

South Hams Council



Title:	Agenda																														
Date:	Thursday, 25th November, 2021																														
Time:	11.00 am																														
Venue:	Chamber - Kilworthy Park																														
Full Members:	<p style="text-align: center;">Chairman Cllr Foss</p> <p style="text-align: center;">Vice Chairman Cllr Austen</p> <p><i>Members:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Cllr Abbott</td> <td style="width: 33%;">Cllr McKay</td> </tr> <tr> <td>Cllr Baldry</td> <td>Cllr O'Callaghan</td> </tr> <tr> <td>Cllr Bastone</td> <td>Cllr Pannell</td> </tr> <tr> <td>Cllr Birch</td> <td>Cllr Pearce</td> </tr> <tr> <td>Cllr Brazil</td> <td>Cllr Pennington</td> </tr> <tr> <td>Cllr Brown</td> <td>Cllr Pringle</td> </tr> <tr> <td>Cllr Chown</td> <td>Cllr Reeve</td> </tr> <tr> <td>Cllr Hawkins</td> <td>Cllr Rose</td> </tr> <tr> <td>Cllr Hodgson</td> <td>Cllr Rowe</td> </tr> <tr> <td>Cllr Holway</td> <td>Cllr Smerdon</td> </tr> <tr> <td>Cllr Hopwood</td> <td>Cllr Spencer</td> </tr> <tr> <td>Cllr Jackson</td> <td>Cllr Sweett</td> </tr> <tr> <td>Cllr Jones</td> <td>Cllr Taylor</td> </tr> <tr> <td>Cllr Kemp</td> <td>Cllr Thomas</td> </tr> <tr> <td>Cllr Long</td> <td></td> </tr> </table>	Cllr Abbott	Cllr McKay	Cllr Baldry	Cllr O'Callaghan	Cllr Bastone	Cllr Pannell	Cllr Birch	Cllr Pearce	Cllr Brazil	Cllr Pennington	Cllr Brown	Cllr Pringle	Cllr Chown	Cllr Reeve	Cllr Hawkins	Cllr Rose	Cllr Hodgson	Cllr Rowe	Cllr Holway	Cllr Smerdon	Cllr Hopwood	Cllr Spencer	Cllr Jackson	Cllr Sweett	Cllr Jones	Cllr Taylor	Cllr Kemp	Cllr Thomas	Cllr Long	
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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:	Democratic.Services@swdevon.gov.uk																														

1. Minutes	1 - 14
to approve as a correct record the minutes of the meeting of the Council held on 23 September 2021	
2. Urgent Business	
the Chairman to announce if any item not on the agenda should be considered on the basis that he considers it as a matter of urgency (any such item to be dealt with under 'Business Brought forward by the Chairman');	
3. Exempt Information	
to consider whether the consideration of any item of business would be likely to disclose exempt information and if so the category of such exempt information;	
4. 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;	
5. Business Brought Forward by the Chairman	
to consider business (if any) brought forward by the Chairman;	
6. Annual Review of Health and Safety Policy Statement	15 - 36
7. Three Yearly Review of Gambling Statement of Licensing Principles	37 - 106
8. Garden Waste	107 - 112
Referral from the Overview & Scrutiny Committee Call-in and the Subsequent Executive Response	
9. St Anns Chapel Housing Project	113 - 128
10. Reports of Bodies	
to receive and as may be necessary approve the minutes and recommendations of the under-mentioned Bodies:	
(* Indicates minutes containing recommendations to Council).	
(a) Development Management Committee - 8 September 2021	129 - 136
(b) Salcombe Harbour Board - 20 September 2021	137 - 140

(c) Development Management Committee - 6 October 2021	141 - 152
(d) Overview & Scrutiny Committee* - 13 October 2021	153 - 158
(e) Executive* - 14 October 2021	159 - 168
(f) Audit Committee - 28 October 2021	169 - 172
(g) Overview & Scrutiny Committee - 4 November 2021	173 - 182
(h) Special Executive - 11 November 2021	183 - 188
11. Public Question Time	189 – 190

12. Questions

to consider the following question received in accordance with Council Procedure Rule 8.

(a) From Cllr Baldry to Cllr Pearce (Leader of the Council)

'Planning Applications

In the interest of public transparency, will the Leader agree that all applicants for planning permission for 5 or more dwellings, are asked to disclose whether in the past 10 years they have made a donation to a British political party?'

13. Notice of Motion

to consider the following motions received in accordance with Council Procedure Rule 10.1

a) From Cllr O'Callaghan and Cllr Jackson

'There is a housing crisis in the South Hams, and genuinely affordable homes for local people must be our top priority.

The Council will look to find solutions by forming a Working Group in the immediate future which will report back to the Executive and/or Full Council as soon as is practicable.'

b) From Cllr Rose and Cllr Chown

Moving away from Gas and Oil in South Hams

The transition away from fossil fuels is complex, expensive, and urgent. While SHDC is often reliant on National Government policy to set the pace of the shift, we can significantly influence attitudes and behaviour through our communications and publicly stated intentions.

Council notes:

- *That many of our residents are deeply concerned that global CO2 emissions continue to rise.*
- *That the burning of fossil fuels, including gas and oil, is directly responsible for this.*
- *That Government policy is not yet in place to ban the installation of gas and oil boilers in new builds.*
- *That a great deal of time and expense are being invested into retrofitting houses to emit less CO2.*
- *That developers were given notice as long ago as 2007 under the Code for Sustainable Homes that all new homes would have to be zero carbon by 2016. These requirements were scrapped in 2015.*
- *The comments from Sustainable South Hams:
'New homes need to be built to zero carbon standards as would have been required by 2016 under the scrapped Code for Sustainable Homes. This reduces up-front costs for heating infrastructure and brings running costs down, as well as lessening the burden on the electricity grid. Aside from ensuring homes are insulated to best practice standards, one of the best tried and tested means to achieve zero carbon is to install a heat pump. Air-source and ground-source heat pumps are as green as the electricity powering them. So as the UK's remarkable progress in greening its electricity grid continues, heat pumps will tend towards zero carbon in operation. They also of course emit no dangerous PM2.5 particulates, unlike gas and oil boilers. And as SHDC stated in the April 2018 Clean Air Strategy, "there is no safe level for PM2.5", and "life expectancy can be significantly affected due to exposure to poor air quality".'*

Council agrees:

- *That it is likely that most gas boilers installed from today will eventually need to be removed and replaced with heat pumps.*
- *That in a time of climate and ecological emergency it is unacceptable for gas and oil boilers to be installed in new builds.*
- *That our residents should not be exposed to PM2.5, for which SHDC has already stated that there is no 'safe' level.*

And therefore, South Hams District Council resolves to:

- *Make a public statement to house builders informing them that: SHDC will be banning the installation of gas and oil boilers in new builds as soon as we are able to under Central Government regulations. Developers should consider this as fair warning and the beginning of a grace period to*

prepare for this change.

- *To lobby Central Government to bring forward policy that requires new builds to be zero carbon.*
- *To lobby Central Government to bring forward policy to ban the installation of gas and oil boilers in new builds.*

c) From Cllr Pennington and Cllr Long

1. *This Council asks that the Executive make all necessary arrangements to empty resident's Brown Garden Waste Bins as soon as possible.*

Options being by the use of multiple contractors to cover different areas within the District; and/or by FCC arranging overtime with existing staff for this one off collection.

2. *This Council asks the Executive to revoke the decision to suspend the South Hams garden waste collections until spring 2022. And for the great benefit of South Hams residents and council taxpayers renegotiate with FCC this hugely appreciated service during the months of January, February and March 2022 under the terms of the agreed contract. A monthly collection would suffice until the spring review is completed.*

d) From Cllr Sweett and Cllr Long

Due to the further increases in house prices over the past eighteen months combined with a lack of available rental properties in the South West many local people especially young people do not have housing options within their home towns and villages. This Council will recommence the useful discussions between various traveller groups, 'caravan dwellers', interested parties and South Hams officers to continue to find a variety of solutions to the 'housing' crisis. This will include the options discussed previously with the for example a transit site in collaboration with DCC, smaller sites within Wards, engage with developers on these issues and simplify the planning process for both tolerated sites and those living low impact lifestyles.

e) From Cllr Hodgson and Cllr Rose

In preparation for the forthcoming review of the Joint Local Plan, this Council will invite Parish Council's to propose potential hamlets and similar locations for new Conservation Area Assessments to ensure the future protection of some special heritage and historic locations in the district that are currently vulnerable to inappropriate new development.

f) From Cllr McKay and Cllr Birch

Background

The emergency we now face requires immediate action and much of this effort needs to come from our communities, but they need our help and support.

Sustainable South Hams (SSH) is a local organisation working to coordinate the activities of the myriad groups and parish councils across the district that are each working hard to try and address the emergency of climate change and biodiversity loss. By bringing groups together, so that there is a sharing of knowledge, experience and expertise, as well as through training in the many disciplines needed, the efforts of the whole community of volunteers can be much more efficient and effective.

SSH have been highly effective in bringing groups together and promoting the sharing of knowledge through monthly members meetings, networking introductions and project visits and would make ideal partners for the Council to work with to compliment and enhance its own efforts in this area.

SSH are in a unique position to deliver results. They started only 2 years ago and have proven themselves to be professional, extraordinarily hard working and delivering exactly what is needed to make sure we have the best chance of being ready for the future.

The task SSH has taken on is enormous. It is not a local group, it is now a key local organisation in the mitigation and adaptation race against climate-change and biodiversity loss. It needs out support and it is requesting a grant of £22,500 to be used for:

£3.5k Basic Business Setup (CIC formation, Website, Marketing, IT etc.)

£10k Project Management (1.5 days per week)

£6k Paying Mentors to assist new projects delivery (1 day per week)

£3k Revenue Stream Development and Funding Application (0.5 days per week)

Motion

This Council recognises the outstanding and important contribution that SSH has made to addressing Climate Change and Biodiversity loss

and in order for it to continue and to build on the work it has done, this Council feels it is appropriate to award a discretionary grant to SSH of £22,500 to be taken from the Council's Climate Change and Biodiversity Fund.

g) From Cllr Hodgson and Cllr Rose

In light of the current difficulties with the collection of green waste and the likelihood that this will remain a problem for some areas of the district, and in the spirit of COP 26 to reduce the carbon footprint of waste recycling, this Council will encourage and support community composting initiatives that are supported by parish councils in the South Hams.

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Agenda Item 1

MINUTES OF THE MEETING OF THE SOUTH HAMS DISTRICT COUNCIL HELD AT KILWORTHY PARK, TAVISTOCK ON THURSDAY 23 SEPTEMBER 2021

MEMBERS

* Cllr R J Foss – Chairman

* Cllr L Austen – Vice-Chairman

* Cllr V Abbott	* Cllr J McKay
* Cllr K J Baldry	* Cllr D M O’Callaghan
* Cllr H D Bastone	∅ Cllr G Pannell
∅ Cllr J P Birch	* Cllr J A Pearce
* Cllr J Brazil	* Cllr J T Pennington
* Cllr D Brown	* Cllr K Pringle
* Cllr M Chown	* Cllr H Reeve
* Cllr J D Hawkins	* Cllr J Rose
* Cllr J M Hodgson	* Cllr R Rowe
* Cllr T R Holway	* Cllr P C Smerdon
* Cllr N A Hopwood	* Cllr B Spencer
* Cllr S Jackson	* Cllr J Sweett
* Cllr L Jones	* Cllr B Taylor
* Cllr K Kemp	* Cllr D Thomas
* Cllr M Long	

* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

For all items: Chief Executive; Monitoring Officer; Director of Governance and Assurance; Head of Strategy and Projects; Head of Waste and Environmental Services; and Democratic Services Manager

41/21 **MINUTES**

The minutes of the Council meeting held on 15 July 2021 were confirmed as a true and correct record.

42/21 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting, but there were none made.

43/21 **CHAIRMAN’S ANNOUNCEMENTS**

Due to the nature of the agenda for this meeting, the Chairman advised that it was his intention to exercise his discretion to amend the order of the published agenda so that agenda item 10: ‘Reports of Bodies’ would be considered after agenda item 7: ‘Question on Notice’.

Secondly, the Chairman confirmed that he would be enforcing Meeting Procedure Rules 8.3(b): *'A period of 45 minutes will be set aside at each meeting to debate 'Notices of Motion''* and 15.4(b): *'No speech may exceed three minutes without the consent of the Chairman of Council'*.

44/21

BETTER LIVES FOR ALL STRATEGY

Consideration was given to a report that summarised the responses to the public consultation exercise and recommended the subsequent adoption of the 'Better Lives for All' Strategy. In addition, the report also set out the resource requirements that were required to deliver the Plan that supported the Strategy.

During her introduction, the Leader made particular reference to:-

- her pride at the outcome of the draft Strategy;
- her thanks for the work of lead officers and Members to reach this point;
- the draft Strategy being ambitious but fully costed;
- the consultation response received from Devon County Council (DCC) informing that the draft Strategy was very closely aligned to the equivalent plan being developed by DCC. The Leader felt this to be very encouraging; and
- performance management being a key aspect of the draft Strategy.

In discussion, the following points were raised:-

- (a) Some Members highlighted the importance of the Council now beginning to deliver on the detail contained within the Strategy and thematic delivery plans;
- (b) A number of Member echoed the introductory comments of the Leader and put on record their thanks to both lead officers and lead Members for achieving both an excellent draft Strategy and underpinning thematic delivery plans. Furthermore, the design and layout were also commended;
- (c) As a word of caution, a Member was of the view that the documents were heavily focused on the towns within the district and there was a consequent need to add greater emphasis to the local villages of the South Hams. In response, the view was acknowledged and it was emphasised that, as a series of evolving documents, this would be addressed.

It was then:

RESOLVED

1. That the results of the consultation on the draft 'Better Lives for All' Strategy be noted;
2. That the 'Better Lives for All' Strategy and the thematic delivery plans be adopted;

3. That the allocation of existing funding (as set out in paragraph 7.2 of the published agenda report) be noted; and
4. That the additional £110,000 of cost pressures for 2022/23 and 2023/24 be approved.

45/21 **PUBLIC QUESTION TIME**

The Chairman informed the Meeting that no Public Questions had been received for consideration at this Meeting.

46/21 **QUESTIONS ON NOTICE**

It was noted that no Questions on Notice had been received in accordance with Council Procedure Rule 8:

47/21 **REPORTS OF BODIES**

RESOLVED

That the minutes and recommendations of the undermentioned bodies be received and approved subject to any amendments listed below:-

(a) Development Management Committee – 23 June 2021

(b) Licensing Committee – 30 June 2021

(c) Audit Committee – 1 July 2021

(d) Overview & Scrutiny Committee – 1 July 2021

(e) Overview & Scrutiny Committee – 22 July 2021

(f) Development Management Committee – 28 July 2021

(g) Audit Committee – 2 September 2021

(h) Executive – 9 September 2021

(i) Executive – 16 September 2021

E.37/21: Delivery of Electric Charging Points in Council Car Parks

RESOLVED

1. That a Collaboration Agreement be entered into with the Devon and Torbay Residential Chargepoint Scheme for the installation of Electric Vehicle Charging Points;

2. That the potential site locations (as listed in paragraph 1.3 of the published agenda report) be approved for the installation of Electric Vehicle Charging Points; and
3. That a lease be entered into with the appointed supplier for a ten-year period.

E.39/21: Medium Term Financial Strategy 2022/23 to 2024/25

RESOLVED

That Council:

1. sets the strategic intention to raise Council Tax by the maximum allowed in any given year, without triggering a Council Tax Referendum, to endeavour to continue to deliver services. (NB. the actual Council Tax for any given year will be decided by the Council in the preceding February);
2. adopts the principle of using funding in the Business Rates Retention Reserve to smooth out the anticipated volatility in Business Rates income over the next three years (as set out in section 3.19 of the published agenda report). The volatility is due to the business rates baseline reset anticipated in 2023/24 (this will result in the Council having a negative Revenue Support Grant) and the predicted loss of Business Rates pooling gain at the same time. It is recommended that funding held in the Business Rates Retention Reserve is retained for the purpose of smoothing out the business rates volatility / negative revenue support grant and should not be used for unrelated purposes, other than commitments already made or as part of one-off funding for the Corporate Strategy, for at least the next three years;
3. continues to respond to Government consultations on Business Rates Reform;
4. continues to actively lobby and engage with the Government, Devon MPs, South West Councils and other sector bodies such as the District Councils' Network and the Rural Services Network, for a realistic business rates baseline to be set for the Council for 2023 onwards, when the business rates reset happens;
5. continues to lobby in support of the Government eliminating Negative Revenue Support Grant in 2022/23 (and thereafter) and continue to lobby for Rural Services Delivery Grant allocations which adequately reflect the cost of rural service provision; and

6. notes the forecast budget gap for 2022/23 of £79,587 (0.8% of the current Net Budget of £9.68 million) and the position for future years be noted.

E.41/21: Capital Programme Monitoring

RESOLVED

That the overspend of £31,816 on the Dartmouth Ferry Workshop be funded from the Capital Programme Contingency Reserve.

E.42/21: Planning Improvement Plan

RESOLVED

That the cost of temporary planning staffing resources of £171,900 (SHDC share of the cost), be funded from the additional planning income generated in 2021/22 (as set out in Section 2.4 of the published agenda report).

E.43/21: Follaton House Accommodation Usage

RESOLVED

That the cost of a new Audio Visual system (of an estimated £130,000) be funded from the New Burdens Revenue Funding received from the Government for the administration of the recent Business Grants (as set out in Section 4.3 of the published agenda report). In addition, the Council funds up to £30,000 for the cost of furniture from the Repairs and Maintenance Earmarked Reserve.

E.44/21: Waste and Recycling Update

The following recommendation from the Executive meeting was **PROPOSED** and **SECONDED**:

“That the waste and recycling collection service provided still falls below the standard required to meet the expectations of local residents. Councillors were given assurance that the service would return to a ‘steady state’ by mid-July. In the Council’s view, this is not the case. We appreciate the efforts of officers and FCC to try and rectify the situation. However, if a solution cannot be found to deliver the ‘super recycling’ service as specified at the Full Council meeting on 6 December 2018 by the end of 2021 the Council will be forced to consider exercising any available contractual rights in order to ensure that, going forwards, arrangements are in place which are capable of delivering a waste and recycling collection service that is fit for the 21st Century.”

In discussion, reference was made to:

- (a) the wording '*the Council will be forced to consider..*' A Member highlighted that this wording implied that the Council was currently not considering exercising any of its available contractual rights which he felt to be unfortunate. In response, the Chief Executive reiterated that the Council was using every means possible that were at its disposal to improve service performance;
- (b) the work of Council officers and Members. A number of Members paid tribute to the work of Council officers and Members who were working tirelessly to support the work that FCC should be undertaking. When questioned, it was confirmed that officer time was being recorded and FCC would be invoiced for the officer time being spent supporting FCC;
- (c) community composting schemes. When questioned, the Chief Executive informed that a report was to be presented to the Executive meeting to be held on 14 October that would include reference to community composting schemes. As a general point, the lead Executive Member encouraged residents to home compost as much as they possibly could;
- (d) attendance at the next Overview and Scrutiny Committee meeting. Some Members expressed their disappointment that it had been necessary to rearrange the next Committee meeting in light of the FCC representatives being unable to attend on the originally scheduled date. It was also confirmed that the meeting would be rearranged to be held in the next few weeks and, as soon as agreement for a revised date had been fixed, all Members would then be advised;
- (e) the co-mingled waste. A Member stated that a number of residents were expressing their doubts that 100% of co-mingled waste was being recycled. In response, officers confirmed that no waste ended up in landfill and it was the wish of the lead Executive Member for a Member site visit to be arranged to enable Members to view Chelson Meadow Recycling Centre at first hand;
- (f) an amendment to the motion was **PROPOSED** and **SECONDED** as follows:

'The waste and recycling collection service offered by the Council still falls well below the standards local residents expect or deserve. Councillors were given assurances that the service would return to a 'steady state' by mid July. In the Council's view, this is not the case. We appreciate the efforts of officers and FCC to try and rectify the situation. However, if a solution cannot be found to deliver the 'super recycling' service as specified at the full council meeting on 6th December 2018 by the end of 2021, the council will exercise its contractual rights and look to bring the service back in house.

We would initiate a transition period, in discussion with FCC, for the benefit of both parties. We will also look to work in partnership with other authorities to deliver a waste and recycling service that is fit for the 21st century.”

In bringing forward the amendment, the proposer felt that this provided the Council (and its residents) with a greater statement of intent.

In the ensuing debate, reference was made to:

- (a) the advice of the Monitoring Officer. Due to the nature of the advice to be given it was **PROPOSED** and **SECONDED** 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 items of business as the likely disclosure of exempt information as defined in paragraphs 3 and 5 of Schedule 12A to the Act is involved.’

When put to the vote, the motion to exclude the public and press was declared **CARRIED**.

The meeting subsequently moved into exempt session at 3.05pm and, having made a statement to Members and responded to Member questions on this statement, it was then (at 3.25pm) **PROPOSED** and **SECONDED** and when put to the vote declared **CARRIED**:

‘That the public and press be re-admitted to the meeting.’

- (b) the lack of HGV drivers was part of a national trend for which there were no quick and straightforward solutions;
- (c) the need to take heed of the advice provided by the Monitoring Officer;
- (d) the poor performance of FCC. Notwithstanding the advice that had been given to the meeting, some Members still highlighted examples of the ongoing poor performance from FCC and therefore reiterated their support for the amendment.

When put to the vote, the amendment was declared **LOST**.

It was then:

RESOLVED

That the waste and recycling collection service provided still falls below the standard required to meet the expectations of local residents. Councillors were given assurance that the service would return to a 'steady state' by mid-July. In the Council's view, this is not the case. We appreciate the efforts of officers and FCC to try and rectify the situation. However, if a solution cannot be found to deliver the 'super recycling' service as specified at the Full Council meeting on 6 December 2018 by the end of 2021 the Council will be forced to consider exercising any available contractual rights in order to ensure that, going forwards, arrangements are in place which are capable of delivering a waste and recycling collection service that is fit for the 21st Century.

48/21

MOTIONS ON NOTICE

It was noted that six Motions on Notice had been received in accordance with Council Procedure Rule 10.1:

(a) By Cllrs Pearce and Bastone

"In response to the almost complete lack of any rented accommodation available for six months or longer that local people and those working in the area can access, and the excessive rise in house prices locally due to second home-owners and those moving in from other areas since the pandemic, which has made house prices completely inaccessible for the great majority of local people, South Hams District Council resolves to declare a Housing Crisis.

It is fortunate that we have a new Housing 5 year Housing Strategy and Housing Actions in Better Lives for All, but as an expansion of them South Hams District Council should:

- 1 Lobby government through our MPs and the LGA to allow council tax to be charged on plots with planning permission after a determined period, even if they haven't been built out, so that developers are encouraged to build out sites without delay.*
- 2 Lobby government through our MPs and the LGA to review the regulation of holiday accommodation, to ensure all holiday accommodation is suitably regulated and made subject to local planning policies and taxes. We should also appeal for an extension to the 90-day short term let legislation to be extended outside London and lobby MHCLG for a separate planning class for short term lets and a proper licensing system to cater for them.*

- 3 *Institute an immediate thorough review by the council of all holiday lettings in the District, including, but not restricted to, whether they have planning permission, whether they are paying council tax or business rates, as appropriate, for the accommodation, whether they comply with safety regulations, and to ensure they are paying appropriately for waste disposal.*
- 4 *Ask the JLP Team to review the thresholds and percentages of affordable housing on sites, and whether it would be appropriate at the Plan Revision to increase these so that the percentage of First Homes imposed by the government becomes in addition to the present 30% affordable homes rather than part of it.*
- 5 *Promote regular Landlord Forums and run a further campaign to publicise the advantages to landlords of Seamoor Lettings.*
- 6 *Work closely with our main Registered Providers to ensure best occupancy of stock, so that where tenants are prepared to downsize, not only are they given a priority banding to be able to access a smaller property but support to help them move available.*
- 7 *Use some of the affordable housing reserve to increase payments made to anyone downsizing to help make moving more attractive and affordable.*
- 8 *Use any Section 106 affordable housing contributions as soon as possible to help fund developments anywhere in the District where the terms of the Section 106 Agreement permit this.*
- 9 *Campaign for changes to the Broad Market Area to better reflect the costs of rents in the South Hams.*
10. *Promote the development of an exemplar site of low carbon modular housing such as ZEDpods, to show that developments like this can be both stylish and great to live in. They can offer many advantages over traditional build and could help, amongst other things, to alleviate the shortage of one bedroomed accommodation in the District."*

In her introduction, the proposer made particular reference to:

- the dire housing situation in the South Hams that had only been exacerbated during this summer period;
- the need to ensure a sustainable future for the South Hams. The Leader stated that the sustainability of the South Hams was being jeopardised by local people being unable to afford to live in the district;
- the increased recognition amongst Housing Policy Officers that national Housing Policies were not working in areas such as the South Hams; and
- the motion containing a number of actions that complimented the 'Better Lives for All' Corporate Strategy that had just been adopted (Minute 44/21 above refers).

In the ensuing debate, reference was made to:

- (a) an amendment to the motion was **PROPOSED** and **SECONDED** that read as follows:

'11. To actively seek opportunities to invest in Council owned social housing with high sustainability specification to support those on a low income who are unable to afford 'affordable' rented housing.'

In discussion, it was felt that this additional action should be supported and, when put to the vote, this amendment was declared **CARRIED**;

- (b) a second amendment to the motion was **PROPOSED** and **SECONDED** that read as follows:

'12. To lobby Government to allow local councils to be able to charge up to 200% Council Tax on second/holiday homes as they do in Wales.'

In discussion, the ratio between average house prices and average wages was felt to be deeply concerning and were simply not understood by Central Government. As a result, a Member suggested formally inviting the newly appointed Secretary of State for Housing, Communities and Local Government to the South Hams for a visit to the South Hams to enable for a full appreciation of the housing crisis to be appreciated. Furthermore, the importance of local authorities being given the ability to make both landowners and developers build was recognised.

When put to the vote, the amendment was declared **CARRIED**.

It was then:

RESOLVED

In response to the almost complete lack of any rented accommodation available for six months or longer that local people and those working in the area can access, and the excessive rise in house prices locally due to second home-owners and those moving in from other areas since the pandemic, which has made house prices completely inaccessible for the great majority of local people, South Hams District Council resolves to declare a Housing Crisis.

It is fortunate that we have a new Housing 5 year Housing Strategy and Housing Actions in Better Lives for All, but as an expansion of them South Hams District Council should:

- 1 Lobby government through our MPs and the LGA to allow council tax to be charged on plots with planning permission after a determined period, even if they haven't been built out, so that developers are encouraged to build out sites without delay;

- 2 Lobby government through our MPs and the LGA to review the regulation of holiday accommodation, to ensure all holiday accommodation is suitably regulated and made subject to local planning policies and taxes. We should also appeal for an extension to the 90-day short term let legislation to be extended outside London and lobby MHCLG for a separate planning class for short term lets and a proper licensing system to cater for them;
- 3 Institute an immediate thorough review by the council of all holiday lettings in the District, including, but not restricted to, whether they have planning permission, whether they are paying council tax or business rates, as appropriate, for the accommodation, whether they comply with safety regulations, and to ensure they are paying appropriately for waste disposal;
- 4 Ask the JLP Team to review the thresholds and percentages of affordable housing on sites, and whether it would be appropriate at the Plan Revision to increase these so that the percentage of First Homes imposed by the government becomes in addition to the present 30% affordable homes rather than part of it;
- 5 Promote regular Landlord Forums and run a further campaign to publicise the advantages to landlords of Seamoor Lettings;
- 6 Work closely with our main Registered Providers to ensure best occupancy of stock, so that where tenants are prepared to downsize, not only are they given a priority banding to be able to access a smaller property but support to help them move available;
- 7 Use some of the affordable housing reserve to increase payments made to anyone downsizing to help make moving more attractive and affordable;
- 8 Use any Section 106 affordable housing contributions as soon as possible to help fund developments anywhere in the District where the terms of the Section 106 Agreement permit this;
- 9 Campaign for changes to the Broad Market Area to better reflect the costs of rents in the South Hams;
- 10 Promote the development of an exemplar site of low carbon modular housing such as ZEDpods, to show that developments like this can be both stylish and great to live in. They can offer many advantages over traditional build and could help, amongst other things, to alleviate the shortage of one bedroomed accommodation in the District;

- 11 Actively seek opportunities to invest in Council owned social housing with high sustainability specification, to support those on a low income who are unable to afford 'affordable' rental housing; and
- 12 Lobby Government to allow local councils to be able to charge up to 200% Council Tax on second / holiday homes as they do in Wales.

(b) By Cllrs Rose and Hodgson

"Tackling the Climate Emergency – Carbon Fee and Dividend

South Hams District Council has declared a Climate Emergency and is committed to becoming carbon neutral by 2030.

Council welcomes the work of SHDC officers to create and begin to implement our CC&B Action Plan, aligning with the DCC Carbon Plan; however, we recognise wider carbon neutrality and meaningful climate action will require bolder national policies.

Council notes:

- *That stated current government policy is to reduce carbon emissions by 68% on 1990 levels by 2030;*
- *The deeply felt concerns of many SHDC residents who are aware that national and international expert advisory bodies report that progress to date is insufficient to meet the global challenge on climate change by 2030.*

Council agrees:

- *With the widely understood principle that polluters should pay for the damage they cause;*
- *That it would be unfair for residents of rural areas to be held accountable for pollution generated through lack of public transport available;*
- *On the importance of ensuring a solid social and political consensus to sustain the transition to a low carbon way of life;*

And therefore, South Hams District Council resolves to:

- *Support the principle of the Carbon Fee and Dividend system;*
- *Lobby HM Government to appraise the impacts of carbon pricing based on this approach and publish the results;*
- *Ask the Chief Executive to write to the Secretary of State for Business, Energy and Industrial Strategy to express their views.*

In his introduction, the proposer informed that, since the agenda had been published, he had been in contact with the Leader, and the following minor alterations were therefore proposed:

- *The deeply felt concerns of many SHDC residents who are aware that national and international expert advisory bodies report that progress to date is insufficient to meet the global challenge on climate change by 2030; and*
- *That it would be unfair for residents of rural areas to be held accountable for pollution generated through lack of public transport available;*

The proposer proceeded to advise the meeting that, under this arrangement, fuel levies would be paid back to residents at a flat rate. As a result, those wealthiest members of society who used fossil fuels the most ended up paying the most, whilst the less wealthy would actually receive back more than the amount they paid as a result of increased fuel prices.

During the ensuing debate, there was widespread support expressed for the motion.

It was then:

RESOLVED

Tackling the Climate Emergency – Carbon Fee and Dividend

South Hams District Council has declared a Climate Emergency and is committed to becoming carbon neutral by 2030.

Council welcomes the work of SHDC officers to create and begin to implement our CC&B Action Plan, aligning with the DCC Carbon Plan; however, we recognise wider carbon neutrality and meaningful climate action will require bolder national policies.

Council notes:

- *That stated current government policy is to reduce carbon emissions by 68% on 1990 levels by 2030;*
- *The deeply felt concerns of many SHDC residents who are aware that national and international expert advisory bodies report that progress to date is insufficient to meet the global challenge on climate change by 2030.*

Council agrees:

- *With the widely understood principle that polluters should pay for the damage they cause;*
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And therefore, South Hams District Council resolves to:

- *Support the principle of the Carbon Fee and Dividend system;*
- *Lobby HM Government to appraise the impacts of carbon pricing based on this approach and publish the results;*
- *Ask the Chief Executive to write to the Secretary of State for Business, Energy and Industrial Strategy to express their views.*

At this point and, in accordance with Meeting Procedure Rule 8.3(b), the Chairman advised that the 45-minute time limit for consideration of Notices of Motion had now expired and it was therefore his intention to formally close this Council Meeting. With regard to those Motions on Notice that were not considered, the Chairman informed of his intention for these to be rolled over for presentation to the next Full Council Meeting to be held on 25 November 2021.

(Meeting commenced at 2.00 pm and concluded at 5.20 pm)

Chairman

Report to: **COUNCIL**

Date: **25th November 2021**

Title: **Annual Review of Health and Safety Policy Statement**

Portfolio Area: **Wellbeing/Leader**

Wards Affected: **All**

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

Date next steps can be taken: Immediately following this Meeting.

