



Summons and Agenda for the  
**Council Meeting**

to be held on

**TUESDAY 1 DECEMBER  
2015**

at

**6.00pm**

**Light refreshments will be served for Councillors after the meeting in the Cafe area.**





To: All District Councillors

cc: Chief Officers  
Directors

You are hereby summoned to a meeting of the Selby District Council to be held in the Civic Centre, Doncaster Road, Selby on **TUESDAY 1 DECEMBER 2015** starting at **6.00pm**. The Agenda for the meeting is set out below.

A handwritten signature in black ink that reads "Mary Weastell".

**Mary Weastell**  
**Chief Executive**

Recording is allowed at Council, committee and sub-committee meetings which are open to the public, subject to:- (i) the recording being conducted under the direction of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact, prior to the start of the meeting, Palbinder Mann – Democratic Services Manager via [pmann@selby.gov.uk](mailto:pmann@selby.gov.uk) or 01757 292207. Any recording must be clearly visible to anyone at the meeting and be non-disruptive.

# AGENDA

Opening Prayers.

## 1. Apologies for Absence

To receive apologies for absence.

## 2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at [www.selby.gov.uk](http://www.selby.gov.uk).

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

## 3. Minutes

To approve as a correct record the Minutes of the meeting of the Council held on 13 October 2015. Pages 1 to 6 attached.

## 4. Communications

The Chairman, Leader of the Council or the Chief Executive will deal with any communications which need to be reported to the Council.

## 5. Announcements

To receive any announcements from the Chairman, Leader or Members of the Executive.

## 6. Petitions

To receive any petitions.

**7. Public Questions**

To receive and answer questions notice of which has been given in accordance with rule 10.1 of the Constitution.

**8. Councillors' Questions**

To receive and answer questions submitted by councillors in accordance with rule 11.2 of the Constitution

**9. Reports from the Executive**

The Leader of the Council, and other members of the Executive, will report on their work since the last meeting of the Council and will respond to questions from Councillors on that work. Pages 7 to 16 attached.

**10. Reports from Committees**

To receive reports from the Council's committees which need to be brought to the attention of Council. To receive questions and provide answers on any of those reports. Pages 17 to 20 attached.

**11. Motions**

To consider any motions.

**12. Alcohol Licensing Policy**

To consider a report which asks Council to approve the revised Alcohol Licensing Policy, following a consultation exercise. Pages 21 to 74 attached.

**13. Community Infrastructure Levy**

To consider a report which asks Council to adopt the Community Infrastructure Levy Charging Schedule, and to implement Community Infrastructure Levy charges with effect from 1 January 2016. Pages 75 to 89 attached.

**14. Urgent Action**

The Chief Executive will report on any instances where she has acted in urgent or emergency situations under the functions delegated to her in the Constitution.

**15. Sealing of Documents**

To authorise the sealing of any documents necessary to action decisions of this Council meeting, or the Executive or any of its Committees for which delegated authority is not already in existence.

## Council

Venue: Council Chamber  
Date: 13 October 2015  
Time: 6pm

44	Apologies for absence
45	Disclosures of Interest
46	Minutes
47	Communications
48	Announcements
49	Petitions
50	Public Questions
51	Councillors' Questions
52	Reports from the Executive
53	Reports from Committees
54	Motions
55	Reports to Council by Representatives on Outside Bodies
56	Byram Park Roads Flats Demolition
57	Phase 2 Housing Development Strategy – Delivery of HRA Funded Development
58	Localism Rate Relief
59	Community Engagement Forums Annual Report
60	Urgent Action
61	Sealing of Documents

Present: Councillor R Sweeting in the Chair

Councillors K Arthur, D Buckle, Mrs E Casling, I Chilvers, Mrs J Chilvers, M Crane, J Crawford, J Deans, K Ellis, M Hobson, D Hutchinson, M Jordan, D Mackay, J Mackman, B Marshall, Mrs M McCartney, R Musgrave, B Packham, C Pearson, D Peart, I Reynolds, Mrs J Shaw-Wright, J Thurlow, P Welch and Mrs D White.

Also Present: Chief Executive, Managing Director - Access Selby, Executive Director (s151), Executive Director – Communities, Solicitor to the Council, and Democratic Services Manager.

Press: 1  
Public: 5

#### **44. Apologies for Absence**

Apologies for absence were received from Councillors J Cattanach, Mrs S Duckett, C Lunn, C Metcalfe and Mrs W Nichols.

#### **45. Disclosures of Interest**

Councillor K Arthur declared a disclosable pecuniary interest in item 9, Reports from the Executive as he had entered into new employment for Network Rail on the Barlby Olympia Level Crossing. He informed Council had he had been granted a dispensation from the Deputy Monitoring Officer to stay in the room, participate in any discussion and vote.

#### **46. Minutes**

The Council considered the minutes of the Council meeting held on 8 September 2015.

#### **RESOLVED:**

**To approve the minutes of the Council meeting on 8 September 2015 for signing by the Chairman.**

#### **47. Communications**

The Chairman reported that the launch event of Selby District Council becoming a dementia friendly council would take place this Thursday 15 October 2015 at 6pm and invited all Councillors to attend.

The Chairman reminded Council of his Remembrance Service event which would be taking place on Saturday 7 November 2015 at Riley Smith Hall, Tadcaster.

The Chief Executive reported that the floating day for staff had been confirmed as Thursday 24 December 2015 and confirmed the Council offices would be closed on this day.

#### **48. Announcements**

There were no announcements.

#### **49. Petitions**

No petitions were received.

#### **50. Public Questions**

No questions from members of the public were received.

#### **51. Councillors' Questions**

No questions from Councillors were received.

## **52. Reports from the Executive**

The Leader of the Council reported on the work he had recently undertaken as outlined in his report. A query was raised regarding what would the extra funding in business rates, which was received as a result of the Drax Power Station conversion to biomass, be spent on. The Leader of the Council confirmed that no decision had been taken on the funding.

In response to a query concerning the fire at Great Heck, the Leader of the Council explained that the site of the fire had been licenced by the Environment Agency and discussions were taking place with the Environment Agency on this issue.

A further query was raised concerning the Fire Cover review especially the closure of Tadcaster Fire Station and how this would impact on Selby. The Leader of the Council informed Council that he and the Chief Executive had met with the Chief Fire Officer and had been reassured that there was enough fire cover in the west of the district.

Councillor J Mackman, Deputy Leader of the Council and Executive Lead Member for Place Shaping, provided an update on the work he had recently undertaken as outlined in his report.

Queries were raised regarding the five year housing land supply. The Deputy Leader of the Council explained that work was still on-going on this and when the five year housing land supply was complete, it needed to ensure that it was robust. Council were informed that it was hoped that information on the five year housing land supply would be presented at the December Council meeting.

Council were informed that the appeal hearing on the Core Strategy would take place on Thursday 22 October 2015.

In the absence of Councillor C Lunn, Executive Lead Member for Finance and Resources, the Leader of the Council presented his update on the work he had recently undertaken as outlined in his report.

Discussion took place on the relocation of the police to the Civic Centre. It was explained that issues would be discussed relating to the relocation and there were several steps which needed to take place before any move was possible.

In the absence of Councillor C Metcalfe, Lead Executive Member for Communities and Economic Development, the Leader of the Council provided an update on the work he had recently undertaken as outlined in his report.

Councillor D Peart, Lead Executive Member for Housing, Leisure, Health and Culture provided an update on the work he had recently undertaken as outlined in his report. Council were informed that Selby had been awarded a start or a finish for the 2017 Tour de Yorkshire.

Councillor D Buckle provided an update on the funds raised from the recent Three Swans Sportive bike ride and informed Council that £15,000 had been raised with 950 people participating this year. Councillor Buckle issued his thanks to the Railway Club which hosted the sign in for the event.

**RESOLVED:**

**To receive and note the reports from the Executive.**

**53. Reports from Committees**

Councillor J Crawford, Chair of the Overview and Scrutiny Committee provided an update on the work of the Committee as outlined in his report.

Councillor J Deans, Chair of the Policy Review Committee provided an update on the work of the Committee as outlined in his report.

Councillor M Jordan, Chair of the Audit Committee provided an update on the work of the Committee as outlined in his report.

**RESOLVED:**

**To receive and note the reports from Committees.**

**54. Motions**

No motions were received.

**55. Report to Council by Representatives on Outside Bodies**

The Leader of the Council presented the report on the proposed set of guidelines to allow Councillors who had been appointed to outside bodies to report back to Council.

It was felt that sufficient updates on key outside bodies were already provided as part of the Executive updates and therefore Council was of the opinion that a standing item on updates from outside bodies was no longer required.

**RESOLVED:**

**To confirm that a specific item on updates from the Council's appointed representatives on outside bodies is no longer required.**

**56. Byram Park Roads Flats Demolition**

The Lead Executive Member for Housing, Leisure, Health and Culture presented the report which asked Council to allocate the necessary funds from the HRA balance for the cost of demolition and the tenants' compensation on the maisonettes, flats and bedsits on Byram Park Road, Byram.

