



Yeovil Town Council

**Town House
19 Union Street
Yeovil
Somerset
BA20 1PQ**

Phone 01935 382424

Fax 01935 382429

E-mail alan.tawse@yeovil.gov.uk

Policy, Resources and Finance Committee

The Meeting... **Policy, Resources and Finance Committee**

The Time... **7.00pm**

The Date... **Tuesday 27 July 2010**

The Place... **Town House, 19 Union Street, Yeovil**

If you need this information in large print, Braille, audio or another language, please ring 01935 382424



Alan Tawse

Alan Tawse
Town Clerk

21 July 2010

Please contact Alan Tawse at the Town House for more information about this meeting

To All Members of the Policy, Resources & Finance
Committee:

J Vincent Chainey
Philip Chandler (Ex-officio)
Clive Davis (Ex-officio)
Bridget Dollard
Tony Fife (Vice-Chairman)
John Grana
Steve Hawker
Andrew Kendall
Tony Lock
Ian Martin
Pat Martin
Wes Read
David Recardo (Chairman)
Alan Smith

A G E N D A

1. **MINUTES**

To confirm as a correct record the Minutes of the previous meeting held on 25 May 2010.

2. **APOLOGIES FOR ABSENCE**

3. **DECLARATIONS OF INTEREST**

4. **CORRESPONDENCE**

PAGES

5. **APPLICATIONS FOR GRANT AID**

(Circulated separately)

6. **CAPITAL FUND**

2 - 5

7. **ALLOTMENT LETTINGS**

6 - 9

8. **STREET TRADING**

10 - 24

9. **FINANCE WORKING GROUP**

25

10. **NALC LARGER COUNCILS' ASSEMBLY 2010**

26

11. **FINANCIAL STATEMENT – APRIL/MAY 2010**

27 - 51

EXCLUSION OF PRESS AND PUBLIC

The Committee will be requested to pass a resolution excluding the press and public from the remainder of the meeting in accordance with Section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 on the grounds that publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted.

12. **STAFFING ISSUES**

52

6. **CAPITAL FUND**

A copy of the updated Capital Fund statement is attached at page 5. The sum of £5,503 is currently available for allocation to new capital schemes.

Former Goldcroft Allotment Site

Future sources of funding include the proceeds arising from the sale of surplus land at the former Goldcroft allotment site.

Last November, the Town Council agreed that approval be given to the acceptance of the highest bid received for the disposal of the above site subject to the bidder providing formal satisfactory evidence within the next two weeks of their ability to fund the acquisition.

The response was reported to the December meeting of the Town Council at which it was agreed that the disposal to the highest bidder be permitted to proceed.

The disposal of the site is proceeding as expected, and the S.106 agreement has now been completed. This paves the way for a certificate to be issued by the Planning Authority granting outline planning approval for the residential development of the site. In accordance with the disposal arrangements, contracts will now be exchanged and the purchaser will apply for detailed planning consent or reserved matters approval within the following two months.

Former Ski and Activity Centre

Another potential source of funding is the former ski and activity centre should the Town Council decide to dispose of the freehold as part of the redevelopment proposals.

Alder King have been instructed to market this site on behalf of the Town Council and, following a meeting between the appointed representatives of the Town Council and Alder King, arrangements were made for a revised draft development brief to be produced and submitted to the July 2008 meeting of the Town Council for consideration. The final brief was adopted at that meeting and the property was marketed and expressions of interest invited.

Details of those received were reported to the Town Council in March 2009, and Members have approved a process for assessing these bids and reporting back on their respective merits with a view to a final decision being taken by the Town Council in due course on how best to proceed.

All expressions of interest received to date have now been considered by the Steering Group set up to give initial consideration to the matter, and details of the bids received along with their views have been submitted to the Town Council.

Although the bid put forward by the Yeovil Community Church last September for the redevelopment of the site as a creative arts centre was supported in principle, the proposal was unable to be progressed at that time owing to factors beyond the Church's control.

In May, the Town Council agreed to concentrate on remarketing the property following a review of the current development brief, which will be submitted for Members' consideration following the conclusion of the planned investigation by the Council's Property Agent.

Other Sources

Any funding beyond these sources will need to be in the form of a loan from the Public Works Loan Board, applications for which are considered on their individual merits and subject to funding availability.

Redevelopment of Milford Hall

Tenders have been received for the delivery of this project, and the appointed contractor began work on site earlier this year. The redevelopment works are expected to be completed by Autumn 2010, and their delivery is being overseen by a Project Management Board, on which the Town Council is represented by Andy Kendall and the Town Clerk.

Members will recall that the Town Council has agreed to contribute £85,000 (including VAT) towards the project, which will be funded from part of the loan granted by the Public Works Loan Board (PWLB) towards several key capital projects.

Play Areas

The District Council has confirmed that it has committed the following capital funding at the present time:

| Play Area | 2008/09 | 2009/10 | 2010/11 | 2011/12 | 2012/13 | Totals |
|--------------------|----------------|----------------|----------------|----------------|----------------|-----------------|
| Turner's Barn Lane | | | | | | NIL |
| Yew Tree Park | | £80,000 | | | | £80,000 |
| Monks Dale Park | | | £15,000 | | | £15,000 |
| Milford Park | | | | £20,000 | | £20,000 |
| Summerhouse View | | | | | | NIL |
| Preston Park | | | | £12,500 | | £12,500 |
| Howard Road Park | | | | | | NIL |
| Total | NIL | £80,000 | £15,000 | £32,500 | NIL | £127,500 |

The District Council has indicated that these figures are based on anticipated match-funding of 50% from the Town Council and that the revised list is a result of a districtwide prioritisation exercise that took into account the overall finance available.