Author: **Ian Luscombe** Role: **Head of Environmental Health and Licensing**

Contact: **01822 813713 Ian.Luscombe@swdevon.gov.uk**

RECOMMENDATION:

That the Council agree to adopt the annual joint health and safety at work policy and that it is signed by the Head of Paid Service and the Leader of the Council.

1. Executive summary

- 1.1 The Council is required to prepare a written health and safety policy statement by the Health and Safety at Work Act 1974. The policy should be agreed and signed off by the Head of Paid Service and the Leader of the Council.
- 1.2 The Joint South Hams District Council and West Devon Borough Council Health and Safety policy documents the Council's position regarding its intentions, organisation and arrangements for ensuring the health, safety and welfare at work of their employees, and the health and safety of any other person working in, visiting the Councils, or who may be affected by their activities
- 1.3 The policy is required to be reviewed annually and where appropriate, revised to reflect any significant change within the Organisation.
- 1.4 There are no changes to the Policy this year.

2. Background

- 2.1 The Council is required to have a written health and safety policy under the Health and Safety at Work Act 1974. The Policy is an important document to set the responsibility for the health and safety of staff in the Council's employment and those persons effected by its activities. The Policy covers the entire range of Council Services.
- 2.2 The Policy is supplemented by a number of Safety Codes dealing with specific issues relevant to particular Service Groups and/or activities, e.g., Work at Height, Working Alone, Incident Reporting, etc. These Codes will have the same status as the Policy
- 2.3 The Policy adopts a sensible approach to managing risk which reflects best practice and is based on integrated management principles enabling the Council to achieve a correct balance in managing health and safety as part of an overall risk management
- 2.4 The Policy should be reviewed annually and revised to include any significant changes
- 2.5 The past year has been a challenging one due to the impacts on the Council of the covid pandemic. From a health and safety perspective the safety of staff and members has been foremost in our minds. Protocols have been introduced, adapted and kept under review to follow the changing Government guidance to ensure staff and members are operating in a safe working environment.
- 2.6 There has also been a strong focus on health and wellbeing. Managers have been encouraged to continue to support their teams and the Human Resources team have promoted mental health initiatives.

3. Outcomes/outputs

- 3.1 The Council is required to have a Health and Safety Policy agreed by senior management and members, signed off by the Head of Paid Service and the Leader of the Council

4. Options available and consideration of risk

- 4.1 There is a statutory requirement to agree and implement the Councils Health and Safety Policy. Failure to do so would risk prosecution by the Health and Safety Executive and put employee's health and safety at unacceptable risk.

5. Proposed Way Forward

- 5.1 The Council should agree the revised Health and Safety Policy and continue to review it on an annual basis and/or when significant changes occur.
- 5.2 The Risk Management Officer group should provide a basis for integrating health and safety into its management structure and achieve continuous improvement in health and safety standards.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Health and Safety at Work etc Act 1974 The Policy conforms to the 2013 HSE guidance in order to ensure that the Council is legally compliant. Accordingly, the Policy needs to be formally adopted by the Council.
Financial	Y	Achieving legal compliance requires the Council's officers to actively engage in carrying out health and safety responsibilities intrinsic to their job role. The cost will be officer time which is accounted for within existing budgets. Achieving best practice will require an ongoing commitment to continuously improve the health and safety management system which will add to the cost of officer time.
Risk		The potential cost of not achieving legal compliance includes: i HSE enforcement costs ii legal and court cost iii compensation costs iv loss of credibility.
Comprehensive Impact Assessment Implications		
Equality and Diversity		The Policy applies to all members of staff and has considerations of the effect of Council activities on non-employees. Effective management of health and safety should ensure that equality and human rights are not infringed.
Safeguarding		Indirect impact derived from suitable and sufficient risk assessment of activities associated with vulnerable groups

Community Safety, Crime and Disorder		No direct impact
Health, Safety and Wellbeing		As above, indirect impact on wellbeing derived from suitable and sufficient assessment of risk of work activities, e.g., lone working
Other implications		None

Supporting Information

Appendices:

A - South Hams District and West Devon Borough Council's Health and Safety Statement

Background Papers:

None

HEALTH AND SAFETY STATEMENT AND POLICY

Revisions

Version 1	September 2015
Version 2	November 2016
Version 3	July 2017
Version 4	October 2018
Version 5	November 2019
Version 6	November 2020
Version 7	November 2021

Health and Safety Statement

South Hams District Council and West Devon Borough Council are fully committed to ensuring a high standard of health and safety. The Councils recognise their statutory duties protect the health, safety and welfare of staff and others connected to our work activities. We recognise the potential strategic, operational and financial risks associated with failures in health and safety and the importance of maintaining a well-resourced internal health and safety service.

During the last year we have all seen the importance of keeping the workforce safe whilst working in difficult and uncertain conditions. The Health and Safety of our staff has been a priority while tackling the COVID-19 pandemic.

To demonstrate our commitment to health and safety we annually update the health and safety policy statement and have developed a health and safety improvement programme to continue the cycle of continuous improvement by reviewing and updating the health and safety procedures related to the work that we do. This statement, and the associated management systems detail how South Hams District Council and West Devon Borough Council will manage our health and safety responsibilities and deal with any incidents that may occur.

It will be the responsibility of the Councils' Senior Leadership team (SLT) to monitor the implementation of this policy and the councils' overall risk management performance. This will be achieved through the use of regular reporting commissioned by SLT and annual audits.

The Risk Management Group will be responsible for ensuring the work programme is delivered. They will champion health and safety compliance within the Community of Practice business areas.

The organisations have identified that technical expertise for health and safety will be provided by the Environmental Health team. They provide advice and support to the organisation as necessary.

We expect all staff to take reasonable steps to be aware of the policy, risk assessments, and the controls identified. To support the Heads of Service in assessing risks, implementing controls, and to actively engage in any training, exercises or workshops will arranged to test the organisation's effectiveness.

Members are required to make themselves aware of the health and safety arrangements that are likely to affect them.

The Councils are committed to ensuring that the internal health and safety service is adequately resourced to enable the full implementation of this policy. This commitment includes the provision of sufficient financial resources, management and employee time, training and advisory support. The Council has appointed a competent person to provide competent health and safety advice to the Councils.

This Health and Safety arrangements will be reviewed at least annually or more frequently where there have been significant changes to the Councils or factors affecting the Councils' activities.

Signed: _____

Date: _____

Andy Bates, Chief Executive

DRAFT

1. Statement of Intent

- 1.1 This is a statement of policy by South Hams District Council and West Devon Borough Council (the Councils) about their intentions, organisation and arrangements for ensuring the health, safety and welfare at work of their employees, and the health and safety of any other person working in, visiting the Councils, or who may be affected by their activities.
- 1.2 It is the intention of the Councils to do all that is reasonably practicable to provide safe and healthy working conditions for its employees and to enlist their support in achieving this. The Councils also recognise their responsibilities to ensure the health and safety of elected members, members of the public, visitors and contractors when on their premises and others who may be affected by their activities.

2. Policy

- 2.1 It is the policy of the Councils as employers that they will comply so far as is reasonably practicable, with the requirements of the Health and Safety at Work etc. Act 1974 and all other relevant statutory provisions.
- 2.2 This policy is supported by Codes of Practice that apply throughout the Councils and will have the same status as this policy. The Codes of Practice will reflect:
- minimum legal requirements
 - best practice.
- 2.3 The Councils will do all that is reasonably practicable to prevent personal injury and illness, loss and damage to premises, plant and equipment by:
- Appropriate assessment and management of risk for all activities and seeking to eliminate hazards and/or reduce risks;
 - ensuring appropriate competence of all employees in health and safety by the provision of information, instruction, training, supervision, management support and performance appraisal;
 - ensuring close co-operation and participation of management and staff through normal working relationships and consultation with employees.
- 2.4 The Councils will pursue the above aims by the implementation of the objectives at **Appendix A** and the new three year safety plan.
- 2.5 The remainder of this document contains the following sections:
- Organisation and responsibilities
 - Arrangements for implementation
 - Objectives.

3. Policy Review

- 3.1 This policy will be reviewed annually, in consultation with the unions, by the Internal Health and Safety Service who will advise the Senior Leadership Team (SLT) on possible amendments
- 3.2 The Codes of Practice will be reviewed by the Internal Health and Safety Service as and when legislation changes, best practice dictates or when otherwise necessary.

4. Organisation and responsibilities

- 4.1 This part of the policy describes the organisational arrangements within the Councils for ensuring health and safety at work. Health and Safety issues are line management responsibilities alongside and of equal importance to responsibilities for the provision of services and the management of resources.

4.2 Head of Paid Service

- 4.2.1 The **Head of Paid Service** has overall responsibility to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all the Councils' employees and members, to ensure, so far as is reasonably practicable, the health and safety of others who work in and visit the Councils or may be affected by the Councils' activities.
- 4.2.2 The **Head of Paid Service** will include Health and Safety in his/her annual report to Council.

4.3 Directors

- 4.3.1 Directors are responsible for the implementation of this policy in the areas over which they have control. Oversight of the function sits with the **Director for Strategy and Governance**.

4.3.2 Head of Environmental Health and Licensing

The **Head of Environmental Health and Licensing** will be responsible for providing an internal health and safety service to the Councils which will be the competent assistance as required by the Management of Health and Safety at Work Regulations 1999. To avoid confusion this should be a named officer.

4.4 Heads of Service and Business Manager

Heads of Service and the Business Manager are responsible for ensuring the implementation, coordination and monitoring of this policy and associated Codes of Practice, and the overall health and safety management of the staff within their control. In particular, they must:

- carry out risk assessments and ensure that safe working conditions are maintained;
- ensure that staff within their control are trained and instructed in safe methods and comply with them;
- ensure that all accidents, incidents and near misses are reported and investigated and steps taken wherever possible to prevent a recurrence.

4.5 Heads of Service may nominate officers with Day to Day Responsibility for Health and Safety in their respective services/departments and inform their staff and the Internal Health and Safety Service accordingly but this will not remove the Head of Service's responsibilities.

4.6 **Employees**

Employees shall:

- take reasonable care for the health and safety of themselves and of other persons who may be affected by their acts or omissions;
- co-operate with their manager in the implementation of this policy;
- follow safe working practices at all times;
- report accidents, incidents and near misses to their line manager;
- report unsafe working conditions and hazards to their line manager or other appropriate person.

4.7 **Key staff with additional health and safety responsibilities**

In addition to their responsibilities as managers the following Heads of Services will also have the responsibilities shown at **Appendix B**:

- Head of Environmental Health and Licensing
- Head of Maritime
- Head of Human Resources
- Members of the Internal Health & Safety group

4.8 **Members of the Internal Health & Safety group**

- Membership of the Internal Health and Safety Group will consist of Heads of Service and Managers and other relevant persons
- The group will be a forum for discussion for Internal Health and Safety matters and responsible for developing and progressing health and safety awareness throughout the Councils.
- The group will identify and implement work programmes relating to internal health and safety, including a programme of auditing and review, and any other tasks arising to achieve compliance with regulatory requirements or best practice.
- A member of SLT will be in attendance. This will enable key decisions to be made or effectively escalated to SLT.

- This group will also be a point of contact for Union Representatives and Staff Forums.

4.9 Head of Environmental Health and Licensing (Internal Health and Safety)

The Head of Environmental Health and Licensing is responsible for the Internal Health and Safety service. The Internal Health and Safety service provides the competent advice to the Councils on matters relating to health, safety and welfare at work across the Councils. Their objectives include:

- providing specialist support and guidance to the Councils on the effective management of health and safety;
- to help promote and maintain a high standard of total health (physical and mental) for all persons working in the Councils;
- the safeguarding of all staff from health and safety hazards arising from their work or the environment by means of accident prevention, environmental control and prevention of injury and illness;
- to receive all Incident/Near Miss reports, maintain an Incident/Near Miss database and publish performance statistics.

5. Arrangements for implementation

5.1 This part of the policy describes the general arrangements for the implementation and monitoring of health and safety at work.

5.2 Strategic aims, objectives and three-year action plan

The aims, objectives and three-year safety plan set out the Councils' commitment to provide a healthy and safe environment for all those who work in and visit the Councils. The plan reflects best practice and is based on the principles of loss control and quality management.

This approach is designed to:

- a. address the health and safety implications of the various activities of the organisations;
- b. identify the hazards and assess the level of risk;
- c. apply the following general principles of prevention in the order shown:
 - avoiding risks;
 - evaluating the risks which cannot be avoided;
 - combating the risks at source;
 - adapting the work to the individual, especially as regards the design of workplaces, the choice of work equipment and the choice of working and production methods, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health;

- adapting to technical progress;
- replacing the dangerous by the non-dangerous or the less dangerous;
- developing a coherent overall prevention policy which covers technology, organisation of work, working conditions, social relationships and the influence of factors relating to the working environment;
- giving collective protective measures priority over individual protective measures; and
- giving appropriate training and instructions to employees.

5.3 Codes of Practice

5.3.1 Where a need is identified, through legislation, risk assessments, best practice, health and safety auditing, the proceedings of committees or other means, a Code of Practice will be established to set the standard of implementation and operation for the identified topic. These Codes of Practice will be reviewed as and when legislation changes or practice dictates.

5.3.2 The Codes of Practice shall have the same status as the main policy document and will outline how to implement the requirements of the main policy in specific risk areas.

5.4 Training

5.4.1 The Internal Health and Safety Service in conjunction with the training partnership and workplace managers and supervisors, will provide guidance on Health and Safety Training and general training needs, and identifying those key workers who should attend. The Internal Health and Safety Group will administer health and safety training across the organisations and develop a training competency matrix, which will establish key training for all staff.

5.4.2 Each Service will ensure that good working arrangements for health and safety training exist. This training will include attendance at corporate induction training and appropriate special to job induction training.

5.4.3 Each Service will ensure that health and safety is included as an integral part of their annual business plan.

5.4.4 Records of safety training provided will be maintained on Team Spirit and may also be maintained by service managers.

5.4.5 The identification of health and safety training needs is to be part of the annual appraisal process. Managers are responsible for identifying the training needs of individuals. The Internal Health and Safety Service needs in conjunction with Human Resources will be responsible for an analysis of the corporate training.

5.5 Risk assessment

5.5.1 Each manager/supervisor shall make a suitable and sufficient assessment of:

- the risks to the health and safety of his employees to which they are exposed whilst they are at work; and
- the risks to the health and safety of others who may be affected by their activities,

for the purpose of identifying the measures necessary to ensure a safe and healthy place of work.

5.5.2 In addition to the general risk assessment set out at paragraph 5.5.1 there may also be a need for a specific risk assessment and the need for that should be identified and if possible carried out at the same time. These specific assessments are shown in the appropriate Code of Practice on Assessment of Risk but include:

- manual handling ((including the lifting, putting down, pushing, pulling, carrying or moving of a load);
- display screen equipment (computing and word processing);
- hazardous substances etc;
- young people
- pregnancies.

5.5.3 Risk assessments will be reviewed:

- Periodically as recorded on the risk assessment;
- when an accident, incident or near miss occurs;
- when purchasing new equipment;
- changing work practices etc; or moving into a new work area.

5.5.4 Managers/supervisors are to monitor work activities to ensure that risk assessments and control measures are still suitable and sufficient and take appropriate action to review when necessary.

5.5.5 Where a need for a generic risk assessment is identified (e.g. work in offices, activities of a similar nature taking place in more than one service) the internal health and safety service will be responsible for carrying out the assessment and monitoring as required by paragraph 5.5.4

5.6 Health and safety standards, audit and inspection

5.6.1 A set of health and safety standards has been designed and each Service will make their own arrangements for reviewing their level of achievement annually which will be reported in their service plan. The standards are shown at **Appendix C.**

5.6.2 The Internal Health and Safety Service Group will develop a programme of audits and a standardised form to identify whether the management of risk has been carried out in each service area. The programme should be designed to reflect the needs of the Councils and the individual Service and will take into account the particular kinds of hazard or health and safety issues encountered. The timing of health and safety audits will appear in the annual safety plan and will be proportionate to the level and scope of the hazards and risks present.

5.6.3 The combination of the review of safety standards and the audit process is designed to ensure that we can demonstrate our level of health and safety management. The results will be analysed, considered, prioritised and shaped into an action programme.

5.7 Occupational health

5.7.1 Occupational health is concerned with work-related problems and health and safety in the work place. An occupational health service for staff is provided under arrangements made by Human Resources. Further details may be obtained from the Human Resources Office.

5.8 Incidents

5.8.1 Any incident or injury occurring whilst at work or on the Council's premises, however trivial it may appear at the time, must be reported to the Internal Health and Safety Service on the prescribed form.

5.8.2 Any report of an incident caused by defective fixtures and fittings, furniture, equipment etc. should make the cause clear so that steps can be taken to rectify the fault and avoid a recurrence.

5.9 First Aid Arrangements and Medical facilities

5.9.1 Details of first aid arrangements and medical facilities for the Councils are given in the appropriate Code of Practice and on the Health and Safety pages of the Intranet.

5.10 Eye tests for display screen equipment users

5.10.1 Members of staff or elected members who are users of display screen equipment (computers etc) are eligible for the refund of the cost of an eye test. If it is confirmed by the optician that they require spectacles specifically for display screen equipment use, a further refund may be provided for the cost of a basic pair of spectacles. Further details are available from the Internal Health and Safety Service and on the Health and Safety pages of the Intranet.

5.11 Smoking and vaping

5.11.1 Smoking or vaping is not permitted in any of the Council's premises. The text of the policy is set out in the appropriate Code of Practice and on the Health and Safety pages of the Intranet. This also extends to the use of E Cigarettes.

5.12 Emergency Procedures

5.12.1 Fire

Details of the procedure in the case of fire are provided at each of the Councils' premises. Fire Safety training is also covered on the Induction Courses which is mandatory for all staff, in the health and safety training prospectus and periodically as a refresher.

5.12.2 Emergency procedures for staff with disabilities

On joining the Councils, any member of staff or elected member who has a disability that might impede their evacuation or the evacuation of anyone else should bring this to the attention of their manager. A personal evacuation plan will be drawn up by the responsible manager, in conjunction with the Internal Health & Safety Service, and this should be brought to the attention of colleagues working in the same locality. Staff who develop a disability during their employment in the Councils should also consult their manager.

5.12.3 Threats Against the Councils

On receipt of a threat against the Councils including those by letter or suspect package suspicious letter or parcel, staff should:

- make no attempt to open it;
- place the package carefully on the nearest firm surface; and
- telephone Follaton House Building Management (extension 1227) and Kilworthy Park Facilities (extension 3611/3609)

A more detailed risk assessment is available to staff working in the post room.

5.13 Security

Responsibility for security within the Councils' premises rests with the manager of each site. Staff are however expected to exercise all reasonable vigilance and, in particular, are responsible for any visitors they may bring into the Councils' premises.

5.14 Arrangements for Names badges and access cards and for Access Control

Where there is a need to provide staff and elected members with name badges and access cards or for access control the Facilities service will make the necessary arrangements.

5.15 Consultation With Employees

5.15.1 Consultation with employees on health and safety matters is essential and a statutory requirement.

5.15.2 Suitable arrangements are to be put in place for staff consultation and Terms of Reference agreed as appropriate.

.....
Andy Bates
Chief Executive

.....
Judy Pearce
Leader of the Council

.....
Neil Jory
Leader of the Council

South Hams District Council
Follaton House
Totnes
TQ9 5NE

West Devon Borough Council
Kilworthy Park
Tavistock
PL19 0BZ

Date November 2021

Appendices

Appendix A Aims and Objectives

Appendix B Key Staff With Additional Health and Safety Responsibilities

Appendix C Standards Linked To Health and Safety Objectives

Aims and Objectives**Aims**

- To ensure that a robust safety management system is in place;
- To provide and maintain a work environment that is safe and without risk to health for all employees, contractors and others who may be affected by the activities of the council;
- To avoid all accidents and to ensure that no one suffers ill health as a result of working at South Hams District Council or West Devon Borough Council or by the activities of the Councils;
- To plan and manage activities so that hazards are assessed and risks eliminated or controlled in so far as is reasonably practicable by appropriate prevention and protection measures

Objectives

- Fully integrate health and safety into the management and decision-making processes within the Councils.
- Ensure appropriate systems are developed and maintained for the effective communication of health, safety and welfare matters throughout the Councils.
- Comply with all relevant Statutes, Regulations and Codes of Practice. The minimum standards that will be adopted by the Councils will be those required by law, although the Councils will always seek to exceed these where there is a demonstrable benefit.
- Devote appropriate resources in the form of finance, equipment, personnel and time to ensure the maintenance of health, safety and welfare standards.
- Provide necessary information, instruction and training to employees and others, including temporary staff, to ensure their competence with respect to health, safety and welfare.
- Ensure appropriate liaison with all necessary persons to ensure an appropriate standard of health, safety and welfare. The Councils will also ensure that adequate arrangements are also in place for ensuring the health and safety of non- employees who may be affected by the Councils' activities.
- Ensure that all employees are aware of their responsibilities to take reasonable care of themselves and others who could be affected by their acts or omissions and to co-operate with management in achieving the standards required.
- Ensure that managers are aware of their specific duties and responsibilities to comply with the letter and spirit of the Councils' policy and that the management of health, safety and welfare is an integral part of their function and their performance will be monitored along with their other duties.
- Carry out appropriate investigation of accidents, incidents and 'near-misses' and necessary action taken to reduce the likelihood of a recurrence.
- Establish procedures to ensure that safe equipment and plant are provided for employees and non-employees.
- Establish procedures for the appointing and monitoring of the competency of contractors.

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Key Staff with Additional Health and Safety Responsibilities

1. Head of Environmental Health and Licensing, in addition to his enforcement responsibilities in the commercial sector, will:
 - a. Continue to be appointed as the Councils statutory appointed competent person under the health and safety at work act 1974
 - b. Provide a health and safety advisory service to the Councils by means of the Internal Health and Safety Service;
 - c. Advise the Internal Health and Safety Service on matters of Environmental Health and Licensing, relating to activities carried out by the Councils;
 - d. When necessary, monitor the atmosphere and assess noise levels in certain areas of work;
2. Head of Maritime will ensure that:
 - a. The Dartmouth Lower Ferry operates in accordance with the South Hams District Council's approved Domestic Safety Management Code as required by the Merchant Shipping (Domestic Passenger Ships) (Safety Management Code) Regulations 2001) and that reviews of the Code take place when necessary and at not less than 3 yearly intervals.
 - b. The Salcombe Harbour Safety Management System as required by the Department for Transport Port Marine Safety Code is produced and reviewed at the prescribed intervals.
3. Head of Human Resources will have responsibility for:
 - a. Advising elected Members and Officers on the personnel implications of the Councils' Health and Safety Policy;
 - b. Consultations and negotiations with representatives of the staff on those aspects of the Health and Safety policy which affect the staff and their conditions of employment;
 - c. In conjunction with the Internal Health and Safety Service provide suitable induction and other training for staff in health and safety matters, including the administration of the training programme and the organisation of training courses within the Council;
 - d. Ensure that an appropriate paragraph concerning risk management and health and safety is included in each job description.
4. Internal Health & Safety group will have responsibility for:
 - a. identifying and implement work programmes relating to internal health and safety, including a programme of auditing and review, and any

other tasks arising to achieve compliance with regulatory requirements or best practice.

- b. the administration of health and safety training across the organisations and develop a training competency matrix.

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Standards linked to Health and Safety Objectives

Performance levels			
1	2	3	4
Communication and Consultation - <i>Management will ensure that appropriate systems are developed and maintained for the effective communication of health, safety and welfare matters throughout the Councils. The Councils will liaise and work with all necessary persons to ensure an appropriate standard of health, safety and welfare. The Council will also ensure that adequate arrangements are also in place for ensuring the health and safety of non- employees</i>			
Health & safety is not discussed and changes are made without consulting with staff or managers	Health & Safety is a standard item on managers meetings, for all staff during first week induction and following any incident. Changes which may affect H&S are openly discussed with managers	Health & Safety is a standard item on managers and team meetings, for all staff during first week induction and following any incident and as part of risk assessment. Changes which may affect H&S are openly discussed with managers and staff	Health & Safety is a standard item on managers and team meetings for all staff during first week induction and following any incident and as part of risk assessment. Any matters arising are followed up to a conclusion. Changes which may affect H&S are openly discussed with managers and staff and comments or arguments welcomed
Contractors - <i>The Councils will ensure that procedures are established for appointing and monitoring the competency of contractors.</i>			
Contractors are selected without considering any health and safety implications	Contractors are selected after checking their health and safety management and systems	Contractors are selected after checking their health and safety management and systems and agreeing method statements and working processes. The Council's Internal Health and Safety Service is involved.	Contractors are not used OR Contractors are selected after checking their health and safety management and systems and agreeing method statements and working processes. The Council's Internal Health and Safety Service is involved. Contractors are actively monitored during the contract works and a record is maintained.
Monitoring <i>of health and safety including risk assessments and working practices</i>			
No monitoring of health and safety takes place	When problems are brought to the attention of managers the matter is looked into	Regular checks of some aspects of health and safety are made	A programme of checks on health and safety is produced and followed
Planning <i>including the effects of service changes and requirements on health and safety</i>			

There is no consideration of health and safety in my planning	Health and safety is included in my Service Plan but not to any great extent	Health and safety is included in my Service Plan and general planning for my service. Key hazards are identified together with targets for removing or mitigating the risks	Health and safety is a feature of all planning in the service. My service plan identifies key hazards and shows targets for removing or mitigating the risks. Progress is actively monitored.
Risk assessment - <i>The Councils' approach to health, safety and welfare is based on the identification, management and control of risks. There are distinct benefits to be gained from providing a safe and healthy working environment, and appropriate levels of resources will be allocated to promoting, developing and maintaining the standards of health, safety and welfare within the Councils.</i>			
No risk assessments have been carried out	Risk assessments have been carried out for all activities	Risk assessments have been carried out for all activities, control measures put in place and communicated to those affected. Review of assessments is carried out	Risk assessments have been carried out for all activities, control measures put in place and have been communicated to those affected and training has been provided. Monitoring and reviewing of assessments is carried out and recorded.
Training - <i>The Councils will provide the necessary information, instruction and training to employees and others, including temporary staff, to ensure their competence with respect to health, safety and welfare.</i>			
Training is not provided.	Health and safety training needs are identified during the annual appraisal process but not monitored	Health and safety training needs are identified during the annual appraisal process, and when they arise during the year	Health and safety training needs are identified during the annual appraisal process, and when they arise during the year and monitoring carried out to ensure that training takes place

South Hams District Council and West Devon Borough Council aim to ensure equality of opportunity in the delivery of their policies, services and employment practices. South Hams District Council and West Devon Borough Council will challenge discrimination, and encourages other organisations within South Hams and West Devon to act in accordance with Equality legislation.

This Policy is available in large print or Braille upon request.

If you require any help completing associated paperwork please contact the Internal Health and Safety Service extension 1475.

Report to: **COUNCIL**

Date: **25 November 2021**

Title: **Three-Yearly Review of Gambling Statement of Licensing Principles**

Portfolio Area: **Health and Wellbeing – Cllr Hawkins**

Wards Affected: **All**

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

Date next steps can be taken: **Immediately following this Meeting**

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

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

RECOMMENDATION:

That Council be RECOMMENDED to adopt the draft Statement of Principles (as set out at Appendix A) for the period from 31 January 2022 to 30 January 2025.

1. Executive summary

- 1.1 The Council's Licensing Authority has responsibilities under the Gambling Act 2005 (the 'Act') to issue premises licences, registrations, various types of permits and temporary permissions in respect of premises where it is proposed gambling take place.
- 1.2 Section 349 of the Act requires the Licensing Authority to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Act during the three-year period to which the Policy relates. South Hams District Council adopted the initial Gambling Statement of Principles in November 2006. This review of the Policy must be adopted in advance of January 2022.

1.3 Before determining the Statement, Licensing Authorities must first consult with certain persons or bodies in accordance with Section 349 of the said Act, namely:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

A list of the organisations/persons consulted is provided at **Appendix B**. The Statement was subject to a public consultation during the period 13 September to 24 October 2021.

1.4 A summary of the changes from the current version (2019-2022), is provided at **Appendix C**. As the policy was updated in detail in 2019, only minor changes are required. The main proposed changes include more detail on the Licensing Authority's expectations when dealing with separation of premises, further information regarding premises licence plans and an overall update to the document with regard to the Gambling Commission's new Guidance and codes of practice.

1.5 The current Statement of Principles for 2019-2022 and the original consultation responses for the draft Statement are included within the background documents and are available upon request. A summary of the consultation responses, together with suggested amendments can be found at **Appendix D**. The suggested amendments have been provisionally incorporated into the revised draft 2022-2025 Statement, attached at **Appendix A**.

2. Background

2.1 Not all gambling is dealt with by District Councils, for example, the Financial Services Authority and the National Lottery Commission continue to regulate spread betting and the National Lottery respectively. The Gambling Commission are responsible for granting operating and personal licences for commercial gambling (such as casinos and bingo halls) and to personnel working in the industry. District Councils issue the premises licences and permits for betting shops, bingo halls and for gambling machines etc.

2.2 The Act contains three licensing objectives which underpin the functions of the Licensing Authority. These are:-

- a) Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
- b) Ensuring that gambling is conducted in a fair and open way; and

c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 2.3 In determining its Policy, the Authority must have regard to Guidance issued by the Gambling Commission under Section 25 of the Act, and give appropriate weight to representations made within the consultation period.
- 2.4 The draft Policy has been prepared in consultation with the Devon Licensing Officers' Group and takes account of advice issued by the Local Government Association and the Gambling Commission Guidance to Local Authorities which was last updated in May 2021.
- 2.5 This report was also scheduled for consideration by the Licensing Committee at a meeting to be held on 11 November 2021. Whilst this meeting was unfortunately declared inquorate, the six Committee Members in attendance did all express their support for the amended Principles to be presented to Full Council for its approval.

3. Outcomes/outputs

3.1 Adoption Procedure

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

Action	Date
Draft Statement of Principles published and distributed for consultation.	13 September 2021
Consultation concludes	24 October 2021
Licensing Committee recommend approval of revised Statement of Principles and agrees to recommend to Council for adoption	11 November 2021
Revised Statement of Principles approved by Council	25 November 2021
Statement of Principles published (at the latest)	3 January 2022
Statement of Principles comes into effect	31 January 2022

4. Options available and consideration of risk

- 4.1 Failure to produce a Gambling Statement of Principles in accordance with s.349 Gambling Act 2005 and its accompanying Regulations would be a breach of statutory duty. It would render the Council powerless to make decisions or exercise the licensing objectives in its locality.

4.2 Should the Statement not be adopted, the Council would be open to criticism and legal challenge.

4.3 The correct consultation process of the draft policy was undertaken between 13 September and 24 October 2021. See **Appendix B** for full list of those consulted.

