made within 21 days of the Licensing Authority's decision.

7. Further Information

7.1 Contact details of the Authority and Responsible Authorities are given in Appendix C.

7.2 Further information and guidance on the Act can be viewed on the Authority's website. Application forms can be downloaded from the site or electronic applications submitted online.

7.3 Further information on alcohol and entertainment licensing is available on the Home Office website at www.gov.uk/government/organisations/home-office and on the website for the Department of Culture, Media and Sport at www.gov.uk/government/organisations/department-for-culture-media-sport .

7.4 Equality and Human Rights Issues

7.4.1 In developing this policy, the Authority recognises its responsibilities under the Equality Act 2010, to consider the need to eliminate unlawful discrimination and to promote equal opportunities. The Policy therefore supports and is supported by the Council's Equality Scheme and any equality issues will be addressed in an Equality Impact Needs Assessment.

7.4.2 The Human Rights Act 1998 incorporated the European Convention on Human Rights and makes it unlawful for the Authority to act in a way that is incompatible with a convention right. The Authority will have regard to the Human Rights Act when exercising its licensing functions.

7.4.3 Conditions relating to disabled access will not be attached to licences, as this would duplicate existing statutory requirements. The Authority therefore takes this opportunity to remind holders of premises licences and club premises certificates of their duties under the Equality Act 2010

Appendix A – Delegation of Functions

Matters to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representations made
Application for provisional statement		If a relevant representation made	If no relevant representations made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representations made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a representation 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 an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases
Suspension of premises licence/club premises certificate for non-payment of annual fee			All cases
Review of Statement of Licensing Policy	All cases		
Implementation of Late Night Levy	All cases		
Creation of an Early Morning Restriction Order	All cases		

Appendix B – Glossary of Terms

Club Premises Certificate

Authorises the use of premises by a qualifying club for one or more licensable activity

Designated Premises Supervisor

Means the person (who must be a Personal Licence holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder).

Hampton Principles : from enforcement to compliance

What it will deliver – full implementation of the Hampton principles will result in more proportionate and risk-based compliance and enforcement activity, meaning fewer forms, no inspection without a reason, better advice for businesses, and swift treatment of non-compliance with meaningful sanctions.

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmspeak/1069/106911.htm>

Late Night Refreshment

- The provision, between 11 pm and 5 am, of hot food or hot drink, for a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am

or

- 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.

Hot Food or Hot Drink - 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:

- (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,

or

- (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.

Licensable Activities and Qualifying Club Activities

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment
- 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
- 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
- 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

Licensing Authority

West Devon Borough Council acting as the Licensing Authority,

Operating Schedule

Means a document containing a statement including the following matters:-

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as The Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken in sufficient details so as to enable the Responsible Authority to determine whether or not they are adequate to promote the Licensing Objectives

Personal Licence

Authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence

Premises Licence

Authorises the premises to be used for one or more licensable activity

Regulated Entertainment -

- (a) A performance of a play
- (b) An exhibition of a film
- (c) An indoor sporting event
- (d) A boxing or wrestling entertainment
- (e) A performance of live music
- (f) Any playing of recorded music
- (g) A performance of dance
- (h) Entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence 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).

Residential Area

An area whose character is residential at the material time of day. Where there is doubt, the Licensing Authority will consider the number of residential units in the area and the proportion of such units to units used for other purposes.

Responsible Authority -

The public bodies that must be fully notified of applications and that are entitled to make relevant representations to the Licensing Authority in relation to the grant, variation, minor variation or review of a premises licence (See Appendix C).

Temporary Event Notice

A Notice authorising a permitted temporary activity involving one or more licensable activities subject to certain conditions and limitations (see section 15)

Appendix C – Responsible Authorities

The list of Responsible Authorities and their respective contact details may change, where additional authorities are designated by regulations from the Secretary of State, or where existing contacts change their details.

An up-to-date contact list of Responsible Authorities can be obtained by accessing the Council webpage or by emailing licensing@swdevon.gov.uk .

List of designated responsible authorities under Licensing Act 2003:

Licensing Authority

Licensing, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ
Tel: 01822 813600
Email: licensing@swdevon.gov.uk

Devon and Cornwall Police

Licensing Department, Devon and Cornwall Constabulary, Launceston Police Station, Moorland Road, Launceston, PL15 7HY
Tel: 01566 770500
Email: licensing.team@devonandcornwall.pnn.police.uk

Devon and Somerset Fire and Rescue Service Depending on the location of the premises:

Devon and Somerset Fire and Rescue Service, Glen Road, Plympton, Plymouth, PL7 2XT
Tel: 01752 333600
Email: plymouthfs@dsfire.gov.uk

Devon and Somerset Fire and Rescue Service, Exeter Fire Station, Danes Castlie, Howell Road, Exeter, EX4 4LP
Tel: 01392 872200
Email: exeterfs@dsfire.gov.uk

Health and Safety

Environmental Health - Health and Safety, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ
Tel: 01822 813600
Email: environmental.health@swdevon.gov.uk

If the premises is a factory, farm, school or college, fairground, hospital, nursing home or government premises, please send a copy of the application to the Health & Safety

Executive:

Health and Safety Executive, 1st Floor, Cobourg House, 32 Mayflower Street, Plymouth, PL1 1QX
Tel: 0300 003 1747
Website: www.hse.gov.uk