**RESOLVED:**

**To allocate from HRA Balances the budget of £140,000 for**



**demolition and relocation.**

**57. Phase 2 Housing Development Strategy – Delivery of HRA Funded Development**

The Lead Executive Member for Housing, Leisure, Health and Culture presented the report which requested the authority to identify additional resources to bridge the funding gap between the original budget for the 18 units across seven sites and the revised costs.

**RESOLVED:**

**To approve an additional £277k to be funded from capital receipts.**

**58. Localism Rate Relief**

In the absence of the Lead Executive Member for Finance, the Leader of the Council presented the report which sought approval on the provision of National Non-Domestic Rate Relief (NNDR) under the Localism Act 2011 and to draw down the necessary funding.

Council was of the opinion that the decision making process with regard to awarding relief needed to be more transparent. It was agreed that if there was any award of relief then all Councillors would be written to and notified.

**RESOLVED:**

**To approve that £100k be drawn down from the Business Rate Relief Reserve to cover the costs of the relief in 2015/16 and to notify all Councillors in the event of any relief being awarded.**

**59. Community Engagement Forums Annual Report**

In the absence of the Lead Executive Member for Communities and Economic Development, the Leader of the Council presented the report on the five community engagement forums (CEFs) annual reports for the year 2014-15, which set out the key achievements and impacts on delivering the community development plan as well as details of community initiatives and projects the CEF have supported through grants.

**RESOLVED:**

**To note the contents of the report and the five annual reports.**

**60. Urgent Action**

It was reported that the Chief Executive had not taken any urgent action since the last meeting of Council.

**61. Sealing of Documents**

To authorise the sealing of any documents necessary to action decisions of this Council Meeting, or any of its Committees and Boards for which delegated authority is not already in existence.

**Resolved:**

**To grant authority for the signing of, or the Common Seal of the Council being affixed to, any documents necessary to give effect to any resolutions hereby approved.**

The meeting closed at 7:13pm.



**Cllr Mark Crane**

**Leader of the Council**

**Report to Council on 1 December 2015**

This report covers the period from the Council meeting on 13 October. During this period I have attended Executive and Executive Briefings. Reporting on key items:

**Devolution**

Following the submission of devolution asks to Government on 4<sup>th</sup> September I have been involved in further discussions with colleagues in the Leeds City Region, York, North Yorkshire and East Riding, and the other hinge authorities of York, Harrogate and Craven. These discussions are taking place against a background of on-going dialogue with Government regarding further details of the bids in which Selby is taking an active role. Devolution announcements have been made recently in respect of the North East and Tees Valley and further announcements are anticipated in the Spending Review.

**District Council Network**

I attended the District Councils' Network Executive Meeting in London on 17 November and received an update on current activities and work streams.

**Great Heck**

The situation at the former Wagstaff's recycling site at Great Heck has caused the local community much distress and upset over the last few weeks and I have worked with representatives from all the organisations responding to this problem. The Environment Agency has secured substantial funding to tackle the risk of pollution from the Great Heck Waste Site and Selby District Council has also agreed to commit a significant sum to underwrite the work of the multi-agency partnership, which is working together to secure clearance of the site. This has allowed work to begin on the first phases of the clearance which has started on site already.. The EA is looking to prosecute those responsible are to recover the costs of the clearance. For that reason the amount of funding is commercially sensitive and would be exempt information under paragraphs (1), (3), (5), (6) and (7) so I am not able to discuss the potential prosecution or provide figures for the costs of the clear up in a public meeting at this stage.

## **Budget Setting**

Along with my colleagues on the Executive I have taken part in the first steps of shaping the forthcoming Council budget for the next financial year.

**Mark Crane**  
Leader



**Councillor John Mackman**

**Deputy Leader and Executive Member for Place Shaping**

**Report to Council on 1 December 2015**

This report covers the period from the Council meeting on 13 October 2015.

**1) The Local Plan Core Strategy (CS)**

As Council is aware the Selby District Core Strategy Local Plan was formally adopted by the Council on 22 October 2013 and a High Court legal challenge was subsequently dismissed on the 27 October 2014 by the appeal Judge. However, subsequently leave to appeal directly to the Court of Appeal on one count related to the Duty to Cooperate was allowed.

The Court of Appeal hearing was held in London on 22 October 2015, and on Thursday 5 November the Court of Appeal unanimously dismissed the appeal brought by Samuel Smith's Old Brewery (Tadcaster) against the decision of the High Court last autumn to refuse their application to quash the Selby District Core Strategy Local Plan. Furthermore, in dismissing the appeal the Court has ordered that the Brewery pay the legal costs of the Council.

The judgement means that the Council can move forward with the next stage of PLAN Selby, which involves looking at allocating specific sites for growth of jobs, homes and services, alongside detailed planning policies. However, we need to be aware that a possible further appeal to the Supreme Court may be exercised by the Appellant.

**2) The Sites and Policies Local Plan (PLAN Selby)**

PLAN Selby will contain detailed policies and site allocations and together with the Core Strategy it will form the Local Plan for the period up to 2027.

As indicated in my last report to Council significant issues are being considered which are fundamental to the progress of PLAN Selby. In particular critical discussions around Traffic Modelling and Transport Planning are continuing with NYCC Highways. These discussions are focusing on the level of support NYCC would be able to provide at EIP if PLAN Selby relies upon the 2008 Selby Town Model in its current form. All options are being discussed which include a new Model costing £250k / £300k and taking 18 months to develop. However, such time and cost implications would severely prohibitive the successful completion of PLAN Selby and must be avoided if the Local Plan is to survive in its current form.

Other areas of PLAN Selby which look likely to stretch well into the new year include Sport England's requirements on a Sports Pitch Study and survey work on the quality of pitches which must take place in the middle of the playing season in December and January. A draft report is not expected until February 2016. Flood risk, Ecology and the inevitable need to find G&T sites means that the consultation on PLAN Selby preferred options will not now take place in January/February as originally programmed.

The Executive is due to consider a revised Local Development Scheme at its next meeting on 3 December which will set out a revised timescale to take into account these delays.

### **3) Duty to Cooperate (DtC)**

The Localism Act, 2011, and the NPPF (2012) introduced a duty to cooperate with other local Planning Authorities and prescribed public bodies and other stakeholders when preparing Development Plan documents.

The DtC is a continuous process of engagement on Strategic Cross Boundary issues through the Plan Preparation process.

Both officers and myself continue to attend joint meetings involving our adjoining local authorities and other bodies in the Leeds City Region and North Yorkshire and York. The next scheduled meetings are due to take place in December.

### **4) Five Year Land Supply**

Without a 5 year land supply the presumption in favour of sustainable development as directed by the NPPF and Policy SP1 of the Core Strategy bites. This requires that in circumstances where a 5 year land supply is not in evidence at the time of making a planning decision then the Council will grant permission unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole or specific policies in the Framework indicate that development should be restricted.

Officers are working on establishing the position on the five year land supply and the results will be included in the Authority Monitoring Report which will be considered by Executive on 3 December.

This Council has invested additional resources into improving the robustness of the 5 Year Land Supply methodology and appraising the 5 Year Supply of housing land from a new October base date. The positive results of this detailed work is expected to become apparent when the calculations are completed for the Executive meeting on 3 December.

### **5) Programme for Growth**

#### **Selby and District Housing Trust Update**

Good progress continues to be made on the 3 new properties in St Joseph Street Tadcaster which are on schedule for completion by the end of 2015. Following the recent budget announcements by the Chancellor on rent reduction in the social housing sector and the Government's manifesto commitment to extend the Right to Buy to registered providers the Trust Board has decided not to register with the HCA as a registered provider at this time.

Through the Executive the Council has made an offer for the Trust to develop a garage site at Riccall for 5 dwellings (3 affordable, 2 for sale) and in addition for the Trust to develop a further 6 sites across the district for 22 more affordable dwellings making a grand total of 27 dwellings subject to contract. In principle, the Trust Board has accepted these offers subject to feasibility and confirmation of financial viability following a detailed design and tendering process.

**John Mackman**

Deputy Leader and Executive Member for Place Shaping



**Councillor Cliff Lunn**

**Executive Member for Finance and Resources**

**Report to Council on 1<sup>st</sup> December 2015**

**Executive 5 November 2015**

**Financial Results and Budget Exceptions**

At the end of quarter 2 the General Fund shows a small forecast deficit of £8k for the year and the HRA a surplus of £321k. Savings are progressing but there is some slippage although this is being mitigated by some underspends and increased income. The Capital Programme is progressing well – work is nearing completion on kitchen replacement programme within our HRA and electrical rewires, heating systems, door replacements and damp works are in progress. Work is also well underway on the Programme for Growth – the construction of new Leisure Village is on track for opening in June 2016.