5. Proposed Way Forward

5.1 That the Council be recommended that the draft Statement of Principles, as amended, is adopted for the period 31 January 2022 to 30 January 2025.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	Y	<p>Section 349 of the Act requires the Licensing Authority to prepare and publish a statement of the principles it proposes to apply in exercising its functions under the Act during the three-year period to which the policy relates.</p> <p>Section 349(3) requires the Licensing Authority to consult the following persons/bodies:</p> <ul style="list-style-type: none"> • In England and Wales, the chief officer of police for the authority’s area; • One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area; • One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Act. <p>Before publishing the revised Policy, the Licensing Authority is required to publish a notice of its intention to public a statement or revision on its website and in/on one or more of the following places:</p> <ul style="list-style-type: none"> • A local newspaper circulating in the area covered by the statement; • A local newsletter, circular, or similar document circulating in the area covered by the statement; • A public notice board in or near the principal office of the authority; • A public notice board on the premises of public libraries in the area covered by the

		<p>statement.</p> <p>Legislation requires the Statement to take effect from 31 January 2022, but to be published and in place 4 weeks before.</p>
Financial		The associated preparation and publication costs will be met in full from Gambling Act 2005 applications and annual fees income. Therefore, there are no financial implications to the Council from this report.
Risk		<p>Failure to produce a Gambling Statement of Principles in accordance with the Gambling Act 2005 and its accompanying Regulations is a breach of statutory duty and will render Council powerless to make decisions or exercise the licensing objectives in its locality.</p> <p>Not adopting Policy could leave 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		Protecting children and other vulnerable persons from being harmed or exploited by gambling is one of the licensing objectives underpinning the Gambling Act 2005.
'Better Lives for All' Corporate Strategy		Community Wellbeing thematic area.
Climate Change & Biodiversity		No direct implications arising from this report.
Community Safety, Crime and Disorder		Preventing gambling from being a source of crime or disorder, being associated with crime and disorder, or being used to support crime is one of the licensing objectives underpinning the Gambling Act 2005.
Health, Safety and Wellbeing		No direct implications arising from this report.
Other implications		

Supporting Information

Appendices:

Appendix A – Draft Gambling Statement of Licensing Principles

Appendix B – List of organisations/persons consulted

Appendix C – Summary of changes

Appendix D – Summary of consultation responses and suggested amendments

Background Papers:

- Gambling Act 2005 and associated relevant Regulations
- Guidance issued under the Gambling Act 2005 (updated May 2021)
- Gambling Commission Licence Conditions and Codes of Practice (LCCP)
- South Hams District Council's Gambling Statement of Principles, which expires January 2022
- Consultation responses
- Tackling Gambling Related Harm – A Whole Council Approach, Local Government Association (LGA) in conjunction with Public Health England, July 2018.
- Gambling-related Harm as a Public Health Issue – Briefing paper for Local Authorities and local Public Health providers February 2018.
- Gambling regulation: Councillor handbook (England and Wales) 31 March 2018



**South Hams
District Council**

DRAFT

Statement of Principles

UNDER THE GAMBLING ACT 2005

For the period 31st January 2022 to 30th January 2025

If you or someone you know would like this publication in a different format, such as larger print or a language other than English, please email: licensing@swdevon.gov.uk

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STATEMENT OF PRINCIPLES

Text in the shaded boxes within this Statement of Principles are advisory only and intended to give assistance to applicants, interested persons and responsible authorities.

Part A

1 The Licensing Objectives

1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The licensing objectives are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
- ensuring that gambling is conducted in a fair and open way, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.2 This Licensing Authority notes at paragraph 5.34 of the Gambling Commission's Guidance to licensing authorities that:

“Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a Licensing Authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and as such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).”

Applicants are also advised to note Part B of this Statement of Principles:-
Premises Licences – General Principles

2 Introduction

2.1 The Act gives licensing authorities a number of important regulatory functions. The main functions are:-

- license premises for gambling activities;
- consider notices given for the temporary use of premises for gambling;
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
- regulate gaming and gaming machines in alcohol licensed premises;
- grant permits to family entertainment centres for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider occasional use notices for betting at tracks; and
- register small societies' lotteries.

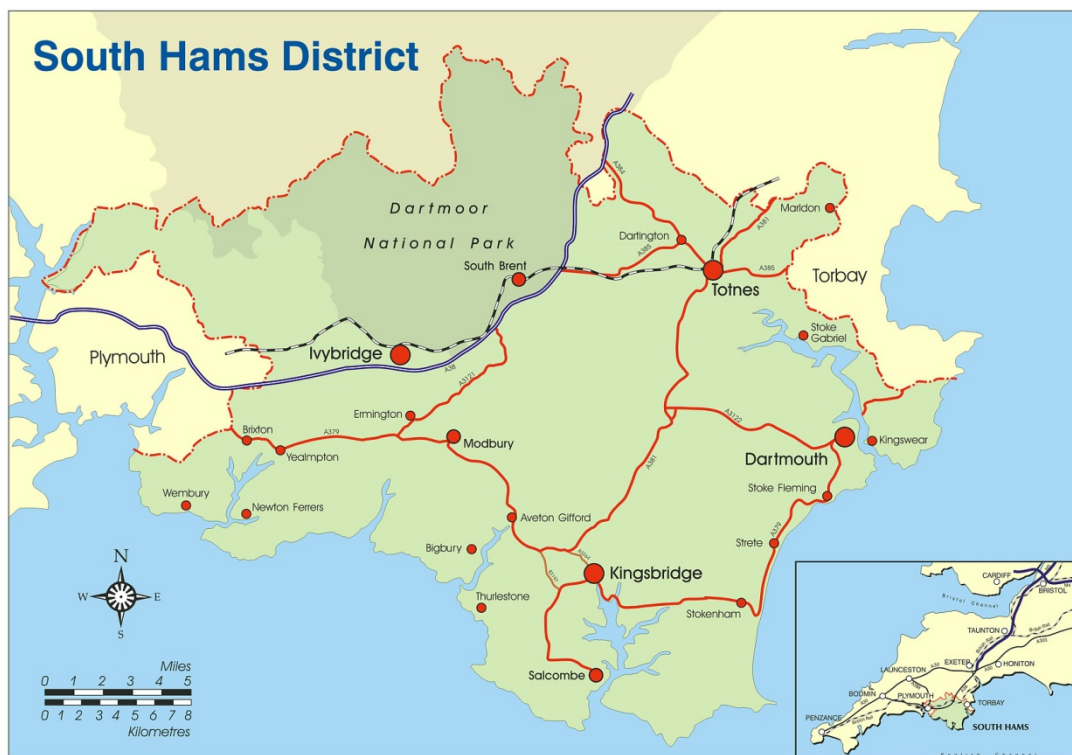
- 2.2 This Statement of Licensing Principles is written according to the provisions of the Act and the Guidance issued under s.25 of the Act by the Gambling Commission.
- 2.3 All references to ‘the Guidance’ refer to the Gambling Commission Guidance to licensing authorities 5th Edition published in September 2015 and last updated in September 2016.
- 2.4 The Statement takes effect on 31 January 2022.

The Statement of Principles was approved at a meeting of the Full Council on TBC and was published via our website on TBC. Copies are available for viewing by giving prior notice to the District Council Offices, Follaton House, Plymouth Road, Totnes, TQ9 5NE

Should you have comments regarding this Statement of Principles please write to the above address or email licensing@swdevon.gov.uk .

This statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3 Description of the Licensing Authority Area



- 3.1 The South Hams reaches into Dartmoor to the north and has 60 miles of magnificent coast to the south. The city of Plymouth lies to the west and the urban area of Torbay to the east.

- 3.2 The South Hams had an estimated population of 87,946 in 2020¹, with around one third of the population living in the four main towns of Dartmouth, Ivybridge, Kingsbridge and Totnes. The majority of South Hams residents live in the surrounding villages, hamlets and isolated cottages spread across the 350 square miles of beautiful countryside.
- 3.3 The South Hams has a higher proportion of older people (aged 65 years or over) than the national average and the average house price is £346,584, compared with the national average of £284,029². Unemployment in the area is lower than the national average with a rate of 3.7% in 2020, compared to 4.6% nationally³. However, the appearance of the district conceals the statistic that wages are amongst the lowest in the United Kingdom, with a median annual gross income over £4,000 lower⁴ than the national median average⁵.
- 3.4 The entertainment and tourist industry is a major contributor to the economy of the South Hams. It attracts visitors and local residents, makes for vibrant communities and is a major employer. Tourism makes a significant contribution to the South Hams economy. This tourist economy brings with it certain gambling activities, particularly at seaside locations, such as family entertainment centres.
- 3.5 The Licensing Authority is currently responsible for 2 betting shops, located in the towns of Kingsbridge and Dartmouth (August 2021). The South Hams has nearly 500 licensed premises and members clubs under the Licensing Act 2003, some of which have notifications for gaming machines or hold club machine permits. There are also two licensed bingo premises in the area.
- 3.6 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 Corporate Strategy Themes are 'Homes, Wellbeing, Communities, Council, Enterprise and Environment.'

3.7 Local Area Profile

- 3.7.1 The Gambling Commission recommends that the Licensing Authority completes its own Local Area Profile to 'map out' local areas of concern, to develop a better awareness of the local area and risks. It is recommended that when considering risks, possible future emerging risks are taken into consideration, as well as current risks.
- 3.7.2 An effective local area profile will take into account a wide range of factors, data and information held by the Licensing Authority and its partners. An important element would include proactive engagement with Responsible Authorities as well as other organisations in the area that can give input to 'map' local risks in the area.
- 3.7.3 Due to the wide range of information that is needed to input into such a profile, this Authority is not currently in a position to publish and consult upon a draft Local Area

¹ Population estimates and projections, Devon County Council:
<https://www.devon.gov.uk/factsandfigures/the-people/population-estimates/>

² HM Land Registry UK House Price Index England: June 2021:
<https://www.gov.uk/government/statistics/uk-house-price-index-england-june-2021/uk-house-price-index-england-june-2021>

³ NOMIS Official Labour Market Statistics
<https://www.nomisweb.co.uk/reports/lmp/la/1946157362/printable.aspx>

⁴ Average earnings, Devon County Council
<https://www.devon.gov.uk/factsandfigures/the-economy/average-earnings/>

⁵ Annual Survey of Hours and Earnings, Office for National Statistics
<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/ashe1997to2015selectdestimates>

Profile. However, this will be reviewed and if such a Profile is developed it will be consulted upon and any information that may assist in its production would be welcomed.

3.8 Better Businesses for All (BBfA)

- 3.8.1 South Hams District 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), which is part of the Department for Business, Energy and Industrial Strategy (BEIS). The purpose is to build a local partnership between businesses and regulators across Devon and Somerset to promote economic prosperity, while maintaining public protection. This document will make sure 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, while ensuring public protection
- 3.8.2 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.
- 3.8.3 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 consistently with competent enforcement staff who are working with the right attitudes and behaviours for the benefit of our Communities.

4 Review of Statement of Principles (Consultation)

- 4.1 Licensing authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must then be re-published.
- 4.2 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 4.3 List of persons this authority will consult include the following:
- All Responsible Authorities under Gambling Act 2005 – see Appendix A
 - British Amusement Catering Trade Association (BACTA)
 - Citizens Advice
 - Dartmouth Business News
 - Dartmoor National Park Authority
 - Devon Children and Families Partnership
 - Devon County Council Social Care
 - Devon Health and Wellbeing Board

- District Councillors
- Gamble Aware
- Gamblers Anonymous
- Gambling Commission
- GamCare
- Local residents/businesses and their representatives via the Council website and associated press release.
- Ivybridge Chamber of Commerce
- Kingsbridge, Salcombe and Modbury Chamber of Commerce
- Mencap
- MIND
- Modbury and District Business Chamber
- NSPCC
- Police and Crime Commissioner
- Representatives of existing licence-holders
- South Devon & Dartmoor Community Safety Partnership
- Totnes and District Chamber of Commerce
- Town and Parish Councillors

4.4 Proper weight will be given to the views of all those who have been consulted prior to the date of implementation of the Statement of Principles.

4.5 Should you have any comments regarding this Statement of Principles, please email licensing@swdevon.gov.uk .

Our consultation took place between 13 September and 24 October 2021. We followed the government's Consultation Principles 2018.

5 Declaration

5.1 In producing the final Statement of Principles, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

6 The Overriding Principle

6.1 In exercising its functions under the Act, this Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks that the practice will:

- be in accordance with the Gambling Act & associated legislation;
- be in accordance with any relevant Code of Practice;
- have regard to the relevant guidance issued by the Gambling Commission;
- be reasonably consistent with the licensing objectives; and
- have regard to this Statement of Principles.

6.2 Each case will be considered on its merits.

6.3 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are subject to the application.

- 6.4 The overriding principle does not, however, apply to the consideration of an application for a casino licence if this authority resolves not to issue casino premises licenses.

7 Relationship with other legislation

- 7.1 This Licensing Authority will seek to avoid any duplication with planning or other statutory / regulatory systems where possible. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 7.2 The grant of a licence does not imply the approval of other legislative requirements.

Applicants for Premises Licences for Casinos, Bingo Halls, Adult or Family Entertainment Centres (licensed or unlicensed) or Permits are advised to speak to the Planning Department of this Council before making a formal application to the Licensing Authority.

8 Responsible Authorities

- 8.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licences. Such bodies are entitled to make representations to the Licensing Authority in relation to the applications. The Responsible Authorities are detailed in Appendix A.
- 8.2 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- **the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and**
 - **the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.**
- 8.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates Devon Children and Families Partnership for this purpose.
- 8.4 In relation to the determination of who is competent to advise the Authority about the protection of other vulnerable persons, this Authority will consult with the **Devon County Council Social Services Department and Mencap.**

9 Interested Parties

- 9.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows: "For the purposes of this Part a person is an interested party in relation to an

application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the applications is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

9.2 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

9.3 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance to local authorities. The following factors will be taken into account:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises. For example, it would be reasonable for an authority to conclude that ‘sufficiently close to be likely to be affected’ could have a different meaning for (a) a private resident; (b) a residential school for children with truanting problems; and (c) residential hostel for vulnerable adults;
- the ‘catchment’ area of the premises (i.e. how far people travel to visit);
- whether the person making the representation has business interests in that catchment area that might be affected.

This list is not exhaustive and other factors may be taken into consideration in an individual case.

9.4 Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these, however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department: South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE. Tel: 01803 861234 or email:- licensing@swdevon.gov.uk

10 Exchange of Information

- 10.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, including the provision that the Data Protection Act 2018 and the General Data Protection Regulation (GDPR) will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

11 Enforcement

- 11.1 This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and in line with the Regulatory Compliance Code; its own departmental Enforcement Policy and any Primary Authority partnership that may be in place.
- 11.2 This Licensing Authority's principles are that enforcement should be:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - Consistent: rules and standards must be joined up and implemented fairly;
 - Transparent: regulators should be open, and keep regulations simple and user friendly; and
 - Targeted: regulation should be focused on the problem, and minimise side effects.
- 11.3 In line with the Gambling Commission's Guidance for local authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 11.4 This Licensing Authority has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives
 - Relevant codes of practice
 - Guidance issued by the Gambling Commission
 - The principles set out in this statement of licensing policy
 - Intelligence or complaints received
- 11.5 The Licensing Authority will take account of the Gambling Commissions' guidance document issued in February 2015 (or subsequent amendments) '[Approach to Test Purchasing](#)' when considering making test purchases at gambling premises.
- 11.6 Council officers will use the LLEP Local Authority Assessment Templates as a basis when conducting inspections at gambling premises. More information is available on the [Gambling Commission website](#)..
- 11.7 Whilst this authority has not currently adopted any primary authority agreements with the local businesses in respect of gambling activity, a number of councils have now signed primary authority agreements with some of the largest gambling operators covering the issue of age verification. Where such arrangements are in place the Licensing Authority will have regard to the plan agreed between the company and

primary authority in developing their own programmes of activity and inspection. It is acknowledged that any primary authority relationship will provide a useful mechanism to feedback general concerns about a particular operator, as the primary authority will have regular contact at senior levels with the operator.

The main enforcement and compliance role for this Licensing Authority in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by this Licensing Authority but should be notified to the Gambling Commission.

This Licensing Authority also keeps itself informed of developments as regards the work of the Better Regulation Executive (BEIS - Department for Business, Energy and Industrial Strategy) in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing department at South Hams District Council. Our risk methodology will also be available upon request.

12 Licensing Authority functions

12.1 Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits to Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

This Licensing Authority will not be involved in licensing remote gambling. That is the responsibility of the Gambling Commission via Operator Licences. The National Lottery is regulated by the National Lottery Commission and Online (Remote) Gambling is dealt with by the Gambling Commission.

13 The Licensing Process

- 13.1 A Licensing Committee, a Sub-Committee, or the Licensing Manager acting under delegated authority may carry out the powers of the authority under the Gambling Act.
- 13.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.
- 13.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing Committee have received adequate training for their role under the Gambling Act.
- 13.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.
- 13.5 A table showing a summary of the recommended delegation for decisions made under the Gambling Act 2005 is in Appendix B.
- 13.6 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.

14 General Principles where Gaming Machines are provided

- 14.1 Gaming machines may only be provided where an appropriate licence or permit has been granted. There are different categories of machine which determine the stakes and prizes, further details on the categories and entitlements can be found on the [Gambling Commission's website](#).
- 14.2 Where gaming machines are provided, we would expect the following principles to be applied:-
- The number and category of machines must adhere to the restrictions under the relevant licence or permit at that location. This will vary depending upon the authorisation that has been granted.
 - The classification (e.g. category C) must be clearly displayed on each machine.
 - Gaming machines must be located in areas with good visibility, such that members of staff are able to monitor their use effectively. The need for appropriate supervision of gambling facilities is included in the Licence Conditions and Code of Practice (LCCP)
 - The location of gaming machines must be marked on a scale plan accompanying the application. You must be able to show how you have considered the risk to the licensing objectives and provide information on the controls that will be put in place, before introducing or re-locating gaming machines.
 - It may be necessary to apply for a premises licence variation if the layout of the premises and/or location of gaming machines changes. For the majority of gaming machine re-location requests a full premises licence variation application would not be required, but it would be expected that the licence holder would discuss their plans with the Licensing Authority prior to the changes being made. However, where the Licensing Authority has concerns about the re-location of gaming machines, a variation application would be deemed appropriate to allow consultation with all the responsible authorities.
 - A premises licence variation application will be required if intending to include privacy screens or pods around a gaming machine in licensed premises.

- A copy of the updated local risk assessment must also be included within the application to evidence that any risks presented have been recognised and mitigated.

15 Children and Vulnerable Persons

- 15.1 To achieve the licensing objective of “protecting children and other vulnerable persons from being harmed or exploited by gambling”, the Licensing Authority expects all gambling licensed premises and premises with gambling permits to have policies in place to help safeguard children and vulnerable adults.
- 15.2 The Licensing Authority is working together with other agencies to help tackle issues surrounding safeguarding, particularly child sexual exploitation and trafficking. 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 C.
- 15.3 Sometimes it is not easy to identify who the most vulnerable persons being harmed or exploited by gambling are. The Gambling Commission are raising awareness of the need for agencies to work together to help those that are most affected by problem gambling to hopefully reduce the negative impact.
- 15.4 Work carried out by Public Health authorities nationally has shown significant links between problem gambling and other issues, such as alcohol addiction, cigarette addiction, homelessness and other mental health illnesses. In addition, research shows that there are certain groups who are likely to be more vulnerable to gambling harm⁶. Amongst the groups where the evidence base for vulnerability is strongest are the following:
- Ethnic groups
 - Youth
 - Low IQ
 - Substance abuse/misuse
 - Poor mental health
- 15.5 This Licensing Authority recognises the importance of the input of Public Health when developing their Statement of Licensing Principles and would welcome feedback from these agencies. The Licensing Authority will be seeking advice and evidence from the Public Health authority when developing its local area profile.
- 15.6 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. Currently 0.7% of the population are problem gamblers. While this may seem like a low figure, gambling related harm can have a severe negative impact on the individual involved, the impact of problem gambling also extends beyond individual gamblers themselves. A recent investigation published by Citizens Advice reported research suggesting that for every problem gambler there are on average between six to ten additional people who are directly affected by it⁷. The potential impact can extend from those close to the problem gambler (such as families and colleagues), whose physical, mental and emotional health and wellbeing may be severely affected, and in some cases impact across local communities (for example, where problem gambling is associated with crime or homelessness) and society as a whole (in terms of the costs that may be created by problem gambling).

⁶ Gambling Commission - Gambling-related harm as a public health issue: Briefing paper for Local Authorities and local Public Health providers February 2018

⁷ Local Government Association and Public Health England – Tackling gambling related harm: A whole council approach, July 2018: <https://www.local.gov.uk/publications/tackling-gambling-related-harm-whole-council-approach>

- 15.7 Due to the wide-ranging and potentially damaging impact of problem gambling, it is vital that gambling operators have robust policies in place for identifying and protecting children and vulnerable persons from gambling related harm and exploitation. See Part B section 13.1 for further information on the Licensing Authority's expectations of local risk assessments. This Licensing Authority encourages operators to have information and links to appropriate accredited agencies for help and support available to customers, such as the National Gambling Helpline (0808 8020 133) and GamCare. Further information is also available on the GambleAware website: www.begambleaware.org .

Part B - Premises Licences

1 General Principles

- 1.1 Premises Licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives and
 - in accordance with the authority's Statement of Principles.
- 1.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a Licensing Authority.
- 1.4 Definition of "premises"**
- 1.4.1 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 1.4.2 The Gambling Commission states in its Guidance at paragraphs 7.6 and 7.7 that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.
The Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit"
- 1.4.3 This Licensing Authority takes particular note of the Guidance which states at paragraph 7.26 that: "licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of

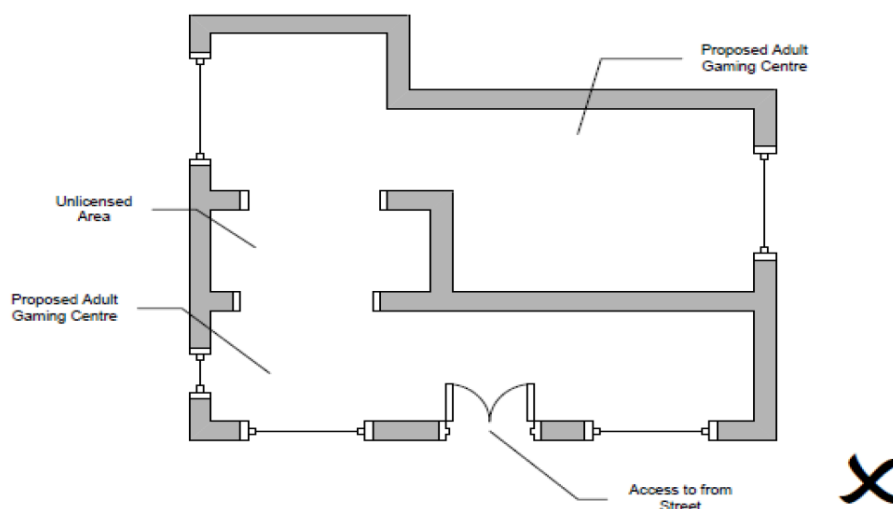
a building used for other (non-gambling) purposes.” In particular the Licensing Authority will be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or be able to closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit.
- In respect of separation of premises, as a minimum, this authority would expect tangible and evident means of separation, such as one or more of the following measures:
 - Wall(s)
 - Door(s)
 - Screen(s)
 - PIR alarms
- In addition, this authority would expect signage to be clearly displayed to show the separation of the premises. A rope or moveable line is not an acceptable means of separation.

The form of separation used must be made clear on the relevant plan. It is preferable that there is an area separating the premises concerned, which the public may go to for purposes other than gambling, such as a café or street.
- Customers should be able to participate in the activity named on the premises licence, for example, bingo must be available at a licensed bingo premises.

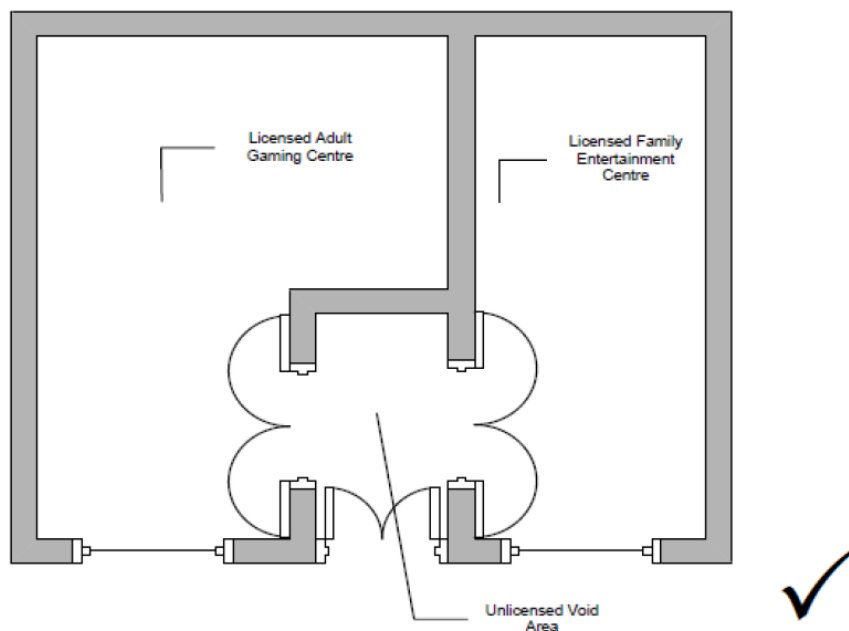
1.4.4 Applications to place two licensed premises in one premises with an unlicensed area separating them (see Figure 1) will not meet this Policy because of the artificial nature of the premises, leading to access and use issues.

Figure 1.



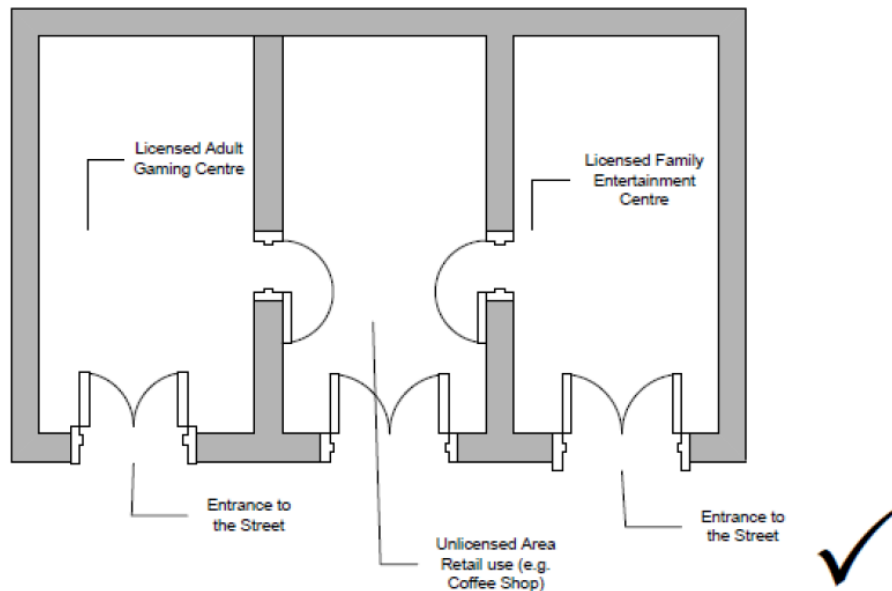
- 1.4.5 It is possible to have an unlicensed foyer area which separates one licensed premises from another if the foyer is accessed from the street (see Figure 2). The Licensing Authority would expect as a minimum that the area should be used for non-gaming purposes, such as an information point, a coffee shop or similar, but must not contain any gambling information or literature promoting gambling activities. The size of the unlicensed area is a matter for each application, but the Licensing Authority will not consider this configuration if the foyer is not of sufficient size to be a useable space.

Figure 2.



- 1.4.6 It may also be acceptable if a premises is separated by another non-licensed premises that has access to both licensed premises from it. An example of this could be in the form of a coffee shop which has a main entrance to the street. The coffee shop may have access to an Adult Gaming Centre on one side and an entrance to a Family Entertainment Centre on the other side (see Figure 3). Where a member of the public not using the gambling premises is likely to use the coffee shop, it may be considered that there is no direct access between the two licensed premises.

Figure 3.



1.4.7 The provisions of this revised Statement of Principles 2022 comes into force on 31 January 2022. From this date, any new application for any type of Gambling Premises Licence will be expected to fully comply with the terms and conditions as set out above. Existing licensed premises may continue to operate under the terms that have been granted by virtue of the licence that they currently hold, provided that the licensing objectives continue to be fully promoted at all times. However, any application to vary the licence will be subject to the full terms as outlined above.

1.4.8 The Guidance also gives a list of factors which this Licensing Authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?
- Has a risk assessment identified and adequately controlled risks?

This Licensing Authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

1.4.9 The Gambling Commission's relevant access provisions for each premises type are reproduced below:

Type of premises	Access provisions
Casinos	<ul style="list-style-type: none"> • the principal access entrance to the premises must be from a 'street'. • no entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons • no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

Type of premises	Access provisions
Adult Gaming Centre	<ul style="list-style-type: none"> • no customer must be able to access the premises directly from any other licensed gambling premises or one that is subject to a permit (e.g. uFEC).
Betting Shops	<ul style="list-style-type: none"> • access must be from a street or from another premises with a betting premises licence • no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.
Tracks	<ul style="list-style-type: none"> • no customer should be able to access the premises directly from: <ul style="list-style-type: none"> - a casino - an adult gaming centre
Bingo Premises	<ul style="list-style-type: none"> • no customer must be able to access the premises directly from: <ul style="list-style-type: none"> - a casino - an adult gaming centre - a betting premises, other than a track
Family Entertainment Centre	<ul style="list-style-type: none"> • No customer must be able to access the premises directly from: <ul style="list-style-type: none"> - a casino - an adult gaming centre - betting premises, other than a track

1.4.10 Part 7 of the Guidance contains further guidance on this issue, which this Licensing Authority will also take into account in its decision-making.

1.5 Premises “ready for gambling”

1.5.1 At section 7.58 of the Guidance it states that a licence to use premises for gambling should only be issued in relation to premises that this Licensing Authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

1.5.2 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

1.5.3 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this Licensing Authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

1.5.4 Applicants should note that this Licensing Authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

- 1.5.5 More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

1.6 Location

- 1.6.1 This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome. It is expected that issues relating to the location of a gambling premises will be addressed in the relevant local risk assessment. See section 1.13 for more information on our expectations for local risk assessments..
- 1.6.2 Where gambling premises are located in sensitive areas, e.g. near schools, this Licensing Authority will consider imposing restrictions on advertising gambling facilities on such premises where it is felt relevant and reasonably consistent with the Licensing Objectives.

1.7 Relationship with Other Authorities

- 1.7.1 The Licensing Authority is aware of the potential overlap with planning and building regulations, as well as with fire and health and safety regulations. In determining applications, only relevant matters will be taken into consideration. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Further information is at sections 7.58 to 7.65 of the Guidance.
- 1.7.2 This Licensing Authority will not take into account irrelevant matters as per the Guidance. In addition this Licensing Authority notes the following excerpt from section 7.65 of the Guidance:

“When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

1.8 Licensing objectives

- 1.8.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

- 1.8.1 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.
- 1.8.2 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. However, this does not preclude this being considered during periodic inspections at the premises. There is more of a role with regard to tracks which is explained in more detail in the tracks section later.
- 1.8.3 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.
- 1.8.4 The Licensing Authority notes the Gambling Commission [Codes of Practice](#) as regards this licensing objective, in relation to specific premises.
- 1.8.5 Regarding the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This Licensing Authority will consider this licensing objective on a case by case basis.
- 1.8.6 Where physical barriers are required to separate activities due to age restrictions, the applicant must provide sufficient information with regards to the height, transparency and materials to be used. The Licensing Authority will require barriers to be designed and constructed to prevent inadvertent access and viewing of restricted areas. Adequate supervision within these areas must also be maintained.
- 1.8.7 The Licensing Authority expects all operators to have a safeguarding policy in relation to children and vulnerable adults. All staff will be expected to undertake training regarding:
- Vulnerability risk factors
 - How to identify safeguarding issues

- How to report and record concerns

1.8.8 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 C.

1.9 Conditions

1.9.1 In most cases the mandatory and default conditions are sufficient to ensure operation that is reasonably consistent with the licensing objectives. Additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives.

1.9.2 Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises: and
- reasonable in all other respects.

1.9.3 Decisions about individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider using should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

1.9.4 This Licensing Authority will also consider specific measures which may be needed for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

1.9.5 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable, for example, entertainment halls on holiday parks

1.9.6 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

- 1.9.7 It is noted that there are conditions which the Licensing Authority cannot attach to premises licences. There are:
- conditions on the premises licence which makes it impossible to comply with an operating licence condition;
 - conditions relating to gaming machine categories, numbers, or method of operation;
 - conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs) and this provision prevents it being reinstated; and
 - conditions in relation to stakes, fees, winning or prizes.