Environmental Health

Environmental Health – Pollution Control, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ
Tel: 01822 813600
Email: environmental.health@swdevon.gov.uk

Planning

Depending on location of premises:

Development Management West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ

Tel: 01822 813600

Email: development.management@swdevon.gov.uk

For areas within Dartmoor National Park:

Dartmoor National Park Authority (Planning), Parke, Bovey Tracey, Newton Abbot, TQ13 9JQ

Tel: 01626 832093

Email: planning@dartmoor.gov.uk

Child Protection

Devon Safeguarding Children Board, CP Checks, MASH, PO Box 723, Exeter, EX1 9QS

Tel: 01392 383000

Email: cpchecks@devon.gcsx.gov.uk

Health Authority

Public Health Devon, Devon County Council, County Hall, Exeter, EX2 4QD

Tel: 0845 002 3456

Email: alcohollicensing-mailbox@devon.gov.uk

Weights and Measures

Devon Trading Standards Service, County Hall, Topsham Road, Exeter, EX2 4QD

Tel: 01392 381381

Email: tsslicensingact2003@devon.gov.uk

Home Office Immigration Enforcement

Lunar House, 40 Wellesley Road, Croydon, CR9 2BY

Email: alcohol@homeoffice.gsi.gov.uk

In relation to vessels, responsible authorities also include navigation authorities (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,

Depending on the location of the boat where usually moored or berthed:

Maritime & Coastguard Agency (Boats only)

Plymouth Marine Office, Suite 5, Endeavour House, Oceansgate. Vivid Approach, Plymouth, PL1 4RW

Tel: 020 390 85245

Email: plymouthmo@mcga.gov.uk

Environment Agency – South West (Boats only)

Manly House, Kestrel Way, Sowton Industrial Estate, Exeter, EX2 7LQ

Tel: 01392 444000

Email: enquiries@environment-agency.gov.uk

Appendix D – List of Consultees

List of those bodies and persons consulted upon prior to the adoption of this policy:

All premises licence holders
All members' clubs holding a club premises certificate
All responsible authorities – see Appendix C
Chief of Devon and Cornwall Police
Borough Councillors
Town and Parish Councils
British Beer and Pub Association
Tavistock and District Chamber of Commerce
H M Principal Inspector of Health & Safety
Campaign for Real Ale Limited
ISAN – Developing Outdoor Arts
Popleston Allen Licensing Solicitors
Gosschalks Solicitors
Association of Convenience Stores
UKHospitality
British Board of Film Classification
British Institute of Innkeepers
British Retail Consortium
UK Cinema Association
Department for Culture, Media and Sport
Federation of Licensed Victuallers Association
National Pubwatch
The Portman Group

Appendix E – Event Safety Advisory Group

Authorities that attend the Event Safety Advisory Group meetings include:

- Dartmoor National Park (if applicable)
- Devon and Cornwall Police
- Devon and Somerset Fire and Rescue Service
- Devon County Council Highways
- Environmental Health
- Health and Safety
- HM Coastguard (if applicable)
- Licensing
- Parish and Town Councils
- South Devon and Dartmoor Community Safety Partnership
- West Devon Borough Council Assets
- South West Ambulance Service Trust

Appendix F – Safeguarding Children, Young People and Adults with Care and Support Needs

West Devon Borough Council is committed to protecting children from harm through the sharing of intelligence and by working together with other key agencies. Safeguarding of children and vulnerable persons is everyone's business and responsibility and it is therefore vital that all areas of society share relevant information with the Police and the local Safeguarding Boards.

Premises licence holders and their employees may become aware of or come into contact with children, young people and adults with care and support needs, or people who are victims of modern slavery or human trafficking. This may be in hotels, bars, restaurants, late night takeaways, off licences or other licensed premises. This means that licence holders and their employees are in an ideal position to help protect young and vulnerable people.

Child Sexual Exploitation

Child sexual exploitation (CSE) is a crime that can affect any child, anytime, anywhere – regardless of their social or ethnic background. CSE involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something, e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.

CSE involves perpetrators grooming youngsters and using their powers to sexually abuse them. Sexual exploitation of children and young people can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes.

Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.

Set out below is a list of considerations for premises licence holders and their employees to remember when they see young and vulnerable people in their licensed premises:

- Do any of your customers appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are children/young people or vulnerable adults being brought regularly to your premises by older people? If so, ask yourself why?

If the answers to any of the questions above gives you even the slightest cause for concern, these should be reported as soon as possible.

If you are concerned about a child or young person in Devon and want to speak to someone contact the Devon Multi-Agency Safeguarding Hub (MASH) on **0345 155 1071** or email mashsecure@devon.gcsx.gov.uk and give as much information as you can.

If a child is at immediate risk from harm contact Devon and Cornwall Police on 999.

Further information and links to relevant agencies can be found on our website: <https://southhams.gov.uk/article/3396/Safeguarding-children-and-vulnerable-adults>

Safeguarding Vulnerable Adults

An adult with care and support needs is someone who is in need of community care services due to disability, age or illness. They may be unable to take care of or protect themselves against significant harm or exploitation.