**2<sup>nd</sup> Interim Treasury Management Report**

This report reviewed the Council's borrowing and investment activity (Treasury Management) for the 6 month period 1 April to 30 September 2015 and presented performance against the Prudential Indicators. Money market investment rates have remained low throughout 2015, with interest rates continuing at historically low levels and a rise in bank rate not expected until mid-2016 at the earliest. However the Council's cash balances have remained high and as a result, an outturn of £248k is forecasted, which is as per budget. The Council had long term borrowing of £60.3m at 30 September 2015. Interest payments of £2.5m are forecast for 2015/16. The Council's affordable limits for borrowing were not breached during this period.

**Revenue and Benefits Procurement Exercise**

This report gave an update on the procurement of a strategic partner for the delivery of the Revenues and Benefits Services at Selby and Craven district councils and ICT at Craven. The pre-qualification stage has been completed and seven companies are being invited to take part in the dialogue stage. A report on the outcome of this stage and to seek approval to progress to final tenders is expected early in 2016.

**S106 Affordable Housing Commuted Sums**

This report presented proposals for the allocation of affordable housing s106 commuted sums. The Executive approved the allocation of £99k p.a. of the receipts to be received, to bringing empty homes back into use with the remainder to support the Council's affordable housing development programme. Receipts of around £8.5m are anticipated over the next 7 years and proposals for spend will be considered as part of future capital programmes and closely monitored to ensure delivery.

## **Fees and Charges 2016/17**

The Executive considered a number of proposals to increases to existing charges and the introduction of new charges, although the majority of the Council's charges will be increased in line with inflation, in line with the approved Medium Term Financial Strategy – it is estimated that the changes will generate an additional £5k p.a. in income

## **Asset Management Strategy and Action Plan**

This report presented a refreshed Asset Management Strategy for the years 2015 to 2018. The 2015 - 2018 AMS objectives are:

- To use our assets in a sustainable way to support the Council's strategic objectives and to contribute to the development of the Council's emerging economic strategy.
- To identify ways to maximise the use of assets for the benefit of the local community and to encourage inward investment.
- To ensure our assets are fit for purpose and maintained to the required standard.

The strategy is supported by an action plan which will be monitored as part on the Council's performance management framework.

## **Portfolio issues**

I attended the National Building Control awards in London last month to represent both the North Yorkshire Building Control Partnership and Selby District Council, as our state of the art leisure centre had been nominated for a national award. I am sad to report that we were not successful but we have gained national recognition for our fantastic facility.

## **Cliff Lunn**

Executive Member for Finance and Resources





**Councillor Chris Metcalfe**

**Executive Member for Communities and Economic Development**

**Report to Council on 1 December 2015**

**Economic Development and Growing Enterprise**

East Riding of Yorkshire Council is progressing positively with the development of an Economic Development Strategy for Selby District, and presented the Strategy's draft evidence base and suggested strategic direction to the Executive on 26<sup>th</sup> November.

The evidence base will consist of a detailed economic profile, a commercial strategic site analysis, definition of Selby District's Functional Economic Areas (FEAs), consultation with local businesses and a range of other documents.

It is envisaged that the Economic Development Strategy, and a supporting set of recommendations for how the Council could support economic development in the future, will be brought to Full Council in March 2016.

The district's energy sector has received a number of recent shocks, including the announcement of Eggborough Power Station's closure and the withdrawal of Drax Power from the 'White Rose' Carbon Capture Storage (CCS) consortium.

The Government's recent announcement of a change in legislation regarding emission targets may allow Eggborough Power Station to remain in operation in the short-term, but its closure still remains a distinct possibility. The council have worked with partners including East Riding of Yorkshire Council, The Department of Work & Pensions and Job Centre+ to offer employees, whose jobs are under threat, a package of support and advice. This remains 'on standby' until confirmation from the Power Station regarding imminent closure is received.

Drax Power has withdrawn its financial support from the White Rose CCS consortium, citing the impact of the Government's recent cuts to renewable energy subsidies. The company are still providing land and human resource for the scheme however, and commitments have been made by the consortium's remaining partners (GE and BOC). The Chairs of the Leeds City Region, York, North Yorkshire & East Riding and Humber Local Enterprise Partnerships (LEPs) recently met to discuss how the region could more effectively lobby Government in support of the scheme.

The Council recently agreed a funding contribution from the Leeds City Region LEP to appoint a Business Advisor. Chris Moore started with the Council on Friday 6<sup>th</sup> November, working in the Policy team. Chris is part of a network of 'SME Growth Managers' working across the Leeds City Region and will provide small-and-medium sized enterprises in Selby District with advice and access to a number of funding schemes.

## **Retail and the Towns**

The Selby Town Enterprise Partnership (STEP) held a planning session on 24 November to agree key priorities to take forward from 2016 onwards.

In Sherburn the planning application for the Elmet Village Centre project site has been submitted and consultation with landowners has taken place. The site will require a Section 278 Agreement that will allow the improvements to the designated public highway. Three artists submitted a proposal for the sculptural commission and a decision on who to give the commission to has been made by the Parish council and Working group. Working group meetings are scheduled every month in order to ensure a good overview and progression of the project.

Work around the Tadcaster Riverside Project continues. Due to the positioning of the site it has been identified that a number of assessments and consultation processes will need to be considered and completed prior to applying for planning permission. As a part of this process, the cost outline is being reviewed to ensure that budget outlines are clear, and that any spends are appropriate to the current stage of the project.

## **Community Safety Partnership**

From the 1 July 2015, Section 26 of the Counter-Terrorism and Security Act 2015 placed a duty on the District Council and other specified authorities in the exercise of their functions, to have “due regard to the need to prevent people from being drawn into terrorism”. Authorities subject to the provisions must have regard to the Prevent Duty Guidance when carrying out the duty. An assessment of Selby District Council functions has been carried out, and an action plan which includes high, medium and low priority actions has been developed. Work has started to ensure that the required actions are implemented, and to integrate the duty specifications into the necessary day-to-day processes and procedures.

The Home Office is providing up to £10,000 funding for local authorities in support of implementing the new Prevent duty. Selby District Council has signed and submitted the Prevent implementation grant agreement has been signed and the business plan to support the use of the funding is being drafted.

National Hate Crime Week took place from the 10-17 October 2015. The purpose of the Hate Crime Awareness Week was to tackle the issue of Hate Crime by raising awareness of what it is and how to respond to it. Emphasis was placed on the importance of discussing the issue and any concerns that an individual may have and to encourage reporting in the area. A multi-agency approach was taken, with Selby District Council and North Yorkshire Police leading on joint action days. Local schools ran sessions for pupils, a stall was established at the Monday market, and a number of workshops and engagement sessions took place during community group sessions and in community buildings.

A review of the impact of the awareness week will be undertaken by the Police in order to establish how successful it was for increasing reporting figures.

**Chris Metcalfe**



**Councillor Dave Peart**

**Executive Member for Housing, Leisure, Health and Culture**

**Report to Council on 1 December 2015**

Tour de Yorkshire legacy

We expect the route of the 2016 Tour de Yorkshire to be announced during December, with the possibility of the district's involvement as a 'through-stage' in the race: although, importantly, the route remains to be confirmed. We have started work on plans to support community and business involvement in the race, should we be part of the 2016 event. Regardless of whether we are involved in the route, however, as the race has such a high national and international profile we will look to support our residents and businesses to take advantage of this opportunity. This builds on the success of events such as the recent 'Summer of Cycling' photography exhibition and business event.

Sport, Leisure and Well-being

This latest reporting period saw an increase in uptake of swimming lesson at Selby Leisure Centre, which reverses a normal downward trend in this activity at this time of year. Community Clubs hosted at Selby Leisure Centre are beginning to use it as a training venue for Club Coaching Courses as they begin to strengthen volunteer and club coaching staff.

With regard to community outreach work Sport Development staff has been working with Selby College students to use Selby Leisure Centre and Sport Development activities as themes for Business Degree Students as well as Sports Degree and Level 3 Sport Students to complete module sections as part of course curriculum work.

Sport Development Officers have worked with partners at North Yorkshire Sport and North Yorkshire Youth to deliver Dame Kelly Homes Get on Track course hosted in Selby but also using Tadcaster facilities and funded in part by PCC. The Dame Kelly Holmes Trust Get on Track programme provides disadvantaged young people (aged 16-25) with the self-discipline, motivation and confidence they need to enhance their employability and to lead more active lives. Each programme

runs by receiving referrals from a range of partners, who then attend an 8 week intensive programme (approx. 2 days per week) led by athlete mentors during which exit routes are identified and young people are supported to continue to develop & achieve. Young people graduating previous programmes have found work, continue with their studies, volunteer and take part in regular sport and activity. The course is due to finish late November with keep in touch days planned for future across the coming year.