1.10 Door Supervisors

- 1.10.1 The Gambling Commission advises in its Guidance that if a Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.
- 1.10.2 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

1.11 Appropriate Licensing Environment

- 1.11.1 The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (LCCP), set out additional matters that the Council should take into account when considering licence applications for premises licences.
- 1.11.2 The Council will consider any application based on the provisions in these codes and guidance. Where gaming machines are made available for use in licensed gambling premises, they should only be available when sufficient facilities are made available for the primary gambling activity (e.g. bingo, betting etc.).
- 1.11.3 Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises, e.g. motorway service areas and shopping malls, the Council will expect the gambling area to be clearly defined on the plans submitted to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

1.12 Licence Conditions and Codes of Practice

- 1.12.1 Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.
- 1.12.2 The Licence Conditions and Codes of Practice (LCCP) prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.
- 1.12.3 In particular, operators must ensure that:
- all staff are trained

- that all customers are supervised when on gambling premises
- must have procedures for identifying customers who are at risk of gambling related harm

1.12.4 The Council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.

1.12.5 Further provision with regard to self-exclusion and marketing are included in the social responsibility code. The Council will take all conditions and codes into account when considering applications or performing enforcement activities.

1.13 Local Risk Assessments

1.13.1 Since April 2016, the Gambling Commission's Social Responsibility Code 10.1.1 has required licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. The Social Responsibility Code provision is supplemented by the LCCP: Ordinary Code 10.1.2 and requires licensees to share risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Licensing Authority. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this policy statement and any associated local area profile produced by this Licensing Authority (not currently available).

1.13.2 Operators are required to carry out a local risk assessment when applying for a new licence. They must then review (and update as necessary) their local risk assessments:

- Annually
- When applying for a variation of a premises licence.
- To take account of significant changes in local circumstances, including those identified in this policy.
- When there are significant changes at a licensee's premises that may affect the level of risk or the mitigation of those risks. This includes changes to the interior layout of the premises, including re-location of gaming machines or introduction of privacy screens. In these circumstances a premises licence variation may also be necessary.

1.13.3 The above Social Responsibility Code provision is supplemented by an Ordinary Code that will require licensees to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Council. The risk assessment must be updated annually (or more frequently if appropriate). It must be kept on the premises to which it relates and be available for inspection by an authorised officer of the Licensing Authority or Gambling Commission.

1.13.4 While there are no plans to request that licensed premises share their risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licensee share a copy of its risk assessment. The risk assessment will set out the measures the licensee has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required.

Where premises consist of both an Adult Gaming Centre (AGC) and an unlicensed Family Entertainment Centre (uFEC), the Licensing Authority will expect the local risk assessment to be completed for the whole premises, not just the area under the AGC licence.

1.13.5 When comprising their risk assessments operators should consider:

- The risks posed to the licensing objectives by the provision of gambling facilities at each of their premises in the local authority area.
- Reference to any specific local risks
- How the operator proposes to mitigate these risks.
- How the operator will monitor specific risks.

1.13.6 Although not forming an exhaustive list, the following factors are ones which operators may wish to consider when comprising and reviewing their risk assessments:

- The geographical location of the premises and socio-economic makeup of the area.
- The type and usage of the premises.
- The layout and size of the premises, e.g. access and egress, position of counters and gaming machines, lines of sight between counters and entrance points and machines, the physical structure of the premises, presence of any visual obstacles. Particular consideration should be given to the proximity of gaming machines to the entrance to the premises.
- Specific types of gambling premises in the local area (e.g. seaside resorts typically have more arcades or FECs) and their density.
- Whether there are any facilities for sharing information between premises, in particular relating to safeguarding of children and vulnerable adults and preventing anti-social behaviour.
- The opening hours of the premises and the possible interaction of the gambling premises with any surrounding night time economy.
- Client demographics, the presence of children and vulnerable adults.
- Staff numbers, with particular regard to staffing levels at peak times, such as the summer season when the local population significantly increases.
- Staff training, including their role in the protection of children and vulnerable persons and the prevention and detection of crime.
- Staff roles and their engagement with other activities, including supervision of the premises.
- Issues of lone working and staff working closely with children.
- How the gambling facilities are presented and the risk of its appeal to children, including any advertising outside the premises.
- There is an expectation for premises to have specific policies in place in respect of safeguarding children and vulnerable adults (see part A section 15) and in respect of the prevention of money laundering.

1.13.7 Operators will also wish to consider the potential risk of under-age gambling and the increased risk of problem gambling in certain groups. This Authority will therefore expect operators to consider the following when undertaking their risk assessment:

- Self-exclusion data – the number of self-exclusions and underage attempts to gamble.
- The proximity of the premises to any school, centre, or establishment for the education, training or care of young and/or vulnerable persons.
- The proximity of the premises to leisure centres used for sporting and similar activities by young and/or vulnerable persons.
- The proximity to the premises to any youth club or similar establishment.

- The proximity of the premises to any community, ecclesiastical, welfare, health or similar establishment used specifically, or to a large extent, by young and/or vulnerable persons.
- The proximity of any other area or location where young and/or vulnerable persons could congregate, such as parks, bus stops, cafes, and shops
- The proximity of any hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups.
- The proximity of residential care homes, hospitals, medical facilities, addiction clinics and any other place where vulnerable persons may congregate.
- The proximity of any area where large groups of people congregate.
- The proximity of banks, cash points, post offices and other gambling outlets.

1.14 Premises Licence Plans

1.14.1 Section 151 of the Act requires applicants to submit plans of the premises with their application. Regulations state that the plan must show:

- The extent of the boundary or perimeter of the premises
- Where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- Where the premises forms part of a building, the location of any external or internal walls of the building which are included in the premises
- Where the premises are a vessel or part of a vessel, the location of any part of the sides of the vessel and of any internal walls of the vessel, which are included in the premises
- The location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which exit leads

1.14.2 In addition to the above requirements, the Licensing Authority will also expect the plan to show the location of any gaming machines, as well as any customer privacy screens or pods, to ensure that the areas can be adequately supervised. Staff should be in a position to monitor entrances and gaming machines. See Part A section 14 for more information on our requirements in relation to gaming machines. The nature and location of any barrier or other thing separating any part of the premises where gaming machines will be made available for use from any other part of the premises should also be included on the plan.

14.3 Applicants must take the structure and layout of the premises into account when considering their own policies and procedures. For example, where it is not possible for counter staff to supervise persons using gambling facilities such as gaming machines, the Licensing Authority would expect applicants to volunteer conditions that floor walkers will be used or that counter staff will be able to clearly view all areas of the premises on CCTV from the counter area at all times.

1.14.3 If plans change in any material respect during the lifetime of the licence, the applicant will be in breach of their licence and would either need to make a new application under section 159 or to seek a variation to the licence under section 187 of the Act. If the changes are substantial, this may, in the opinion of the Licensing Authority, render the premises different to those to which the licence was granted. In such cases, a variation would not be possible and a new application would be required.

- 1.14.4 Unless otherwise agreed with the Licensing Authority, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

2 Adult Gaming Centres

- 2.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- CCTV
- Door supervisors
- Location of entry
- Notices / signage
- Physical separation of areas
- Proof of age schemes
- Provision information leaflets helpline numbers for organisations such as GamCare.
- Self – exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 2.2 The question of sub-division of such premises has been the subject of further Gambling Commission Guidance. This Licensing Authority will have regard to any relevant additional guidance that may be issued by the Gambling Commission in respect to such applications. See section 1.4.3 for more specific requirements.

- 2.3 There must be no direct entry from one adult gaming centre into another or any direct access to or from another licensed gambling premises or permitted area (e.g. uFEC). This Authority will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications. Where an AGC is in the same premises as an uFEC, the Licensing Authority will expect a Local Risk Assessment of the entire premises, see Part B section 1.13 for more information

- 2.4 This Licensing Authority recognises that the design and layout of adult gaming centres will vary. It will have particular regard to the siting of age restricted gaming machines within individual premises to ensure, so far as is reasonably practicable, that staff properly monitor the use of these machines by children and young persons. This Licensing Authority reserves the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so. All applications for an AGC licence must be accompanied by a scale plan which includes the location of gaming machines.

- 2.5 Factors to be taken into consideration will include the following:

- CCTV;
- Re-location of the machines;
- Door buzzers;
- Remote cut-off switches;

- Training provision;
- Any other factor considered relevant.

3 (Licensed) Family Entertainment Centres

- 3.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 3.2 Children and young persons will be able to enter licensed family entertainment centres and play on category D machines but will not be permitted to play on category C machines.
- 3.3 As family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are available in licensed family entertainment centres, the Council will normally require that:
- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance (see Part B section 1.4.3);
 - Only adults are admitted to the area where the machines are located;
 - Access to the area where the machines are located is supervised;
 - The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 3.4 Applicants are therefore encouraged to consider the steps set out at under Part C para 1.9 of this statement in order to prevent children and young persons from gaining access to category C machines. In addition, applicants are encouraged to consider the following:
- Physical separation of areas
 - Measures / training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 3.5 As there are likely to be children present at an FEC, the Licensing Authority would expect robust policies in place in relation to safeguarding (see part A section 15 and Appendix C for more information).
- 3.6 All applications for an FEC licence must be accompanied by a scale plan which includes the location of gaming machines.
- 3.7 The Licensing Authority also encourage premises to sign up to the British Amusement Catering Trade and Association (BACTA) Voluntary Code and restrict under 18s from playing category D cash fruit machines within their venues.

Applications for Entertainment Centres (formerly known as amusement arcades) will be subject of particularly stringent examination by the Planning Authority. The Town Centres are for the most part Conservation Areas with special charter and qualities to protect. The Planning Authority will therefore apply rigorous criteria to its judgement of any proposal and will generally not be granted unless certain criteria is met. The Planning Department can be contacted at The South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE. Tel: 01803 861234 or email: dm@swdevon.gov.uk

4 Casinos

- 4.1 The Council is not currently enabled by the Secretary of State (in accordance with regulations made under Section 175 of the Act) to grant a premises licence for a casino.

5 Bingo premises

- 5.1 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. In these circumstances it is not permissible for all the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.
- 5.2 Before issuing additional bingo premises licences, the Licensing Authority will consider whether bingo can be played at each of those new premises. In these cases this Licensing Authority will have particular regard to the Gambling Commission Guidance on the 'meaning of premises' and how it relates to the primary gambling activity.
- 5.3 Under 9.1.2 of the Local Conditions and Codes of Practice, licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing bingo facilities.
- 5.4 Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. The Licensing Authority will normally require that:
- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance (see Part B section 1.4.3);
 - Only adults are admitted to the area where the machines are located;
 - Access to the area where the machines are located is supervised;
 - The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 5.5 All applications for a Bingo Premises licence must be accompanied by a scale plan which includes the location of gaming machines.

6 Betting premises

6.1 Betting machines

This Licensing Authority will, as per the Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

6.2 The Licensing Authority recognises that the design and layout of betting premises (or any other premises including tracks) will vary so will have particular regard to the siting of age restricted gaming machines within each individual premises to ensure that staff properly prevent the use of these machines by children and young persons. This Licensing Authority reserve the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so. All applications for a Betting Premises licence must be accompanied by a scale plan which includes the location of gaming machines. A premises licence variation application will be required if intending to include privacy screens or pods around a gaming machine. See part A section 14 for more specific guidance on gaming machines.

6.3 Factors to be taken into consideration will include the following:

- CCTV
- Re-location of the machines
- Door buzzers
- Remote cut-off switches
- Training provision
- Any other factor considered relevant

6.4 The Licensing Authority will expect applicants to have fully considered these issues in their application and risk assessments and may ask for alterations to plans where it is not satisfied that adequate supervision of the machines can be ensured.

7 Tracks

7.1 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided

7.3 This Licensing Authority may consider measures to meet the licensing objectives such as:

- CCTV
- Location of entry
- Notices / signage
- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare
- Self-barring schemes
- Specific opening hours
- Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

7.4 Gaming machines

- 7.4.1 Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 7.4.2 This Licensing Authority will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.
- 7.4.3 Some tracks will also hold an alcohol licence and as such they will be automatically entitled under Section 282 of the Act to two gaming machines of category C or D. This permission is activated by notifying the Licensing Authority and paying the required fee. If a track premises licence holder has both an alcohol licence and a pool betting operating licence, then they will be entitled to a total of six gaming machines (two via the alcohol licence and four via the operating licence).
- 7.4.4 Applicants are advised to consult the Gambling Commission's Guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. The Council will also, in line with the Gambling Commission's Guidance, consider the location of gaming machines at tracks.

7.5 Betting machines

- 7.5.1 This Licensing Authority will, per the Guidance, take into account the size of the premises and the ability of staff to prevent the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.
- 7.5.2 On tracks where the potential space for such machines may be considerable, there may be significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines. In such cases, this Licensing Authority will generally consider restricting the number and location of betting machines, in the light of the circumstances of each application.

7.6 Applications and plans

- 7.6.1 The Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that this Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for this Licensing Authority to plan future premises inspection activity.
- 7.6.2 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.
- 7.6.3 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.
- 7.6.4 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.
- 7.6.5 The Licensing authority will require the following information from applicants for premises licences in respect of tracks:-
- Detailed plans for the racetrack itself and the area that will be used for temporary 'on-course' betting facilities (often known as the 'betting ring')
 - In the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.
- 7.6.6 Plans will need to make it clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence. The location of any gaming machines must also be clearly marked on the plan.
- 7.6.7 When considering applications for tracks, the Licensing Authority will take into consideration [Part 20](#) of the Gambling Commission's Guidance. It is recommended that applicants are familiar with this information prior to submitting an application.

8 Travelling Fairs

- 8.1 It will fall to this Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. From 28 days per year it would be regarded as "permitted development" under Part 4 of the Town and Country Planning Order 1995 and is thus deemed to require planning permission. This Licensing Authority will work with its neighbouring

authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

- 8.4 Higher stake category B and C fruit machines are not permitted. Fairground operators must source their machines from a Gambling Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

9 Provisional Statements

- 9.1 Developers may wish to apply to this Licensing Authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 Section 204 of the Act provides for a person to make an application to this Licensing Authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. This Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
 - they reflect a change in the applicant's circumstances.
- 9.6 In addition, this Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
 - which in this Licensing Authority's opinion reflect a change in the operator's circumstances; or
 - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

- 9.7 Once an operator has completed a building, the Licensing Authority will be able to consider a premises licence application for it. Requiring the building to be complete ensures that the authority can inspect it fully, as can other responsible authorities with inspection rights under Part 15 of the Act.

10 Reviews

- 10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's Statement of Principles.
- 10.2 The request for the review will also be subject to the consideration by this Licensing Authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this Licensing Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 10.3 This Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 10.4 Once a valid application for a review has been received by this Licensing Authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by this Licensing Authority, who will publish notice of the application within 7 days of receipt.
- 10.5 This Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether this Licensing Authority should take any action in relation to the licence. If action is justified, the options open to this Licensing Authority are:-
- (a) add, remove or amend a licence condition imposed by this Licensing Authority;
 - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - (c) suspend the premises licence for a period not exceeding three months; and
 - (d) revoke the premises licence.
- 10.7 In determining what action, if any, should be taken following a review, this Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 10.8 In particular, this Licensing Authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling

at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

10.9 Once the review has been completed, this Licensing Authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

Part C - Permits / Temporary & Occasional Use Notice

1 Unlicensed Family Entertainment Centre

- 1.1 The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny-pushers. The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre' which does require a premises licence because it contains both category C and D gaming machines.
- 1.2 Unlicensed family entertainment centres (uFECs) will be most commonly located at seaside resorts, in airports and at motorway style service centres, and will cater for families, including unaccompanied children and young persons.
- 1.3 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It is a requirement that the area covered by the permit must be wholly or mainly used for making gaming machines available for use (Section 238 Gambling Act 2005). Therefore, it will not be possible to grant a permit for an entire shopping centre or service station, for example. Where gambling facilities are provided as a supplementary activity to the main purpose of the premises, customers must be fully aware that they are making a choice to enter the area covered by the permit and adequate supervision must be provided at all times. No changes should be made to the layout or location of machines without submitting an updated plan to the Licensing Authority, see section 1.9.1 below for more information on plan requirements
- 1.4 The Licensing Authority will only grant a uFEC gaming machine permit where it is satisfied that the premises will be operated as a bona fide unlicensed family entertainment centre.
- 1.5 In line with the Act, while the Licensing Authority cannot attach conditions to this type of permit, the Licensing Authority can refuse applications if they are not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application.
- 1.6 When determining the suitability of an applicant for a permit and when considering applications, the Licensing Authority will have regard to the Gambling Commission's Guidance and although not required to, will have regard to the licensing objectives.
- 1.7 Gambling Commission Guidance states: "...An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application..." This Licensing Authority will require the applicant to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
 - that staff are trained to have a full understanding of the maximum stakes and prizes.

1.8 Statement of Principles

- 1.8.1 This Licensing Authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow the Licensing Authority to better determine the suitability of the applicant and the premises for a permit.
- 1.8.2 Within this process the Licensing Authority will aim to grant the permit where the applicant is able to demonstrate that:
- they are a fit and proper person to hold the permit
 - they have considered and are proposing suitable measures to promote the licensing objectives, and
 - they have a legal right to occupy the premises to which the permit is sought.
- 1.8.3 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

1.9 Supporting documents

- 1.9.1 The Licensing Authority will require the following supporting documents to be served with all uFEC gaming machine permit applications:
- proof of age (a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
 - proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
 - the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from the Disclosure and Barring Service (DBS). Further information is available on their website: www.gov.uk/government/publications/basic-checks.
 - Where an applicant is a company or organisation and does not hold an Operating Licence, then the proposed Manager responsible for the day to day running of the premises will be required to produce a criminal record disclosure check dated within one calendar month of the date of the application being submitted to the Licensing Authority.
 - When a permit holder appoints a new manager responsible for the day to day running of the premises, that person will be required to produce a criminal record disclosure check dated within one calendar month of the appointment date.
 - In the case of applications for an uFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling machine supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission
 - A plan of the premises for which the permit is sought showing the following items:
 - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
 - (ii) where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. slot machines, penny-falls, cranes)

- (iii) the positioning and types of any other amusement machines on the premises
 - (iv) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
 - (v) the location of any ATM/cash machines or change machines
 - (vi) the location of any fixed or temporary structures such as columns or pillars
 - (vii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
 - (viii) the location of any public toilets in the building
- Where an uFEC is in the same premises as an AGC, the Licensing Authority will expect a Local Risk Assessment of the entire premises, see Part B section 1.13 for more information.

Unless otherwise agreed with the Licensing Authority, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

1.10 Child protection issues

- 1.10.1 As these premises particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues. It will expect applicants to demonstrate that they and their staff have a full understanding of the maximum stakes and prizes.
- 1.10.2 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including safeguarding and child sexual exploitation. Further information on these types of issues and the Licensing Authority's expectations is at Appendix C.
- 1.10.3 The Licensing Authority will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:
- maintain contact details for any local schools and /or the education authority so that any truant children can be reported
 - employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
 - employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
 - maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
 - display posters displaying the 'Child Line' (or equivalent) phone number in discreet locations on the premises e.g. toilets
 - maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
 - ensure all young children are accompanied by a responsible adult.
 - maintain policies to deal with any young children who enter the premises unaccompanied

- the provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.
- training relating to child safeguarding issues.
- designate at least one member of staff/management to take a lead on issues relating to safeguarding children and vulnerable people as a 'safeguarding co-ordinator'.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

1.10.4 Staff should be clearly identifiable so that customers, including children, can easily identify them for assistance, guidance or gambling advice.

1.10.5 The Licensing Authority also encourage premises to sign up to the British Amusement Catering Trade and Association (BACTA) Voluntary Code and restrict under 18s from playing category D cash fruit machines within their venues.

1.11 Protection of Vulnerable Persons Issues

1.11.1 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The Licensing Authority will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines)
- Customer self-exclusion systems (for example where the uFEC is adjacent to an AGC)

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

1.12 Other miscellaneous issues

1.12.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

- 1.12.2 The Licensing Authority encourages applicants for UFEC Permits to consider adopting BACTA's voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres. This Code of Practice promotes awareness of social responsibility, and acknowledges that proactive specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

Permits cannot be issued to vessels or vehicles.

The position of premises holding an alcohol licence is dealt with below.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as 'Amusement Arcades') are advised to speak to the Planning Department of this Council before making a formal application to the Licensing Authority.

2 (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))

2.1 Automatic Entitlement for up to two machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

- 2.2 Although not a legal requirement, this Licensing Authority request that a plan showing the intended location and type of gaming machines is provided with the notification. This plan may take the form of an amendment to the plan attached to the Premises Licence issued under Licensing Act 2003. The applicant must ensure there are adequate measures in place to prevent children from accessing the Category C machines and good supervision in the area in which they are located.

- 2.3 The Licensing Authority expect businesses to comply with the Gambling Commission Code of Practice for '[Gaming machines in clubs and premises with an alcohol licence](#).' Staff must be aware of this Code of Practice and how to ensure that they can meet the requirements around the location and supervision of machines.

- 2.4 Licensed premises will also need to refer to the Gambling Commission Code of Practice for '[Equal chance gaming in clubs and premises with an alcohol licence](#).' Where they provide bingo, poker, bridge, whist or other equal chance gaming.

2.3 Permit for three or more machines

If a premises wishes to have more than two machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under

Section 25 of the Gambling Act 2005, and “other such matters as the Authority think relevant.”

- 2.4 This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. These applications will ordinarily be dealt with by officers, however in certain cases (such as applications for large numbers of machines or where there are other concerns), applications may be referred to the Licensing Sub-Committee for determination.
- 2.5 Applicants should satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 2.6 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.7 It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 2.8 A plan must accompany applications, indicating where and what type, of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the Premises Licence issued under Licensing Act 2003.
- 2.9 The Licensing Authority expects permit holders to be mindful of their obligations in relation to supervision arrangements for gaming machines to protect the young and the vulnerable and to comply with the Gambling Commission’s [Gaming Machines in Clubs and Premises with an Alcohol Licence Code of Practice](#). These form a condition of every permit and cover aspects such as the location and operation of machines; access to gambling by children and young persons; and self-exclusion. See the Gambling Commission website for more information: .

Applicants should be aware that only those premises which have a ‘bar’ (servery) at which alcohol is sold for consumption on the premises will be eligible for a machine in the bar area of the premises. This means that premises such as restaurants which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food will not automatically qualify for two machines.

3 Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))

- 3.1 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit”.

3.2 Statement of Principles – Prize Gaming Permit

- 3.2.1 This Licensing Authority has adopted a Statement of Principles in accordance with paragraph 8 of Schedule 14 of the Act and they are for the purposes of clarifying the measures that the Licensing Authority will expect applicants to demonstrate when applying for a prize gaming permit. This will allow the council to better determine the suitability of the applicant and the premises for a permit.
- 3.2.2 Within this process the Licensing Authority will aim to grant the permit where the applicant is able to demonstrate that:
- they are a fit and proper person to hold the permit
 - they have considered and are proposing suitable measures to promote the licensing objectives; and
 - they have a legal right to occupy the premises to which the permit is sought.
- 3.2.3 This Licensing Authority will expect the applicant to set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
 - and that the gaming offered is within the law.
 - clear policies that outline steps to be taken to protect children from harm.
- 3.2.4 In making its decision on an application for a prize gaming permit the Licensing Authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).
- 3.2.4 The measures suggested in this document should be read as guidance only and the Licensing Authority will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

3.3 Prize gaming permits

- 3.3.1 Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The operator will determine the prizes before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed.
- 3.3.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.
- 3.3.3 Applicants should be aware of the conditions in the Gambling Act 2005 with which prize gaming permit holders must comply. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.
- 3.3.4 In line with the Act, while the Licensing Authority cannot attach conditions to this type of permit, the Licensing Authority can refuse applications if they are not satisfied that

the issues raised in this “Statement of Principles” have been addressed through the application.

3.4 Supporting documents

3.4.1 The Licensing Authority will require the following supporting documents to be served with all prize gaming permit applications:

- proof of age (a certified copy or sight of an original birth certificate, photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property’s deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from the Disclosure and Barring Service (DBS). Further information is available on their website: www.gov.uk/government/publications/basic-checks.
- A plan of the premises for which the permit is sought showing the following items:
 - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
 - (iii) The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
 - (iv) the positioning and types of any other amusement machines on the premises
 - (v) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
 - (vi) the location of any ATM/cash machines or change machines
 - (vii) the location of any fixed or temporary structures such as columns or pillars
 - (viii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
 - (ix) the location of any public toilets in the building

Unless otherwise agreed with the Licensing Authority, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

3.5 Child protection issues

3.5.1 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations including safeguarding and child sexual exploitation. Further information on these types of issues and the Licensing Authority’s expectations is at Appendix C. The Licensing Authority will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school

- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' (or equivalent) phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult.
- maintain policies to deal with any young children who enter the premises unaccompanied
- the provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.
- training relating to child safeguarding issues.
- designate at least one member of staff/management to take a lead on issues relating to safeguarding children and vulnerable people as a 'safeguarding co-ordinator'.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

- 3.5.2 Staff should be clearly identifiable so that customers, including children, can easily identify them for assistance, guidance or gambling advice.

3.6 Protection of Vulnerable Persons Issues

- 3.6.1 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The Licensing Authority will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:
- display Gamcare helpline stickers on all gaming machines
 - display Gamcare posters in prominent locations on the premises
 - training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
 - consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

3.7 Other miscellaneous issues

- 3.7.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

4 Club Gaming and Club Machines Permits

- 4.1 Members' Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (three machines of categories B3A, B4, C or D, but only one B3A machine), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (three machines of categories B3A, B4, C or D).
- 4.2 Gambling Commission Guidance states: "A members' club is a club that is not established as a commercial enterprise, and is conducted for the benefit of its members. Examples include working men's clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations...The Act states that members' clubs must have at least twenty-five members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is restricted to bridge and whist. Members' clubs must be permanent in nature, but there is no need for a club to have an alcohol licence."
- 4.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 4.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

- 4.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.
- 4.6 Where a club does not hold a Club Premises Certificate issued under Licensing Act 2003 and is therefore not eligible for the 'fast-track' procedure, the Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit or a club machine permit. In order to do this, the Licensing Authority may ask for additional information from the operator, for example:
- Is there a list of committee members and evidence of their election by club members?
 - Are there minutes of previous meetings (where appropriate)?
 - Is the primary activity of the club something other than gaming?
 - Are the club's profits retained solely for the benefit of the club's members?
 - Are there 25 or more members?
 - Are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
 - Do members participate in the activities of the club via the internet?
 - Do guest arrangements link each guest to a member?
 - Is the 48 hour rule being applied for membership and being granted admission being adhered to?
 - Are there annual club accounts available for more than one year?
 - How is the club advertised and listed in directories and on the internet?
 - Are children permitted in the club?
 - Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
- 4.7 When examining the club's constitution (where available), the Licensing Authority would expect to see evidence of the following:
- Who makes commercial decisions on behalf of the club?
 - Are the aims of the club set out in the constitution?
 - Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
 - Is the club permanently established? (Clubs cannot be temporary).
 - Are there suitable rules as to the election and admission to the club of new members?
 - What is the usual duration of membership?
 - Can people join with a temporary membership? What is the usual duration of membership?
 - Are there long term club membership benefits?
 - Is there a provision for annual general meetings?
 - Is there a provision for the election of officers?
- 4.8 Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority will consider such factors as:
- How many nights a week is gaming provided?
 - How is the gaming advertised?
 - What stakes and prizes are on offer?
 - Is there evidence of leagues with weekly, monthly or annual winners?
 - Is there evidence of members who do not participate in gaming?

- Are there teaching sessions to promote gaming such as poker?
- Is there a tie-in with other clubs offering gaming through tournaments and leagues?
- Is there sponsorship from gaming organisations?
- Are participation fees within the prescribed limits?

5 Temporary Use Notices

- 5.1 Temporary use notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 This Licensing Authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence. Other restrictions are:
- It can only be used to offer gambling of a form authorised by the operator's operating licence.
 - Gambling under a TUN may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises.
 - A TUN can only be used to permit the provision of facilities for equal chance gaming and where the gaming in each tournament is intended to produce a single overall winner.
 - Gaming machines may not be made available under a TUN.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Act (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 5.5 In considering whether a place falls within the definition of "a set of premises", this Licensing Authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.6 This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Guidance.

6 Occasional Use Notices

- 6.1 Occasional Use Notices enable betting on a track for up to eight days a year without a premises licence.
- 6.2 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This

Licensing Authority will though consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

- 6.3 Further information on [Occasional Use Notices](#) can be found on the Gambling Commission’s website. .

7 Licensed Vessels

- 7.1 The Licensing Authority when considering applications for premises licences in respect of vessels will give particular weight to the views of the Maritime and Coastguard Agency in respect of promoting the licensing objectives. Where in the opinion of the Licensing Authority any of the three objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.
- 7.3 Licences may only be granted to vessels normally berthed in the South Hams.

Where a premises licence is sought in connection with a vessel which will be navigated while licensable activities take place, the Licensing Authority will be concerned following the receipt of relevant representations, with the promotion of the licensing objectives on-board the vessel. The Licensing Authority will not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provisions, all of which are subject to regulations which must be met before the vessel is issued with a Passenger Certificate and Safety Management Certificate. It is expected that if the relevant maritime agencies are satisfied that the vessel complies with Merchant Shipping standards for a passenger ship, the premises will normally be accepted as meeting the public safety objectives.

8 Lotteries

- 8.1 Under the Gambling Act 2005, a lottery is unlawful unless it runs under an operating licence or is an exempt lottery. Promoting or facilitating a lottery will fall into two categories.
- Licensing lotteries (requiring an operating licence from the Gambling Commission).
 - Exempt lotteries (including small society lotteries registered with South Hams District Council)
- 8.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and are defined as:
- Small society lotteries
 - Incidental non-commercial lotteries
 - Private society lotteries
 - Work lotteries
 - Residents’ lotteries
 - Customers’ lotteries

8.3 Small Society Lotteries

- 8.3.1 South Hams District Council will register and administer small society lotteries as defined under the Act. Advice regarding small society lotteries and the definitions of

the above exempt lotteries is available from both the Gambling Commission website and the South Hams District Council website.

- 8.3.2 Small society lotteries can only be operated by non-commercial societies, as defined in Section 19 of the Act. This states that a society is non-commercial if it is established and conducted:
- For charitable purposes, as defined in s.2 of the Charities Act 2006.
 - For the purpose of enabling participation in, or supporting, sport, athletics or cultural activity.
 - For any other non-commercial purpose other than that of private gain.
- 8.3.3 The society must have been established for one of the above permitted purposes and the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.
- 8.3.4 This Licensing Authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. The Authority considers that the following list, although not exclusive, could affect the risk status of the operator:
- Submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held);
 - Submission of incomplete or incorrect returns;
 - Breaches of the limits for small society lotteries.
- 8.4 Further information on [fundraising and lotteries](#) can be found on the Gambling Commission website:.