If an adult with care and support needs is experiencing or is at risk of abuse or neglect and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect, you may need to take urgent action to protect the adult. Your first priority is with the adult, to make them safe (including reporting to the police if immediate action is required). Ideally, support the adult to take action to stop the abuse. If they need to raise a concern with the Local Authority to help them stop the abuse support that person to contact the Devon Adult Safeguarding Board:

<http://new.devon.gov.uk/devonsafeguardingadultsboard/#>

In particular, licence holders and staff who work in licensed premises should consider the following when coming into contact with adults with care and support needs:

- Has your customer got any physical signs of abuse or neglect?
- Are they a regular customer? Do you see changes in their behaviour or mood?
- A customer tells you they are having difficulties with someone else.
- A customer tells you they have a worry about someone.
- A customer tells you they have hurt a person.
- A customer tells you something they have seen or heard.
- You see worrying behaviour towards someone.

If you have even the slightest cause for concern you may need to take urgent action to protect the adult. If you see, hear or suspect that an adult may be at risk of abuse or neglect, you must tell someone about it. If they are in immediate danger contact the police on 999. Otherwise contact Care Direct on 0345 155 1007 or email customerservicecentrecaredirectteam-mailbox@devon.gov.uk .

Further information and links to relevant agencies can be found on our website: <https://southhams.gov.uk/article/3396/Safeguarding-children-and-vulnerable-adults>

Modern Slavery and human trafficking

Modern slavery is a crime and a violation of fundamental human rights and can take various forms such as slavery, servitude, forced and compulsory labour and human trafficking.

In particular, licence holders and staff who work in licensed premises should ask themselves the following questions when coming into contact with children, young people or adults with care and support needs:

- Is the victim in possession of a passport, identification or travel documents? Are these documents in possession of someone else?
- Does the victim act as if they were instructed or coached by someone else? Do they allow others to speak for them when spoken to directly?
- Was the victim recruited for one purpose and forced to engage in some other job? Was their transport paid for by facilitators, whom they must pay back through providing services?
- Does the victim receive little or no payment for their work? Is someone else in control of their earnings?
- Was the victim forced to perform sexual acts?
- Does the victim have freedom of movement?
- Is the victim under the impression they are bonded by debt or in a situation of dependence?
- Has the victim been harmed or deprived of food, water, sleep, medical care or other life necessities?
- Can the victim freely contact friends or family? Do they have limited social interaction or contact with people outside their immediate environment?

Report anything suspicious you spot to the police or other authorities – it could be at licensed premises where you work, where workers seem reticent to engage, not appropriately dressed for their work or are increasingly ill-fed and unkempt. If there is an immediate danger to the suspected victim or if you think that the suspected victim is under 18yrs, inform the police and call 999 as a matter of urgency.

To refer a victim of trafficking or to receive advice, please call the Modern Slavery 24hr confidential referral helpline on 0800 0121700 anytime of the day or night. Further information can be found at <https://www.modernslaveryhelpline.org> .

Further information and links to relevant agencies can be found on our website: <https://southhams.gov.uk/article/3396/Safeguarding-children-and-vulnerable-adults>

Safeguarding Co-ordinator

It is good practice to assign at least one member of staff or management to take a lead on issues relating to safeguarding children and vulnerable people (a 'Safeguarding Co-ordinator'). This role must be delegated to a suitable member of staff when the lead person is on holiday, or otherwise absent from the premises. This safeguarding measure should be included in the operating policy, to evidence a commitment to the core objectives of the legislation, (it is not necessary however to include the name of the Safeguarding Co-ordinator in the operating policy).

The designation of a safeguarding co-ordinator demonstrates due diligence and can be an advantage at premises where there is a high turnover of staff, to ensure consistent standards operate and provide an induction to new staff. The assignment of a Safeguarding Co-ordinator may benefit the business during busy times, ensuring that the premises management is able to prioritise its safeguarding responsibilities and therefore meet the licensing objective of 'protection of children from harm', under the Licensing Act 2003.

The Safeguarding Co-ordinator must be fit and proper to work in proximity to children and vulnerable people. Staff assigned to the role of Safeguarding Co-ordinator must be adequately checked (for example via the Disclosure and Barring Service) if they are to have 1:1 contact with children or a responsibility to supervise children and safe recruitment procedures should be followed.

The following points give an example of the type of duties that the Safeguarding Co-ordinator should undertake (this list is not exhaustive).

- Ensure that policy is enforced in relation to children and vulnerable people.
- Monitor the effectiveness of existing safeguarding measures and review policy when necessary.
- Have a basic awareness of safeguarding issues relating to children and vulnerable adults, including the types of harm and potential risks at the premises.
- To train other staff to be aware of potential risks to children and vulnerable people and be able to advise staff what to do if safeguarding issues arise.

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Summary of main changes from Statement of Licensing Policy 2016 - 2021