It has also confirmed that the developer of a nearby new housing scheme has allocated £11,170 towards capital improvements at the Monks Dale Park play area which, when added to the combined pledged allocation of £30,000 from both authorities, will enable an enhanced scheme in the overall sum of £41,170 to proceed.

A working group, which includes representatives of the local community and ward members, has been set up to oversee the delivery of this project and a public consultation exercise has been held at Preston Community School to seek the views of local people on the planned upgrade of the site. A further consultation exercise has also taken place at Preston Primary School and the final designs put forward by the Steering Group were agreed by the Grounds and General Maintenance Committee earlier this month.

Tenders will now be sought for the work, which is expected to start in September and be completed within six weeks.

The Town Council has agreed that its share of the cost of this particular scheme will be met from the anticipated capital receipt arising from the planned disposal of the former Goldcroft Allotment Site and, in the event that the receipt is delayed, the contribution be met instead from the General Reserve.

The planned upgrade of the Yew Tree Park play area is now completed, despite the adverse weather experienced earlier in the year, and a formal opening successfully took place on 22 May 2010.

Recommendations

Members are **RECOMMENDED:**

- (1) to note the position concerning the Capital Fund; and
- (2) to note the current position regarding the rolling programme of play area improvements.

(Alan Tawse, Town Clerk - 01935 382424)

7. **ALLOTMENT LETTINGS**

The Grounds and General Maintenance Committee has made a number of recommended changes to the present allotment lettings policy, the reasons for which are set out in the attached minute extract.

The current policy is as follows:

Residents or former residents of the Town of Yeovil and those who have a connection with the Town through their employment are eligible to apply for an allotment tenancy.

The Committee has proposed that the following changes be made to this policy:

- *that existing tenants not be allocated any additional plots;*
- *that new tenants be restricted to one plot only; and*
- *that, notwithstanding the above provisions, tenants who have been allocated a previously divided plot be permitted to take on another divided plot when the opportunity arises.*

The Committee has also requested that the Policy, Resources and Finance Committee allocate resources to the Grounds and General Maintenance Committee to review allotment provision within Yeovil Town.

The Committee is **RECOMMENDED** to consider and determine upon the referral from the Grounds and General Maintenance Committee.

(Alan Tawse, Town Clerk – 01935 382424)

**Extract from the Minutes of the Meeting of the Grounds and
General Maintenance Committee held on 12 July 2010**

ALLOTMENT LETTINGS

The Committee considered the report of the Town Clerk (Agenda item 8 refers) which included a detailed breakdown of the present waiting list for allotments and outlined the present lettings policy.

It was noted that there were currently 47 persons on the waiting list for an allotment plot, all of whom had expressed a preference for a particular site(s). The number had reduced from the previously reported figure of 70 (March 2010) and 52 (May 2010) following completion of a check of all those on the list as to their ongoing wish to be considered for a plot in the future, and plots becoming available since those meetings.

The Committee noted that the Council had 326 allotment plots on 11 sites - all of which were currently let. The total number of plots was well in excess of the minimum provision advocated by the Thorpe Report of 1969, which had suggested that the "irreducible minimum provision" should be 15 plots to 1,000 households. In the case of Yeovil Town, this equated to 204 plots, which was 60% above this figure.

Members were advised that the National Society of Allotment and Leisure Gardeners (NSALG) currently considered the irreducible minimum to be 20 plots to 1,000 households which, in the case of Yeovil Town, equated to 272 plots. Again, the number of plots provided by the Town Council exceeded this figure – by 20%.

A national survey carried out last year in conjunction with the NSALG, which had recently been updated, found that the average number of people waiting for an allotment plot was 58 per 100 plots. In Yeovil Town, the current figure was significantly (76%) below this figure at 14 per 100 plots.

Members noted that under the present lettings policy, residents or former residents of the Town of Yeovil and those who have a connection with the Town through their employment were eligible to apply for an allotment tenancy. It was indicated that 19 of the 47 persons on the current waiting list (40%) resided outside Yeovil Town.

The following breakdown of the current waiting list was set out in the report:

| Allotment Site | Number of Plots | Preferences |
|-----------------------|------------------------|--------------------|
| Elizabeth Flats | 26 | 2 |
| Goar Knap | 40 | 1 |
| Hillcrest | 7 | 0 |
| Larkhill | 29 | 1 |
| Milford Dip | 38 | 0 |
| Monks Dale | 19 | 3 |
| Newtown | 35 | 2 |
| Rustywell | 24 | 6 |
| St George's | 29 | 2 |
| Sunningdale | 56 | 2 |
| Turner's Barn Lane | 23 | 10 |

| | | |
|-------------------|-----|----|
| Two or more sites | - | 18 |
| No Preference | - | 0 |
| Total | 326 | 47 |

It was noted that 2 of the 11 sites had no waiting list and 8 (73%) of the sites had two or less persons on the list.

Following on from the previous meeting, the Town Clerk reported that the legal implications of adopting a policy restricting the waiting list to persons who resided within the administrative area of Yeovil Town had been investigated. He explained that as the persons on the waiting list had no contractual arrangement with the Town Council, there was no legal obstacle to taking this approach which, if implemented, would result in the list being reduced from 47 to 28 persons.

He added that a further two people on the list were existing tenants (one of whom resided in Yeovil Town) who were seeking an additional plot which, under the proposed change to the current policy, would further reduce the list to 27 persons. This equated to an average number of people waiting for an allotment of 8 persons per 100 plots, which was 86% below the findings of the recent national survey of 58 persons per 100 plots.