Disclaimer: This Licensing Authority wishes to make clear that the Gambling Commission's Guidance to Local Authorities was the most recent information available at the time of writing and can be the subject of change within the period that this statement of principles is in force. We would also draw your attention to the following:

- **Legislation may change over time and the advice given is based on the information available at the time the guidance was produced – it is not exhaustive and is subject to revision in the light of the further information**
- **Only the courts can interpret statutory legislation with any authority; and**
- **This advice is not intended to be definitive guidance nor a substitute for the relevant law and independent legal advice should be sought where appropriate**

Appendix A – Responsible Authorities

Responsible Authority Contacts –

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

A contact list of Responsible Authorities can be obtained by accessing South Hams District Council's licensing web pages www.southhams.gov.uk by emailing licensing@swdevon.gov.uk or by telephoning 01803 861234

1) The Licensing Authority

The Licensing Department
South Hams District Council
Follaton House
Plymouth Road
Totnes
TQ9 5NE

Tel: 01803 861234

E-mail: licensing@swdevon.gov.uk

2) The Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 230 6666

Email: licensing@gamblingcommission.gov.uk

3) Her Majesty's Commissioners of Customs and Excise

HM Revenue and Customs
Excise Processing Teams
BX9 1GL
United Kingdom

Tel: 0300 322 7072 Option 7

Email: nrubetting&gaming@hmrc.gsi.gov.uk

4) Child Protection

Devon Children and Families Partnership
Devon County Council County Hall
Topsham Road
Exeter
EX2 4QD

Tel: 01392 386067

Email: cpchecks@devon.gcsx.gov.uk

5) Devon & Cornwall Constabulary

Licensing Department
Devon & Cornwall Police

Launceston Police Station
Moorland Road
Launceston
Cornwall
PL15 7HY

Tel: 01566 771309

Email: licensing.team@devonandcornwall.pnn.police.uk

**6)(a) Devon and Somerset Fire & Rescue Service
(For Kingsbridge, Salcombe, Ivybridge and areas West of);**

The Fire Safety Officer
Devon and Somerset Fire & Rescue
Glen Road
Plympton
Plymouth
PL7 2XT

Tel: 01752 333600

Email: plymouthfs@dsfire.gov.uk

**6)(b) Devon and Somerset Fire & Rescue Service
(For Dartmouth, Totnes and areas East of);**

The Fire Safety Officer
Devon and Somerset Fire & Rescue
Newton Road
Torquay
TQ2 7AD

Tel: 01803 653700

Email: torquayfs@dsfire.gov.uk

7) Environmental Health Department (Pollution Control)

Environmental Health Department
South Hams District Council
Follaton House
Plymouth Road
Totnes
TQ9 5NE

Tel: 01803 861234

E-mail: environmental.health@swdevon.gov.uk

8) a) Planning

Development Management
South Hams District Council
Follaton House
Plymouth Road
Totnes
TQ9 5NE

Tel: 01803 861234

E-mail: dm@swdevon.gov.uk

8) b) Dartmoor National Park Authority

Dartmoor National Park Authority
Parke
Bovey Tracey
Newton Abbot
Devon
TQ13 9JQ

Tel: 01626 832093

Email: planning@dartmoor.gov.uk

9) Maritime & Coastguard Agency (Boats only)

Maritime & Coastguard Agency
Plymouth Marine and Fishing Survey Office
Unit 35, 235 Union Street
Stonehouse
Plymouth
Devon
PL1 3HQ

Tel: 01752 266211

Email: plymouthmo@mcga.gov.uk

Appendix B - Summary of licensing authority delegations permitted under the Gambling Act

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Final approval of the Licensing Authority Policy statement	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)	X (after recommendation from Licensing Committee and Executive)		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/or have not been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/or have not been withdrawn
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations received from the Gambling Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/or have not been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permit		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits		Where permit holder requests a hearing	Where permit holder does not choose to have representations considered
Consideration of temporary use notice		Where representations are received	Where no representations are received
Decision to give a counter notice to a temporary use notice		X	

Appendix C - Safeguarding Children and Vulnerable Persons

South Hams District 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.

Child Sexual Exploitation

Gambling is an activity mainly carried out by adults, but that does not stop young people frequenting certain premises and partaking in particular activities i.e. amusement arcades etc. Children are allowed to attend certain gambling premises without any adult supervision so the risk to those children may be escalated by the adults who attend those premises and find a vulnerability which they choose to prey on. 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.

Gambling establishment licence and permit holders and their employees are in a good position to help identify victims of sexual exploitation because, through the operation of certain gambling activities, licence and permit holders and their employees regularly come into contact with children, young and vulnerable people.

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.

Set out below is a list of considerations for gambling premises licence and permit holders and their employees to remember when they see young and vulnerable people in their gambling 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 being brought regularly to your premises by older people? If so, ask yourself why?

Safeguarding Vulnerable Adults

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 Safeguarding Adults Partnership:
<https://www.devonsafeguardingadultspartnership.org.uk/reporting-a-concern/>

Safeguarding Co-ordinator

At premises that are licensed for gambling, 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 shows 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 Core Objective to protect children and vulnerable people from harm, under the Gambling Act 2005.

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 at gambling premises (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.

Reporting concerns

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.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.

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 csc.caredirect@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>

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Appendix B

List of Organisations/Persons consulted

Responsible Authorities:

- The Gambling Commission
- HM Revenue and Customs
- Devon Children and Families Partnership
- Chief Officer of Police, Devon and Cornwall Constabulary
- Devon and Somerset Fire and Rescue Service
- South Hams District Council's Environmental Health Department
- South Hams District Council's Planning Department
- Dartmoor National Park Planning Authority
- Maritime and Coastguard Agency

Licence Holders/Representatives of Licence Holders, Interested Parties/Representatives of Interested Parties:

- British Amusement Catering Trade Association (BACTA)
- Citizens Advice
- Dartmouth Business News
- Devon Chamber of Trade
- Devon Children and Families Partnership
- Devon County Council Social Care
- Devon Health and Wellbeing Board
- District Councillors
- Gamble Aware
- Gamblers Anonymous
- GamCare
- Local residents/businesses and their representatives via the Council website and through Council social media.
- Ivybridge Chamber of Commerce
- Kingsbridge, Salcombe and Modbury Chamber of Commerce
- Mencap
- MIND
- NSPCC
- Police and Crime Commissioner for Devon and Cornwall
- Representatives of existing licence-holders
- South Devon & Dartmoor Community Safety Partnership
- Totnes and District Chamber of Commerce
- Town and Parish Councillors

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Appendix C

Summary of main changes from Gambling Statement of Principles 2019-2022, including proposed changes following public consultation

Part A	Brief Description
1.2	Reference to specific section of the Gambling Commission Guidance to Local Authorities (GLA) added and wording slightly amended.
3.2 – 3.5	Local statistics updated.
3.6	Council's Core Purposes and Corporate Strategy Themes added.
4.3 (following consultation)	List of organisations consulted updated.
11.5 – 11.6	Hyperlinks to Gambling Commission's test purchasing guidance and inspection templates included.
11.7	New paragraph regarding the authority's approach to primary authority agreements.
Info box below 12.1	Sentence added to clarify that the Licensing Authority do not regulate The National Lottery or Online (Remote) Gambling.
14.1	Hyperlink to Gambling Commission's website amended.
14.2	Added requirement that an updated local risk assessment will be required where privacy screens or pods have been included.
15.7 (following consultation)	Last sentence updated with further details regarding Gamble Aware as per their response to the consultation.
Part B	
1.4.2	Reference to specific section of the GLA added and additional sentence relating to premises located within a wider venue, as per guidance.
1.4.3	Reference to specific section of the GLA added.
1.4.4 – 1.4.7	New sections relating to access and separation of premises, including diagrams.
1.4.8	Additional bullet point referring to risk assessments.
1.5.1	Reference to specific section of the GLA added.
1.7.1 – 1.7.2	Wording related to duplication with planning and building control amended as per updated GLA.
1.8.4 – 1.8.8	Additional information about our expectations in relation to children and vulnerable persons.

1.11.1 – 1.11.2	Removal of reference to previous version of Licence Conditions and Codes of Practice (LCCP)
1.13.1	Addition of reference to LCCP Ordinary Code 10.1.2 and requirement of licensees to share risk assessments with the Licensing Authority.
1.14.1 – 1.14.4	New section on our requirements for premises licence plans.
3.7	New paragraph encouraging premises to sign up to the British Amusement Catering Trade and Association (BACTA) Voluntary Code in relation to under 18s playing category D gaming machines at Family Entertainment Centres.
5.3	Reference to LCCP 9.1.2 in relation to the appearance of premises used to provide bingo facilities added.
7.4.4	Addition of recommendation that applicants consult the Gambling Commissions guidance on siting of gaming machines at tracks.
7.6.7	Hyperlink to GLA amended.
9.7	New paragraph confirming that a building should be complete before a gambling premises licence application is submitted.
Part C	
1.9.1	Removal of bullet point that basic disclosure not required where an applicant holds an Operating Licence with the Gambling Commission.
1.10.5	New paragraph encouraging premises to sign up to the British Amusement Catering Trade and Association (BACTA) Voluntary Code in relation to under 18s playing category D gaming machines at Unlicensed Family Entertainment Centres.
1.11.1	Additional bullet point to include self-exclusion systems to protect vulnerable persons.
2.3 – 2.4	New paragraphs about our expectation for alcohol licensed premises with gaming machines to be aware of the relevant Gambling Commission Codes of Practice.
2.9	Hyperlink to Gambling Commission's relevant code of practice added.
4.1	Gaming machine categories updated.
6.3	Hyperlink to Gambling Commission's information on Occasional Use Notices added.
8.4	Hyperlink to Gambling Commission's information on fundraising and lotteries added.
Appendix C	Email addresses and hyperlinks updated.

Appendix D

South Hams District Council

STATEMENT OF PRINCIPLES (Gambling Act 2005) CONSULTATION RESPONSE

NAME OR ORGANISATION	COMMENTS	APPRAISAL	SUGGESTED AMENDMENTS
<p>GambleAware GambleAware is an independent charity tasked to fund research, education and treatment services to help to reduce gambling-related harms in Great Britain.</p>	<p>Thank you for consulting us on your draft Statement of Principles under the Gambling Act 2005.</p> <p>Due to resource constraints on a small charity, we are not able to offer specific feedback on your policy. However, you may find GambleAware's recently published interactive maps useful, which have been designed for use by local authorities. The maps show the prevalence of problem gambling severity in each local authority and ward area as well as usage of, and reported demand for, treatment and support for gambling harms.</p> <p>GambleAware also strongly commends two publications by the Local Government Association which set out the range of options available to local authorities to deal with gambling-related harms using existing powers: https://www.local.gov.uk/tackling-gambling-related-harm-whole-council-approach https://www.local.gov.uk/gambling-regulation-councillor-handbook-england-and-wales</p>	<p>The maps referred to are described on their website as: 'These maps represent a starting point in understanding some of the differences at ward and local authority level. It is anticipated that they will be useful to national and local public health teams and healthcare commissioners in building their understanding of gambling in their local authority area.' The maps are interesting and will aid Public Health when analysing health concerns in the local area, which may then influence future gambling policies.</p> <p>Both publications referred to by GambleAware were taken into consideration during the review of the policy in 2018 and the relevant information is still included in this updated version.</p>	<p>No amendments required.</p> <p>No amendments required.</p>

	<p>GambleAware is also fully supportive of local authorities which conduct an analysis to identify areas with increased levels of risk for any reason. In particular we support those who also include additional licence requirements to mitigate the increased level of risk. Areas where there are higher than average resident or visiting populations from groups we know to be vulnerable to gambling harms include children, the unemployed, the homeless, certain ethnic-minorities, lower socio-economic groups, those attending mental health (including gambling disorders) or substance addiction treatment services.</p> <p>Finally, GambleAware is a leading commissioner of prevention and treatment services for gambling harms. It provides these functions across England, Scotland and Wales and its work is underpinned by high quality research, data and evaluation. We encourage all local authorities to signpost people to the National Gambling Helpline on 0808 8020 133 and also www.begambleaware.org . Both are part of the National Gambling Treatment Service and offer free, confidential advice and support for those who may need it.</p>	<p>There is no requirement for South Hams District Council to produce a local area profile and we have decided at this time we are not in a position to do so. Its creation is dependent on information and knowledge of the local area gathered by partner agencies and other relevant organisations who have the expertise and knowledge of the impact of gambling in the locality, in particular Public Health. In the three previous years no information or data has been submitted, despite being openly requested in the previous policy. The Council is considering putting such a profile together in the future, depending on the resources available.</p> <p>At 15.7 of the policy document it states: “This Licensing Authority encourages operators to have information and links to appropriate accredited agencies for help and support available to customers, such as the National Problem Gambling Helpline and GamCare.” The name of the helpline has been amended and it may be helpful to include the number as well as the website address.</p>	<p>No amendments required.</p> <p>Last sentence at 15.7 of the policy to be updated as follows: “This Licensing Authority encourages operators to have information and links to appropriate accredited agencies for help and support available to customers, such as the National Gambling Helpline (0808 8020 133) and GamCare. Further information is also available on the Gamble Aware website: www.begambleaware.org ”</p>
<p>John Pope, Harford Parish Clerk</p>	<p>My comment is that gambling is a pernicious evil that causes much destitution and misery, and that to the greatest extent permitted by the law the council should actively seek to minimise the number of gambling establishments.</p>	<p>While the Licensing Authority is able to reduce the negative impact of the gambling activities it controls through regulation and by ensuring premises promote the licensing objectives, it does not have the power to limit</p>	<p>No amendments required.</p>

		the number of gambling establishments through this policy.	
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Overview and Scrutiny Committee Meeting 4 November 2021: Draft Minute Extract:

O&S.30/21 **URGENT BUSINESS – CALL-IN OF EXECUTIVE MINUTE E.56/21: GARDEN WASTE SERVICE**

The Chairman introduced the agenda item and advised that, in accordance with Overview and Scrutiny Procedure Rule 12.5, the resolution arising from Minute E.56/21: 'Garden Waste Service' had been formally called-in for further consideration by the Committee. The process of call-in was then outlined.

Following a question from a Member, it was clarified that the decision was a key decision because the issue, i.e. garden waste service, related to the whole District.

The Chairman advised that there would be three options available to the Committee when considering the call-in. These were that the Committee:

1. was content with the original Executive resolution and that decision would therefore take immediate effect;
2. could refer the decision back to the next Executive meeting (on 2 December 2021) for further consideration; and
3. could opt to refer the decision to the next full Council meeting (on 25 November 2021).

The Chairman then explained his reasoning behind the decision to invoke a call-in. In so doing, the Chairman made specific reference to:-

1. Failure to adequately consult with Members prior to the Executive meeting of 14 October 2021 at which the decision was taken;
2. Late delivery of the report in support of the recommendation. The report was only made available to Members on the morning of the meeting and, as such, many Members were not made aware of the serious nature of the recommendation until the last minute, if at all, prior to the decision being made; and
3. Lack of openness in respect of the content of the report and the reaching of the decision. For example, it was not made clear as to whether or not FCC (the Council's Waste Contractor) had requested a continued suspension.

Following questions put to the lead Executive Member with responsibility for Waste, it was clarified that:

- The report had been published late because Officers and the Executive Member had been working on the report right to the last minute in a desperate attempt to get a one off garden waste collection carried out before the decision had to be taken to suspend the service until Spring.

- The lead Executive Member confirmed that it had been his decision to recommend to his Executive colleagues that the suspension be extended so that residents were given some certainty and not waiting month to month to be told about the service.
- Other neighbouring Local Authorities had been approached to see if there was an opportunity for a one-off collection with their service, but all were suffering from the national HGV driver shortage and no one had any spare capacity within their own service.
- It was confirmed that the Council's contractor, FCC Environment (FCC), were unable to give any idea when they would be able to restart the service.
- Members were asked to give any alternative suggestions to the Executive Member or Officers who would explore any potential avenue.
- One Member stated that a resident in her local Ward had turned this into a business opportunity and was offering to empty a bin at £14.00 per bin, whilst another Member remarked that he too had made a number of calls to providers but had been unable to find any provider who could carry out a collection service for his Ward.
- The Executive Member stated that there were 46,000 bins to be collected over the whole District. It was his responsibility to ensure that the same service was provided to all households in the South Hams, no matter the ease or difficulty in reaching their bins.
- The recent letter that had been sent to all residents had been to keep every resident informed, not just those who used social media.
- Whilst recognising the value of local composting schemes, it was acknowledged as not being a replacement to the garden waste collection scheme.
- When questioned on funding for any alternative collections, the Executive Member confirmed that there would be a report presented to a future Executive meeting to address this matter.
- It was noted that the original decision to suspend the garden waste service (taken in August 2021) had had to be made quickly, hence limited consultation with Members. The Member acknowledged that the now disbanded Waste and Recycling Working Group had been useful, and he would be supportive should there be the political appetite to establish another working group.

Upon the conclusion of the questions to the lead Executive Member, the Chairman then **PROPOSED** a recommendation, which was **SECONDED**, and, when put to the vote, was declared **CARRIED**.

It was then:

RESOLVED

That the Council Constitution provides for O&S to express its concerns and to call for reconsideration of the decision of the Executive taken at its meeting held on 14 October 2021 in respect of the suspension of the garden waste collection. The O&S has concerns and it calls for reconsideration. These concerns and a call for reconsideration be submitted to the Full Council meeting to be held on 25 November 2021. Full Council will then be able to make its views known to the Executive.

These were the concerns to be submitted.

1. There was insufficient consideration and/or reporting given to the implementation of Option 3 being the use of an alternative provider and in particular the possibility of the garden waste collection being taken back in-house;
2. The supporting report incorrectly states that there are no financial implications arising. The suspension of the garden waste collection service from mid-August 2021 until Spring 2022 will in all probability have financial implications;
3. There was insufficient consideration and/or reporting given to the provisions of the contract with FCC;
4. The decision to suspend the garden waste collection until an open-ended Spring date leaves many residents with their brown bins containing waste for an indefinite period; and
5. Council tax levied by the Council includes a sum for the collection of garden waste and yet taxpayers are not receiving a service for which they have paid for.

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Special Executive Meeting 11 November 2021: Draft Minute Extract:

E.60/21 GARDEN WASTE COLLECTIONS

(a) The Overview and Scrutiny Committee Concerns

The lead Executive Member made reference to each of the concerns raised by the Committee and provided the following additional comments:

Overview and Scrutiny Concern 1:

There was insufficient consideration and/or reporting given to the implementation of Option 3 being the use of an alternative provider and in particular the possibility of the garden waste collection being taken back in-house.

Executive Comments:

In addition to the details in the published agenda report, Officers and the Lead Executive Member provided a comprehensive update at the Executive meeting held on 14 October 2021 of the process and investigations undertaken to assess what was operationally feasible within a realistic timescale.

Overview and Scrutiny Concerns 2 and 3:

The supporting report incorrectly states that there are no financial implications arising. The suspension of the garden waste collection service from mid-August 2021 until Spring 2022 will in all probability have financial implications; and

There was insufficient consideration and/or reporting given to the provisions of the contract with FCC.

Executive Comments:

The Council has followed the correct contractual procedure regarding the suspension of the Garden Waste Service. That process is a formal contractual change notice issued on 22nd October.

Overview and Scrutiny Concern 4:

The decision to suspend the garden waste collection until an open-ended spring date leaves many residents with their brown bins containing waste for an indefinite period.

Executive Comments:

At its meeting held on 14th October 2021, the Executive resolved to produce a letter to be sent to all residents. That letter was then delivered to all residents during the week commencing 1st November 2021;

Draft minute E.56/51 states “That delegated authority be granted to the Director for Customer Service and Delivery, in consultation with the Leader of Council and the lead Executive Member, to produce a letter to be sent on behalf of the Executive to all residents in the South Hams that provides an update on the waste and recycling collection service.”

The Executive has asked Officers to continue to explore options for carrying out a collection – recommendation 3 in the current report.

Paragraph 4.4 of the published agenda report for this Special Executive Meeting states “The Executive has asked FCC to provide a detailed plan to the Council by 31 December for restarting the service by 31 March 2022 or sooner.”

Overview and Scrutiny Concern 5:

Council tax levied by the Council includes a sum for the collection of garden waste and yet taxpayers are not receiving a service for which they have paid for.

Executive Comments:

To explain the background of the Council Tax legislation, Council Tax is partly a form of general taxation on a property and partly a tax on the people living in a property. Council Tax funds essential services in an area and the cost of the public services is spread across all tax payers in the same way, regardless of which services they use or receive;

*So when you pay your council tax, it is not as simple as paying for and receiving a service. By law, the Council is unable to give a Council Tax discount to households that may not receive a specific service or receive a poor service. Therefore, we are not able to offer any reduction in your council tax bill as council tax **is a form of general taxation** rather than a service charge.*

We continue to prioritise the services which we have a statutory duty to provide, such as refuse and recycling collections. Garden waste is a non-statutory service which has been provided at the Council's discretion.

Unfortunately we are not able to offer a refund of Council Tax. Council Tax is a way of funding councils, and other statutory agencies, for the varied services they provide. Waste collections are only one of the many services we provide as a District Council. It is not the same as having a contract for one specific service.

The Executive proceeded to confirm its support for these comments to be formally presented alongside the concerns of the Overview and Scrutiny Committee at the Full Council Meeting to be held on 25 November 2021.

NOT FOR PUBLICATION

Appendices of this report contain exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (information relating to the financial and business affairs of the Council)

Report to: **COUNCIL**

Date: **25th November 2021**

Title: **St Anns Chapel Housing Project**

Portfolio Area: **Cllr J Pearce – Housing**

Next steps to be undertaken: **N/A**

Author: **Laura Wotton
Head of Assets**

Contact: **Email: laura.wotton@swdevon.gov.uk**

RECOMMENDATION:

It is RECOMMENDED that Council:

- 1. Approves construction of the project to deliver 8 Affordable Homes, 3 Open Market Units and 2 serviced plots at St Anns Chapel Affordable Housing Scheme (“the Project”).**
- 2. Agrees that the total project cost of £4.2 million of the project is to be funded as follows:**
 - 2.1 Long-term funding of up to £2.2m from a combination of internal and external borrowing (from the Public Works Loan Board);**
 - 2.2 Funding of up to £250,000 from the Affordable Housing Earmarked Reserve (in addition to the £100,000 approved previously);**
 - 2.3 £1.4m from the disposal of the 3 Open Market Units;**
 - 2.4 A Homes England grant of not less than £110,000; and**
 - 2.5 £162,000 from Section 106 contributions (previously approved)**

- 3. Approves the short-term borrowing costs of approximately £3.6million over a two-year period (before the three Open Market Units are disposed of for £1.4million)**
- 4. Delegates the borrowing strategy for the internal and external borrowing approved above to the Section 151 Officer in accordance with normal treasury management activities.**
- 5. Delegates to the Head of Assets the power to dispose of the 2 Serviced Plots as consideration for the land purchase and the 3 Open Market Units.**
- 6. Authorises the Head of Assets to make an application to Homes England for grant funding of at least £110,000 to support the delivery of the Project.**
- 7. Authorises the Head of Assets in consultation with the Head of Housing to increase the number of Affordable Rental Units up to 8 within the proposed Affordable Housing Scheme.**
- 8. Authorises the Head of Assets to make the contract awards necessary for the delivery of the Project.**
- 9. Notes that upon completion of the Affordable Homes, it is intended to transfer them on long-leases to the Community Benefit Society being formed by the Council, subject to the Director of Place and Enterprise in consultation with the Section 151 Officer, undertaking due diligence to identify the associated legal, financial and accounting implications of doing so.**

1. Executive summary

- 1.1. This report provides an update and makes recommendations with respect to the St Anns Chapel Community Housing Project, following previous approvals in April 2020 [Minute CM88/19, Council 30th April 2020] and September 2020 [Minute CM22/20, Council 24th September 2020].
- 1.2. Despite best efforts of officers, the project has not concluded the construction phase due to a supply chain failure, with the principle contractor.
- 1.3. Brexit and the pandemic have all impacted the cost of construction and the delivery of housing and inflated the housing market in that time (reported to be in the order of 20%).
- 1.4. On 23rd September 2021, the Council declared a housing crisis. One of the key reasons for this was the acute shortage of affordable rented accommodation throughout the District, particularly in coastal areas such as St Anns Chapel.
- 1.5. Previously, it was proposed the Affordable Housing Scheme would be largely discount purchase units for ownership with 1 affordable rental unit. It is now proposed up to all 8 units be delivered as affordable rental units. The development could therefore deliver 8 much needed rented houses. A further 3 open market sale properties to cross-subsidise the development and 2 serviced plots for the landowner will be constructed.
- 1.6. The housing need survey supports provision of rental accommodation in the locality (parish and immediate neighbouring parishes) and identifies a need for the following affordable housing: 4 x 1 bed, 10 x 2 bed and 2 x 3 bed rental units.
- 1.7. In the past 3 years, just 20 new affordable rented properties have been delivered by the market across the South Hams AONB. The St Anns Chapel scheme, could add 40% more rental units to that total.
- 1.8. The Section 106 Agreement details the requirements for any Low Cost Market Dwelling or Affordable Rented Dwelling but the Affordable Housing Scheme is yet to be agreed and subsequently approved.
- 1.9. A further procurement exercise has been completed and the supply chain secured. A construction contract is available to enter, subject to Council approval.

- 1.10. The cost of delivery and building the units is £4.2 million. The impact of sales of open market units and secured funding results in approval being sought for long term Public Works Loans Board (PWLB) borrowing over 50 years of up to £2.2m. This long term borrowing is required to allow the retention of up to 8 affordable rent properties.
- 1.11. The business case set out in the report is based on 8 rental units with rent set at published Local Housing Allowance (LHA) for the relevant property type within the Administrative Area (Plymouth).
- 1.12. The business case is based on a "worst case" assumptions and may be improved upon – see Risks and Opportunities sections. It includes the proposed use of £250k of funding from the Affordable Housing Earmarked Reserve, which has a current balance of £470k, to assist in the delivery of affordable rented properties.
- 1.13. If approved, delivery will commence in spring 2022 with completion anticipated for late 2023.
- 1.14. The properties will be highly efficient, high quality homes and will be low cost to heat and run. Air source heat pumps and low water use fittings all form part of the design specification. Furthermore, the concept of Fabric First¹ has been utilised throughout which prioritises energy efficiency within the building envelope.
- 1.15. It is envisaged the properties will be managed by Seamoor Lettings. The Council is continuing the process to set up a Community Benefit Society with Registered Provider status and the homes will remain the property of the Council in perpetuity, continuing to meet housing need. The business case supports setting aside up to 25% of all rental income for management and maintenance.

2. Background

- 2.1. Previous Council approvals gave the Head of Assets, in consultation with the Head of Paid Service, the s151 officer and the Lead Member for Assets, delegated authority to approve expenditure of up to £8.5m from a combination of internal borrowing and external borrowing to fund the construction of the first four community housing projects in accordance with business cases being South Brent, St Ann's Chapel, Brixton and Kingsbridge.
- 2.2. These developments, in line with the Community Housing Strategy were to be developed to support the delivery of homes accessible to those with local connections where market housing, either to purchase or rent is beyond reach. In turn supporting the vitality and sustainability of local communities.

¹ Maximising the performance of the components and materials to make the building as energy efficient as possible.

- 2.3. Following this decision, the Council worked in collaboration with Bigbury Parish Council to develop an affordable housing scheme in St Ann's Chapel based on a mix of 8 discount purchase and affordable rented units plus 3 open market units to be sold to cross subsidise the scheme.
- 2.4. Following receipt of recommendations for approval of the planning applications for each scheme from the respective authorities planning committees, the completion of pre-construction technical and environmental assessment work and a competitive tender process, in September 2020 an Executive report recommended the signing of construction contracts (JCT) to complete the St Anns Chapel (13 Units) and South Brent (17 Units) Developments with expenditure of up to £5.8m.
- 2.5. In December 2020, a Letter of Intent (LOI) was issued to the successful contractor, with a view to entering the full construction contract. At that stage, the contract was for the delivery of the St Anns Chapel element only, albeit the intention was to enter contract with the same contractor (as per the tender), once the South Brent scheme was in a position to proceed.
- 2.6. However, the successful tenderer had concerns in relation to labour supply chain issues particularly the availability of ground workers, drainage challenges at St Anns and the impact of the period between tender and award.
- 2.7. The Council provided opportunities for the contractor to continue to secure the works and revise the tender price based on inflationary costs, the revised drainage scheme and costs which may have been reasonably incurred. Despite this, the contractor pursued a route to secure payment under the Letter of Intent solely, instead of securing the contract. The contract therefore was not completed.
- 2.8. Section 4.1 sets out details of the new supply chain that is now in place.

3. The Affordable Housing Scheme

Housing Need Survey

- 3.1. Establishing housing need is key principle of any housing project and this has been established at St Anns.
- 3.2. The housing need formed part of the planning report and this scheme will deliver on some of the established need. It is therefore not necessary to conduct an updated housing need survey.

- 3.3. There is however a need to carry out community engagement work to ensure the community are aware of the proposed changes to increase the affordable rented accommodation up to all 8 units. The Council will ensure the opportunity and ability to access these homes is widely publicised and the community is kept apprised of the progress of the scheme.

Affordable Rental Dwelling

- 3.4. A benefit of the project having not yet commenced is the ability to adjust the tenure of the properties away from discount sale into affordable rent.
- 3.5. The proposed Affordable Rented Dwellings will be made available for rent at the Plymouth Local Housing Allowance (LHA) for the relevant property type within the Administrative Area. This rate is significantly lower than the South Hams LHA rate. On this basis, the rent will be £134.63 per week (£583/month) for a 2 Bedroom house and £159.95 per week (£693/month) for a 3 bedroom house.
- 3.6. Combined with low running costs of the new energy efficient housing and high open market rents in the area, the rent is significantly affordable.
- 3.7. Comparable evidence in the locality (limited availability), suggests a similar 2 bedroom property would rent for circa £900/month and a 3 bedroom property in excess of £1200/month. The rent proposed is therefore circa 60% of the open market rental value. Added to this the low running costs, it is considered these properties will be affordable and accessible for local people. Generally, social rents are considered to be around 60% of open market rent in the area.

Planning Position

- 3.8. Strategic and DM planning policy issues have been considered through the development of this project and as demonstrated by the planning approval, seen to be in line with both.
- 3.9. The Section 106 Agreement requires the provision of affordable dwellings in accordance with an Approved Affordable Housing Scheme. This includes the numbers, types and tenures of the Affordable Dwellings and must be agreed before occupation.
- 3.10. The Approved Affordable Housing Scheme will be supported by housing need evidence. If the proposed tenure provision of up to 8 affordable rent units is approved, the Affordable Housing Scheme will be developed on this basis. In this case, approval must be sought from Devon County Council as South Hams District Council is the landowner and cannot covenant with itself.

- 3.11. The development proposal has been given planning permission on the basis of it being a rural exception site, as an affordable housing-led scheme responding to identified housing needs in the area.
- 3.12. The market challenges of bringing forward rural exception sites are well understood and as such there are few proposals that reach the planning application stage once the viability challenges of this type of development are known. Policy TTV27 allows for up to 40% of open market housing to be delivered onsite in order to cross-subsidise the affordable housing element of a proposal. This scheme does not fully utilise this.
- 3.13. The tenure split being offered onsite reflects the adopted policy position across the JLP Councils, which is to be flexible and responsive to the specific housing needs in the local area. The split between affordable rent and social rent in this instance reflects what is known about housing need in this area at the point when the development is going to be delivered.
- 3.14. Research undertaken to inform the Housing Emergency declaration highlights an ongoing shortage of rented homes in our area, particularly at an affordable rent. There are a number of reasons for this, and the Council is being proactive in bringing forward housing tenures that meet known short term gaps in housing provision. This issue is particularly acute in the coastal belt villages, where the provision of rented accommodation lost to the holiday accommodation market has led to a severe restriction in housing choice for local people.

4. Business Case

Contract Tender

- 4.1. The original procurement exercise was run in summer 2019. The market has seen significant impacts from the Covid-19 Pandemic and Brexit which have caused supply chain delays and material cost increases. It is estimated contract costs are now in the region of 20% higher than pre-pandemic. Furthermore, this impacts the contractor's treatment of risk within any tender.
- 4.2. Following the breakdown of the supply chain through the existing tender, a retender exercise commenced in June 2021. Further to this, we now have a preferred contractor and an associated contract price. This is circa 20% higher than the previous contract tender price.

Financing of the £4.2million scheme in the long term

The total build cost is £4.2million would be financed as below:

- Long term borrowing of £2.2million over the asset life of 50 years (a mixture of external Public Works Loan Board borrowing and internal borrowing)
- Sale proceeds from three open market units of £1.4million
- Approval is sought in this report for further funding from the Affordable Housing Earmarked Reserve of £250,000
- Homes England grant funding (minimum contribution of £110,000)
- Section 106 funding of £162,000 (£97,700.91 from the contribution from the former Old Chapel and £65,193.00 from the contributions from the Hollywell Stores developments)
- Affordable Housing Earmarked Reserve £100,000 (already approved at Council 30th April 2020)

Financing of the £4.2million scheme over the first two years

- 4.3. There would be short term borrowing costs of approximately £3.6million over a two year period (before the three open market units are disposed of for £1.4million). It is recommended that the borrowing strategy is delegated to the Section 151 Officer, in accordance with normal treasury management activities.

Homes England Funding

- 4.5 The St Anns Chapel project was originally intended to provide intermediate housing to be sold into the market as discount purchase sales at 65% of open market value. The business case previously did not require Homes England funding to breakeven. However if this had changed, discount purchase properties did attract Homes England funding at that time.
- 4.6 In the new Affordable Homes Programme (2021-2026) this is no longer the case and Homes England funding is only obtainable on shared ownership or affordable rent properties.
- 4.7 We have a pending application on the Homes England application system for the scheme. We cannot yet confirm how much Homes England funding we may secure to support the scheme. However, following discussions with Homes England we anticipate a successful application on at least two units with associated funding of £110,000.