Part	Brief Description
1.8	Purpose and scope of the Licensing Policy – expansion of this section to confirm purpose and aim of the policy.
2.1.7	Confirmation that all Officers and Members will receive appropriate training for their roles under the Licensing Act 2003.
2.3	New section on our commitment to Partnership Working.
2.4.20- 2.4.30	Addition to ‘related legislation’ to include Gambling Act 2005, Health Act 2006, Immigration Act 2016, Coronavirus Act 2020 and Equality Act 2010.
3.5.6	Examples of premises licence conditions that may be considered relevant in relation to drugs and illegal substances.
3.6.5	Inclusion under the Public Safety section that risk assessments should be provided in certain circumstances, particularly for outdoor and large scale events.
3.7.3	Inclusion under the Prevention of Public Nuisance section that higher standards of control will be required in certain circumstances.
3.8.15	New section under the Protection of Children from Harm heading in relation to Film Classification. Includes information on the circumstances when the Licensing Authority may set their own classification for a particular film.
3.8.25	New section under the Protection of Children from Harm heading in relation to safeguarding – links to Appendix F.
4.1.6	Additional paragraph in relation to licence applications, recommending that applicants proactively seek the views of local residents, Councillors and other parties when applying for a licence, to help reduce representations.
4.2	New section on the stance in relation to repeat licence applications.
4.3	New section on Beer Gardens and Other Outdoor Spaces to reflect updated statutory guidance and clarification on the legal requirements.
4.11	Additional section on Personal Licences to include the new powers for Licensing Authorities to suspend or revoke a licence in certain circumstances since 2017.
5.3	New section on Irrelevant, Vexatious and Frivolous Representations to clarify what is meant by these terms and how these will be treated.
5.4	New section to confirm the Licensing Authority’s stance on Anonymous Representations and personal information provided.

5.6.9	Additional paragraph to explain that proposed conditions may need to be re-worded in consultation with the applicant where they are unclear or unenforceable.
5.9.1-5.9.13	Cumulative Impact section amended to reflect updated statutory guidance.
6.1.3-6.1.4	Addition to the Enforcement Activity and Policy section to explain the risk-based/graduated approach.
Appendix F	Safeguarding Children, Young People and Adults with Care and Support Needs: new appendix to give advice and guidance to businesses and to explain our expectations of safeguarding in licensed premises.

Please note: minor alterations (i.e. dates/grammar etc.) and replication of insignificant guidance changes made to the draft document Policy are not included in this list.

West Devon Borough Council

STATEMENT OF LICENSING POLICY (Licensing Act 2003) CONSULTATION RESPONSES

NAME OR ORGANISATION	COMMENTS	APPRAISAL	SUGGESTED AMENDMENTS
Eric Partridge, The Moorlander publication	"May I just flag up in the list which appears on page 52 that the Chamber of Trade in Okehampton has been defunct for a good two years."	Appendix D on page 52 lists all the bodies consulted on the draft policy. The original draft version contained a list of all those we consulted five years ago and intended to contact this year. Due to changes since then some bodies no longer exist or have changed their name. Appendix D will be updated with the names of all those consulted this year.	Update to Appendix D to remove 'Okehampton Chamber of Trade' and other bodies that have since gone or been replaced.
Fire Authority	"Having reviewed the draft documents, the Fire Authority wish to offer no observations on this occasion."	In support of the policy.	No amendment to policy required.
Sourton Parish Council	The Parish Council consider this a thorough document and are happy with the current policy in the area.	In support of the policy.	No amendment to policy required.
Tavistock Town Council's Development Management and Licensing Committee	The Members considered the draft Policy, which detailed the proposed changes in red. During the ensuing discussion particular reference was made to;	In support of the policy.	No amendment to policy required.

	<ul style="list-style-type: none"> • the current situation with regard the COVID-19 pandemic, and the changes in Government Regulations which were anticipated would unfold over the coming weeks; • that any updated Policy would be in effect for the next five years, until the next review (five-yearly cycle); • the extensive section on Safeguarding, which was welcomed, which not only applied to children but also vulnerable adults; • the new commitment to partnership working, which was also welcomed; • the clarification on what were considered as off-sales, and those considered on-sales. <p>RESOLVED THAT the draft Policy be supported, and welcomed. This decision to be submitted to the Licensing Authority.</p>		
<p>Okehampton Town Council's Planning Committee</p>	<p>Okehampton Town Council's Planning Committee considered the consultation at a meeting held on 25th September 2020 and agreed to the proposals subject to the amendment of the wording in clause 5.4.3 to include the words 'to WDBC' as follows: 'Alternatively, the authority may advise the individual to request their local councillor make a representation to WDBC on their behalf'.</p>	<p>Para 5.4.3 is within the 'Anonymous Representations' section of the policy. Paras 5.4.2 and 5.4.3 state:</p> <p>5.4.2 Where the authority considers that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation, the authority may consider alternative approaches. For example, the authority may advise the individual to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations, if appropriate and justified.</p>	<p>If it helps clarify this section, it is proposed to add the words 'to WDBC' as requested.</p>

		<p>5.4.3 Alternatively, the authority may advise the individual to request their local councillor make a representation on their behalf. Where appropriate, the authority may decide to withhold some or all of the person’s details from the applicant. The authority will only withhold such details where the circumstances justify such action.</p>	
<p>Portman Group</p>	<p>“We appreciate the reference to the Portman Group Code of Practice in the document guidance section. We know that several other authorities have included a brief description of the Portman Group Code of Practice and contact details in their document annexes. If you were to consider such a text to encourage retailers in your area to abide by Retailer Alert Bulletins to remove irresponsible products and promotions, we might suggest including the following:</p> <p>The Portman Group Code of Practice The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the naming, packaging and promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or over. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel’s decisions are published. If a product’s packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to</p>	<p>The Portman Group is the social responsibility body and regulator for alcohol labelling, packaging and promotion in the UK.</p>	<p>The ‘Portman Group Code of Practice’ is referred to at 2.4.1(iv) under Guidance available to the Licensing Authority when making licensing decisions.</p> <p>To include a full description of the Portman Group here would require similar for all the guidance documents referred to. It is also preferred that specific contact details and links to documents are not included in the main policy document due to changes that may occur before it is next updated.</p> <p>It would be more helpful if the information regarding the Portman Group was included on our website and applicant guidance documents, rather than within the Licensing Policy itself.</p>