MILI project continues to engage with participants in positive weight loss. We are starting to see those finishing the project convert into Lifestyle members, suggesting the project is having a positive effect on changing people lifestyles with regard to healthy diet and exercise. This period saw a renegotiation of the overall achievement target from this project, as the initial annual target looks likely to be reached before May 2016.

The 'Active After Cancer' Macmillan launched Walking Football sessions at Tadcaster Leisure Centre Friday 11-12pm.

Health Active Schools programme has continued to be a popular scheme. As a new offer to the programme, the Healthy Active Schools Officer has been developing and delivering a portfolio of **After School Club** linked to a **School Coaching Service** within schools across the District. Within the school term **Activation Day** have also been developed to replicate the Health Active Schools Project as a taster session but within the leisure centre, enabling primary schools to get a snapshot of the facilities and opportunities we offer within the leisure centre, for the promotion of PE or increased activity onsite not in school.

Dave Peart



**Councillor Jack Crawford - Chair of Scrutiny Committee**

**Update to Council 1 December 2015**

There have been no meetings of the Scrutiny Committee, following the update report provided at Full Council on 13 October 2015.

The next Scrutiny Committee meeting will be held on 23 November 2015.

**Councillor Jack Crawford**  
Chair, Scrutiny Committee



## **Councillor J Deans – Chair of Policy Review Committee**

### **Update to Council 1 December 2015**

#### **Policy Review Committee – 21 October 2015**

##### **PLAN Selby – Responses to Focused Engagement**

The Committee was informed that the provisional meeting scheduled to consider the Enforcement Report on Tuesday 17 November, had now been cancelled. The Executive had been due to consider the Enforcement Report in November; however this had been deferred until December. Therefore, the Policy Review Committee had been asked to consider the Enforcement Report on 19 January 2015, to align with the revised timetable.

#### **PLAN SELBY – RESPONSES TO FOCUSED ENGAGEMENT**

Keith Dawson, (Director Access Selby), Stephen Hay, (Interim Planning Policy Manager) and Councillor John Mackman, (Deputy Leader of the Council and Lead Executive Member for Place Shaping) provided the Committee with an update on the key issues arising from the Plan Selby Focused Engagement Consultation which had been held 29 June – 10 August 2015.

The Interim Planning Policy Manager reported that the representations received in response to the Focused Engagement related to the following key themes:

- Designated Service Villages (DVS) and Growth Options
- Development Limits
- Employment Land Review
- Green Belt
- Highways Assessment
- Strategic Housing Market Assessment (SHMA)
- Market Towns Study
- Site Selection
- Villages in Green Belt
- Strategic Countryside Gap

The Committee was informed that further work was underway in relation to the most suitable growth options for Selby Town based on detailed site assessments. The Interim Planning Policy Manager reported there was a need to focus on a balanced range of sustainable sites for housing and employment. In particular, it was important to plan positively for the needs of an ageing

population. In addition, Councillors were advised that in order to maintain the existing network of green spaces to a good standard, work would be focused on maintaining and strengthening Selby's natural and heritage assets.

With regard to Tadcaster, the Interim Planning Policy Manager informed the Committee that land availability and deliverability had been recognised as key local issues. Due to the land availability constraints in Tadcaster, PLAN Selby would need to identify land for three times the amount of housing identified as appropriate for the town. Councillors were advised that the regeneration of Tadcaster town centre was a key priority focus.

The Committee was informed that local concern had been raised about the scale of growth linked to the approval of recent planning applications in Sherburn in Elmet. It was noted that whilst some respondents' considered Sherburn in Elmet a highly sustainable settlement for growth others expressed concern regarding the capacity of the local infrastructure to support growth. Particular attention was drawn to the capacity of the local primary schools that were said to be oversubscribed and unable to accommodate additional pupils.

Councillor Mackman addressed the Committee in relation to the Council's Five year housing land supply. He reported that the Council had been working extremely hard to address the issue and an update report would be presented to Full Council on 1 December 2015.

The Director Access Selby and the Interim Planning Policy Manager were asked to take into consideration the comments raised by members during the meeting.

#### **WORK PROGRAMME 2015/16**

The Committee agreed to include the Enforcement Report on the agenda for the Committee meeting to be held in 19 January 2015

**Councillor J Deans**  
Chair, Policy Review Committee



**Councillor Mike Jordan – Chair of Audit and Governance Committee**

The Committee has not met since the previous Council meeting on 13 October.

The next meeting of the Committee is 13 January 2016.

I would like to take this opportunity to pass on Season's Greetings from the Committee to all councillors and officers.

**Councillor M Jordan**

Chair, Audit and Governance Committee





## Public Session

Report Reference Number: C/15/10

Agenda Item No: 12

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<b>To:</b>	<b>Council</b>
<b>Date:</b>	<b>1 December 2015</b>
<b>Authors:</b>	<b>Michelle Dinsdale – Policy Officer Chris Watson – Assistant Policy Officer</b>
<b>Lead Officer:</b>	<b>James Cokeham – Head of Policy</b>
<b>Executive Lead:</b>	<b>Councillor Peart – Lead Member for Housing, Leisure, Health and Culture</b>

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**Title:** Alcohol Licensing Policy

### Summary:

In order to ensure compliance with the Licensing Act 2003, a reviewed statement of Licensing Policy is required in January 2016. A draft Alcohol Licensing Policy (Appendix A) has therefore been developed in consultation with a number of key stakeholders.

The main changes to the draft policy relate to alterations in the regulatory framework. Consultation on the revised draft policy commenced on 14 September 2015 and finished 26 October 2015.

Executive have recommended the policy for approval from Council on 1 December 2015. The policy will come into force from 1 January 2016 subject to Council approval.

### Recommendations:

- i. **For Council to approve the Alcohol Licensing Policy to come into force from 1 January 2016**

### Reasons for recommendation

To ensure compliance with the Licensing Act 2003

## **1. Introduction and background**

- 1.1 Selby District Council is designated under the Licensing Act 2003 (the Act) as the licensing authority for Selby District and has responsibility under the Act to issue licences for the sale and supply of alcohol, regulated entertainment and the supply of hot food between 11pm and 5am.
- 1.2 Section 5 of the Act requires all Licensing Authorities to prepare and publish a statement of Licensing Policy that they propose to apply in exercising their functions under the Act. Section 7 of the Act provides that functions in relation to the five year Licensing Policy cannot be delegated but must be approved by full Council.
- 1.3 In accordance with Section 5 of the Act, a licensing authority must keep a Statement of Licensing Policy under review and make such revisions as it considers appropriate.
- 1.4 Selby District Council last published its policy in January 2011 and since this time the Police Reform and Social Responsibility Act 2011, Live Music Act 2012 and Deregulation Act 2015 have been introduced which have resulted in significant changes to legislation.

## **2 The Report**

- 2.1 A scheduled review of the Alcohol Licensing Policy has been undertaken to ensure an updated Statement of Licensing Policy is in place by January 2016 which reflects the significant changes in the legislative and regulatory framework over the last five years.
- 2.2 A statement of Licensing Policy sets out how the Council will exercise its licensing functions. The overriding aim of the Licensing Policy is to promote the four licensing objectives:
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 2.3 The general aim of the policy is to seek a balance between the benefits that licensed businesses bring to the district, whilst maintaining that the protection of the public is considered generally sound.

## 2.4 **Policy Review Committee**

2.5 On 14 July 2015 officers presented a report to Policy Review Committee in order to provide the committee with the opportunity to discuss the review.

2.6 Following recommendations from Policy Review Committee, the following have been included in the draft policy:

- licensing responsibilities in respect of alcohol wholesale and retail businesses; and
- the Council's joint partnership working on enforcement to promote the Licensing Objectives.

## 2.7 **Changes to the Policy**

2.8 As part of the review, officers undertook a benchmarking exercise, in addition to identifying any changes required by legislation or the statutory Guidance issued by the Secretary of State.

2.9 The main changes to the proposed revised policy are in relation to:-

- Early Morning Restriction Orders and the Late Night Levy;
- The revised definition of those who can make representations;
- Introduction of the Licensing Authority and Public Health as responsible authorities;
- Explanation of the implications of the Live Music Act 2012;
- Revisions to reflect the new definitions of regulated entertainment;
- Changes to the temporary event notice regime;
- A more concise outline of what is suggested in operating schedules;
- Suspension as a result of non-payment of licence fees; and
- New appendix outlining the various delegated functions including the recommended separation of functions between the officers acting on behalf of the Licensing Authority and those responsible for undertaking the Responsible Authority functions

2.10 Prior to undertaking formal consultation, a revised draft was issued to and discussed with the Responsible Authorities. Responsible Authorities are designated by the Act and act as the main sources of advice to the Authority on the promotion of the licensing objectives. The Solicitor to the Council and the Senior Enforcement Officer discussed the draft with North Yorkshire Police and Environmental Health Officers. Their comments have been included in the draft policy.