Development Value

- 4.8 An open market value appraisal was completed in August 2021 and placed a total development value of £3,980,000, of which around £1,400,000 relates to the open market units. These will be sold to cross-subsidise the affordable rental units and reduce the required long term borrowing.
- 4.9 In simple terms, this means the assets will have a book value of nearly £4m and are anticipated to appreciate in value.
- 4.10 The value of the rental units will be retained within the Council.

Proposed Funding arrangements

- 4.11 There are three distinct funding stages in the Council's project development programme:
- **Development Costs** – all pre-construction costs incurred including detailed design, planning consent, legal fees, land assembly & acquisition and tender preparation & award. This stage is initially funded through the Community Housing Fund grant with costs incurred being reimbursed at the point of entering into construction contract, such that these costs can be reinvested in subsequent projects thus providing revolving funding to enable the programme to continue.
 - **Short Term Finance (£3.6million)** – finance required over the construction term
 - **Long Term Finance (£2.2 million)** – finance required to enable the rental units to be retained by the Council. The required repayments (capital & interest) to be covered by the net rental return of the affordable units.
- 4.12 The development and feasibility costs have been paid out of the original £1.88million Community Housing grant and the spend on the St Anns scheme currently totals £318k. This revenue cost will be capitalised and funded by borrowing (therefore these revenue costs will be recyclable) as the scheme proceeds to fruition. These costs of £318k can then be reinvested in future housing pipeline projects to address the housing crisis.
- 4.13 In order to facilitate the construction of the project, it is proposed the required finance will be drawn down from the PWLB and internal borrowing as appropriate. The figure of £3.6 million is required in short-term borrowing to facilitate the construction phase of the development.
- 4.14 Once the scheme is completed and the sale of the open market units, along with known costs for contingency, finance costs etc and any further secured funding, will equate to the required figure to be borrowed from PWLB over a period of 50 years will be £2.2 million as shown in 4.2.

5 Funding

A cash-flow forecast is included as Appendix 1 within the Business Case.

Opportunities

Homes England Funding

- 5.1 There is a pending application on the Homes England application system for the scheme. The amount of Homes England funding that may be available cannot be confirmed, however further to discussions with Homes England it is anticipated at least £110k in funding will be available. We are continuing to work with Homes England to maximise funding for this project.

Community Benefit Society

- 5.2 It is the intention of the Council to retain ownership of these eight properties, leasing them through a community benefit society. Retaining ownership ensures the properties are protected for future generations and further safeguarded through robust local connection criteria. These properties will be the first Council Houses South Hams District Council has built in a generation.

6 Risks

Supply Chain

- 6.1 There are current market wide, global challenges impacting the construction industry which are leading to supply chain and material availability challenges.

Pre-Commencement Conditions

- 6.2 The current design allows for onsite drainage through a soakaway system. However, in order to complete the required monitoring period, we must wait until the end of March 2022 for the groundwater monitoring to have complete a full cycle. It will only be known on completion whether onsite drainage is possible.
- 6.3 There is an option to go to offsite drainage, however this requires access over third party land and the installation of infrastructure outside of the development boundary. There is an extra cost which has been costed within the existing tender and included within the contract cost currently reported in the business case.

Revision of Affordable Dwelling Tenure

- 6.4 Whilst the Section 106 Agreement is not prescriptive as to the mix of affordable rented or low cost housing, it may be we are unable to agree an increase of all eight units as affordable rent.
- 6.5 We will be carrying out community engagement work to ensure the community are aware and supportive of the proposed changes to increase the affordable rented accommodation. The Council will ensure the opportunity and ability to access these homes is widely publicised and the community is kept appraised of the progress of the scheme.

7 Summary

- 7.1 The St Anns Chapel Housing project presents an opportunity to develop an affordable scheme that meets the local housing need and addresses the wider South Hams housing crisis.
- 7.2 It is proposed up to a total of £350k of the Council's reserves in the Affordable Housing Earmarked Reserve will be utilised to bring the project to fruition but this would also reimburse the Community Housing Fund with £318k of development costs spent to date, equating to a modest investment with respect to the Council's own funding.

- 7.3 The long-term financial position therefore is positive and after the 50-year term of the PWLB borrowing, the council will wholly own the rental properties. It should also be noted, at an annual growth of 1% in value, against current value of 8 rental units, the properties would appreciate in capital value by circa £1.7 million.
- 7.4 The Section 151 Officer has reviewed the business case and the associated costs, income and borrowing position of the Council and supports the recommendations set out in the report.

8 Way Forward

- 8.1 The Council approve the recommendations in this report to ensure this scheme can move into the delivery phase.
- 8.2 If approval is given, the Council will be able to deliver up to 8 affordable rented houses in response to the housing crisis, to be agreed in the Approved Affordable Housing Scheme.

9 Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	Y	<p>The Council has power under the Housing Act 1985 to provide housing accommodation by either building on land acquired for that purpose or acquiring houses.</p> <p>The contract for the delivery of the Project has been procured in accordance with the Council's Contract Procedure Rules.</p>
Financial	Y	<p>It is proposed that the Council will fund up to £4.2million initially for scheme development and up to £2.2 million as long term finance from a combination of internal borrowing and external borrowing (from the Public Works Loan Board) to build the St Ann's Chapel (13 units) housing scheme. Other sources of funding will be from any capital receipts yielded from open market sales and s106 affordable housing contributions and the Council's affordable housing reserve as detailed in Section 4 'the business case'. Specialist treasury management advice has been taken and will be further sought nearer to the time that the scheme starts on site.</p> <p>The Council legally does not have the ability to borrow in advance of need. It is therefore not possible to guarantee the interest rate that will be achieved. Any borrowing decision will be in</p>

		line with the Council's adopted Treasury Management Strategy and Affordable Borrowing Limits.	
Risks	Y	<u>Risk</u> Project cost escalation Shortfall in proceeds from sale of market, discount or rented units Interest rate rise	<u>Mitigation</u> Project supervision contract with supervising engineers. The economic model allows a 7% contingency sum. Binding contractual protections will be put in place which include liquidated damages to prevent overrun (excluding COVID related delay). Additional cost mitigation through re-evaluation of construction costs upon completion of contract. Renewed valuations by external agents undertaken to confirm values within economic model. Conservative estimates applied to inflation and property value increases. PWLB rates fixed at the point of drawdown, such that the economic model will be fully verified based on the rate of borrowing at the time. Internal borrowing reduces the overall interest cost of the scheme.

Comprehensive Impact Assessment Implications		
Equality and Diversity	N	N/A
Safeguarding	N	N/A
Community Safety, Crime and Disorder	N	N/A
Health, Safety and Wellbeing	N	N/A
Other implications	N	N/A

Appendices:

EXEMPT

Appendix 1: St Anns Chapel Development Business Case

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MINUTES of the MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE held in THE REPTON ROOM, FOLLATON HOUSE, TOTNES, on WEDNESDAY, 8 SEPTEMBER 2021

Members in attendance * Denotes attendance ∅ Denotes apologies			
*	Cllr V Abbott	*	Cllr M Long
*	Cllr J Brazil (Chairman)	*	Cllr G Pannell
*	Cllr D Brown	*	Cllr K Pringle
*	Cllr R J Foss (Deputy Chair)	*	Cllr H Reeve
*	Cllr J M Hodgson	*	Cllr R Rowe
*	Cllr K Kemp	*	Cllr B Taylor

Other Members also in attendance and participating:
Cllr J Birch;

Officers in attendance and participating:

Item No:	Application No:	Officers:
All agenda items		Senior Specialists – Development Management; Legal Officer; IT and Democratic Services Officer.
6a		Viability Officer, Plymouth City Council; Specialist – Affordable Housing; Heritage Officer.

DM.19/21 MINUTES
The minutes of the meeting of the Committee held on 28th July 2021 were confirmed as a correct record by the Committee.

DM.20/21 DECLARATIONS OF INTEREST
Members and officers were invited to declare any interests in the items of business to be considered and the following were made:

Cllr B Taylor declared a personal interest in application 1129/21/FUL (Minute DM.22/21(b) below refers) as he was a Member of the South Devon AONB Partnership Committee. The Member remained in the meeting and took part in the debate and vote thereon;

DM.21/21 PUBLIC PARTICIPATION
The Chairman noted the list of members of the public, and town and parish council representatives who had registered their wish to speak at the meeting.

PLANNING APPLICATIONS

The Committee considered the details of the planning applications prepared by the Planning Case Officers as presented in the agenda papers, and considered also the comments of Town and Parish Councils, together with other representations received, which were listed within the presented agenda reports, and **RESOLVED** that:

6a) 2560/21/FUL “Former Brutus Centre”, Fore Street, Totnes, TQ9 5RW

Town: Totnes

Development: Construction of new dwelling with associated groundworks and landscaping.

Case Officer Update: The Case Officer clarified that it was £210,000, not £210, for affordable housing offsite contribution, as detailed in the attendant report. Concerns had been raised, with the Case Officer, about the build impact on the Red-wood tree roots system, and if the Tree Preservation Order had been breached: the Case Officer had not been able to consult with the Council’s Tree Officer but, if approved, could resolve post Committee meeting. The Case Officer updated the Committee with the two conditions that had been missed off the published report, which were that work would be outside the bird nesting season, and to receive details of the balconies.

It was also clarified that the application consisted of two storeys and a slightly recessed third storey, as opposed to the four storeys as outlined during the site visit.

It was stated that the loss of retail space was acceptable as the site had been on the open market for sale for a long time with no buyer. Officers also felt that the loss of 25 parking spaces in the public car park was acceptable as there was a sufficiency of car parking provision elsewhere in Totnes. Following a question from a Member, the Case Officer could not confirm the percentage loss of car parking spaces but would give this information after Committee. Although there were no significant species found on site, various ecological conditions had been attached to the application. The Case Officer confirmed she had not yet had a response from the lead Local Flood Authority.

One Member questioned whether the bin area was sufficient for the size of the development and queried how the bins would be emptied. The Case Officer suggested a site warden would move the bins but this was not confirmed with the applicant.

The south elevation window material was confirmed as high end and that the cladding material was still under discussion with the applicant but could be conditioned if approved. It was agreed that, if approved, the church tower view from Station Road would have to be built as shown and any loss to the view would be subject to enforcement action. There was some debate about the accuracy of the photo montage, so a request was made that an accurate plan

with the church and context in the background be requested from the applicant.

Following the case officer's clarification of the affordable housing contribution, the Committee heard from the Plymouth City Council Viability Officer who had been instructed to advise the Council and the Council's Affordable Housing Officer. Members were unhappy with the amount proposed by the applicant (£210,000) and requested greater detail as to how the amount had been decided upon. Members also queried whether the local housing need would be met by the application.

The Local Ward Member, who was in attendance, pointed out that in respect of the previous application on this site, which was being appealed, the Statement of Common Ground quoted the figure of £210,000 as the current affordable housing contribution as having been agreed. In view of the Committee's concerns, he requested that the Council's agreement to the affordable housing contribution in the Statement of Common Ground be withdrawn. Additional information with regard to the viability of the proposal and the affordable housing contribution should be sought before bringing the application back to Planning Committee.

The Committee were then asked to vote on deferral of this application until the additional information was received on the viability and affordable housing contribution calculations and a review of the demographic need for local housing in relation to retirement homes.

Following the Committee's approval to defer the application, the registered speakers were asked if they wished to speak at this Committee meeting or return when the application was reheard. All requested to speak at the future Committee meeting.

Recommendation: Approval subject to delegation to the Head of Development Management Practice, submission of amended plans to deal with the Heritage Specialist's detailed comments and the preparation of a Section 106 legal agreement to secure the following contributions: Affordable Housing: £210,000 as an offsite contribution Open Space Sport and Recreation: £19,968 towards improvements to sports and recreation facilities at Borough Park, Totnes.

Committee decision: Deferral and officers be instructed to withdraw the Council's agreement to an affordable housing contribution of £210,000 set out in the Statement of Common Ground in connection with the appeal against the previous refusal of planning permission on this site.

6b) 1129/21/FUL

**Land to rear of 62, Staddiscombe Road,
Plymstock, PL9 9LZ**

Parish: Wembury Parish Council

Development: READVERTISEMENT (Revised plans received) Technical detail for all aspects to Planning in Principle approval (2837/18/PIP)

Case Officer Update: The height of the proposed dwelling in relation to the nearby garage was clarified. The Case Officer gave an explanation of why the application had been deemed a sustainable location when planning in principle had been approved.

Speakers included: Objector – Jon Hearn; Supporter – Mr Paul Adams; Ward Member – Cllr Brown

Recommendation: Conditional approval subject to Section 106 obligation to secure Tamar EMS mitigation

Committee decision: Conditional approval subject to Section 106 obligation to secure Tamar EMS mitigation

Conditions:

1. 3 year commencement
2. Accord with plans
3. Drainage implementation
4. Landscape implementation
5. Provision and retention of privacy screen
6. Materials details
7. Implementation of DEV32 measures
8. Biodiversity enhancements
9. Construction Management Plan
10. No external lighting
11. Light reduction measures to windows
12. Unexpected contamination
13. Parking retention
14. PD removal
15. Garage condition reimposed

6c) 3423/20/FUL Rowan Cottage, Bugford, Stoke Fleming, TQ6 0LT

Parish: Stoke Fleming

Development: Construction of new outbuilding for use as ancillary residential accommodation with associated groundworks, including removal of existing garage.

Case Officer Update: No update

During the debate, Members questioned the impact of the building on local flooding and whether the new dwelling would be subservient to the main dwelling;

with one Member stating that the annexe was too separate, with independent access, and could be used in isolation, which was contrary to the Supplementary Planning Document. It was confirmed that, although not a material matter, the application did not have permission for the drainage to run off into the neighbouring farmer's field.

Members were concerned that this application constituted over development with the footprint of the annex being nearly the same size as the extant dwelling, giving rise to bulking.

Speakers included: Objector – Mr Keith Grey; Supporter – Mr Alan Houston; Parish Council – Cllr Marion Holmes; Ward Member – Cllr H Reeve;

Recommendation: Conditional Approval

Committee decision: Refusal with the reasons delegated to the Head of Development Management in consultation with the local Ward Member, the Chairman of the Committee and the Proposer and Seconder of the Motion.

DM.23/21 **PLANNING APPEALS UPDATE**

Members noted the list of appeals as outlined in the presented agenda report.

The Senior Specialist, Development Management, provided further details on specific recent appeal decisions.

DM.24/21 **PLANNING PERFORMANCE INDICATORS**

Members reviewed the performance indicators as outlined in the presented agenda report, with update on staffing levels within Development Management and Enforcement teams. A Member requested to meet with Planning Enforcement Officers to review cases within her local Ward.

DM.25/21 **UPDATE ON UNDETERMINED MAJOR APPLICATIONS**

Members noted the list of undetermined major applications.

(Meeting commenced at 10:00am and concluded at 1:20pm; 15 minute interlude at 11:25am.)

Chairman

Voting Analysis for Planning Applications – DM Committee 8th September 2021

<i>Application No:</i>	<i>Site Address</i>	<i>Vote</i>	<i>Councillors who Voted Yes</i>	<i>Councillors who Voted No</i>	<i>Councillors who Voted Abstain</i>	<i>Absent</i>
2560/21/FUL	“Former Brutus Centre”, Fore St, Totnes, TQ9 5RW	Deferral	Cllrs Abbott, Brazil, Brown, Foss, Hodgson, Kemp, Long, Pannell, Pringle, Reeve, Rowe, Taylor (12)	(0)	(0)	(0)
1129/21/FUL	Land to the rear of, 62 Staddiscombe Road, Plymstock, PL9 9LZ	Approval	Cllrs Abbott, Brazil, Foss, Hodgson, Kemp, Long, Pannell, Pringle, Reeve, Rowe, Taylor (11)	Cllr Brown (1)	(0)	(0)
323/20/FUL	Rowan Cottage, Bugford, Stoke Fleming, TQ6 0LT	Refusal	Cllrs Brazil, Brown, Foss, Hodgson, Kemp, Long, Pannell, Pringle, Reeve, Rowe, Taylor (11)	Cllr Abbott (1)	(0)	(0)

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**MINUTES OF THE MEETING OF
 THE SALCOMBE HARBOUR BOARD
 HELD AT CLIFF HOUSE, SALCOMBE, ON MONDAY, 20 SEPTEMBER 2021**

Members in attendance			
* Denotes attendance		∅ Denotes apology for absence	
∅	Cllr J Brazil (Chairman)	∅	Ms A Jones
*	Cllr D Brown	*	Mr H Marriage (Vice-Chairman)
∅	Cllr R J Foss	*	Mr A Owens
*	Cllr M Long	*	Mr C Plant
		∅	Mr I Shipperley
		*	Mr I Stewart

Other Members in attendance and participating:
 Cllr H Bastone

Item No	Minute Ref No below refers	Officers in attendance and participating
All agenda items		Director of Place and Enterprise; Salcombe Harbour Master; Deputy Section 151 Officer; Deputy Monitoring Officer; Estuaries Officer; Deputy Harbour Masters; and Democratic Services Officer

SH.10/21 APOLOGIES, WELCOME AND THANKS

Apologies had been received from Cllr J Brazil, Cllr R Foss, Ms A Jones, and Mr I Shipperley.

SH.11/21 MINUTES

The minutes of the meeting of the Salcombe Harbour Board held on 28 June 2021 were confirmed as a correct record, save for the misspelling of 'Fowey' page 4.

SH.12/21 URGENT BUSINESS

No urgent business.

SH.13/21 DECLARATIONS OF INTEREST

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

Mr Marriage, Mr Owens, Mr Plant, and Mr Stewart each declared a disclosable pecuniary interest in all related agenda items by virtue of paying harbour duties.

SH.14/21 PUBLIC QUESTION TIME

In accordance with the Public Question Time Procedure Rules, there were no issues raised at this meeting.

SH.15/21 **FEEDBACK FROM HARBOUR COMMUNITY FORUMS**

The Board received verbal update reports from those Members who attended the Harbour Community Forums. The updates were given as follows:

Salcombe Kingsbridge Estuary Conservation Forum (SKECF)

The Forum had not met since the March 2021 meeting, with the next meeting due on 2nd November.

The Estuaries Officer gave an update on various projects, including the State of the Rivers report which is due 28th September 2021. It was confirmed that Government will be strengthening enforcement of recreational water craft. Electric craft use was increasing and it was noted that this would bring with it new management and responsibility needs. Students from Plymouth had helped survey the dwarf sea grass beds, and concluded that while biodiversity was much lower than that found in sea grass beds, the contribution to Carbon lock was exceptional and helped protect the mud flats underneath. A new project was beginning to look at the stream alongside the Recreation Ground in Kingsbridge, in terms of silt management. Kingsbridge Town Council had again reported contamination with a paint-like substance appearing in the Estuary. The Officer requested for any information to be provided to the Environment Agency's incident hotline on 0800 807060.

South Devon & Channel Shellfishermen

The Board was updated that the Shellfishermen were content and had good support from the Salcombe Harbour staff. Although there had been no official meetings for a couple of years, it was hoped that a meeting would be held in October.

Kingsbridge and Salcombe Marine Business Forum

The Member for this Forum was not at the meeting and therefore no update was given.

Kingsbridge Estuary Boat Club (KEBC)

The Harbour Master confirmed that he has regularly updates with the Boat Club and had informed them of the harbour fees review.

East Portlemouth Parish Council

The Member for this Parish Council was not at the meeting and therefore no update was given.

SH.16/21 **2022/23 BUDGET AND FEES & CHARGES**

The Officer updated the Board on the report. It was the first time the Budget report had been combined with the Fees & Charges report, with early sight given to the Board. It was agreed that these changes had been very useful.

During the debate it was clarified why the Kingsbridge Pontoon had a greater increase than the other pontoons as it will bring pricing for this particular pontoon in line with the others.

It was then:

RESOLVED

That the Board **RECOMMENDED** to Council:

1. that the proposed 2022/23 budget set out within the report be **APPROVED**.
2. that the proposed 2022/23 fees and charges as set out in Appendix D of the attendant report be **APPROVED** for implementation from 1 April 2022.

SH.17/21 **WATER ENVIRONMENT ACTION PLAN**

The Harbour Master then presented his report to the Board, during which he highlighted the following:

- Kingsbridge basin, with the increase in paddle board users, was at increased risk from e.coli or red bloom. The Acting Chair offered to take the lead in getting water quality figures from the Environmental Agency.
- Water monitoring stopped last year only in the UK, decision made by Environmental Agency. A requirement for achieving Blue Flag status is the need for four years of excellence. The impact of the gap in recording last has not yet been clarified. The Harbour Master will investigate and contact Blackpool Sands who still have a Blue Flag.
- Pacific Oysters update. Board will need to help the Estuaries Officer with this project.
- The Estuaries Officer updated on the impact of increasing nutrients into the estuary and the information project he is running. He updated that the green algal mats were as extensive as previously noted but that they appeared slightly thinner. If this is an ongoing trend this would be identified in due course.
- A Member asked if plastics, both visible and invisible, could also be recorded. It was confirmed that there are many similar projects looking at plastics but this would also be considered.

It was then:

RESOLVED

That the Board **ADOPT** the proposed water environment action plan as at Appendix 1 of the attendant report.

SH.18/21 **HARBOUR MASTER'S REPORT**

The Harbour Master then presented his report to the Board, during which

he highlighted the following:

- With reference to Appendix 2 of the attendant report – waiting list: a future project will be needed to look at demand and capacity.
- With reference to Appendix 3 of the attendant report – log of safety reviews: There had been a substantial decrease in antisocial behaviour compared to last year. The increase in knocks and bangs reported were due, in part, to a greater understanding by estuaries users of the importance of reporting, including near misses and those knocks resulting in little, or no, damage.
- The Procurement Workshop would be held on the morning of 15th November 2021, with the Salcombe Harbour Board meeting being held in the afternoon. Both events to be held in Cliff House, Salcombe.
- British Ports Association ‘Duty Holder Awareness Training’ arranged for 27 September 2021.
- The designated person’s role was outlined, with the first official audit due early October 2021, with a report to the Salcombe Harbour Board meeting on 15 November 2021.

It was then

RESOLVED

1. That the content of the Harbour Master’s report be **NOTED** and **ENDORSED**;

(Meeting commenced at 2:30 pm and concluded at 3:44 pm)

Chairman

MINUTES of the MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE held in THE REPTON ROOM, FOLLATON HOUSE, TOTNES, on WEDNESDAY, 6 OCTOBER 2021

Members in attendance			
* Denotes attendance			
∅ Denotes apologies			
*	Cllr V Abbott	*	Cllr M Long
*	Cllr J Brazil (Chairman)	*	Cllr G Pannell
*	Cllr D Brown	*	Cllr K Pringle
*	Cllr R J Foss (Deputy Chair)	*	Cllr H Reeve
*	Cllr J M Hodgson	*	Cllr R Rowe
*	Cllr K Kemp	*	Cllr B Taylor

Other Members also in attendance and participating:
Cllrs T Holway; J Pearce; and D Thomas.

Officers in attendance and participating:

Item No:	Application No:	Officers:
All agenda items		Senior Specialists – Development Management; Legal Officer; Planning Specialists; IT Specialist; and Democratic Services Officer;
Item 6a		Strategic planning officer;
Item 6f		Landscape officer
Item 6g		Plymouth City Council Viability Officer, South Hams Affordable Housing Officer

DM.26/21 MINUTES
The minutes of the meeting of the Committee held on 8th September 2021 were confirmed as a correct record by the Committee.

DM.27/21 DECLARATIONS OF INTEREST
Members and officers were invited to declare any interests in the items of business to be considered and the following were made:

Cllr B Taylor declared a personal interest in applications 4277/20/FUL, 1099/21/FUL, 2855/21/HHO, 2133/19/VAR and 2720/21/FUL (Minutes DM.29/21(a), (b) (d) (f) and (h) below refer) as he was a Member of the South Devon AONB Partnership Committee. The Member remained in the meeting and took part in the debate and vote thereon;

Cllr K Kemp declared a personal interest in application 2133/19/VAR (Minutes DM.29/21 (f) below refers) as she knew the applicant. The Member remained in the meeting and took part in the debate and vote thereon.

Cllr R Foss declared a personal interest in application 2133/19/VAR (Minutes DM.29/21 (f) below refers) as he had eaten at the establishment. The Member remained in the meeting and took part in the debate and vote thereon.

DM.28/21 **PUBLIC PARTICIPATION**

The Chairman noted the list of members of the public, town and parish council representatives, and Ward Members who had registered their wish to speak at the meeting.

DM.29/21 **PLANNING APPLICATIONS**

The Committee considered the details of the planning applications prepared by the Planning Case Officers as presented in the agenda papers, and considered also the comments of Town and Parish Councils, together with other representations received, which were listed within the presented agenda reports, and **RESOLVED** that:

6a) 4277/20/FUL Lantern Lodge Hotel, Grand View Road, Hope Cove, TQ7 3HE

Parish: South Huish

Development: Amendment to previously approved 2101/19/FUL for additional installation of 2 no. concealed gas tanks below lawn.

Case Officer Update: One extra objection letter of representation had been received.

Speakers included: Supporter – Simon Bird; Parish Council – Cllr J Hocking; Ward Members – Cllrs M Long and J Pearce;

The Ward Members were in agreement that had the original application come before the Committee with this proposed energy supply, there could have been a very different outcome to that decision. This was because the original application's energy credentials tipped the balance to supporting the development. One Ward Member disputed the applicant's claim that there was no space on site for an electrical substation.

During the debate, Members stated that this request was a retrograde step and would lead to future costs to replace the then obsolete form of energy, and approval would be difficult to defend in light of the Council's declaration of a climate change emergency. Members also expressed concerns regarding the structural integrity of the cliff to cope with the hole that the gas tanks would require. It was also noted that the Western Power Distribution had not confirmed that they were unable to provide an enhanced electricity supply to the site only that they could not guarantee the ability to provide this until legal agreements were secured to run cables through land outside of the applicant's control.

A motion to defer the application was proposed and seconded but declared lost on the vote.

Recommendation: Conditional Approval

Committee decision: Refusal

Reasons for Refusal:

Proposal, by virtue of its reliance on fossil fuels, was considered to represent a retrograde step for the application site compared to the previously proposed scheme, for the redevelopment of this site in terms of means of energy provision. It would not positively contribute to support the Joint Local Plan's aims to increase the use and production of renewable and low carbon energy to contribute to national targets for reducing carbon emissions. Furthermore, insufficient evidence had been submitted to show that the necessary agreements could not be reached to bring an enhanced electricity supply to the site, as previously proposed, as the means of energy provision for the site to negate the need for reliance on fossil fuels.

6b) 1099/21/FUL Land adjacent to Manor Cottage, South Milton, TQ7 3JQ

Parish: South Milton Parish Council

Development: New 3 Bedroom detached dwelling (Resubmission of 2731/20/FUL)

Case Officer Update: The Case Officer clarified the definition of in-fill and that, whilst the report for Dev32 had not been submitted, this would be required if the application was conditionally approved.

Speakers included: Objector – Mr John Walliss; Supporter – Mr Louis Dulling; Ward Members – Cllrs M Long and J Pearce.

Whilst one Ward Member had concerns regarding the compliance of the site with the definition of in-fill, and the site being within the Undeveloped Coast area, the other Ward Member felt that the site did comply with in-fill and was at the very edge of the Undeveloped Coast area. One Ward Member outlined the conflict between the Joint Local Plan and the South Milton Parish Neighbourhood Plan, it was, however, noted that the Parish Council were in support of this application.

During the debate most Members agreed that the site fitted the definition of an in-fill site. It was noted that the applicant had offered to add an Section 106 agreement for primary residency. The Lawyer clarified that the condition for primary residence could be effected by either an S106 agreement or a Unilateral Agreement, and that this was not a policy requirement as a result of the number of dwellings proposed.

Recommendation: Refusal

Committee decision: Conditional Approval delegated to Head of Development Management (DM) in consultation with the Chairman of the DM Committee and the local Ward Members

Conditions

- 1) Time limit for commencement (3 years)
- 2) Accord with approved plans
- 3) Prior to first installation, materials to be agreed
- 4) Drainage scheme to be installed in accordance with approved plans
- 5) Landscaping to be implemented in accordance with approved scheme
- 6) No external lights unless details first agreed
- 7) Parking provision prior to first occupation and thereafter retained
- 8) Prior to commencement archaeological written scheme of investigation to be submitted and agreed
- 9) Unsuspected contamination
- 10) Prior to commencement – Construction management plan
- 11) Adherence to DEV32 Compliance Statement
- 12) Removal of Permitted Development rights

6c) 2679/21/FUL Wilma, Woodcourt Road, Harbertonford, TQ9 7TY

Parish: Harberton Parish Council

Development: Full planning application for Technical Details Consent for new dwelling following Permission in Principle application 0573/19/PIP

Case Officer Update: The Case Officer highlighted the slight increase in red outline to accommodate drainage but no principal difference between the published report and the report as presented to the Committee.

Recommendation: Delegate approval to Head of Development Management, in conjunction with Chairman of the Committee, to conditionally grant planning permission, subject to expiry of the consultation period.

Committee decision: Delegate approval to Head of Development Management, in conjunction with Chairman of the Committee, to conditionally grant planning permission, subject to expiry of the consultation period.

Conditions:

- 1) Time
- 2) Accordance with approved plans

- 3) Materials to be submitted
- 4) Landscaping
- 5) In accordance with Preliminary Ecological Appraisal
- 6) Drainage
- 7) Land contamination
- 8) Construction management plan
- 9) Removal of PD rights
- 10) No external lights

6d) 2855/21/HHO 15 Church Way, Yealmpton, PL8 2LA

Parish: Yealmpton Parish Council

Development: Householder application for formation of room in roof with rear dormer (Resubmission of 0954/21/HHO).

Case Officer Update: No update

Speakers included: Supporter – Miss H Askem; Ward Member – Cllr D Thomas;

The Ward Member in attendance confirmed that there was no representations from the Parish Council and they had not objected to the original application, although they were supportive of the Officer recommendation this time. It was his view that the overlooking outlined by the Case Officer was not pertinent as there was already substantial overlooking, and the impact on the AONB (Area of Outstanding Natural Beauty) was limited as it was in keeping with the rest of the estate. The extension would bring significant benefit to a local family.

During the debate, the Committee was updated by the Members who had entered the premises on the site visit where it was confirmed that there was already a degree of overlooking. One Member outlined that there would be no loss of amenity and that the flat roof would not be out of place in this particular area. Reasons for overturning the officer's recommendation were that the application was not in a prominent position, and would not be detrimental to the AONB in this particular locale. There was already a degree of overlooking and one Member felt that, in the current climate emergency, this development would make the best use of the home.

Recommendation: Refusal

Committee decision: Conditional approval delegated to Head of Development Management (DM), in consultation with the Chairman of DM, and the local Ward Members.

Conditions:

1. Time limit
2. Accord with plans
3. Materials to match existing

4. Adherence to ecology report

6e) 2707/21/HHO **Star House, Pleases Passage, High Street, Totnes, TQ9 5QN**

Town: Totnes Town Council

Development: Householder application for alteration and extension to provide improved access to roof terrace and replacement of roof material (resubmission of 1924/20/HHO)

Case Officer Update: The Case officer confirmed that a Certificate of lawfulness had been submitted but was not yet registered.

Speakers included: Objector – Mr P Swallow; Supporter – Ms G Jensen;

During the debate, some Members felt that the safety and well-being of the owner outweighed the neighbour's amenity issue. It was also stated that the application was in keeping with the nature of the town and that green spaces were increasingly important. There were discussions around the possibility of imposing a condition for a planted screen by the neighbour's window. Following a tied vote, the Chair used his casting vote to conditionally approve the application.

Recommendation: Refusal

Committee decision: Conditional approval delegated to the Head of Development Management (DM) in consultation with the Chair of DM and the local Ward Members

Conditions:

Standard time limit
Accord with plans
Details of any external lighting
Details of landscaping
Details of materials
Natural slate roof

6f) 2133/19/VAR **Cottage Hotel, Hope Cove, TQ7 3HJ**

Parish: South Huish Parish Council

Development: Readvertisement (Revised Plans Received) Application for variation of condition 2 of planning consent 46/2401/14/F.