	<p>replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important tool in protecting children and vulnerable consumers from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may particularly appeal to these groups..</p> <p>I would also highlight the latest edition of the Code of Practice, which was published last year and contains several new important updates including action to target offensive marketing and associations with illegal behaviour.</p> <p>I would also highlight the following technical points</p> <ul style="list-style-type: none"> • We have recently moved office and our new address is Millbank Tower, 21-24 Millbank, London SW1P 4QP • Our new telephone number is - 020 3925 5704 • We plan on launching a dedicated page to our Retailer Alert Bulletins on our website soon, which will help aid licensing officers and retailers in viewing the most recent and past decisions from the Independent Complaints Panel.” 		
<p>Elizabeth Rickeard, Bere Brewery</p>	<p>“I've read through the draft policy, and there are no issues or objections that I wish to raise - it appears more comprehensive with some good clear guidance especially in areas such as CSE.</p> <p>For some, the 'exceeding of statutory requirements', proactively seeking views of local residents, councillors and businesses, may result in additional difficulties and delays where there are</p>	<p>In support of the policy.</p>	<p>No amendment to policy required.</p>

	<p>members of a community that are resistant to and fearful of change, or who feel a need to exercise power, but of course ideally good communication at this point should forestall problems at a later date.”</p>		
<p>Louisa Daley, Community Safety Partnership</p> <p>Page 97</p>	<p>Para 3.8.27 – Include ‘vulnerable adults.’</p> <p>Para 3.8.31 – Include ‘human trafficking and modern slavery.’</p>	<p>The Community Safety Partnership is one of our main sources of advice on safeguarding. The proposed amendments are welcomed and will be incorporated into the policy.</p>	<p>Amendments</p> <p>3.8.27 – Safeguarding not only includes physical or sexual harm, but psychological, emotional and financial harm and neglect. Where there are risks to children’s and vulnerable adults’ well-being, every step should be taken to ensure their safety.</p> <p>3.8.31 – The Licensing Authority is working together with other agencies to help tackle issues surrounding safeguarding, particularly child sexual exploitation, human trafficking and modern slavery. Further information for operators and their employees on the types of issues to be aware of and good practice in relation to safeguarding is at Appendix F.</p>

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Summary of New and Variation applications received for premises licences and club premises certificates between 1 October 2019 to 30 September 2020

Date Received	Name of Premises	Application	Outcome
2/10/19	Coffee and Cream, Tavistock	New Premises	Granted by officer following agreements with Police
21/10/19	Duke of York, Tavistock	Minor Variation	Granted by officer
28/10/19	Okehampton Town Council, Okehampton	Minor Variation	Granted by officer
15/11/19	Whitehouse Services, Okehampton	Variation	Granted by officer
19/12/19	Carters Deli, Tavistock	New Premises	Granted by officer following agreements with Police
19/12/19	Postbridge Post Office, Postbridge	New Premises	Granted by officer following agreements with Police
19/12/19	Tavistock Town Council, Tavisotck	New Premises	Granted by officer following agreements with Police
19/2/20	Folklore, Chagford	New Premises	Granted by officer
16/3/20	Union Inn, Tavistock	Minor Variation	Granted by officer
19/3/20	Ryeland Spirits, Broadwoodkelly	New Premises	Granted by officer following agreements with Police
1/4/20	Morrisons, Tavistock	Minor Variation	Granted by officer
17/4/20	Chagstock, Whiddon Down, Chagford	Minor Variation	Granted by officer
25/4/20	Rockmount, Tavistock	New Premise	Granted by officer following mediation
4/5/20	Voting Tree, Bere Alston	New Premises	Granted by officer
11/5/20	Image Tattoo, Okehampton	New Premises	Granted by officer following agreements with Police
9/6/20	Alder Vineyard, Lewdown	New Premises	Granted by officer
19/6/20	Bere Ferrers Social Club, Bere Ferrers	Minor Variation	Granted by officer
19/6/20	Taylors, Tavistock	Minor Variation	Granted by officer
28/7/20	Beaworthy Drive In Cinema, Beaworthy	New Premises	Granted by officer
8/9/20	Rockmount, Tavistock	Minor Variation	Granted by officer
10/9/20	Co-Op, Okehampton	Variation	Granted by officer
15/9/20	Plume of Feathers,	Minor Variation	Granted by officer
21/9/20	Co-Op, Okehampton	Minor Variation	Granted by officer

Issue of Licences/Amendments under Licensing Act 2003, Gambling Act 2005 and The Local Government (Miscellaneous Provisions) Act 1982 in the period 1 October 2019 to 30 September 2020

Transfer of Premises Licence	17	Issued by officer
Change of designated premises supervisor	26	Issued by officer
Personal Licences new	30	Issued by officer
Temporary Event Notices	167	Issued by officer

Gambling Act 2005

Category C & D Machines New	2	Issued by Officer
Small Society Lotteries	8	Issued by Officer
Occasional use Notice	4	Issued by Officer

The Local Government Miscellaneous Provisions Act 1982

Combined Driver Licences	65	Issued by Officer
Hackney Carriage Vehicles	77	Issued by Officer
Private Hire Vehicles	6	Issued by Officer
Private Hire Operators	4	Issued by Officer