## **2.11 Licensing Committee**

2.12 A report which included the draft Alcohol Licensing Policy was taken to Licensing Committee on 7 September asking Members to assess the draft prior to consultation. It was noted that, after adoption of the policy by Council, the Licensing Committee will be bound by the policy and subsequent decisions would need to be referenced to the policy. Consequently, the Committee were encouraged to make submissions to the consultation.

## **2.13 Consultation**

2.14 The consultation process commenced on 14 September 2015 and finished 26 October 2015. The consultation process has been wide, including Responsible Authorities, current licence holders or their representative(s), District Councillors, Parish and Town Councils and other corporate bodies (including: British Institute of Innkeepers; British Beer and Pub Association; British Amusement Catering Trade Association; and Federation of Small Businesses).

2.15 The consultation was raised under 'Any Other Business' at a Selby Town Trade and Enterprise Partnership meeting on 29 September 2015. This was in order to raise awareness of the policy to local business owners and invite them to make formal responses.

2.16 In addition to the targeted consultation, the policy was made available online (accompanied by a small social media campaign of awareness raising) and hardcopies were made available in the Customer Contact Centre.

2.17 As part of the consultation, on 12 October the Solicitor to the Council met with the Licensing Committee in order to provide the committee with a further opportunity to discuss the draft policy.

2.18 The Licensing Committee were supportive of the draft policy. They were also supportive of making further changes to remove the requirements for licences for the sale of hot food at certain types of premises such as motorway service areas, petrol stations or community centres under new provisions in the Deregulation Act 2015. This proposal was subject to the views of North Yorkshire Police on any crime and disorder implications. The Licensing Committee's full consultation submission can be viewed at Appendix B.

2.19 A meeting took place between the Licensing Committee and North Yorkshire Police on 2 November 2015. North Yorkshire Police recommended that; the Council allows exemptions from needing Late Night Refreshment licences:

- to those premises types listed at 3(a) to 3(f) of the Licensing Act 2003 (Late Night Refreshment) Regulations 2015 (the Regulations); but
- not to those premises listed at 3(g) of the Regulations.

2.20 The Police considered that exemption 3(g) of the Regulations (to licensed premises authorised to sell (by retail) alcohol for consumption on the premises between the hours of 11pm and 5am) had potential to be abused by takeaway owners. The exemption would allow a takeaway with an appropriate alcohol licence to then be exempt from needing a licence to serve hot food or drink from 11pm to 5am. Licensing Committee's support of Late Night Refreshment deregulation (as mentioned in 2.18) was therefore considered in light of the Police's comments and 3(a) to 3(f) have been included in the draft policy, but 3(g) has not.

2.21 In addition to the response from Licensing Committee, officers have received three other responses, only one of which proposes any amendments. This is from North Yorkshire County Council's Health and Adult Services team and has been included in the draft policy. These three consultation responses are set out in the table at Appendix C.

## 2.22 **Executive**

2.23 Executive considered the Alcohol Licensing Policy on 5 November 2015. A verbal update was provided from Cllr Peart which contained an amended recommendation following feedback from the previously mentioned meeting between Licensing Committee and North Yorkshire Police on 2 November 2015. This recommendation was for the policy to be recommended for approval by Council, subject to inclusion of the following wording in section 21:

*"The Licensing Authority under power given in regulations exempts the following from requiring a Late Night Refreshment Licence:*

- 1. Motorway service areas;*
- 2. Petrol stations;*
- 3. Local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;*
- 4. Schools (except domestic premises) unless there is an event taking place at which more than 500 people are present*
- 5. Hospitals (except domestic premises); and*
- 6. Community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present."*

### **3 Legal/Financial Controls and other Policy matters**

#### **Legal Issues**

- 3.1 Failure to formally review or consult on a Licensing Policy within the timetable required by the Act, Regulations and Guidance would mean the Council was not complying with its statutory duty and would also leave the Council open to legal challenge and any subsequent costs.

#### **Financial Issues**

- 3.2 None as a result of this report.

#### **Impact Assessment**

- 3.3 The general aim of the policy is 'to seek a balance which is considered to be generally sound between: the benefits that licensed businesses bring to the district; and maintaining the protection of the public'.
- 3.4 This is achieved by the overriding aim of the Alcohol Licensing Policy, which is to promote the four licensing objectives:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
- 3.5 An Equality, Diversity and Community Impact Screening has been completed and no adverse impact has been identified.

### **4. Conclusion**

- 4.1 The current Alcohol Licensing Policy has been reviewed in order to ensure compliance with changes in legislation and to meet the statutory review deadline of January 2016. The policy aim is to strike a balance between the regulated businesses benefits and public safety within the district.
- 4.2 The proposed policy, which has been subject to public consultation, will ensure that the Council is compliant with the Licensing Act 2003 and promote the overriding statutory licensing objectives. Executive have recommended that the policy be approved by Council. The policy is scheduled to be in force on 1 January 2016 subject to approval from Council on 1 December 2015.

## 5. Background Documents

Licensing Act 2003

<http://www.legislation.gov.uk/ukpga/2003/17/contents>

Revised Guidance issued under section 182 of the Licensing Act 2003 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418114/182-Guidance2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf)

Licensing Act 2003 (Late Night Refreshment) Regulations 2015

[http://www.legislation.gov.uk/uksi/2015/1781/pdfs/uksi\\_20151781\\_en.pdf](http://www.legislation.gov.uk/uksi/2015/1781/pdfs/uksi_20151781_en.pdf)

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### Appendices:

**Appendix A:** Draft Alcohol Licensing Policy

**Appendix B:** Licensing Committee Consultation Response

**Appendix C:** Summary of Consultation Responses

**Access Selby**

*A new approach to public service*

**SELBY**

DISTRICT COUNCIL

*Moving forward with purpose*

# Alcohol Licensing Policy

*A new approach to public service*



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# PART 1

## 1 Introduction

- 1.1 Selby District Council is the Licensing Authority (“the Licensing Authority”) under the Licensing Act 2003 (“the 2003 Act”). The Licensing Authority is responsible for the administration and issuing of Premises Licences, Club Premises Certificates, Temporary Event Notices and Personal Licences in the District of Selby in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
- 1.2 Selby district is home to a number of popular restaurants, bars and entertainment venues. The Licensing Regime must balance the competing demands of those who benefit from licensed activities whilst ensuring that these activities do not impact upon residents in a negative way.
- 1.3 The Licensing Authority is aware of the value to the community of a broad range of cultural entertainments, particularly live music, dancing and theatre. The Licensing Authority wishes to see these encouraged for the benefit of all. When drawing up this Policy the Licensing Authority has in mind a wide range of licensed premises such as pubs, members’ clubs, social clubs, restaurants, cafes, theatres, hotels and late night takeaways.
- 1.4 This Policy intends to shape the future of licensing, entertainment and related social activities within the district and has been produced after consultation with all Responsible Authorities, Premises and Club Premises Certificate licence holders, licensed trade representatives and the general public incorporating businesses and residents within Selby district.

# PART 2

## 2 The Policy

- 2.1 The 2003 Act requires a Licensing Authority to prepare and publish a ‘Statement of Licensing Policy’ (“the Policy”) that sets out the principles the Licensing Authority will apply to promote the four Licensing Objectives set out below. The Licensing Authority must base its decisions, in relation to determining applications and attaching any conditions to licences or certificates, on the promotion of these objectives.
- 2.2 This Policy encompasses experience gained in the implementation and regulation of the 2003 Act. The overriding aim of the Policy is to promote the four licensing objectives, each is of equal importance:
  - **The prevention of crime and disorder**
  - **Public safety**
  - **The prevention of public nuisance**
  - **The protection of children from harm**

- 2.3 This Policy was prepared in accordance with the provisions of the 2003 Act having had due regard to the Guidance issued under s182 of the 2003 Act (“the Guidance”). This Policy was reviewed in 2015 following consultation between 14<sup>th</sup> of September and 26<sup>th</sup> of October and will come into force in January 2016. Due consideration and appropriate weight has been given to all responses in the production of this revised Policy.
- 2.4 This Policy will be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate. In any event the Licensing Authority is required to review their Statement of Licensing Policy every 5 years. The Licensing Authority may make revisions to this Policy following changes to, for example:
- local circumstances;
  - the Licensing Act, associated regulations or statutory guidance;
  - national legislation; or
  - the policies and practices of a responsible authority
- 2.5 This Policy shall not undermine the right for any individual to apply for a variety of permissions under the terms of the 2003 Act and to have any such application considered on its individual merits. Similarly the Policy shall not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act. Each application shall be treated on its own merit.
- 2.6 This Policy is intended to provide clarification to Responsible Authorities applicants and any person on how this Licensing Authority will determine applications and reviews. As the ‘vicinity’ test has now been removed, the Licensing Authority will consider relevant representations from any person irrespective of where they live in relation to the subject premises, however, the Licensing Authority shall give greater weight to the representations of persons immediately affected by the premises and its operation.
- 2.7 The Licensing Authority may depart from this Policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the four licensing objectives. Where it does depart from this Policy full reasons will be provided.
- 2.8 Where revisions are made to the Guidance there may be a period of time when this Policy is inconsistent with the Guidance. In these circumstances the Licensing Authority shall have regard, and give appropriate weight, to the revised Guidance in conjunction with this Licensing Policy.
- 2.9 This Policy recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics.
- 2.10 The applicant is expected to comply with relevant legislation on disability including access and egress for disabled persons. This policy will not be used to duplicate such duties as already exist in this area. Further advice can be obtained from the Equality and Human Rights Commission web site [www.drc-gb.org](http://www.drc-gb.org).