Case Officer Update: Following a question at the site inspection, the Case Officer confirmed there were no solar panels on the approved plans. One objector had removed his

objection while four additional objection letters had been received from two people. The Case Officer highlighted the impact on the Heritage Coast and on the property to the rear, West View.

It was also noted that the gabion baskets had been roughly packed and resembled rubble, whereas it was possible to pack gabion baskets to create an impression of a stone wall. There was also no planting scheme for how the gabion baskets would be softened in appearance. This impacted on the outlook of the hotel.

It was confirmed that there had been no evidence supplied that the Health and Safety Executive had requested the railings on the roof, and that the height increase was significant compared to the approved plans of 2015.

The Case Officer confirmed that should the application be refused, the applicant was not expected to reduce the building all the way back but to reduce the height of the extension to the approved height of the approved plans of 2015.

Speakers included: Objector – Mrs D Stoop; Supporter – Mr W Ireland; Parish Council – Cllr Jo Hocking; Ward Members – Cllrs J Pearce and M Long;

Whilst one of the Ward Members remarked that the economic benefit of the hotel was an over-riding factor, the other Ward Member outlined the loss of amenity on the property behind due to the increased scale and height versus the approved plans. She felt that the unauthorised pods were also an issue. It was clarified that the roof tiles had not been signed off and were markedly different to those that were originally approved.

During the debate Members stated that this was a difficult decision to make with some Members feeling that the economic impact on the business was paramount while other Members felt that the increase in mass, size, and loss of amenity to the neighbours had a significant impact, with the Council's Landscape Specialist and the AONB both raising concerns. Members also commented on the colour of the roof tiles. Members deferred the application so that mitigation could be explored as follows:-

1. Alternative roof safety railings
2. Detailed landscaping scheme
3. Roof tiles to be more like those agreed under conditions discharge

Members also reiterated that when the remaining phases were built, they must be at the ridge height and size as approved in 2015.

Recommendation: Refusal

Committee decision: Deferral

6g) 2560/21/FUL **“Former Brutus Centre”, Fore Street, Totnes, TQ9 5RW**

Town: Totnes

Development: Demolition of existing building and redevelopment of the site to form 2 no retail units, public car park and 42 Retirement Living apartments including communal facilities, access, car parking and landscaping (resubmission of 4198/19/FUL)

Case Officer Update: Further to enquiries when the application came before the Committee on 8th September 2021, the Case Officer confirmed that the plan could accommodate the refuse vehicle. It was confirmed that the applicant had offered £410,000 for the Affordable Housing off site contribution. It was confirmed that the Vacant Building Credit, which allowed for the extant building footprint to be taken off the proposed footprint, reduced the affordable housing contribution (as identified in Policy DEV8) from 30% to 18%. The Case Officer confirmed that the loss of 25 parking spaces, as proposed in this application, would reduce parking spaces within Totnes by 3% and that the remaining 25 spaces would remain as a public car park.

Speakers included: Objector – Mr J Van As; Supporter – Mr M Shellum; Totnes Town Council – Cllr R Hendriksen; Ward Member – Cllr J Sweett;

During the debate it was confirmed that the Affordable Housing element was acceptable from the viability point of view once all costs were taken into account. Members were disappointed with the development that was presented to the Committee, but acknowledged that there were no planning policies or reasons that could be applied to refuse the application.

Recommendation: Conditional approval, subject to Section 106 agreement to secure the affordable housing contribution; the OSSR contribution and ongoing maintenance of the public realm areas

Committee decision: Conditional approval, subject to Section 106 and additional conditions on the retention of the retail units

and that the car park shall remain as a public short stay car park in perpetuity

Conditions:

1. Time limit
2. Accord with plans
3. WSI
4. No development in the bird nesting season
5. Details of the balconies and how they will be fixed to the building to be submitted and agreed.
6. Unexpected contamination
7. Construction management plan
8. Access complete before occupation
9. Access improvements carried out prior to occupation.
10. External lighting strategy to be agreed by LPA
11. LEMP
12. CEMP
13. Detailed landscape plan to be submitted and agreed prior to development above slab level.
14. 20 shop front plans to be submitted
15. Junction of materials to be submitted to and agreed
16. Location and angle of photovoltaics to be agreed
17. Location and type of plant to be agreed
18. Roof specification to be agreed
19. Natural stone sample and to be laid on its natural bed.
20. External finishes
21. Parapet wall details to be submitted
22. Railings around site to be submitted and agreed
23. Rainwater goods
24. Details of public route
25. Tree protection measures.
26. Prior to the commencement of development a Waste Statement in accordance with Para 8 of the NPPF and W4 of the Devon Waste Plan to be submitted.

**6h) 2720/21/FUL Barby Lodge, Cleveland Drive, Bigbury on Sea,
TQ7 4AY**

Parish: Bigbury

**Development: Full planning application for replacement dwelling
(resubmission of 2828/20/FUL).**

Case Officer Update: The applicant had moved the dwelling forward on the site and the Case Officer outlined how the new view would be seen by neighbours. No visuals in presentation as both the objector and supporter had questioned each other's accuracy, so none were

included.

Speakers included: Objector – Mr J Munday; Supporter – Mr J Marshall;
Parish Council – Cllr V Scott; Ward Member – Cllr B Taylor;

During the debate, one Member stated that in bringing the dwelling forward but with no other changes, it had made the dwelling look bigger in the street scene. Some Members felt that the dwelling would be too overbearing and would impose too much on the neighbours. Members also felt that the suggested wraparound of the decked area along the front and eastern side would have a significant impact on the street scene and could set an unwelcome precedent. It was felt that the reasons for refusal at the Committee meeting held on 26th May had still not been addressed by these proposals

Recommendation: Conditional approval

Committee decision: Refusal

Reasons for refusal:

Overdevelopment of the site, more negative onto street scene, (scale, massing, DEV20). NPPF changes to paragraph numbering – virtue of new position, overlooking and perception of overlooking still with window removed. Final refusal wording to be delegated to Head of Development Management (DM), Chair of DM Committee, and Ward Member.

6i) 0788/21/OPA Whiteoaks, Davids Lane, Filham, PL21 0DW

Parish: Ugborough

Development: Outline application with all matters reserved for construction of 2 residential dwellings.

Case Officer Update: There was no update.

Speakers included: Supporter – Miss R French; Ward Member – Cllr T Holway;

The Ward Member outlined his reasons for stating that the site was considered to no longer be in the countryside, with the nearby development progressing. He was also of the opinion that the site was sustainable.

During the debate Members noted the proximity to a major development and that this impacted on the classification of this application as in the countryside. Members also felt that this site was in-fill between established businesses and a nearby private dwelling, thereby allowing for an exception.

Recommendation: Refusal

Committee decision: Delegated approval to the Head of Development Management, in consultation with the Chair of Development Management (DM) Committee, Cllrs Hodgson and Pringle (as proposer and seconder of the proposal to conditionally approve), and the local Ward Member

Conditions:

Approval subject to Section 106 agreement for Tamar SAC contribution, drainage info to be submitted before decision is issued, biodiversity condition to be added., Primary residency condition to be offered by the applicants.

DM.30/21 **PLANNING APPEALS UPDATE**

Members noted the list of appeals as outlined in the presented agenda report.

The Head of Development Management, provided further details on specific recent appeal decisions. One Councillor thanked officers for the work done on one application which had resulted in the Inspector upholding the decision of the Council.

DM.31/21 **UPDATE ON UNDETERMINED MAJOR APPLICATIONS**

The list of undetermined major applications was noted.

(Meeting commenced at 10:00 am and concluded at 6:20 pm, with lunch at 1:30pm and a ten minute break at 4:10pm.)

Chairman

Voting Analysis for Planning Applications – DM Committee 6th October 2021

<i>Application No:</i>	<i>Site Address</i>	<i>Vote</i>	<i>Councillors who Voted Yes</i>	<i>Councillors who Voted No</i>	<i>Councillors who Voted Abstain</i>	<i>Absent</i>
4277/20/FUL	Lantern Lodge Hotel, Hope Cove	Deferral	Cllrs Brown, Foss (2)	Cllrs Abbott, Brazil, Kemp, Long, Pannell, Pringle, Reeve, Rowe, Taylor (9)		Cllr Hodgson (1)
		Refusal	Cllrs Brown, Kemp, Long, Pringle, Reeve, Taylor (6)	Cllrs Abbott, Brazil, Foss, Pannell, Rowe (5)		Cllr Hodgson (1)
1099/21/FUL	“Land Adjacent to Manor Cottage”, South Milton	Approval	Cllrs Abbott, Brown, Hodgson, Long, Pringle, Reeve, Rowe, Taylor (8)	Cllrs Brazil, Foss, Kemp (3)	Cllr Pannell (1)	
2859/21/FUL	“Wilma”, Woodcourt Road, Harbertonford	Approval	Cllrs Abbott, Brazil, Brown, Foss, Hodgson, Kemp, Long, Pannell, Pringle, Reeve, Rowe, Taylor (12)			
2855/21/HHO	15 Church Way, Yealmpton	Approval	Cllrs Abbott, Brown, Hodgson, Kemp, Long, Pringle, Reeve, Rowe, Taylor (9)	Cllrs Brazil, Foss (2)	Cllr Pannell (1)	
2707/21/HHO	Star House, Pleases Passage, High Street, Totnes	Approval	Cllrs Abbott, Hodgson, Kemp, Long, Reeve (5) (*)	Cllrs Brown, Foss, Pringle, Rowe, Taylor (5)	Cllrs Brazil, Pannell (2)	
2133/19/VAR	Cottage Hotel, Hope Cove	Refusal	Cllrs Brown, Hodgson, Pannell, Pringle (4)	Cllrs Abbott, Foss, Long, Reeve, Rowe, Taylor (6)	Cllrs Brazil, Kemp (2)	
		Deferral	Cllrs Abbott, Brazil, Foss, Hodgson, Kemp, Long, Pannell, Pringle, Reeve, Rowe, Taylor (11)	Cllr Brown (1)		
2560/21/FUL	“Former Brutus Centre”, Fore St, Totnes, TQ9 5RW	Approval	Cllrs Abbott, Brazil, Brown, Foss, Pannell, Pringle, Reeve, Rowe, Taylor (9)	Cllrs Hodgson, Kemp, Long (3)		
2720/21/FUL	Barby Lodge, Cleveland Drive, Bigbury on Sea	Refusal	Cllrs, Brown, Foss, Hodgson, Long, Pringle, Reeve, Rowe, Taylor (8)	Cllrs Abbott, Brazil (2)	Cllrs Kemp, Pannell (2)	
3423/20/FUL	“Whiteoaks”, Davids Lane, Filham	Approval	Cllrs Abbott, Hodgson, Long, Pringle, Reeve, Taylor (6)	Cllrs Foss, Kemp, Pannell, Rowe (4)	Cllrs Brazil, Brown (2)	

((*) application conditionally approved by virtue of the Committee Chairman’s Casting (Second) Vote))

**MINUTES of the MEETING of the
OVERVIEW & SCRUTINY COMMITTEE,
Held in the Repton Room, Follaton House, Totnes, on
WEDNESDAY, 13 OCTOBER 2021**

Panel Members in attendance:			
* Denotes attendance		∅ Denotes apology for absence	
∅	Cllr L Austen	*	Cllr J T Pennington
*	Cllr J P Birch (Chairman)	∅	Cllr J Rose
∅	Cllr M Chown	*	Cllr P C Smerdon (Vice Chairman)
∅	Cllr S Jackson	*	Cllr B Spencer
*	Cllr L Jones	∅	Cllr J Sweett
*	Cllr J McKay	∅	Cllr D Thomas
*	Cllr D M O'Callaghan	*	Cllr M Long (substituting for Cllr Sweett)
*	Cllr V Abbot (substituting for Cllr Jackson)	*	Cllr H Reeve (substituting for Cllr Chown)
*	Cllr J Brazil (substituting for Cllr Thomas)	*	Cllr R Rowe (substituting for Cllr Austen)

Other Members also in attendance:
Cllrs K Baldry, H Bastone, and N A Hopwood

Item No	Minute Ref No below refers	Officers in attendance and participating
All		Deputy Chief Executive, Director of Governance & Assurance, Monitoring Officer, and Democratic Services Specialist
Item 7	O&S.22/21	Business Manager – Case Management
Item 9	O&S.24/21	Customer Service Improvement Manager

O&S.18/21 DIVISION OF AGENDA

The Chairman formally started the meeting and advised that it was his intention to exercise his discretion to move Item 7, Waste Service Update, to after Item 12, when it was noted that it might become necessary to divide the agenda.

O&S.19/21 MINUTES

The minutes of the meeting of the Overview and Scrutiny Committee held on 22 July 2021 were confirmed as a correct record.

O&S.20/21 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

O&S.21/21 PUBLIC FORUM

In accordance with the Public Forum Procedure Rules, the Chairman informed that no questions had been received for consideration.

O&S.22/21 WASTE SERVICE UPDATE

At the invitation of the Chairman, the Committee was addressed by two representatives of the Council's waste and recycling contractor, FCC Environment (FCC).

Following questions from Members, the following points were made by FCC:

- Nationally there was a shortage of about 100,000 HGV drivers, with many Councils suffering similar shortages in refuse truck drivers. This shortage was seen as a direct consequence of Brexit and the Covid-19 pandemic. Vacancies were up 30% in this quarter and up 140% compared to this time last year.
- In response to the shortages, FCC stated that they had increased the basic rate of pay three times since the contract had started and rates were now equitable to other Local Authorities in the area. FCC were funding LGV training for anyone requesting this along with funding apprenticeships. They were offering a bonus to anyone who introduced a new worker, and using agencies for recruitment. Agency workers were made permanent as soon as possible, with part time work available for those who wished it. Overtime was offered at the weekend but was not compulsory. A driver recruitment campaign had been started with a cycle to work scheme, medical advice free of charge, pension scheme, 28 days annual leave, death in service scheme, and the depot crew rooms had been improved, including the addition of free coffee vending machines. These changes had improved figures for driver retention but it was still challenging recruiting new drivers.
- It was confirmed that FCC currently had 55 drivers and 98 loaders, with vacancies for eight LGV drivers, seven 7.5ton drivers, and 18 loaders.
- FCC were advised that the recruitment advert for the South Hams area was not accessible on their website. One of the representatives confirmed that they had found this out and were working to resolve this.
- When questioned, FCC were unable to guarantee when their vacancies would be filled.
- FCC had promised to produce an implementation plan at the Overview and Scrutiny Committee meeting held on 10th June which had still not been delivered (Minute O&S.3/21 refers). FCC stated that they were still working on this as it was a complex situation and had required greater analysis of the data, however, this task was nearing completion.
- FCC confirmed that, although their website stated that they worked for 60 Local Authorities, they only did collections for 12.

- Following questions from Members regarding the brown bin collection, it was confirmed that the Executive would be asked to extend the current suspension of this service at its meeting to be held on 14 October 2021. FCC stated that they would soon know of the trigger levels for the brown bin service.
- One Member noted that the street and public convenience cleaning staff were doing a good job and their supervisors were also working hard. However, it was noted that it was not working as well in all areas of the District. FCC confirmed that pay rates for these workers had also been reviewed and increased recently.
- Members confirmed that bin collections were still being missed with a whole village missed earlier this week. South Hams District Council were told by FCC that there were no bins placed outside of properties but residents had told the Member that the bins had been out for six weeks. FCC representatives asked for specific details and this instance would be investigated outside of this meeting.
- It was confirmed that two Council officers were still working on behalf of FCC, collecting missed bins, whilst several senior Council Officers were involved with daily meetings with FCC to discuss any operational issues from the day before or for that particular day. The Executive was also still meeting weekly with FCC to try to iron out issues and to receive weekly progress reports.
- FCC confirmed that members of its management team had been out with the crews and that each crew was debriefed when they returned to the depot.

The Chairman thanked the representatives of FCC for attending the meeting.

O&S.23/21 **CITIZENS ADVICE BUREAU (CAB)**

The Chief Executive of Citizens Advice South Hams gave a presentation to Committee giving an overview of the service they provide. The Chief Executive (CEX) responded to a number of Member questions; with key points below:

- Although Citizens Advice (CA) South Hams had received some funding from the Department of Work and Pensions, the CA did not feel compromised by this funding and continued to speak out on Universal Credit both with Government and publicly.
- CA South Hams received annual funding from Devon County Council and South Hams District Council which covered approximately 65% of its fixed costs. The remainder was covered by various projects which provided specialist support to individuals.
- Video booths had been introduced where the booth was an app on mobile phones and anyone was able to access support via their phone; however, uptake had been disappointing.

- Currently, the leading housing question was from people facing eviction. The CEx would send further information on this to Committee Members after the meeting.
- There were concerns that as people often prioritized Christmas over debts, there would be an increase in personal debt management issues arising in January and February 2022.
- It was noted that reduction in energy use was linked to reduction in emissions and, although CA South Hams did not currently measure emissions, the CEx thought that this could be an interesting measurement to start in the future.

It was then:

RESOLVED

That the Committee:

1. Thanked the CA South Hams for providing an effective and valued services to those requiring help in the community, and
2. Welcomed the CA South Hams proposal to work closely with the Council on addressing the local housing crisis.

O&S.24/21 OMBUDSMAN ANNUAL REVIEW LETTER 2021

The Executive Member with responsibility for Customer Satisfaction and Improvement presented the report outlining the 2020 complaints to the Local Government and Social Care Ombudsman.

During the ensuing debate, it was confirmed that Members would start to be more involved in the complaint process and that once the new system was fully functioning, Members would be able to follow complaints through the dashboard.

One Member felt that a response time of four weeks was too long. In reply, it was clarified that the plan was to have someone call the complainant within three days to confirm and clarify the complaint, to outline what would happen to resolve the complaint, and response times.

The Planning Improvement Plan had been recently reviewed and was to go before the Executive on 14th October 2021.

It was then:

RESOLVED

That the Committee has:

1. Reviewed the Ombudsman's Annual Letter for 2020 (attached at Appendix A of the attendant report);
2. Welcomed the high level actions to improve customer experience as set out in 3.14 of the attendant report;
3. Welcomed the proposed future actions as set out in 3.15 of the attendant report;
4. Requested an increase in Members' involvement in the complaint process, and;
5. Requested that a report be presented back to the Overview & Scrutiny Committee in six months' time, on the implementation of the future actions.

O&S.25/21 **OVERVIEW AND SCRUTINY ANNUAL REPORT**

The Committee considered a report that presented its Annual Report for 2020/21. In debate, one Member asked if reports could reach Members seven clear days before Committee meetings as some reports were delayed which made it difficult to read them before a meeting was held. It was noted that this was a very good report which showed what the Committee had been doing throughout the year.

It was then:

RECOMMENDED

That Council be **RECOMMENDED** that the Overview and Scrutiny Annual Report for 2020/21 be approved.

O&S.26/21 **TASK AND FINISH GROUP UPDATES**

a) Climate Change & Biodiversity Action Plan

The Committee received a verbal update on the task and finish group's meetings so far. The latest meeting of the task and finish group had been on the 7th October where they had received presentations from local groups on how they could best work with South Hams District Council on both its declared Climate Change & Biodiversity Emergency and the adopted Action Plan. The final meeting of the group would be 21st October 2021 which would enable the group to complete their task on time. Officers were thanked for their time and support.

The Chairman thanked the task and finish group for the likely achievement of completing their task within the prescribed timescale.

It was then:

RESOLVED

That the Committee note the update.

O&S.27/21 **2021/22 PANEL WORK PROGRAMME – LATEST VERSION**

The Committee reviewed the work programme and agreed its content without any further comment nor amendment.

O&S.28/21 THE PROCESS FOR MANAGING REMEDIES WITH FCC

It was considered that this agenda item would be likely involve the disclosure of exempt information and it was therefore:

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.

Having heard from officers and considered the advice provided, the Committee agreed to make a recommendation to the Executive and it was then:

RESOLVED

Accordingly.

(Meeting started at 2:00 pm and concluded at 5:41 pm – break at 3:12 to 3:25; 4:40 to 4:45)

Chairman

**MINUTES OF A MEETING OF
THE EXECUTIVE
HELD IN THE REPTON ROOM ON THURSDAY, 14 OCTOBER 2021**

Members in attendance:			
* Denotes attendance			
∅ Denotes apologies for absence			
*	Cllr K J Baldry	*	Cllr T R Holway
*	Cllr H D Bastone (Vice Chairman)	*	Cllr N A Hopwood
*	Cllr J D Hawkins	*	Cllr J A Pearce (Chairman)

Also in attendance (in the Repton Room):
Cllrs Birch, Brazil, Spencer and Taylor

Also in attendance (remotely via Microsoft Teams):
Cllrs Abbott, Long, McKay, O’Callaghan, Pannell, Pringle, Reeve and Rowe

Officers in attendance and participating:		
All items		Senior Leadership Team; Monitoring Officer; Head of Housing; Specialist – Affordable Housing; Head of Development Management; Business Management – Case Management; and Democratic Services Manager

E.46/21 MINUTES

The minutes of the Executive meeting held on 16 September 2021 were confirmed as a true and correct record.

E.47/21 URGENT BUSINESS

The Chairman advised that she had no items of urgent business for consideration at this meeting.

E.48/21 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting but there were none made.

E.49/21 PUBLIC QUESTION TIME

It was noted that no public questions had been received in accordance with the Executive Procedure Rules for consideration at this meeting.

E.50/21 EXECUTIVE FORWARD PLAN

Members were presented with the most recently published version of the

Executive Forward Plan that set out items on the agenda for Executive meetings for the next four months. In noting the contents, Members welcomed the revised design and format of the Plan.

E.51/21 **RESPONSE TO THE HOUSING CRISIS**

A report in response to the Housing Crisis declared by the Council at its meeting held on 23 September 2021 was presented to the meeting. The report set out a series of responses to the declared Crisis that were proposed to be taken to tackle the identified issues.

The Leader introduced the report and set out the extent of the issues that had led to her submitting a Motion on Notice to the Council calling on Members to formally declare a Housing Crisis. Having declared a Crisis on 23 September 2021, the Leader also wished to record her thanks to officers for their swift response in ensuring that a report had been produced in time for this Meeting.

In discussion, reference was made to:-

- (a) the actual evidence of the impact caused by Airbnb. To gauge the actual impact, it was intended that a sample would be carried out at two locations in the South Hams before an assessment was they undertaken as to whether or not any further works were necessary;
- (b) the recognised national definition of 'affordable housing'. In citing how the current definition was wholly inappropriate in the South Hams, some Members felt that it was now time for the Council to adopt its own local definition;
- (c) a recent inaccurate press article. The local Ward Member for Charterlands highlighted the inaccuracies that had been contained within a recent press article and put on record his wish for Modbury Parish Council to take greater care when contacting the press;
- (d) an additional recommendation. Such was the significance of this subject matter that the Chairman of the Overview and Scrutiny Committee asked the Executive to consider requesting that the Committee also be given the opportunity to debate the report at its next meeting to be held on 4 November 2021. As a result, the following addition was **PROPOSED** and **SECONDED** and when put to the vote was declared **CARRIED**:

'That the Overview and Scrutiny Committee be given the opportunity to comment on the published agenda report at its next meeting (to be held on 4 November 2021) before reporting its views back to the next Executive meeting (to be held on 2 December 2021).'

- (e) building additional housing. Members recognised that simply building more housing in its own right was not the answer to the Crisis.

It was then:

RESOLVED

1. That the proposed measures to address the identified Housing Crisis (as set out in Section 4 of the published agenda report) be approved;
2. That the revised Downsize Incentive Policy (as set out in Appendix 1 of the published agenda report) be adopted;
3. That a needs based (not proximity based) principle for the spending of affordable housing contributions (within the legal framework of the Community Infrastructure Levy Regulations 2010 – the governing regulations for planning agreements) be formally recognised and supported;
4. That Council be **RECOMMENDED** to agree to form a Community Benefit Society (CBS) and delegate authority to the Director of Place and Enterprise, in consultation with the Chief Executive; Section 151 Officer and Monitoring Officer and with the Leader of the Council to undertake full due diligence and the necessary steps to set up the CBS;
5. That the draft letter (as set out in Appendix 2 of the published agenda report) be sent to the Rt Hon Michael Gove (Secretary of State for Levelling Up, Housing and Communities); and
6. That the Overview and Scrutiny Committee be given the opportunity to comment on the published agenda report at its next meeting (to be held on 4 November 2021) before reporting its views back to the next Executive meeting (to be held on 2 December 2021).

E.52/21 TENANCY STRATEGY REVIEW 2021

Consideration was given to a report that sought approval of an updated Tenancy Strategy for 2021.

During discussion, the following points were raised:-

- (a) Members felt that the Council should ask that, wherever possible, Housing Associations do not sell their properties on the open market in the South Hams;
- (b) It was noted that the information regarding those registered for affordable housing within Devon Home Choice was more regularly reviewed and there was confidence expressed that the total of 768 applicants in Bands A-D was an accurate figure;

- (c) Members recognised that the information contained within both the published agenda report and the updated draft Strategy further illustrated the Housing Crisis that had now been declared.

It was then:

RESOLVED

1. That the updated Tenancy Strategy for 2021 (as set out at Appendix 2 of the published agenda report) be approved; and
2. That delegated authority be granted to the Head of Housing, in consultation with the lead Executive Member, to make any necessary minor amendments prior to publication of the Strategy.

E.53/21

PLANNING IMPROVEMENT PLAN – PHASE 2 RESOURCES

Consideration was given to a report that set out the latest phase (phase 2) of the Planning Improvement Plan. In particular, the report outlined the assessed need in terms of additional planning and legal specialist officers to support the planning and enforcement functions.

In discussion, reference was made to:-

- (a) the challenges around the recruitment of both planning and planning enforcement officers. Whilst recognising that there was a national shortage of planning and planning enforcement officers, it was hoped that the proposed additional resource would result in more manageable workloads for officers thereby acting as an incentive to remain within the employ of the Council. In addition, the desperate need for additional support to be provided to the Head of Development Management was recognised;
- (b) streamlining the process in the future. The Chairman of the Development Management Committee was of the view that the current process of having to formally seek the approval of Members to increase resources was time consuming and should therefore be streamlined. As a result, Members asked that potential means of streamlining the process be presented to the Executive meeting to be held on 2 December 2021 as part of Phase 3 of the Plan;
- (c) the use of temporary agency staff. It was recognised that the proposal to increase resources within the team should result in a reduced dependency upon temporary agency staff.

It was then:

RESOLVED

1. That Council be **RECOMMENDED** to employ six additional permanent posts (shared with West Devon Borough Council) being four planning specialists and two legal specialists at an annual costs of £164,000 (the Council share of the costs) to be funded from additional planning income;
2. That Council be **RECOMMENDED** to increase the staffing budget by £164,000 and to increase the planning income target for 2022/23 onwards by £164,000; and
3. That a further phase 3 report be presented to the next Executive meeting to be held on 2 December 2021.

E.54/21 **WRITE-OFF REPORT**

A report was considered that informed Members of the proposal to write-off a series of debts with a value of more than £5,000 for the period from 1 April 2021 to 30 September 2021.

In discussion, the following points were raised:-

- (a) Members welcomed the comments of the Section 151 Officer whereby all local authorities in Devon were currently working towards a consistent means of performance reporting Business Collection rates;
- (b) The Executive wished to put on record its thanks to local residents and businesses for continuing to pay their Council Tax and Business Rates in such incredibly difficult circumstances.

It was then:

RESOLVED

1. That, in accordance with Financial Regulations, it be noted that the Section 151 Officer has authorised the write-off of individual South Hams District Council debts totaling £65,298.71 (as set out in Tables 1 and 2 of the published agenda report); and
2. That the write-off of individual debts in excess of £5,000 (totaling £41,165.18 and as detailed in Table 3 of the presented agenda report) be approved.

E.55/21 **ENHANCING BIODIVERSITY ON COUNCIL GREEN SPACES – CONSULTATION FEEDBACK**

Members considered a report that set out the results of the public consultation exercise undertaken during the summer of 2021 into the principle of enhancing biodiversity on Council green spaces.

In discussion, reference was made to:-

- (a) the levels of responses received during the public consultation exercise. Members commended the levels of public responses received which were felt to be excellent;
- (b) contrasting views. Whilst respecting the results of the public consultation exercise, some Members expressed their reservations over the principles of relaxing cutting regimes and long grass. It was the view of these Members that the public were often not so supportive when areas began to look scruffy and unkempt. In contrast, other Members reminded their colleagues that the Council had declared a Climate Change and Biodiversity Emergency and that these proposals should therefore be embraced;
- (c) the use of signage. The importance of explanatory signage (that contained the Council logo) on sites was recognised.

It was then:

RESOLVED

1. That the support shown through the public consultation exercise for the principle of increasing the biodiversity value of Council owned land by the proposed approach to site management be noted;
2. That, in response to this support, it be noted that officers are drawing up a site-by-site Grounds Maintenance schedule that will be circulated to Members and Town and Parish Councils for comment; and
3. That a report be requested to be added to the Executive Forward Plan for the meeting to be held on 27 January 2022 to consider the detailed proposals, equipment specification, revenue and capital expenditure to deliver the biodiversity gain.

E.56/21

GARDEN WASTE COLLECTIONS

Consideration was given to a report that presented a range of options to identify whether or not it would be possible to restore the garden waste collection service in the short term or to provide a single collection for all residents ahead of the winter.

During discussion, the following points were raised:

- (a) It was noted that the report that underpinned this agenda item was published just before this Executive meeting had started due to alternative solutions being sought right up until the last minute;

- (b) A number of Members expressed their upset, reluctance and disappointment that they were being asked to continue the suspension of garden waste collections until Spring 2022;
- (c) Members acknowledged that a one-off collection of garden waste by FCC Environment would unfortunately result in significant additional disruption to the statutory residual and recycling collections;
- (d) The Chairman of the Overview and Scrutiny Committee highlighted the presentation delivered by FCC representatives at its meeting held on 13 October 2021 and the totally unsatisfactory responses that were provided by the representatives to Member questions. The Member proceeded to highlight the public perception that the Council was not being sufficiently robust in its dealings with FCC and reminded the meeting that the delivery of a garden waste collection service was part of their contractual obligations;
- (e) Members recognised that the shortage of qualified HGV drivers was a national problem and that a number of other local authorities were experiencing similar issues. Notwithstanding this issue, a Member also expressed the view that FCC Environment had woefully underestimated the number of drivers and operatives that it would require to deliver the new service;
- (f) The tireless work of all Members on the front line dealing with multiple constituent complaints and the lead officers who were trying to deliver service improvements were recognised;
- (g) An additional recommendation was **PROPOSED** and **SECONDED** that read as follows:

'That delegated authority be granted to the Director for Customer Service and Delivery, in consultation with the Leader of Council and the lead Executive Member, to produce a letter to be sent on behalf of the Executive to all residents in the South Hams that provides an update on the waste and recycling collection service.'

In discussion on the addition, Members felt that it was now right and proper for the Council to write to all of its residents setting out the current position and, when put to the vote, the addition was declared **CARRIED**;

- (h) At this point, Members wished to discuss the exempt minute of the Overview and Scrutiny Committee at its meeting held on 13 October 2021. As a result, it was **PROPOSED** and **SECONDED** and when put to the vote declared **CARRIED**:

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 items of business as the likely disclosure of exempt

information as defined in paragraph 3 of Schedule 12A to the Act is involved.

The Executive then considered and discussed the view of the Overview and Scrutiny Committee meeting (as set out at Exempt Appendix A to these minutes) and reached an agreed conclusion.

It was then **PROPOSED** and **SECONDED** and when put to the vote declared **CARRIED** that the press and public be re-admitted to the meeting.

It was then:

RESOLVED

1. That the Executive has considered the range of options (as set out in section 4 of the published agenda report) and agrees to continue the suspension of garden waste collections until Spring 2022;
2. That a further report be produced by the Director for Customer Service and Delivery (to be presented to the next Executive meeting to be held on 2 December 2021) on future options; and
3. That delegated authority be granted to the Director for Customer Service and Delivery, in consultation with the Leader of Council and the lead Executive Member, to produce a letter to be sent on behalf of the Executive to all residents in the South Hams that provides an update on the waste and recycling collection service.