Miscellaneous Licensing

Animal Activity Licences (includes dog home boarding, dog day care, dog breeding, dog kennels, cat boarding, riding establishments, pet shops, exhibiting animals)	13	Issued by Officer
Scrap Metal Collector Licences	4	Issued by Officer
Scrap Metal Site Licences	1	Issued by Officer
Skin Piercing Licences Person (New)	1	Issued by Officer
Skin Piercing Licence Premises (New)	1	Issued by Officer

West Devon Borough Council Agenda Item 8

PLANNING AND LICENSING COMMITTEE 24-Nov-20

Appeals Update from 16-Oct-20 to 4-Nov-20

Ward Dartmoor

APPLICATION NUMBER : **0188/20/OPA** APP/Q1153/W/20/3259659
APPELLANT NAME: Ms C & J Blackburn
PROPOSAL : Outline application with some matters reserved for 5 dwellings including 1 bungalow
LOCATION : Land Adjacent To Rowan Heights Grenofen
APPEAL STATUS : Appeal Lodged
APPEAL START DATE: 02-November-2020
APPEAL DECISION:
APPEAL DECISION DATE:

Ward Tavistock North

APPLICATION NUMBER : **3342/19/FUL** APP/Q1153/W/20/3255592
APPELLANT NAME: Mrs J Eldridge
PROPOSAL : New single storey dwelling
LOCATION : 9 Old Launceston Road Tavistock PL19 8NA
APPEAL STATUS : Appeal decided
APPEAL START DATE: 23-July-2020
APPEAL DECISION: Dismissed (Refusal)
APPEAL DECISION DATE: 23-October-2020

Ward Tavistock South West

APPLICATION NUMBER : **1460/20/HHO** APP/Q1153/D/20/3257991
APPELLANT NAME: Mr Antony Stead
PROPOSAL : Householder application for proposed side extension and new entrance porch to dwelling
LOCATION : 8 Grenville Drive Tavistock PL19 8DP
APPEAL STATUS : Appeal decided
APPEAL START DATE: 22-September-2020
APPEAL DECISION: Upheld
APPEAL DECISION DATE: 28-October-2020

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Report to: **Development Management and Licensing Committee**

Date: **24 November 2020**

Title: **Development Management Action Plan**

Portfolio Area: **Cllr Caroline Mott**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: Immediately following this meeting

Author: **Pat Whymer** Role: **Head of Development Management Practice**

Contact: **Telephone: 01803861396/email: patrick.whymer@swdevon.gov.uk**

Recommendations:

That the Development Management and Licensing Committee be RECOMMENDED to adopt the Action Plan (as attached at Appendix A) and note that the Overview and Scrutiny Committee will receive a progress update on the Plan within the next six months.

1. Executive summary

- 1.1 At the last meeting of the Development Management and Licensing Committee held on 27 October 2020 a review of the process followed in the determination of Planning Application 3614/18 – Land at Plymouth Road Tavistock was considered by the Committee (Minute DM&L 13 refers).
- 1.2 One of the recommendations of the review that was approved by the Committee was that the 'Head of Planning prepare an action plan to implement the recommendations of the review undertaken by the Senior Legal Specialist and present it to the next Committee meeting to be held on 24 November 2020'.
- 1.3 The draft Action Plan at Appendix A sets out the steps/actions that will be undertaken in respect of all of the recommendations contained within the review which were approved by the Committee at the meeting held on 27 October 2020.

2. Background

- 2.1 At the last meeting of the Development Management and Licensing Committee held on 27 October 2020 a review of the process followed in the determination of Planning Application 3614/18 – Land at Plymouth Road Tavistock was considered.
- 2.2 The purpose of the review was not to review the individual planning permission but to identify ways in which the Council might learn and improve.
- 2.3 The review makes a series of recommendations which will help the Council to deliver a more efficient and effective service and improve how it works with its communities.
- 2.4 The Development Management and Licensing Committee at the meeting held on 27 October 2020 approved the recommendations within the review relating to the proposed Actions within the Action Plan at Appendix A.
- 2.5 One of the recommendations of the review approved by the Committee was that the Head of Planning prepare an action plan to implement the other recommendations of the review.
- 2.6 The Action Plan at Appendix A sets out the steps/actions that are proposed to be undertaken in respect of all of the recommendations contained within the review together with a timescale for each action.

3. Outcomes/outputs

- 3.1 The proposed actions will ensure that the aims of the review to deliver a more effective and efficient Development Management Service are achieved.
- 3.2 Progress against the action plan will be monitored by the Overview and Scrutiny Committee.

4. Options available and consideration of risk

- 4.1 The review considered at the last meeting of the Development Management and Licensing Committee considered that there was a risk of similar issues arising in the future and that an Action Plan was required to set out the issues that will be addressed.