He also provided the following breakdown of the number of plots rented by individual tenants:

- 239 tenants have 1 plot
- 31 tenants have 2 plots
- 7 tenants have 3 plots
- 1 tenant has 4 plots

The Committee was informed that should the Town Council wish to limit tenancy agreements to a single plot, it would be necessary to give the affected tenants twelve month's or longer notice to quit their additional plots expiring on or before the sixth day of April or on or after the twenty-ninth day of September in any year.

An analysis had also been undertaken of the all current tenancies, which has showed that 75 (23%) of the Town Council's 326 plots were let to persons currently residing outside the administrative area of Yeovil Town.

Members also noted that, in accordance with Government guidance, the Council occasionally divided large plots that became unmanageable for existing tenants on health grounds, or plots that became vacant where the next person on the waiting list expressed a preference for a smaller plot. As well as meeting the needs of such individuals, this approach enabled more people to take up allotment gardening.

During the ensuing discussion, members considered the merits of ways by which the waiting list could be reduced and the impact that this would have on existing and future tenants. Whilst it was acknowledged that there was a waiting list at present, it was noted that full occupancy had only been achieved over the past two years and might fluctuate in the future and that, in relative terms, the supply of and demand for plots in the Yeovil Town area was well within national guidelines.

Reference was again made to various ways by which the amount of land available for allotment gardening in and around Yeovil Town could be increased including:

- The acquisition of new land by local authorities
- The allocation of land by local landowners
- The use of land currently held for other purposes
- The inclusion of allotment provision in S.106 agreements

(At this point, the meeting became inquorate and the Members who were present agreed to continue discussing this item and the remainder of the agenda items on the basis of making recommendations thereon)

RECOMMENDED:

- (1) that, as agreed at the last meeting, the Policy, Resources and Finance Committee be requested to approve the following changes to the current lettings policy:
 - that existing tenants not be allocated any additional plots;
 - that new tenants be restricted to one plot only; and
 - that, notwithstanding the above provisions, tenants who have been allocated a previously divided plot be permitted to take on another divided plot when the opportunity arises;
- (2) that the legal implications of adopting a policy restricting the waiting list to persons who reside within the administrative area of Yeovil Town be noted;
- (3) that, as agreed at the last meeting, the Policy, Resources and Finance Committee be requested to allocate resources to the Grounds and General Maintenance Committee to review allotment provision within Yeovil Town; and
- (4) that the extent of the practice of existing tenants renting more than one plot and the implications of limiting all tenancy agreements to a single plot be noted.

8. STREET TRADING

South Somerset District Council is undertaking a review of its street trading policy and is seeking views on the attached draft document by the closing date of 30 July.

This is the third edition of the policy and has been updated to reflect current best practice.

None of the appendices referred to in the document has been attached as these are not themselves the subject of the consultation exercise.

The policy was last reviewed in June 2008 (Minute 7/176 refers) when the Town Council expressed its support to the then draft document, subject to the inclusion within the proposed list of Town Centre conditions of the following adopted criteria in respect of existing Town Centre street trading consents:

(1) Although the rights of established traders to fair trading conditions are recognised, the Town Council may give consent to street trading where it is undertaken in a traditional and/or innovative manner and, in the Town Council's view, adds to the colour and atmosphere of the Town Centre;

(2) Consent will not be normally given to allow street trading to take place within a walking distance of 50 metres of an established trader selling the same items; and

(3) No consent will be given where, in the Town Council's view, there are already sufficient street trading consents operating.

These conditions ensure that street trading in the Town Centre is undertaken in a fair and reasonable manner having regard to its impact on the environment and on local traders.

Clarification is being sought as to whether these conditions, which were subsequently adopted by the District Council, will continue to be applied and an update will be given at the meeting.

The Committee is **RECOMMENDED** to consider whether it wishes to comment on the draft policy.

(Alan Tawse, Town Clerk – 01935 382424)

Street Trading Policy

DRAFT - June 2010

Edition 3



| | |
|---|--------------------------|
| Issue and version : | Issue x Version x |
| Officer/Panel Controlling Procedure: | Licensing Manager |
| Authorisation Level: | Management Board |
| Authorisation Date: | |
| Review date: | September 2013 |

| Section | Contents | Page(s) |
|----------------|--|----------------|
| 1 | Purpose of the Policy | 3 |
| 2 | What is Street Trading | 3 - 4 |
| 3 | Exemptions from the need to obtain a Consent | 4 - 5 |
| 4 | Nature of Goods, Activities and Trading Hours | 6 |
| 5 | Application for and Issue of a Consent | 6 - 11 |
| 6 | Established and Proposed Pitches | 11 - 12 |
| 7 | Fees for Street Trading Consents | 12 |
| 8 | Conditions which may be applied to the Consent | 12 - 13 |
| 9 | Enforcement Action | 13 |
| 10 | Equality Impact of the Policy | 14 |
| 11 | Feedback and Review of the Policy | 14 |
| | | |
| Appendix 1 | Maps and Contact Details 1A - showing the area administered by Yeovil Town Council (YTC) 1B - showing the Inner and Outer Zones for Fees | |
| Appendix 2 | Application Form for a Consent | |
| Appendix 3 | Information about other legislative requirements | |
| Appendix 4 | Examples of conditions which may be added to Consent | |
| Appendix 5 | Extracts from Schedule 4 of the Act | |
| Appendix 6 | The Council's Enforcement Policy | |
| Appendix 7 | The Council's Complaints' Policy | |

1 Purpose of the Policy

The purpose of the Council's street trading policy is to create a street trading environment, within the District of South Somerset which: -

- complements premises-based trading establishments;
- provides diversity and consumer choice;
- enhances the character, ambience and safety of local environments;
- will complement and inform other Council initiatives including those on street entertainment and encouraging entertainment diversity
- is sensitive to the needs and concerns of residents;
- highlights the requirements and standards expected of street traders;
- through its tourism service and by other means, promotes appropriate street trading activities.
- is fairly, appropriately and proportionately controlled, in line with the Council's Enforcement Policy;
- supports community cohesion and equalities
- provides clear guidance to the Council officers who will administer the street trading service under it.