### 3 Cumulative Impact

- 3.1 The Licensing Authority will not take “need” into account when considering an application, as this is a matter for planning and the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to problems of nuisance and disorder outside and some distance from the premises.
- 3.2 Evidence that areas are becoming saturated with the number, type and density of licensed premises has to be gathered before a “special policy” to deal with this problem can be adopted. The Licensing Authority will consider evidence from the following sources:-
- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots
  - Statistics on local anti-social behaviour offences
  - Health related statistics such as alcohol-related emergency attendances and hospital admissions
  - Environmental health complaints, particularly in relation to noise and litter
  - Complaints recorded by the Council, which may include complaints raised by local residents or resident’s associations
  - Residents questionnaires
  - Evidence from local councillors
  - Evidence obtained through local consultation
  - Trends in licence applications, particularly trends in applications by types of premises and terminal hours
  - Changes in terminal hours of premises
  - Premises capacities at different times of the night and the expected concentrations of drinkers who will be expected to be leaving premises at different times
- 3.3 In these circumstances the Licensing Authority may consider that the imposition of conditions is unlikely to address these problems and further, may consider the adoption of a “special policy” of refusing new premises licences or club premises certificates because the area is saturated with licensed premises and the granting of any more would undermine one or more of the licensing objectives.
- 3.4 The Licensing Authority will take the following steps into consideration when deciding whether or not to adopt a “special policy”:-
- Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm
  - Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or protection of children from harm
  - If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
  - Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).

- Consult with those specified in section 5(3) of the Licensing Act 2003 (e.g. police, fire etc) and subject to the outcome of the consultation, include and publish details of the “special policy” in the licensing policy statement.

3.5 The effect of adopting a “special policy” of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated by the applicant that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the “special policy” issues in their operating schedules in order to rebut such a presumption. However, a “special policy” must stress that this presumption does not relieve responsible authorities or any other person of the need to make a relevant representation before a licensing authority may lawfully consider giving effect to its “special policy”. If no relevant representations are received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities, such as the police or any other person can make written representations maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information which has been before the licensing authority when it developed its statement of licensing policy.

3.6 Once adopted special policies should be reviewed regularly to assess whether they are needed any longer or if those which are contained in the special policy should be amended. While a special policy is in existence, applications will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced. The Licensing Authority will review any special policies it adopts when it reviews the Licensing Policy to see whether they have had the effect intended, and whether they are still needed.

3.7 The Licensing Authority is aware that there are numerous other mechanisms for controlling cumulative impact outside the licensing regime such as:-

- Planning controls;
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- The provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter rounds;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- The confiscation of alcohol from adults and children in designated areas;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- Prosecution for the offence of selling alcohol to a person who is drunk or allowing a sale )
- Police powers to close down instantly for up to 24 hours ( extendable to 48 hours ) any licensed premises in respect of which a Temporary Event Notice (“TEN”) has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance
- The power of police, other responsible authorities or other persons to seek a review of a licence or certificate, and
- Early Morning Restriction Orders

- 3.8 During the first ten years of this policy, no particular circumstances have arisen and, at the present time, it is not considered that any of this authority's area warrants consideration of a special policy.

## **PART 3**

### **4 Principles**

- 4.1 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
  - the representations (including supporting information) presented by all the parties;
  - this Guidance;
  - its own statement of licensing policy.
- 4.2 The use of premises for the sale or provision of alcohol, regulated entertainment or late night refreshment is subject to planning control. Such use will require planning permission or must otherwise be lawful under planning legislation. Planning permission is generally required for the establishment of new premises or the change of use of premises.
- 4.3 In line with the S182 Guidance the planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 4.4 Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, the licensing committee and officers will consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.
- 4.5 Where relevant representations are received, any decision on a licence application will not consider whether any decision to grant or refuse planning permission or building consent was lawful and correct. It will take into account what the impact of granting the application will be on the four licensing objectives.
- 4.6 In general, all premises which are the subject of an application, should have the benefit of planning permission, or be deemed permitted development. The onus will be on the applicant to demonstrate that planning permission has been granted or that the premises have the benefit of permitted development rights. Failure to do so may result in representations and the licence being refused or granted subject to conditions which take account of the planning permissions in existence.

- 4.7 In addition, all new developments and premises which have been subject to structural alterations since 1994 will have building control approval in the form of a Building Regulations Completion Certificate. The onus will be on the applicant to demonstrate that any structural alterations have been approved by building control. Failure to do so may result in representations and the licence being refused or granted subject to conditions.
- 4.8 Where premises have not obtained such consents or licences, they may be liable for enforcement action under the appropriate legislation. There may be circumstances when as a condition of planning permission; a terminal hour is set for the use of commercial premises. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Licensing applications therefore will not be a re-run of the planning application process and licensing decisions will not cut across decisions taken by the Planning Committee or permissions granted on appeal.
- 4.9 The Licensing Authority shall expect every licence/certificate holder or event organiser to minimise the impact of their activities on the surrounding area and any anti-social behaviour created by their customers in and within the vicinity of their premises by taking appropriate measures and actions consistent with that responsibility. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 4.10 The Licensing Authority may recommend actions as good practice. Applicants are asked to give these recommendations serious consideration as adoption of best practices may be considered in the investigation of complaints if they arise in connection with the premises in the future.
- 4.11 The Licensing Authority, however, recognises that the licensing law is not the primary mechanism for the general control of nuisance, noise or anti-social behaviour particularly once individuals have left the vicinity of the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence or certificate. However licensing controls and targeted enforcement should have a positive impact on the immediate vicinity of the licensed premises.
- 4.12 The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the Gambling Act 2005, the Equality Act, The Clean Neighbourhoods and Environmental Act 2005, Health and Safety at Work, etc. Act 1974, Environmental Protection Act 1990, the Noise Act 1996 and the Regulatory Reform (Fire Safety) Order 2005, etc.
- 4.13 The Licensing Authority seeks to encourage the provision of a culturally diverse range of regulated entertainment within the district, particularly live music and dance that are accessible to all people.
- 4.14 The Licensing Authority has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises.



- 4.15 In drafting this Policy, the Licensing Authority acknowledges its duty under Section 17 of The Crime and Disorder Act 1998 in that the Council has a duty to exercise its functions with a due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area. In addition the Licensing Authority will seek to support strategies where they are allied to the Licensing Objectives such as National and Local Harm Reduction Strategies and any other relevant strategies and policies.

## 5 Conditions

- 5.1 The Licensing Authority is unable to refuse or impose conditions on applications where no relevant representations have been made. Relevant representations are those which relate to the effect of granting or varying the licence on the four licensing objectives. Where relevant representations have been made, the Licensing Authority will aim to facilitate negotiations/mediation between the applicant and Responsible Authorities and any other person to establish whether mutually agreed amendments to the application can result in the representation being withdrawn. If negotiations/mediation proves unsuccessful the Licensing Authority will convene a hearing and where necessary take steps that are appropriate and proportionate to promote the four licensing objectives. This may result in the grant or refusal of the application or the imposition of conditions.
- 5.2 Where conditions are imposed at a licensing hearing, they shall be appropriate and proportionate and shall be tailored to the size, style, characteristics and activities that take place at the premises concerned. However, the Licensing Authority accepts that Responsible Authorities may suggest conditions following negotiation with the applicant when completing their Operating Schedules.
- 5.3 In addition, conditions imposed by a Licensing Authority shall be precise and enforceable, clear in what they intend to achieve, shall not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation, shall not replicate offences set out in the 2003 Act or other legislation, shall be justifiable and capable of being met and shall focus on matters which are within the control of the individual licence holders and not seek to manage the behaviour of customers once they are beyond the direct management of the licence/certificate holder and their staff.
- 5.4 The Licensing Authority recommends that conditions volunteered in the Operating Schedule should be:
- appropriate for the promotion of the licensing objectives;
  - proportionate and enforceable;
  - consistent and not conflicting;
  - relevant, clear and concise;
  - not duplicate other legislation; and
  - expressed in plain language capable of being understood by those expected to comply with or enforce them.
- 5.5 The Licensing Authority when preparing the licences/certificates will not simply replicate the wording from an applicant's Operating Schedule but will interpret conditions in accordance with the applicant's overall intentions.