5. Proposed Way Forward

- 5.1 The Action Plan sets out a number of actions on how the approved recommendations from the review will be implemented.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Review explained that with regard to determining planning applications, the Town and Country Planning Act 1990 sets out the statutory framework within which decisions are to be made and while the Council's Scheme of Delegation under the Local Government Act 1972 sets out who is to make the decision and any internal procedures to be followed.
Financial implications to include reference to value for money	Y	There are no direct financial implications to the Action Plan. However the impact of some of the actions when implemented could have an impact on the level of staff resource required within the Development Management Service.
Risk	Y	The Actions will reduce the risks of reputational damage, poor performance and customer dissatisfaction.
Supporting Corporate Strategy	Y	The Actions will help to deliver an effective and efficient Development Management service while protecting the built and natural environment.
Climate Change - Carbon / Biodiversity Impact	N	There are no direct climate change, carbon or bio-diversity impacts arising from the actions in the plan.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no direct equality and diversity implications arising from this report
Safeguarding	N	There are no direct safeguarding implications arising from this report.
Community Safety, Crime and Disorder	N	There are no direct community safety, crime and disorder implications arising from this report.
Health, Safety and Wellbeing	N	There are no health, safety and wellbeing implications arising from this noting report.
Other implications		

Supporting Information **Appendices:**

Appendix A – Development Management Draft Action Plan

Background Papers:

Review of the process followed in connection with Planning Application 3614/18/OPA – Land at SX482725 Plymouth Road, Tavistock.

Development Management & Licensing Committee minutes – 27 October meeting.

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed/sign off	Yes/No
SLT Rep briefed/sign off	Yes
Relevant Heads of Practice sign off (draft)	Yes
Data protection issues considered	Yes
Accessibility checked	Yes

Review of the Development Management Process following Planning Application 3614/18/OPA - Action Plan

Recommendation	Details	Action	Timescale
<p>1. Planning Application process and decisions</p>	<p>Applications should be accompanied by plans that show the land that is the subject of the application clearly outlined in red</p> <p>Planning Officers need to be less accepting and more challenging of the information being provided by applicants and consultees.</p> <p>Revise the standard decision template for Outline Planning Permissions to clearly identify the matters that are reserved.</p> <p>Details of an application are usually incorporated into a planning permission as doing so helps in interpreting the planning permission. It is noted that the only reference to an application in the template decision notice is the application reference number. The template should therefore be amended to make incorporation of the application to which it relates clearer.</p>	<p>Ensure validation list is followed – The current validation checklist needs to be revised and adopted. This will need public consultation with Towns/Parishes and users of the service. Once new list adopted staff training to ensure consistent use and interpretation.</p> <p>Briefing of Development Management staff and internal consultees who interact with planning applications</p> <p>Update Outline Decision Notice templates in new Development Management IT software which is due to go live in December 2020.</p> <p>Update Decision Notice templates in new Development Management IT software which is due to go live in December 2020</p>	<p>Spring 2021</p> <p>December 2020.</p> <p>December 2020 or within 1 month of new software going live if later than December 2020</p>

Recommendation	Details	Action	Timescale
	<p>Case officer reports should avoid or minimise the use of Acronyms.</p> <p>Establish a process to ensure that reports for significant or complex applications are reviewed and signed-off either by the Head of Planning or by a Senior Planning Specialist, who is not the report author, before such applications are determined.</p>	<p>Briefing of Development Management staff and internal consultees who interact with planning applications</p> <p>Set up interim process - discussion with Development Management staff to ensure that significant applications are discussed with Head of DM</p> <p>* See Note 1 below</p>	<p>December 2020</p> <p>December 2020</p>
2. Planning Officer Reports	<p>Revise the Officer report template for committee and non-householder delegated reports to incorporate the following:</p> <ul style="list-style-type: none"> • A clearer framework to ensure that reports provide a crisp technically accurate legally compliant analysis of an application. It should be clear from the report what has been taken into account and what has not. • The report should ensure that it has a focus on analysis and questioning and less on the reproduction of representations into the report body. A summary of such representations will suffice in most cases. If the full 	<p>Update Report Templates in new Development Management IT software. Benchmark with other Devon Councils to ensure new template is best practice.</p> <p>Training/Brief DM staff and members on how the new report should be completed and the changes from the current template particularly with respect of not including full details of letters of rep and consultation responses.</p> <p>*See Note 1 below</p>	<p>February 2021 or within 2 months of new system going live if later than December 2020. This will allow sufficient time to Benchmark with other Councils</p> <p>February 2021</p>

Recommendation	Details	Action	Timescale
	<p>consultation response is required, links to the website can be incorporated into the report. Identify the relevant Development Plan Policy at the beginning of the Report and provide analysis on how the proposal fits with the relevant policy</p> <ul style="list-style-type: none"> • show version/date of clearance by officer and in the case of significant or complex applications, clearance by the Head of Planning or another Senior Planning Specialist. This will aid understanding by members of the public when more than one version of the officer report is published on the Council's planning application pages. 	<p>Update Officer Report templates in new Development Management IT software to ensure this is clear within reports</p>	<p>December 2020 or within 1 month of new system going live if later than December 2020</p>
<p>3. Section 106 Agreements</p>	<p>Consider what process should be followed if a Section 106 agreement is not completed and signed with a reasonable period of time.</p>	<p>Ensure that officer recommendations and committee resolutions clearly set out the steps to be taken if a S106 Agreement is not completed in a timely manner with a briefing note to be provided to Development and Management Committee. * See Note 1 below</p>	<p>January 2021</p> <p>January 2021</p>