2 What is Street Trading?

The purpose of the Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) is to ensure that Councils can properly regulate those who sell without the use of ordinary business premises and, particularly, traders who move from place to place. It is concerned, primarily, with commercial activities, excluding the provision of services, but there are grey areas and each case needs to be considered on its facts.

South Somerset District Council (SSDC) has adopted Schedule 4 of the Act for the whole of its area and has designated all streets in the District as 'consent streets' for street trading purposes.

The effect of this designation is that trading in any street is prohibited by law (subject to legal and other exemptions set out in Section 3 below), without first obtaining a Street Trading Consent (a Consent) from the Council.

Although, street trading is a District Council function, the Council has delegated to Yeovil Town Council (YTC) the responsibility for dealing with applications for Consents (and some enforcement activity) for some areas within Yeovil Town's administrative boundary. The precise areas and division of responsibilities between the Council and YTC are set out in the relevant delegation agreement between the authorities and a map is attached, as Appendix 1, to show the areas administered by YTC. Application must be made to the appropriate Council but where the site of the trading straddles the area of both councils then the application must be made to SSDC.

Street trading means 'selling, exposing or offering for sale any article (including a living thing) in a street'. From this definition, any person offering purely a service e.g. a shoeshine (where there is no tangible good such as a picture or sketch) will not be caught by the street trading legislation.

The term 'street' includes 'any road, footway, beach or other area to which the public have access without payment'. Any person street trading without a valid Consent commits a criminal offence.

The courts have held that the definition of a 'street' does not depend upon the area of land in question being in public ownership and private land may be classified as 'a street' too if it meets the definition in the Act and the precise circumstances of the trading indicate that it amounts to street trading.

The matters that the Council is likely to consider relevant include: -.

- whether the trading outlet is built on solid foundations
- the nature of construction of the trading outlet e.g. of brick/block
- which of the mains services are connected (if any)?
- whether permanent planning permission has been gained
- would the trading outlet be difficult to move? i.e. is a crane required to move it onto or off of a site?
- whether it comes and goes onto the site e.g. it is removed each day?
- is the trading outlet moved to a different site(s) each day?
- distance from the nearest highway. If you are trading within 15 metres of a street, road or car park, there is a presumption that you will need a street trading consent subject to the other exemptions applying. If you trade from a position of more than 15 metres from a street, road or car park, please contact the Licensing Service to see whether a Consent is required as each case is judged on its own set of circumstances.
- the original purpose/nature of the item for sale e.g. whether it is a wholly charitable or domestic purposes or is the sale of a service rather than goods.

The fact that a trader has a licence or lease to occupy the land, or has some other form of consent e.g. planning consent or a licence under the Licensing Act 2003, will not override the requirement to obtain a Consent where the trading amounts to street trading. Similarly, holding a Consent for street trading will not remove the obligation, on the trader, to comply with any other legal requirements e.g. holding a current food hygiene certificates nor override the duty to comply with the general law concerning e.g. trespass (the landowner's permission to occupy the land must be obtained), highways, planning, licensing, health and safety, nuisance, waste disposal requirements etc. Appendix 3 provides some information about other legislative requirements, however, this is not intended to be a comprehensive guide.

The requirement to obtain an Consent for any street trading is wide-ranging and would include, for example, all hot and cold food vendors selling burgers, kebabs, doughnuts, ice cream etc., and all vendors of non-food products from any vehicle, stall, barrow, trailer, or any other moveable or static structure. Mobile artists who sketch or paint, or similar artisans who sell their own work are also likely to be caught by the Act.

Advice should be sought from the Licensing Service on the proposed activity/location to see if a Consent is required before starting to trade – see Section 12 for contact details.

3 Exemptions from the need to obtain a Consent

Some types of trading are legally exempt from the need to obtain a Consent; these include:

- a person trading as a Pedlar under certificate (currently issued by the Police);
- a market trader operating at a market venue which acquired this status by virtue of a grant, enactment or order.
- a news vendor selling only newspapers and periodicals. This exemption is subject to restrictions which are set out in Appendix 5
- trade which is carried on at premises used a petrol station
- shops do not require a Consent even if they operate outside the actual building providing it is, essentially, an extension of the shop etc e.g. where a shoe shop has rails of shoes on display outside the shop; again this does not negate the need to comply with other legislation such as the requirement for a pavement licence (obtainable from Somerset County Council), if appropriate:
- trade carried out by 'roundsmen.' A 'roundsman' has been defined as one who visits a 'round' of customers delivering the orders of those customers". e.g. milkmen. N.B An operators of an ice cream unit is not a roundsman.
- charitable collection e.g. selling poppies in aid of the Royal British Legion (although a collection permit, under the Charities Act 1992 may be needed

The Council has decided that the following trading activities do not require a Consent:

- goods from working farms sold at the premises where they were produced or at Local Farmers'/Producers' Markets etc providing such markets meet the Code drawn up by the Somerset Farmers' Markets organisation. Advice should be sought from the Licensing Service to see if the market, in question, meets the required criteria before trading commences. These outlets are seen as part of the Council's rural investment and regeneration work, in supporting local producers, and, hence, are seen as extensions of the farms rather than street trading.
- offices and other business premises are allowed, normally, the same exemption as shops in terms of goods displayed outside of the premises because their position is analogous to shops but the items displayed must be, still be, essentially, an extension of the business.
- sales of articles by householders on land within the boundary of their home providing that this is not a commercial concern e.g. selling home grown fruit and vegetables, homemade jams etc. Such sales are seen as disposal of surplus domestic produce rather than trading
- an event that is community-based and run, for non-commercial purposes, such as a fete or school fund raising activity, again, this is seen as non-commercial fund raising. Where any of the profits of the trading is retained by the trader for private gain, and not passed to the organisers of the event for use in, or by, the community concerned then the trader will not benefit from the fee exemption (unless a fee is charged to those entering the event);
- Events run by charities or political or educational activities providing the profits from such events are wholly passed to the charity or political or educational organisation concerned because such activities are not commercial trading;
- Still considering - Where the stalls are part of a travelling fair

Please contact the relevant Licensing Service should you wish to discuss this further; see Section 12 for details.

4 Nature of Goods, Activities and Trading Hours

The Council would not grant, normally a Consent for the sale of goods which conflict with those provided by nearby shops or markets because it could provide an unfair economic advantage to the holder of a Consent.

The type of goods allowed to be sold will be considered on a pitch-by-pitch basis having particular regard to local needs, product diversity, and appropriateness of the proposed location in terms of space and balance.

Street trading hours will mirror, normally, those of the shops or businesses in the immediate vicinity except for hot food takeaways where trading hours will be determined on a pitch-by-pitch basis.

The design and appearance of the Trading Unit e.g. stall, barrow, van or cart etc used must be agreed by the Council's Licensing Manager before a Consent would be granted.

5. Application for and Issue of a Consent

A Consent is needed before any person can trade in a street within South Somerset. Details of the application procedure, whom to contact and the current fees payable for a Consent will be set out in the Application Form. A copy is attached as Appendix 2.

Where the proposed site for trading concerns land owned by this Council or Somerset County Council, as Highway Authority, then permission from the relevant Council must be obtained before an application for Consent is made. A separate charge or licence fee may be payable for this permission.

For land in the ownership of the SSDC you need to contact the Senior Land and Property Officer, The Council Offices, Brympton Way, Yeovil, BA20 2HT or telephone on 01935 462462. For land owned by Yeovil Town Council, contact the Town Clerk at The Town House, 19 Union Street, Yeovil, Somerset, BA20 1PQ. Telephone 01935 382424; fax 01935 382429; e-mail alan.tawse@yeovil.gov.uk.

Where the proposed site for trading concerns land in private ownership then permission from the relevant landowner must be obtained before a Consent will be granted. The relevant permission should be included with the application for a Consent. Where a Consent is required or a stall in, for example, a street fair then the permission of the Event Organizer, rather than the land owner will be required.

Who can apply?

To apply for a Consent a person must be: -

- an individual (although 2 people can apply jointly) but not a company or other legal entity
- over 18 years of age
- legally entitled to live and work in the UK
- of good character (see below under Determination of the Application for Consent)

Receipt of Applications and Fees

An application will be treated as being received, only, when the relevant application form (see Appendix 2) and the necessary supporting evidence has been received at the relevant Council Office – see Section 2 - and the relevant fee has been paid (and if paid by cheque etc the payment has cleared).

As a concession, if the applicant is applying for a yearly Consent then an instalment plan for the fee is available at the Council's sole discretion. The first monthly instalment must be paid in full when the application form is submitted and for the remaining instalments a Direct Debit mandate will be required.

If the fee is being paid by instalments, then, where the direct debit is dishonoured or stopped, the Council, will revoke any Consent issued, immediately, unless payment of the outstanding fee is made in cash, within 5 working days, at the Council office that issued the Consent. In such cases, an administration charge may also be added to the fee payable to cover any additional costs incurred by the Council.

Cheques are to be made payable to 'South Somerset District Council' or 'Yeovil Town Council' as appropriate - see Section 2. Post-dated cheques will not be accepted.

Insurance

The Council will accept no liability for the street trading activities undertaken by the Consent Holder(s). Evidence of suitable public liability insurance (minimum value of £5 million) will be required from the Consent Holder(s), in all cases, and this insurance must include an indemnity in case any claim is made against the Council.

The Insurance once approved by a relevant Officer must be maintain throughout the period of the Consent and the Consent will be revoked should the insurance be cancelled or breached or its terms altered so as to provide less than the level of cover required. Once the Consent is revoked the trading becomes illegal and the trader(s) may then be subject to enforcement action.

If the insurance is due for renewal during the period covered by the Consent, it is the responsibility of the Consent holder(s) to provide to the relevant Council an original public liability insurance certificate to show that the insurance is continuous for the period of the Consent. Any breaks in the period of insurance may be grounds for revocation of the Consent.