- 5.6 Applicants are advised before completing their Operating Schedule to seek guidance on the framework for writing conditions in their Operating Schedules. Guidance is available from the Council.
- 5.7 The Licensing Authority recognises that in accordance with Section 43 of the Regulatory Reform (Fire Safety) Order 2005, any conditions imposed by the Licensing Authority that relate to any requirements or prohibitions that are or could be imposed by that Order, shall have no effect. The Licensing Authority shall therefore not impose fire safety conditions where the Order applies.
- 5.8 In much the same way, the Indecent Displays Act 1981 prohibits the public display of indecent matter and the Licensing Authority shall therefore not seek to impose conditions concerning such displays inside or outside the premises. The existing laws governing indecency and obscenity are adequate to control adult entertainment of this nature. However, the Licensing Authority shall, if it considers necessary in certain premises, consider attaching conditions following a hearing addressing the exclusion of minors.
- 5.9 Although it is accepted that licence conditions should not duplicate other statutory provisions, the Licensing Authority and licensees should be mindful of the requirements and responsibilities placed on them by other legislation.
- 5.10 Whilst the Licensing Authority encourages cultural activities and live music within the district it is also aware of the need to avoid measures that will deter live music when determining what conditions should be placed on licences/certificates, particularly those conditions that impose costs of a disproportionate nature. However, any adverse environmental impact that may arise from individual applications will also be taken into account when considering such applications. With regard to dancing, the Licensing Authority acknowledges the changes set out in the Policing & Crime Act 2009 related to lap dancing clubs and their re-classification as sexual entertainment venues.
- 5.11 With reference to the Protection of Children from Harm Licensing Objective, those conditions relating to the admission of children to any premises remain a matter for the individual licensee or club or person who has given a Temporary Event Notice (TEN). Venue operators may however volunteer prohibitions or restrictions in their Operating Schedules.
- 5.12 All relevant representations will be considered during the decision making process unless they are considered to be frivolous, vexatious, repetitious, or not in line with the four Licensing Objectives.
- 5.13 The Glossary at the back of this Policy sets out the licensable activities and relevant definitions surrounding the licensing process. If any member of the public is uncertain as to whether or not they require a licence or certificate they should contact Licensing Team, Selby District Council, Civic Centre, Doncaster Road, Selby, YO8 9FT or e-mail the Licensing Authority on; [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk).

## **6 Licensing Hours**

- 6.1 With regard to licensing hours, when the Licensing Authority's discretion is engaged, it will consider each application on its own merit and shall not seek to impose predetermined licensed hours. Where there are no objections to those hours raised by Responsible Authorities or other persons on the basis of the promotion of the licensing objectives, the Licensing Authority will have no discretion but to grant the hours requested.
- 6.2 With regard to shops, stores and supermarkets, the Licensing Authority shall normally expect such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons for restricting those hours, based on the licensing objectives.
- 6.3 The Licensing Authority recognises that in some circumstances flexible licensing hours for the sale of alcohol may help to ensure that concentrations of customers leaving premises simultaneously are avoided.

## **7 Early Morning Restriction Orders**

- 7.1 The Police Reform and Social Responsibility Act 2011 ("the PRSR Act") gives the Licensing Authority the discretion to restrict sales of alcohol in the whole or part of their area by introducing an Early Morning Restriction Order ("EMRO") to restrict the sale or supply of alcohol between the hours of midnight and 6am to tackle high levels of alcohol-related crime and disorder, nuisance and anti-social behaviour.
- 7.2 The decision to implement an EMRO must be evidence based and the Licensing Authority must be satisfied that such an Order would be appropriate to promote the licensing objectives. Furthermore, the Licensing Authority shall consider the potential burden that would be imposed on premises licence/certificate holders.
- 7.3 As an EMRO is a powerful tool and a very stringent approach in tackling issues, the Licensing Authority will first consider whether other measures may address the problems and achieve the same goal. These could include:
- The use of a Cumulative Impact Policy ( see Part 2 point 3 );
  - Taking a robust joint agency approach to tackling problem premises;
  - Prior to reviewing a licence/certificate, meeting with the DPS and licence/certificate holder to ensure a Premises Improvement Plan is in place
  - Where this fails, reviewing Premises Licences/Certificates by the North Yorkshire Police or other Responsible Authorities;
  - Using other mechanisms to control the cumulative impact, e.g. planning controls;
  - Using other mechanisms to control noise and anti-social behaviour;
  - Using Closure Notices and Closure Orders;
  - Providing powers to designate parts of the local authority area as places where alcohol may not be consumed publicly;
  - police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
  - Provision of CCTV;
  - Provision of night marshals and street angels, introduction of a late night levy;
  - Reviews and Expedited Reviews of individual premises, etc.

- 7.4 The Licensing Authority would periodically review any active EMROs in order to ensure that it continues to be appropriate for the promotion of the licensing objectives. The applicant may be required to periodically submit evidence as part of this process to demonstrate that the EMRO is appropriate and achieving the goals and confirming that these cannot be achieved by alternative methods.

## **8 Late Night Levy**

- 8.1 The PRSR Act has also introduced the power for the Licensing Authority to charge a late night levy (“the levy”) to all premises within Selby District. The late night levy is a discretionary power allowing Councils to collect an annual fee from all licensed premises in the District that are authorised to sell alcohol between the hours of midnight and 6am as a means of raising a contribution towards the costs of policing the night time economy. The decision to introduce, vary or cease the levy will be made by full Council in conjunction with the Police and Crime Commissioner and North Yorkshire Police. However, any decision in relation to the administration and design of the levy will be delegated to the Licensing Committee.

## **9 Representations**

- 9.1 Under the 2003 Act both Responsible Authorities and ‘other persons’ may make representations on licence/certificate applications and review existing premises licences/certificates. A list of Responsible Authorities can be found at Appendix 3.
- 9.2 ‘Other persons’ is defined as any individual, body or business that may be affected by the operation of a licensed premises regardless of their geographical location. Although the other person may be in any geographical location, any representation they make must be relevant to one or more of the licensing objectives. In addition the other person is encouraged to provide evidence supporting their representation or review. This may be for example by way of recording dates where noise nuisance or anti-social behaviour occurs. Any representation however must be specific to the premises in question and not to the area in general.
- 9.3 In addition all representations must be relevant relating to the likely effect of the grant of the licence/certificate on the promotion of at least one of the licensing objectives. The Licensing Authority will determine whether a representation from an individual, body or business is relevant, frivolous, repetitive or vexatious. In borderline cases, the benefit of the doubt will be given to the person or body making that representation.
- 9.4 Any person aggrieved by a rejection of their representation may lodge a complaint through the Council’s complaints procedure or alternatively by way of judicial review.

## **10 Reviews**

- 10.1 Responsible Authorities and other persons may apply to review a licence or certificate where it is believed an operator of a licensed premises is in their opinion managing their business in a manner that does not promote one or more of the four Licensing Objectives.
- 10.2 Examples of triggers for a review may be: continual complaints of noise from or in the vicinity of the premises; continual complaints of noise or intimidation from customers outside the premises; an accumulation of breaches of licensing conditions; poor management where the licensing objectives are undermined; underage sales of alcohol (persistent or otherwise); crime-related activity; anti-social behaviour; sales of alcohol outside of the permitted hours. This list is not exhaustive
- 10.3 Where an application for a review has been submitted the Licensing Authority will determine whether or not it is relevant, frivolous, vexatious or repetitious. In borderline cases the benefit of the doubt will be given to the person making that application. Advice on reviews is available from the Council.
- 10.4 The Licensing Authority will expect applicants for a review to gather sufficient and relevant evidence relating to the specific premises that is subject to the review. This may include a diary of events and any potential witnesses. With regard to reviews on noise complaints, applicants are encouraged to liaise with the Council's Environmental Protection team who may be able to assist with and support the review process.
- 10.5 Prior to a requesting a review, however, North Yorkshire Police, other Responsible Authorities or the Licensing Authority may seek to meet with the licence/certificate holder to address issues through a premises improvement plan.

## **11 Licensing Authority as a Responsible Authority**

- 11.1 The PRSR Act amended the 2003 Act to include the Licensing Authority as a Responsible Authority. This Licensing Authority will therefore be empowered to fulfil the same functions as other Responsible Authorities under the 2003 Act including making relevant representations to new licence/certificate applications and variations and reviewing an existing licence/certificate.
- 11.2 The Licensing Authority will however not normally act on behalf of other parties (e.g. local residents, councillors or community groups) as such parties may make relevant representations in their own right. However, if these parties fail to make such representations and the Licensing Authority is aware of relevant grounds to make a representation, it may in these circumstances choose to act in its capacity as a Responsible Authority.
- 11.3 However, the Licensing Authority expects other Responsible Authorities to intervene where the basis for that intervention falls within the remit of that particular Responsible Authority. The Licensing Authority recognises that each Responsible Authority has equal standing under the 2003 Act and they may act independently without waiting for representations from any other Responsible Authority.