Recommendation	Details	Action	Timescale
	<p>The importance of getting the heads of terms right has been highlighted and more formal drafting of heads of terms in reports in respect of applications referred to Development Management and Licensing Committee is recommended to aid member understanding of what is proposed.</p> <p>On completion of all section 106 agreements, Legal Services e-mail a copy of the completed agreement together with a summary of what the agreement provides for to various sections of the Council. This will be copied to Ward members. Members will then be aware of the details of planning obligations to be delivered by development in their Wards.</p>	<p>Training/Brief DM staff on the level of detail required in reports with respect of Heads of Terms for S106 Agreements. *See Note 1 below</p> <p>Brief legal services officers to ensure that Ward Members are included in the internal email advising that a Section 106 has been completed. The email will include a copy of the S106</p>	December 2020
4. Information to Members	<p>Members of the Development Management and Licensing Committee will be provided with an informal update on current applications by the Head of DM at the conclusion of each Development Management and Licensing Committee. The update will be limited to those applications that are “significant” and include progress on S106 agreements.</p>	<p>Create a new report in the new Development Management IT software, once live to provide the DM & L committee with an update at each meeting of the undetermined Major Applications within the Borough.</p> <p>When the above new report is first presented to the DM & L Committee. Members will be briefed on the use of the circulated weekly list of applications to identify any non-major proposals that are likely to have significant impact on the</p>	<p>First report to the DM&L Committee at the meeting on February 2021</p> <p>First report to the DM&L Committee at the meeting on February 2021</p>

Recommendation	Details	Action	Timescale
	<p>All members to be notified of amendments to planning applications in their ward.</p> <p>Officers to be given political awareness training</p>	<p>borough (positive or negative). When such individual cases are raised the views of the committee will be sought on whether they wish the case reported to the committee each month as part of the new report</p> <p>Training/Brief DM staff to ensure that Ward Members are notified when revised plans for planning applications are advertised. *See Note 1 below</p> <p>Training to be arranged</p>	<p>December 2020</p> <p>February/March 2021</p>
5. Member Induction and training	<p>Newly elected members to be provided with information on all current applications within their Wards and the identity of the planning officer dealing with the application as part of the “welcome pack”.</p> <p>The induction will also draw new members’ attention to their responsibilities in connection with the determination of planning applications, including monitoring the weekly list of planning applications for applications in their Ward.</p>	Preparation of Welcome pack	Before next election

Recommendation	Details	Action	Timescale
	Training will continue to be provided to members of the Development Management and Licensing Committee.	Continuation of member training in DM	On-going
6. Scheme of Delegation	<p>The current Scheme of Delegation for planning matters to be reviewed including the following elements:</p> <ul style="list-style-type: none"> • To provide clarity in the circumstances that the Head of DM can/should refer an application to committee. • Provide for a further exemption to the delegated powers to ensure that all applications where it is proposed that the Council may acquire an interest in the site are determined by the DM & L Committee. • Ensure consistency in terminology • Consider an extension to the time that Ward Members are given to respond to delegated requests. • Require members to be re-consulted if the terms of a Section 106 have altered after a delegated decision is agreed. 	Report to be taken to Full Council seeking approval of changes to the Scheme of Delegation.	Report to Full Council on 8 December 2020.

Recommendation	Details	Action	Timescale
	<ul style="list-style-type: none"> Clarification of the roles of the DM & L Committee and the Strategic Director of Place with respect of S106 Agreements. 	This will be included into a wider review of the Constitution to be undertaken by the new Head of Legal Services.	To be considered by the Audit Committee on 9 February 2021.
7. IT and Website	<p>As part of the acceptance testing of the new process management software the Council should ensure that it is sophisticated enough to recognise when an application crosses ward boundaries and is able to populate templates with the identities of all the wards that are concerned</p> <p>Steps should be taken to ensure the timely uploading of documents, plans and representations to the Council's planning applications pages to ensure that the public have up-to-date information on which to base any representations on a planning application</p>	<p>The new IT software for Development Management is expected to be introduced in December. Work is on-going to ensure that this element is covered by the new software.</p> <p>The majority of representations are uploaded onto the website within three working days. The Case management process for indexing documents will be re-visited once the new DM software has been introduced to ensure that all documents are uploaded with three working days where possible.</p>	December 2020 or within 1 month of new system going live if later than December 2020
8. Interaction with the County Council	Arrangements to be put in place so that planning officers determining planning applications are made aware either through regular briefings with County Council officers or other regular communication about changes made by the County Council	Arrange meeting with relevant County Council Officers to agree arrangements to ensure that the Borough Council is kept up to date with changes in DCC policy relevant to planning applications	January/February 2021

Recommendation	Details	Action	Timescale
	in any of its policy affecting planning applications.		
9. Relationship with Town and Parish Councils	A memorandum of understanding to be developed and agreed between the Council and town/parish councils. The purpose of the memorandum would be to provide a framework for the process of consulting town and parish councils on planning applications. In doing so it will set out the responsibilities and reasonable expectations of the signatories so that each works proactively and engages constructively with the other	Draft a memorandum of understanding for consultation with Town and Parish Councils. Following consultation period seek approval of the memorandum by members. *See Note 1 below	Consultation in February 2021 adoption in May/June 2021
Note 1	There are a number of the actions detailed above that require consideration of and alterations/additions to elements of the processes currently in place in how the council determines planning applications.	The action points above will be completed as a priority as stand-alone action points. Once completed there will be a review of the main processes within DM regarding the determination of applications and the engagement with third parties. The review will inform the drafting of a planning charter setting out how we will process and determine planning applications.	Draft for consultation summer 2021 Adoption by end of 2021