Determination of the Application for Consent

Applications for a Street Trading consent will be determined by the relevant Licensing Officer, under delegated powers, using such of the criteria listed below or such other factors as are relevant and appropriate to the application in question. Each case will be assessed on its own merits and individual circumstances, where appropriate, may be taken into consideration. The criteria include whether the application:

- is at an appropriate site or pitch. The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction and fire hazard. The term "public" refers to both customers frequenting the street trading activity, and other members of the public using the street. In particular, reference will be made to the matters referred to in Section 7 below

- creates more trading opportunities for small businesses or otherwise contributes to the economic vitality of the area. The existence of shops and businesses operating in the area will be considered if appropriate to avoid, amongst other things, unfair economic advantage,
- satisfies an unmet need for such goods in the immediate locality of the proposed activity e.g. fast food outlets on trading estates bearing in mind the presence of existing like outlets
- supports appropriate special events such as community, educational or charitable events (but see Section – Exemptions - where the event is wholly charitable etc)
- places an unreasonable burden on other agencies or bodies. The street trading activity should not present a significant risk to good public order in the locality in which it takes place.
- presents a significant risk of nuisance from noise, smells or fumes to households and businesses in the vicinity of the proposed street trading.
- supports community cohesion and the needs of under represented groups
- is environmentally sustainable (including the applicant's proposals for generating such power as is needed by the trading unit; dealing with any waste and litter arising from the activities)

The decision on whether to grant the consent may also take account of the suitability of the applicant to hold such a consent including relevant unspent convictions etc, levels of complaints received about the applicant(s) and whether and how such matters were resolved; whether any earlier Consent to the applicant(s) has been surrendered or revoked. The decision may take into account the attitude of the applicant and/or their staff etc to dealing with concerns and queries raised by the Council Officers.

Where an application for a Consent is not acceptable, in some regard, e.g. the proposed hours of operation are too long; a Consent may be offered on terms which would be acceptable to the Council. Similarly, if after issue, problems or matters of concern arise, the Consent may be modified including adding, removing or substituting conditions, so as to take account of or deal with the concern or problem and ultimately, a Consent may be revoked.

Where an application is refused, in its entirety, full reasons for not granting the Consent will be given in writing (this includes e-mail or fax etc). The Act does not provide for an appeal where a Consent is not granted, nor limit the Council's power to impose conditions; however, the Council complaints' procedure will apply and be followed should the applicant be dissatisfied. The applicant may, also, be able to seek judicial review of the decision through the courts.

Issue of a Consent etc

If the application is approved, a Consent will be issued by the relevant Council. in the name of an individual person or jointly to two persons; the Consent is not transferable. Exceptionally, where the Consent was held jointly, the Council may at its sole discretion, allow the transfer from the joint holders to a sole holder.

The Consent will contain the specific terms under which it is granted such as the specific location(s) or area(s) where the street trading may take place, the days and hours permitted, the goods that may be sold together with any conditions that must be met.

The conditions attached to the Consent form part of the Consent and MUST be complied with at all times. Failure to meet the terms of the Consent could lead to the

Consent being revoked or not renewed. The Council may vary the conditions, at any time, where it feels it is necessary or desirable and the holder of the Consent shall then comply with the Consent as amended.

Unit Identification document (known as the 'Plate') will be issued with the Consent. The Plate remains the property of the Council and must be returned to the Council if the Consent is revoked or surrendered e.g. because the holder ceases to trade. The form of the Plate will depend on the type of Consent issued.

The Consent and the Plates will be issued only at the appropriate Council Offices—i.e. SSDC or YTC as appropriate – see Section 2. The applicant (or one of them if joint applicants) will be required to attend in person to collect the Consent and/or Plate(s) including for any replacements. A charge will be made for replacement Consent(s)/Plate(s) unless the circumstances are exceptional, in the opinion of the Licensing Service,

All vehicles, stall, carts or other type of unit used for street trading must display, at all times whilst trading, a valid Plate. The Plate must be displayed in a prominent position on the trading unit so that it is visible, clearly, to members of the public using the trading unit.

Under the current legislation, the maximum period for which a Consent may be issued is 12 months. A Consent may be issued, for block or individual bookings, for shorter periods where:

- the trading is at organised street markets, carnivals and similar events
- for mobile street artists/traders
- if officers feel that is reasonable to allow, initially, a lesser period whilst the trader assesses if the site or pitch is viable

A Consent will state the date of its expiry and will lapse upon that date stated unless renewed; no reminder renewal notice will be issued advising of the imminent expiry of the Consent. The holder(s) of a Consent has full responsibility and liability for ensuring the renewal of the Consent in good time.

Where the existing holder(s) of a Consent wishes to renew it, that person(s) must ensure the application to renew, fee and other information is provided to the Council in sufficient time for the renewal request to be processed.

Where a Consent has expired, and an application has not been submitted to the Council for renewal, a new application will have to be made. Where, exceptionally, the relevant Licensing Manager agrees to waive this provision, the full fee will be charged for the whole period to ensure the continuity of the Consent whether or not the holder has actually traded during the period since the earlier Consent expired.

Where a Consent has expired but a valid application to renew and full fee was received before the expiry date but the applicant failed to allow sufficient time for the application to renew to be processed, the pitch would be re-offered, normally, to that applicant.

Payment by instalments may be available as set out above under 'Receipt of Applications and Fees'.

In other cases where a pitch becomes vacant, it may be offered to those person(s) who have expressed an interest either as a result of an advertisement placed by the Council or otherwise.

Revocation or Surrender of a Consent

A Consent may be revoked by the Council at any time after it has been granted, although, where possible, appropriate prior notice will be given to the Consent holder. The revocation may be for a variety of reasons including but not limited to non-compliance with conditions because the Council or other agencies such as the utility companies require access to the location or because the Council wish to use the site for another purpose or where the landowner revokes his/her consent to use of the land for trading. Written reasons for the revocation will be given and a refund or remittance will be given of any sums paid in respect of any days which remain of the Consent period. The formula to be applied will be as set out below: -

*Number of complete days remaining x the daily fee paid.
This amount will be reduced to meet the costs of reinstatement/clearance etc of site where such works have not been carried out to the Council's reasonable satisfaction.*

In addition, a Consent will automatically be revoked where the application is made by an individual (or both Consent holders if two people hold the Consent) who dies or who lacks capacity under the meaning of the Mental Capacity Act 2005

The Consent will also be revoked where any public liability Insurance held by the Consent holder(s) is cancelled, not renewed or its terms are breached by the Consent holder(s) or varied so as to reduce the minimum cover stipulated in this Section.