(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF MINUTES E.51/21 PART 4 AND E.53/21 PARTS 1 AND 2 (WHICH ARE RECOMMENDATIONS TO THE COUNCIL MEETING TO BE HELD ON 25 NOVEMBER 2021) WILL BECOME EFFECTIVE FROM 5.00PM ON MONDAY, 25 OCTOBER 2021 UNLESS CALLED IN, IN ACCORDANCE WITH SCRUTINY PROCEDURE RULE 18).

(Meeting commenced at 3:00 pm and concluded at 5.20 pm)

Chairman

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**MINUTES OF A MEETING OF THE AUDIT COMMITTEE
 HELD IN THE REPTON ROOM, FOLLATON HOUSE, PLYMOUTH ROAD,
 TOTNES ON THURSDAY, 28 OCTOBER 2021**

Members in attendance			
* Denotes attendance			
∅ Denotes apology for absence			
*	Cllr L Austen (Chairman)	*	Cllr R Rowe
*	Cllr J Brazil	*	Cllr B Spencer (Vice-Chairman)
*	Cllr J McKay	*	Cllr B Taylor
*	Cllr J T Pennington		

Member(s) also in attendance:
Cllr H D Bastone, J Hawkins, and J Pearce

Item No	Minute Ref No below refers	Officers and Visitors in attendance
All Items		Director of Governance and Assurance; Section 151 Officer; Head of Finance; Democratic Services Specialist; and Grant Thornton Engagement Lead

A.11/21 MINUTES

The minutes of the Audit Committee meeting held on 2 September 2021 were confirmed as a true and correct record.

A.12/21 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting, but none were made.

A.13/21 GRANT THORNTON REPORT: AUDITOR’S ANNUAL REPORT

Consideration was given to a report, which had been produced by Grant Thornton, that updated on the financial statement audit. The Grant Thornton Engagement Lead confirmed that the final assurance from the Devon Pension Fund Auditor had been received, and therefore, subject to Agenda item A.14/21 being approved, the Auditors would be able to issue an ‘unqualified’ audit opinion on the 20/21 Accounts. The template for certifying closure of the audit and the Audit Office Guidance on completing this form had not yet been received. Until such time, therefore, the Audit could not be closed, but the Opinion could be posted to the Council’s website.

In discussion, reference was made to:

- (a) Detailed, significant sample testing was performed on the distribution of Covid grants resulting in no issues at all being found.
- (b) It was highlighted that additions in respect of Ivybridge Depot had been double counted to the value of £1,229k. This had been corrected in the Statement of Accounts.
- (c) There had been further changes to the Annual Governance Statement to reflect Grant Thornton's suggested amendments on the 2020/21 Statement of Accounts.
- (d) Significant time and manual intervention had been required to produce the transaction listing. Therefore a recommendation in appendix A of the attendant report was to discuss with the system supplier (Civica), or other neighbouring authorities using the same system, to see if this could be improved and made more automated in the future.
- (e) The Grant Thornton Engagement Lead confirmed that this audit had been exceptionally clean, and compared favourably with many other local authorities.
- (f) The Leader was glad to hear that South Hams District Council was one of very few authorities to have completed their audit, but it was still beyond the deadline date (target date) of 30th September. The Grant Thornton Engagement Lead explained that there were still impacts due to the Covid pandemic and remote working, plus audits were required to be much more in-depth and detailed now. It was also noted that there was a national shortage of experienced auditors and that Grant Thornton were taking on more graduates but it would be years before these were experienced enough to alleviate the resource shortage. A Member stated that it was important that the audit was thorough and due time was taken.
- (g) A Member raised the issue of monies spent on projects which did not come to fruition and the scheme of delegation that was in place through the Council's Investment Strategy was referred to. A separate item on Investments is on the Audit Committee's workplan for a report in December.

It was then:

RESOLVED

That the contents of the Grant Thornton (IAS 260) Report be noted.

A.14/21

GRANT THORNTON REPORT: AUDIT FINDINGS REPORT 2020/21

Consideration was given to the Audit Findings report for 2020/21. The report was presented by Grant Thornton's Engagement Lead.

In discussion, the following points were raised:-

- (a) Although formal reporting of performance had not happened in 2021, the Auditors recognised that performance had been monitored and reported in other ways, but they had recommended that this be reviewed.
- (b) The Devon Districts Procurement Group should be reviewed quarterly, however this had not occurred. The review should be reinstated.
- (c) No significant weaknesses were found within governance but a couple of improvements had been identified: staff should receive a refresher of the code of conduct and the whistle blower policy needed to be updated. It was confirmed that the Whistle Blowing Policy was on the Audit Committee's work programme for March 2022.
- (d) The general reserves (both unearmarked reserves and earmarked reserves) of the Council fell in the middle of the range of reserves held by all other district councils. The Grant Thornton Engagement Lead was of the opinion this was where the Council ought to be.
- (e) With reference to the Capital Programme Appendices, officers would review best practice at other councils, particularly for those projects that cover multiple financial years.

It was then:

RESOLVED

That the contents of the Grant Thornton 'Audit Findings Report' be noted.

A.15/21

AUDITED ANNUAL STATEMENT OF ACCOUNTS 2020/21

Consideration was given to a report that presented a summary of net revenue and capital expenditure and sought approval of the audited Statement of Accounts for 2020/21.

The Executive Member for Finance gave thanks to the Finance Team and stated that the audit was a great credit to them and to the Council.

It was then:

RESOLVED

1. That the wording of the Letter of Representation (as set out at Appendix A of the presented agenda report) be approved;
2. That the audited Statement of Accounts for the financial year ended 31 March 2021 (as set out at Appendix B of the presented agenda report) be approved; and,
3. That the Annual Governance Statement post audit (as set out

at Appendix C of the presented agenda report) be approved.

A.15/21 **ANNUAL TREASURY MANAGEMENT REPORT 2020/21**

Members considered a report that set out the Council's annual treasury management performance for 2020/21. In addition, the report sought approval of the actual 2020/21 prudential and treasury indicators.

It was then:

RESOLVED

That the Audit Committee:

1. **APPROVED** the actual 2020/21 prudential and treasury indicators; and,
2. **NOTED** the Annual Treasury Management Report for 2020/21;

A.16/21 **AUDIT COMMITTEE WORK PROGRAMME**

The Committee noted the work programme. The Leader confirmed that a report on Community Housing was on the Executive Forward Plan for a report in December.

A.17/21 **CONFIRMATION OF DATES OF AUDIT COMMITTEE MEETINGS**

The remaining dates of the Audit Committee in the fiscal year were noted as 9th December 2021 and 10th March 2022.

(Meeting commenced at 2.00 pm and concluded at 3.20 pm)

Chairman

**MINUTES of the MEETING of the
OVERVIEW & SCRUTINY COMMITTEE,
Held in the Repton Room, Follaton House, Totnes, on
WEDNESDAY, 4 NOVEMBER 2021**

Panel Members in attendance:			
* Denotes attendance		∅ Denotes apology for absence	
*	Cllr L Austen	*	Cllr J T Pennington
*	Cllr J P Birch (Chairman)	*	Cllr J Rose
*	Cllr M Chown	*	Cllr P C Smerdon (Vice Chairman)
*	Cllr S Jackson	*	Cllr B Spencer
*	Cllr L Jones	*	Cllr J Sweett
*	Cllr J McKay	*	Cllr D Thomas
*	Cllr D M O'Callaghan		

Other Members also in attendance:
Cllrs K Baldry, T Holway, N A Hopwood and J Pearce
Other Members joining via Teams:
Cllrs V Abbott, J Brazil, J Hawkins, K Kemp, M Long, G Pannell, H Reeve, and R Rowe

Item No	Minute Ref No below refers	Officers in attendance and participating
All		Deputy Chief Executive, Director of Governance & Assurance, Monitoring Officer, and Democratic Services Specialist
Item 3	O&S.30/21	Chief Executive
Item 7	O&S.33/21	Director of Place and Enterprise
Item 8	O&S.34/21	Community Safety and Safeguarding Manager and Environmental Health Specialist
Items 9 & 10	O&S.35/21 & O&S.36/21	Head of Waste and Environmental Services and Case Management Team Leaders
Item 11	O&S.37/21	Senior Specialist Climate Change

O&S.29/21 MINUTES

The minutes of the meeting of the Overview and Scrutiny Committee held on 13 October 2021 were confirmed as a correct record.

O&S.30/21 URGENT BUSINESS – CALL-IN OF EXECUTIVE MINUTE E.56/21: GARDEN WASTE SERVICE

The Chairman introduced the agenda item and advised that, in accordance with Overview and Scrutiny Procedure Rule 12.5, the resolution arising from Minute E.56/21: 'Garden Waste Service' had been formally called-in for further consideration by the Committee. The process of call-in was then outlined.

Following a question from a Member, it was clarified that the decision was a key decision because the issue, ie garden waste service, related to the whole District.

The Chairman advised that there would be three options available to the Committee when considering the call-in. These were that the Committee:

1. was content with the original Executive resolution and that decision would therefore take immediate effect;
2. could refer the decision back to the next Executive meeting (on 2 December 2021) for further consideration; and
3. could opt to refer the decision to the next full Council meeting (on 25 November 2021).

The Chairman then explained his reasoning behind the decision to invoke a call-in. In so doing, the Chairman made specific reference to:-

1. Failure to adequately consult with Members prior to the Executive meeting of 14 October 2021 at which the decision was taken;
2. Late delivery of the report in support of the recommendation. The report was only made available to Members on the morning of the meeting and, as such, many Members were not made aware of the serious nature of the recommendation until the last minute, if at all, prior to the decision being made; and
3. Lack of openness in respect of the content of the report and the reaching of the decision. For example, it was not made clear as to whether or not FCC (the Council's Waste Contractor) had requested a continued suspension.

Following questions put to the lead Executive Member with responsibility for Waste, it was clarified that:

- The report had been published late because Officers and the Executive Member had been working on the report right to the last minute in a desperate attempt to get a one off garden waste collection carried out before the decision had to be taken to suspend the service until Spring.
- The lead Executive Member confirmed that it had been his decision to recommend to his Executive colleagues that the suspension be extended so that residents were given some certainty and not waiting month to month to be told about the service.
- Other neighbouring Local Authorities had been approached to see if there was an opportunity for a one-off collection with their service, but all were suffering from the national HGV driver shortage and no one had any spare capacity within their own service.
- It was confirmed that the Council's contractor, FCC Environment (FCC), were unable to give any idea when they would be able to restart the service.
- Members were asked to give any alternative suggestions to the Executive Member or Officers who would explore any potential avenue.

- One Member stated that a resident in her local Ward had turned this into a business opportunity and was offering to empty a bin at £14.00 per bin, whilst another Member remarked that he too had made a number of calls to providers but had been unable to find any provider who could carry out a collection service for his Ward.
- The Executive Member stated that there were 46,000 bins to be collected over the whole District. It was his responsibility to ensure that the same service was provided to all households in the South Hams, no matter the ease or difficulty in reaching their bins.
- The recent letter that had been sent to all residents had been to keep every resident informed, not just those who used social media.
- Whilst recognising the value of local composting schemes, it was acknowledged as not being a replacement to the garden waste collection scheme.
- When questioned on funding for any alternative collections, the Executive Member confirmed that there would be a report presented to a future Executive meeting to address this matter.
- It was noted that the original decision to suspend the garden waste service (taken in August 2021) had had to be made quickly, hence limited consultation with Members. The Member acknowledged that the now disbanded Waste and Recycling Working Group had been useful, and he would be supportive should there be the political appetite to establish another working group.

Upon the conclusion of the questions to the lead Executive Member, the Chairman then **PROPOSED** a recommendation, which was **SECONDED**, and, when put to the vote, was declared **CARRIED**.

It was then:

RESOLVED

That the Council Constitution provides for O&S to express its concerns and to call for reconsideration of the decision of the Executive taken at its meeting held on 14 October 2021 in respect of the suspension of the garden waste collection. The O&S has concerns and it calls for reconsideration. These concerns and a call for reconsideration be submitted to the Full Council meeting to be held on 25 November 2021. Full Council will then be able to make its views known to the Executive.

These were the concerns to be submitted.

1. There was insufficient consideration and/or reporting given to the implementation of Option 3 being the use of an alternative provider and in particular the possibility of the garden waste collection being taken back in-house;
2. The supporting report incorrectly states that there are no financial implications arising. The suspension of the garden waste collection service from mid-August 2021 until Spring 2022 will in all probability have financial implications;
3. There was insufficient consideration and/or reporting given to the provisions of the contract with FCC;

4. The decision to suspend the garden waste collection until an open-ended Spring date leaves many residents with their brown bins containing waste for an indefinite period; and
5. Council tax levied by the Council includes a sum for the collection of garden waste and yet taxpayers are not receiving a service for which they have paid for.

O&S.31/21 **DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

O&S.32/21 **PUBLIC FORUM**

In accordance with the Public Forum Procedure Rules, the Chairman informed that no questions had been received for consideration.

O&S.33/21 **RESPONSE TO THE HOUSING CRISIS – REQUEST FROM EXECUTIVE OF 14 OCTOBER 2021:- E.51/21**

Following the Executive meeting held on 14 October 2021, the Overview and Scrutiny Committee had been tasked to review the attendant report (Minute E.51/21 refers).

The Leader of the Council informed the Committee that the housing crisis action programme was in its infancy and, as the decision had only been taken recently, officers had not yet had the time to discuss with Members any proposed actions. It was acknowledged that there may be need for extra resources to support the programme, but that officers would review this and a report, including budget proposals, would be brought to the Executive meeting on 2 December 2021.

The Leader confirmed that the Executive wished to progress this at pace and that the Overview and Scrutiny Committee could help speed the process by forming two Task and Finish Groups, rather than the Working Group that the recommendation was proposing. One Task and Finish Group could explore what other rural districts have done to provide affordable housing, with the suggestion to review Staffordshire as they had provided affordable housing for the last 15 years. The second Task and Finish Group could then look at successful Community Land Trusts (CLTs) and report their conclusions back to the Executive. The Chairman responded by stating that these requests should be added to the Committee's recommendations when they were placed before the Executive. The Chairman recommended the Cornwall CLT as a successful model to study.

One Member felt that there were sufficient housing numbers already, and the figure of houses required had only been a broad estimate. The types of houses that were being built were also not of the stock that were required. The overriding need was for affordable housing. Another Member stated that the definition of affordable should be reviewed.

A Member commented on Empty Dwelling Management Orders which could now only be invoked after two years instead of six months as had been originally stated. The Member felt this was an area that the Council could lobby on to return the time empty to the previous six months.

It was then:

RESOLVED

That the O&S Committee welcomed and supported the Executive's response in addressing the housing crisis and commented on the report as follows:

1. The ambitious programme for tackling the housing crisis warrants the employment of a full-time project management & delivery officer dedicated to ensuring that the measures proposed are implemented without delay. It is recommended that the cost of the employment of a housing emergency officer be allowed for in the 2022/23 budget and beyond. If possible, funds be allocated to enable the officer to commence employment before the commencement of the next municipal year.
2. Strongly supports the priority of engagement with the town and parish councils and local Members to establish a means of locating sites within their area that can be mutually supported for development of affordable housing. This should start with sites that have the benefit of some feasibility work. To assist officers in this process a politically balanced Members' working group, and an all member workshop, will be held at the soonest opportunity to discuss possibilities within wards and the wider district. These to be set up and report back to the Executive on a regular basis.
3. The housing crisis programme include a provision for the Council to encourage and assist in the formation of further Community Land Trusts in South Hams for the provision of affordable housing and based on the model of the Cornwall Community Land Trust

O&S.34/21 SOUTH DEVON AND DARTMOOR COMMUNITY SAFETY PARTNERSHIP

The Committee was presented with a report that provided Members with the opportunity to scrutinise the work of the South Devon and Dartmoor Community Safety Partnership (CSP). During the presentation, attention was drawn to an increase in hate crime and racist graffiti, with increased work on prevention. Targeted intervention had been aimed at drug abuse.

Following a question from a Member, it was confirmed that there would be more police officers employed in Devon but it was not known when they would begin their work. Various work with partner organisations was outlined, including working closely with the Dartmoor National Park Authority on increased instances of anti-social behaviour on the Moor.

The Chair then thanked the officers on behalf of the Committee

It was then:

RESOLVED

That the Committee thank the officers and note the contents of the published agenda report.

O&S.35/21 REVIEW OF LOCALITIES NEW SERVICE

The Executive Member with responsibility for service delivery presented the report outlining the outcome of the changes that had been made to the Localities Service, following the report presented to the Executive at its meeting held on 28 January 2021 (Minute E.57/20 refers). The Deputy Chief Executive stated that Cornwall Council had asked for a presentation on the Council's Localities Service, with a view to bringing in a similar service themselves.

Following questions from Members, it was clarified that:

- clearance of fly tipping was primarily the responsibility of FCC Environment, the Council's contracted waste operator. If addresses were found within the fly tip which identified the perpetrator, they would be vigorously pursued.
- not all planning site notices were laminated and therefore were susceptible to wet weather destroying the notice and potential for littering. The lead Executive Member confirmed that she would ensure this was remedied and that all site notices would be laminated in the future.
- Reorganisation of the service had streamlined contact with Members which had resulted in a slight dip in local knowledge but that this would now be regained as the team was now at full staffing capacity.
- Waste contract and performance issues had been divided in order that Waste and Localities were no longer part of a single team of officers.

An addition was **PROPOSED** and **SECONDED** to the published agenda report recommendation to add congratulations to the service for its excellent work during the high summer season. When put to the vote, this was then declared **CARRIED**.

It was then:

RESOLVED

That the Committee:

1. continue to support the current Locality working arrangements, pending on-going monitoring and a further report in 12 months.
2. note and acknowledge the work of the Locality service and the success of the seasonal working, and congratulate the service on the success of its seasonal working.

O&S.36/21 CONTACT CENTRE PERFORMANCE

The Committee considered a report that provided a high level overview on the current performance of the Contact Centre since April 2021. A formal review of the Contact Centre, and its performance in its entirety, had not been carried out in upwards of five years.

It was **PROPOSED** and **SECONDED** that an additional recommendation be added that requested a report be presented back to the Overview and Scrutiny Committee in six months times. This was then declared **CARRIED** when put to the vote.

It was then:

RESOLVED

That the Committee:

1. note the work of the contact centre over this financial year, and continue to support the work that will be undertaken to improve the contact centre and its performance;
2. note and endorse a comprehensive review of the contact centre to be carried out, to assess its performance and ability to meet customer demand, and
3. update its annual work programme to include a further report in six months' time.

O&S.37/21 TASK AND FINISH GROUP UPDATES

a) Climate Change & Biodiversity Action Plan

The Committee reviewed the concluding report from the Task and Finish Group.

Thanks were made to the Working Group, the Chairman of the Working Group, and to the officers for their time and guidance.

It was then:

RECOMMENDED

That the Committee **RECOMMEND** to the Executive that:

- a) The Action Plan should contain recognition of the finite carbon budget available to the District of South Hams as well as the organisation of South Hams District Council, and the consequential targets taken over 5 years that are relevant to all who live here. These targets should define the purpose and goals of the Action Plan together with the final version of the Devon Carbon Plan;
- b) The targets and indicators should align with the Devon Carbon Plan and be monitored on an annual basis. The first review of the strategy (specifically its monitoring framework) should commence following the adoption of the Devon Carbon Plan to update the action plan with relevant actions from the Devon Carbon Plan, and where relevant, its governance and monitoring framework.
- c) The Action Plan should continue to acknowledge that the Council has an important facilitation and coordination role in the community it serves and that it is uniquely placed to be actively bringing key local organisations together, working with them to resolve issues where it has the relevant powers and/or influence, helping to access funds as the need arises, helping to create a common understanding of goals and timescales and working with groups to achieve them. In light of this, a review of the adopted funding model will take place with a view to ensuring that, within available budgets, support is available to enable community groups to undertake specific tasks, such as community engagement, as required by the Council's adopted CC&B strategy.
- d) In recognition of the role outlined in 3, the Council should setup a CC&B Community Partnership Group that brings together the range of expertise and energy to achieve the goals of the Action Plan. This could be established through a revision of, the current Community Forum. It is suggested that the six organisations that presented to this Task and Finish Group are invited to join the existing Community Forum members) along with relevant officers, any elected member, and the lead member for Climate Change and Biodiversity. A revised Terms of Reference will be agreed to set the context for the group with a rotating chair
- e) It is recognised that officer resources are limited, notwithstanding the remit of the Task and Finish Group, urgent consideration should be given to identify additional funds for CC&B and accessing other available funding streams to support our specialist Adam Williams either through recruitment or through employing relevant expertise.

O&S.38/21 2021/22 PANEL WORK PROGRAMME – LATEST VERSION

The Committee reviewed its work programme and agreed its content with the addition of an extra meeting to be added into the Member Meeting Calendar for January 2022. The Chairman and Vice Chairman would meet with officers to agree a date in January 2022, and to review the work programme for the 16th December 2021 meeting, with a view to moving some agenda items to the new January 2022 date.

It was also agreed that the two Housing Crisis related Task and Finish Group proposals suggested by the Leader (Minute O&S.33/21 above) would be discussed under the item of Task and Finish Group updates at the next Committee meeting to be held on 16 December 2021.

(Meeting started at 2:00 pm and concluded at 4:31pm – a ten minute break was taken at 3:30pm)

Chairman

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**MINUTES OF A SPECIAL MEETING OF
THE EXECUTIVE
HELD IN THE REPTON ROOM ON THURSDAY, 11 NOVEMBER 2021**

Members in attendance:			
* Denotes attendance			
∅ Denotes apologies for absence			
*	Cllr K J Baldry	*	Cllr T R Holway
*	Cllr H D Bastone (Vice Chairman)	*	Cllr N A Hopwood
*	Cllr J D Hawkins (<i>joined via Teams and therefore in a non-voting capacity</i>)	*	Cllr J A Pearce (Chairman)

Members also in attendance (in the Repton Room):
Cllrs Birch, Brazil, Long and Sweett

Other Members joining the meeting remotely via Microsoft Teams:
Cllrs Abbott, Brown, Chown, Foss, Kemp, Hodgson, McKay, O'Callaghan, Pannell, Reeve, Rowe, Smerdon, Spencer

Officers in attendance and participating:		
All items		Chief Executive; Deputy Chief Executive; Monitoring Officer; and Democratic Services Manager

E.57/21 URGENT BUSINESS

The Chairman advised that she had no items of urgent business for consideration at this meeting.

E.58/21 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting and these were recorded as follows:

Cllr N A Hopwood declared a Disclosable Pecuniary Interest in agenda item 4(b): 'Garden Waste Collections: (b) One-Off Emptying of Garden Waste Bins in Woolwell' (Minute E.60/21(b) below refers) by virtue of her direct involvement in the matter and left the meeting during consideration of this aspect of the agenda item.

E.59/21 STATEMENT FROM THE MONITORING OFFICER

At the invitation of the Leader, the Monitoring Officer was invited to provide a statement to provide an explanation for the calling of this Special Executive meeting.

In so doing, the Monitoring Officer advised that:

- The Leader of the Council had the power to call a meeting of the Executive at any time (s)he so wished and it was his understanding that the main reasons for the Leader wishing to call this meeting were that:
 - o There was a need for a response to be made by the Executive to the Overview and Scrutiny Committee's concerns that were raised during consideration of the call-in of the Executive decision to extend the suspension of the Garden Waste Collection service at its meeting held on 5 November 2021. This was particularly pertinent given that the Overview and Scrutiny Committee had referred its concerns direct to the Full Council meeting to be held on 25 November 2021;
 - o There was an informal Executive Briefing already in the diary for this date and time, so there was an administrative convenience; and
 - o The nature of the business to be transacted was such that no prejudice was caused to members of the public by virtue of the shorter notice; and
- Whilst ordinarily, notice of the meeting must be published on the Council website at least five clear working days before the meeting was held, they were able to be convened on shorter notice (for example in the case of an Emergency or Urgency).

In conclusion, the Monitoring Officer confirmed that he was content that the calling of this Special Executive meeting did not give rise to a breach of the provisions of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

E.60/21 **GARDEN WASTE COLLECTIONS**

Before consideration of a report that:

- enabled the Executive to formally consider the concerns that had been raised by the Overview and Scrutiny Committee at its meeting held on 5 November 2021 on the call-in of the Executive decision to extend the suspension of the Garden Waste Collection service; and
- made reference to the one-off emptying of the garden waste bins in Woolwell.

the Chief Executive was invited to provide a statement to the Meeting. In so doing, the Chief Executive stated that:

'On learning of Cllr Hopwood's action in arranging for a private contractor to make a one-off collection of garden waste within her Ward, as Head of Paid Service, I asked the Monitoring Officer to speak with Cllr Hopwood. The Monitoring Officer has done so. The Monitoring Officer has explained clearly to Cllr Hopwood, that no matter how well intentioned her actions were, she acted contrary to the decision of the Executive. Consequently, she was likely to have brought the Council into

disrepute and failed to act in accordance with the Council's requirements as to the use of her Localities' funds, both serious breaches of the Code of Conduct and of the standards of behaviour expected of councillors.

I understand that Cllr Hopwood has agreed with the Monitoring Officer to give a public apology.'

At this point, Cllr Hopwood was invited to address the Meeting and stated that:

'Members and officers may be aware that I organised a collection of brown bins within the Woolwell Ward which I represent.

I sought officer advice about paying for this to be done out of my locality budget after misunderstanding the advice given and went ahead with what I had organised in all good faith. I have since been contacted by the Monitoring Officer and subsequently met with him, (Mr Fairbairn) who advises that not only was the organising of waste collections within my ward against what the Executive had agreed, which was to suspend the garden waste service but I informed residents that this would be paid for out of my locality budget as I genuinely misunderstood the advice given by officers.

I offer an unreserved apology to both officers and Members and have assured the monitoring officer that this will not happen again.'

The Monitoring Officer proceeded to confirm that, having spoken with Cllr Hopwood and, given the full and public apology, Cllr Hopwood was aware of her wrongdoing and that it would not be repeated.

(Having declared a Disclosable Pecuniary Interest (Minute E.58/21 above refers), Cllr Hopwood then left the meeting room).

Consideration was then given to the report.

(a) The Overview and Scrutiny Committee Concerns

The lead Executive Member made reference to each of the concerns raised by the Committee and provided the following additional comments:

Overview and Scrutiny Concern 1:

There was insufficient consideration and/or reporting given to the implementation of Option 3 being the use of an alternative provider and in particular the possibility of the garden waste collection being taken back in-house.

Executive Comments:

In addition to the details in the published agenda report, Officers and the Lead Executive Member provided a comprehensive update at the Executive meeting held on 14 October 2021 of the process and investigations undertaken to assess what was operationally feasible within a realistic timescale.

Overview and Scrutiny Concerns 2 and 3:

The supporting report incorrectly states that there are no financial implications arising. The suspension of the garden waste collection service from mid-August 2021 until Spring 2022 will in all probability have financial implications; and

There was insufficient consideration and/or reporting given to the provisions of the contract with FCC.

Executive Comments:

The Council has followed the correct contractual procedure regarding the suspension of the Garden Waste Service. That process is a formal contractual change notice issued on 22nd October.

Overview and Scrutiny Concern 4:

The decision to suspend the garden waste collection until an open-ended spring date leaves many residents with their brown bins containing waste for an indefinite period.

Executive Comments:

At its meeting held on 14th October 2021, the Executive resolved to produce a letter to be sent to all residents. That letter was then delivered to all residents during the week commencing 1st November 2021;

Draft minute E.56/51 states “That delegated authority be granted to the Director for Customer Service and Delivery, in consultation with the Leader of Council and the lead Executive Member, to produce a letter to be sent on behalf of the Executive to all residents in the South Hams that provides an update on the waste and recycling collection service.”

The Executive has asked Officers to continue to explore options for carrying out a collection – recommendation 3 in the current report.

Paragraph 4.4 of the published agenda report for this Special Executive Meeting states “The Executive has asked FCC to provide a detailed plan to the Council by 31 December for restarting the service by 31 March 2022 or sooner.”

Overview and Scrutiny Concern 5:

Council tax levied by the Council includes a sum for the collection of garden waste and yet taxpayers are not receiving a service for which they have paid for.

Executive Comments:

To explain the background of the Council Tax legislation, Council Tax is partly a form of general taxation on a property and partly a tax on the people living in a property. Council Tax funds essential services in an area and the cost of the public services is spread across all tax payers in the same way, regardless of which services they use or receive;

*So when you pay your council tax, it is not as simple as paying for and receiving a service. By law, the Council is unable to give a Council Tax discount to households that may not receive a specific service or receive a poor service. Therefore, we are not able to offer any reduction in your council tax bill as council tax **is a form of general taxation** rather than a service charge.*

We continue to prioritise the services which we have a statutory duty to provide, such as refuse and recycling collections. Garden waste is a non-statutory service which has been provided at the Council's discretion.

Unfortunately we are not able to offer a refund of Council Tax. Council Tax is a way of funding councils, and other statutory agencies, for the varied services they provide. Waste collections are only one of the many services we provide as a District Council. It is not the same as having a contract for one specific service.

The Executive proceeded to confirm its support for these comments to be formally presented alongside the concerns of the Overview and Scrutiny Committee at the Full Council Meeting to be held on 25 November 2021.

(b) The One-Off Emptying of the Garden Waste Bins in Woolwell

During discussion, the following points were raised:

- (a) Whilst accepting that Cllr Hopwood had made a genuine error of judgement, a number of Members felt that the severity of this mistake should not be under-estimated. Furthermore, these Members felt it to be wholly inappropriate for any recommendation to be approved whereby the Council paid the private contractor using public monies;
- (b) When questioned, the Leader clarified that there had been no such similar arrangement explored for the Thurlestone parish. A private arrangement had been set up by a local resident and the Leader (as local Ward Member) confirmed that she had absolutely no involvement in any part of this arrangement;

(The Leader adjourned the meeting at 11.00am to enable those in attendance to observe the two minutes silence to mark Remembrance Day. The meeting was then re-convened at 11.02am).

- (c) With regard to the breach of the Members' Code of Conduct, the Monitoring Officer reiterated that he was satisfied that the steps that had been taken (including the public apology provided to this meeting) had resulted in him being content that the matter was now closed. As a general point, the Chairman of the Overview of the Scrutiny Committee advised that the Council processes that

underpinned the standards complaints regime were to be reviewed by the Committee in the upcoming months.

(At this point (11.20am), the meeting was adjourned and re-convened at 11.35am).

It was then:

RESOLVED

1. That the concerns of the Overview and Scrutiny Committee raised at its meeting held on 4 November 2021 (as set out in Appendix B of the presented agenda report) have been considered and have been responded to (part (a) of the detailed minutes above refer) for presentation to the Full Council meeting to be held on 25 November 2021; and
2. That officers be authorised to continue to explore all options for resuming the service and that the Executive receives a further report by the Director for Customer Service Delivery in the Spring of 2022 on future options.

Before formally closing the Special Meeting, the Leader invited Cllr Hopwood to re-join the Meeting and make a further statement. Cllr Hopwood proceeded to inform the Executive that, having listened to the debate, it was never her wish to bring the Council into disrepute and it was therefore her intention to personally make the payment for the services of the private contractor.

(Meeting commenced at 10:00 am and concluded at 11.35 am)

Chairman

PUBLIC QUESTIONS AT COUNCIL MEETINGS

There is a period of 15 minutes at meetings of the Full Council (excluding the Annual Meeting) during which members of the public can ask questions about items on the agenda.

Any member of the public who wants to ask a question should ensure that the question:

- a) is no more than 50 words in length;
- b) is not be broken down into multiple parts;
- c) relates to an item included on the agenda; and
- d) is suitable to be considered. A question will not be suitable if, for example, it is derogatory to the Council or any third party; relates to a confidential matter; it is about a specific planning matter; or it is substantially the same as a question asked in the past six months.

Questions should be sent to Democratic Services (Democratic.Services@swdevon.gov.uk) by 1.00pm on the Monday before the meeting (the deadline will be brought forward by a working day if affected by a bank holiday). This will allow a detailed response to be given at the meeting. If advance notice of the question cannot be given the Chairman of the meeting has the discretion to allow questions on matters that are felt to be urgent;

For any further advice on questions to Full Council, or to request a copy of the full Public Questions Procedure Rules, please contact Democratic Services (Democratic.Services@swdevon.gov.uk)

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