A Consent holder has a duty, under the Consent, to notify the Council of any offences for which s/he is arrested, charged, convicted or cautioned since the grant of the Consent so that the Council can assess whether the Consent should be revoked or the Consent conditions modified.

No claim will lie against the Council where it revokes or varies a Consent and the Consent itself will make it clear that no liability attaches to the Council in respect of any revocation or variation or indeed any act or omission of the Consent Holder.

Where the holder of a Consent wishes to surrender that Consent, e.g. where s/he has stopped trading, then this must be confirmed in writing to the relevant Council who issued the Consent and the actual Consent and Plate returned to that Council.

Where a Consent is jointly held by 2 individuals, a surrender by either one of the holders may be accepted by the Council, (whether or not the other holder consents to the surrender) providing the actions mentioned in the last paragraph have been complied with in full. The Council may, at its sole discretion, transfer the Consent to the individual who was a joint Consent holder where they not wish to surrender the Consent

Upon receipt of the valid surrender, the Council may inspect the pitch to confirm that it has been vacated and check that the conditions of the Consent have been met in full. The Council will confirm the date upon which the surrender is accepted and will refund or remit any sum due to the Consent holder(s) for the remaining period of the Consent. The formula will be the same as that used for a revocation.

A deduction may be made by the Council, from any sums due to the holder of a Consent, following the revocation or surrender of that Consent to meet the reasonable costs incurred in ensuring compliance with the terms of the Consent where the Consent Holder(s) failed to do so e.g. the clearance of litter or other detritus from the site, the making good of damage etc. Where the sum expended by the Council on such matters exceeds the sum due to be refunded to the Consent holder(s) then no sum shall be payable to the Consent holder(s) and such sums in excess shall be recoverable by the Council from the Consent Holder(s) as a debt and interest may be added where payment is not made within 14 days of a demand being made.

Consultation and Notice

Where the proposed pitch is situated in a lay-by outside a residential property the Council will consult with the resident(s) adjacent to the lay-by and will take their relevant representations into account when drafting the conditions to be attached to any Consent granted. No consultation with other persons or bodies will be undertaken, normally, before a Consent is granted or refused but, where Licensing Officers consider it appropriate, advice or comment may be sought from other bodies, such as the police or the highway agency.

The Council does not promise the holder(s) of the Consent peaceful enjoyment of the pitch/site and will accept no liability to the Consent holder(s) whatsoever and will pay no compensation, costs, damages, expenses etc in relation to any loss, damage or interference that the holder may suffer from any cause whatsoever related to or connected with the Consent including, for example, because the streets are being cleaned or maintained, where an emergency arises or where strikes, riots etc ensue.

6 Established and Proposed Pitches

There are already certain established pitches at sites within the District where street trading is conducted. Any proposed new pitches will be subject to an assessment of the suitability of that site for the activity in question. The assessment will consider, amongst other matters, the suitability of the pitch for the street trading activities proposed, the implications upon nearby shops, businesses and markets and the accessibility of the pitch for those with disabilities.

Consents from static locations will not, normally, be granted where in the Council's view:

- A significant effect on road safety would arise either from the siting of the trading pitch/activity itself, or from customers visiting, parking or leaving the site ; **or**
- There would be a significant loss of amenity caused by, noise, traffic or smell; **or**
- There is an already adequate like provision in the immediate vicinity of the pitch e.g. shops and markets; **or**
- There is a conflict with Traffic Orders e.g. waiting restrictions; **or**

- The pitch or trading unit obstructs either pedestrian or vehicular access, access to shops, traffic flows, or places the public or customers in danger; **or**
- The site does not allow the Consent Holder, staff and customers to park in a safe manner; **or**
- The street trading activity is carried out after dusk and the site is not adequately lit to ensure the reasonable safety of both customers and staff.

7 Fee for Street Trading Consents

Fee levels and fee structure for a Consent will be set by the Licensing Committee and will be reviewed annually. Where a change in fees or fee structure arises the revised fee will apply: -

- from the next renewal following the Committee's decision for existing Consent Holders or
- immediately following the decision for new applications received after the decision date.

The fee structure for currently consists of two charging zones across South Somerset. These are:

- the 'Inner Zone' which is that land lying within the boundaries of the following roads: Brunswick Street, Park Street, Summer House Terrace, Old Station Road, Reckleford and Queensway – a map defining this area is attached as Appendix 1B
- the 'Outer Zone' which cover the rest of South Somerset.

The Inner Zone will pay a higher fee to reflect the fact that pitches in this part of the District are subject to a higher footfall and trading mainly takes place on the street rather than on private land, thereby not incurring additional charges for ground rent.

The Outer Zone pays a lower fee to recognise that the pitches in these areas are less lucrative and may face additional costs compared to the Inner Zone traders.

In both Zones a discount is given to those paying for longer periods and/or booking for 3 or more days per week. Further details are shown on the application form.

9 Conditions which may be applied to the Consent

Each Consent will set out the following information: -

- names and address(es) of the Consent holder(s)
- the day(s) and hours when street trading is permitted
- the range of goods which may be sold
- the precise details of the location, size and orientation of the pitch itself.

The Licensing Officer dealing with the application will attach such reasonable and proportionate conditions as in all the circumstances is considered to be necessary to maintain adequate public safety, avoid nuisance and anti-social behaviour and

generally preserve the amenity of the specific locality. Examples of such conditions are set out in Appendix 4

Suitable exclusions of liability will be included in the Consent too and the holder(s) will be required, both, to indemnify, fully, the Council against any claims and actions and to maintain appropriate insurance cover as set out under Section 5

In addition, the Consent holder(s) may be held liable for any damage caused to the verge, pavement, highway or any other item of street furniture as a result of the operation of his/her business. Any such damage must be reported to the relevant agency. It is probable that the Consent will be revoked unless the full reinstatement costs (including the Council's reasonable administration costs) are met forthwith and appropriate undertakings provided guaranteeing future good behaviour.

9 Enforcement Action

Persons trading without a Consent and who are not exempt (see Section 3 for exemptions) will be the subject of enforcement action in accordance with the Council's Environmental Health Enforcement Policy, which can be found at Appendix 6. This Policy will also apply to any person who holds a certificate granted under the Pedlars Act 1871, but who fails to operate in accordance with the Act and/or established case law.

The following principles will be followed when carrying out street trading enforcement activities:

Openness: The Council will be open about how it enforces the legislation in relation to street trading. Appropriate discussions on compliance failures or problems will normally be undertaken as part of the enforcement process.

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

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

Consistency: The Council will carry out its duties in a fair, equitable and consistent manner having regard to its Enforcement Policy, any national codes of practice and guidelines and the contents of this document.

In addition, other agency may take enforcement action where breaches of the law are found e.g. trading standards

Consent Holder(s) must allow access to authorised Officers of the relevant Council, and Police Officers, at all reasonable times. Council officers will carry with them and produce on request official identity cards.

10 Equality Impact of the Policy

This Policy will be assessed for its impact on equalities issues by the Steering Group for Equalities and changes will be made, where necessary and appropriate, to bring the Policy into line with the equality duties of the Council.

The Council will take all reasonable steps to ensure that it takes account of equality issues in determining applications for Consents and in its enforcement of the street trading regime. An appropriate monitoring system will be put in place to provide information on the future impact of the Policy on the different equalities strands.

11 Feedback and Review of the Policy

The Policy will be reviewed in full every three years to assess its effectiveness in meeting the purposes set out above. In addition, the Assistant Director – Environment in consultation with the relevant Portfolio Holder, may make minor changes.

Feedback on the Policy should be sent to Licensing Manager or can be made via the Council's website www.southsomerset.gov.uk or by e-mail to licensing@southsomerset.gov.uk

Where an applicant or any other person has a complaint about how this policy has been applied or the administration or enforcement of street trading by the Licensing Service then the Council's Complaints policy will apply. A copy is attached at Appendix 7.

9. FINANCE WORKING GROUP

For the past nine years, the Committee has appointed a Working Group to assist with the preparations for the annual budget exercise.

The Working Group has in the past met in October after officers have prepared draft budgets based on an analysis of the first six month's income and expenditure in the *current* financial year and a review of the outturn of the *previous two* financial years.

This ensures that the latest information and trends are taken into consideration by the Working Group in forecasting the Council's budget requirements for the *following* year.

The Chairman has suggested that this approach be changed with the Working Group meeting in September with a greater emphasis being placed by the Working Group on scrutinising the need for and the level of each budget in the more difficult times ahead.

The proposed remit of the Working Group is as follows:

To help develop the Council's capital and revenue funding and expenditure plans taking a zero-based budgeting approach, To look at the expenditure and income over the past five years to see what trends can be found, as well as trends with the past budgets over the same period, and to make recommendations on such matters to the Policy, Resources and Finance Committee

Last year, the Committee appointed the Chairman, the Vice-Chairman and the Mayor to serve on the Working Group.

The Committee also agreed that the draft budgets be circulated to all Committee Chairmen ahead of the Working Group's meeting to enable any comments that they may wish to make to be fed into their deliberations on the matter.

The Committee is **RECOMMENDED** to consider the arrangements for re-appointing the Working Group for the forthcoming budget exercise and to approve its proposed remit.

(Alan Tawse, Town Clerk – 01935 382424)

10. NALC LARGER LOCAL COUNCILS' ASSEMBLY

Details have been received of this year's NALC Larger Local Councils' Conference and Exhibition, which is being held in London on Wednesday 1 December 2010.

The chosen theme is democratic renewal and localism, and delegates will have an opportunity to learn about practical tools available to them, to help them build thriving places for their local communities.

The organisers have indicated that with the Local Democracy, Economic Development and Construction Act now passed, larger local councils have a crucial role to play in developing their local places, and this event will give delegates the chance to learn practically how to do this.

Speakers at the Conference will include:

- Senior Local Government Association Representative
- Senior Communities and Local Government Representative
- Senior Representative, National Association of Local Councils
- Senior Representative, Rural Communities Policy Unit
- Senior Representative, Society of Local Council Clerks

Delegates will have the chance to hear from key speakers in a variety of plenary and workshop sessions, and will be able to voice their opinions, share good practice and ask important questions, throughout the day.

The event will also include the Larger Local Councils' Committee hustings, topical motions for debate, and networking opportunities as well as a large sector specific exhibition.

The cost of attendance is £180 per delegate, which includes lunch.

The Committee is **RECOMMENDED** to consider and determine upon the Town Council's representation at the Assembly.

(Alan Tawse, Town Clerk – 01935 382424)