- 11.4 In cases where the Licensing Authority is also acting in its capacity as a Responsible Authority it will ensure that there is a separation of responsibilities within the Council to ensure procedural fairness and eliminate conflict of interests. Officers within the Enforcement Section have been delegated to act as the Responsible Authority for the Licensing Authority. Any Officer requesting a Review shall not be involved in administering the review application process. Indeed, a separate Enforcement Officer will receive and process these applications including preparing any report for the Licensing Committee. Communications between both Officers shall remain formal and separate throughout the process. Thus a separation will be achieved by allocating distinct functions to different Officers. Essentially, the Enforcement Officer advising the Licensing Sub Committee shall be different from the officer who is acting as the Responsible Authority.

## **12 Health as a Responsible Authority**

- 12.1 The PRSR Act has also introduced first-tier local authority Directors of Public Health from April 2013 or their equivalent as Responsible Authorities. It is expected that this Responsible Authority may be useful in providing evidence of alcohol-related health issues if the Council was considering either a cumulative impact policy or an early morning restriction order for example.
- 12.2 The local contact for this Responsible Authority is included in the list of Responsible Authorities at the rear of this Policy.
- 12.3 Health in North Yorkshire
- Increasing risk and higher risk drinking in North Yorkshire to be estimated at 25.7%, higher than the national average of 23.6%
  - alcohol related hospital admissions are increasing year on year;
  - nearly 200 people per annum die in the county as a result of alcohol.
- 12.4 There has also been a long-term increase in the proportion of alcohol purchased from off-license outlets and consumed at home rather than in pubs and bars. This change in drinking patterns is largely driven by low cost alcohol available from the off trade. The Licensing Authority has ensured that the policy recognises this shift in drinking patterns.
- 12.5 The Authority supports the North Yorkshire Alcohol Strategy and will, where possible, work in partnership for dealing with both actual and potential harms from alcohol.

## **13 Live Music Act**

- 13.1 Due to the introduction of the Live Music Act 2012 the public performance of live amplified and unamplified music between the hours of 08:00 and 23:00 on premises licensed for the supply of alcohol on any day when alcohol is being supplied under the licence and the audience is no more than 500 persons is no longer a licensable activity. Any existing licence/certificate conditions relating to live music remain in place but are suspended between these hours. However, the Licensing Authority may impose new, or reinstate existing conditions, following a review of the premises licence or club premises certificate.

- 13.2 Throughout this Policy the Licensing Authority recognises that the definition of regulated entertainment is determined by central Government and may be subject to change.
- 13.3 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merit. Live music is a performance of live music in the presence of an audience that it is intended to entertain. Live music for example can include the playing of some recorded music and may be part of the performance of amplified live music. As there will inevitably be a degree of judgement as to whether a performance is live music or not organisers of events are encouraged to consult with the Licensing Authority if in doubt.

#### **14 Minor Variations**

- 14.1 Minor variations generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions. In all cases the Licensing Authority will consider whether the proposed variation would adversely impact on any of the four licensing objectives.
- 14.2 In considering applications the Licensing Authority will consult relevant Responsible Authorities if there is any doubt about the impact of the variation on the licensing objectives and take their views into account when reaching a decision.

#### **15 Sexual Entertainment Venues (SEVs)**

- 15.1 Where an operator seeks to provide activities that include striptease or any other kind of nudity or sexual entertainment (for example, lap dancing clubs or topless waitresses), an application will need to be submitted for a Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009. However, it is recognised that there is an exception that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Where this exemption is exercised and concerns are identified with a licensed premises this may lead to a review of the premises licence and the imposition of any relevant conditions.

#### **16 Children**

- 16.1 With regard to the Protection of Children from Harm licensing objective, the Licensing Authority and this Policy recognises The Director of Children and Young People's Services at North Yorkshire County Council as the Responsible Authority competent to act in relation to this licensing objective. The Licensing Authority will give considerable weight to representations on child protection matters.
- 16.2 The Licensing Authority shall not seek to limit the access of children to any licensed premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other cases it will be left to the discretion of the Licensee but the Licensing Authority shall expect that the licensee shall give full consideration of

access by children at all times and ensure that there is a policy in place to promote this licensing objective.

- 16.3 Where there are concerns with regard to access of children the Licensing Authority will consult the Director of Children and Young People's Services. However, where the Licensing Authority's discretion is engaged it will judge the merits of each application before deciding whether or not to impose conditions limiting the access of children.
- 16.4 The following are examples of premises that are likely to raise concern and engage the Licensing Authority as a Responsible Authority to take action:
- Where entertainment or services of an adult or sexual nature are common thereby likely to undermine the licensing objectives;
  - Where relevant premises are known to allow unaccompanied children;
  - Where the applicant has described in the Operating Schedule that '*no adult or similar entertainment shall take place on the premises*' but intends to hold an event liable to compromise the protection of children from harm licensing objective;
  - Where there has been early indication and subsequent evidence of poor management of the premises leading to undermining of the licensing objectives;
  - Where the premises have a known association with drug taking or dealing;
  - Where the current staff have received convictions or cautions for serving alcohol to minors or where the premises has a reputation for underage drinking or failures in test purchasing;
  - Where there is a strong element of gambling on the premises;
  - Where there is likely to be under age events with the intention of selling or exposing alcohol for sale or where the intention is to permit adults to this event;
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 16.5 Examples of entertainment likely to cause concern are entertainment or services of an adult or sexual nature including topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or entertainment involving strong or offensive language.
- 16.6 Where there are events solely provided for children, for example an Under 18's disco in a public house or similar relevant premises, the Licensing Authority strongly advises that no alcohol is served at such events and for the management of the premises to ensure that measures are in place to prevent sales to under aged persons. In addition, it is recommended that measures should be in place to prevent alcohol being brought onto those premises and to prevent under aged persons leaving and returning to the premises in order to consume alcohol in the vicinity of the premises.
- 16.7 In particular, the Licensing Authority will consider what conditions are offered in the Operating Schedule. The applicant in completing the Operating Schedule is required to describe the steps they intend to take to promote this Licensing Objective and highlight any adult entertainment or services, etc. that may give rise to concern in respect of children. However, where the applicant does not state the steps they intend to take to promote this Objective but does state that "*no adult or similar entertainment shall take place on the premises*", the Licensing Authority shall



consider that this restriction to be a condition on the Licence/certificate even though it may not state it on the Licence/Certificate itself.

- 16.8 The 2003 Act as amended by the Policing & Crime Act 2009 has introduced a number of mandatory conditions. One of these conditions provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with the recommendations given either by the British Board of Film Classification (“the BBFC”) or by the Licensing Authority itself. The Licensing Authority has a procedure in place for the approval of unclassified films that includes conditions relating to the admission of children. In adopting these procedures the Licensing Authority supports the BBFC Guidelines and shall not seek to duplicate the BBFC’s recommendations. The Film Authorisation Procedure is available from Council. Any changes to these procedures are not considered changes to this Policy and as such any amendment to these procedures will not necessitate a review of the Licensing Policy.

## **PART 4**

### **17 Licences & Certificates – General**

- 17.1 New applicants and existing licence/certificate holders are encouraged to take heed of the information contained within this Policy. In order to avoid potential representations which generally delay an application, the Licensing Authority strongly recommends that prior to submitting their application applicants consult all Responsible Authorities, in particular North Yorkshire Police and the Environmental Protection team. In some cases, it may be advisable to consult ‘other persons’ as defined in the 2003 Act, for example a Town or Parish Council or neighbouring properties.
- 17.2 The Premises Licence/Certificate application outlines the operating conditions and the Operating Schedule that will form the basis of conditions that will be attached to the Licence/Certificate. The Licensing Authority shall expect the applicant to have carefully considered the promotion of all four Licensing Objectives in their Operating Schedule.
- 17.3 The Licensing Authority recognises that large-scale events may attract large crowds and the risks to public safety, crime and disorder and public nuisance are likely to increase with these numbers. Event organisers are recommended to consult with Responsible Authorities and the Safety Advisory Group in good time to discuss the Operating Schedule and any potential issues well before an application is submitted.
- 17.4 Where a festival, carnival or similar event requiring a Premises Licence or Temporary Event Notice is due to take place, the event organiser and/or landowner are recommended to consult with Responsible Authorities and the Safety Advisory Group in good time to discuss any potential issues.

## **18 Wholesale Sales of Alcohol**

- 18.1 All sales of alcohol to members of the public, even in wholesale quantities, from any premises will require an authorisation. Any premises from which alcohol is supplied or sold will require either a premises licence, a club premises certificate or temporary event notice. There will need to be a designated premises supervisor for the premises if the authorisation is in the form of a premises licence.
- 18.2 Sales made to other traders for the purposes of their trade will not be a licensable activity. Similarly, sales made to holders of premises licences, club premises certificates or personal licences will not be a licensable activity if the sale is for the purposes authorised by the premises licence or for the purposes of the qualifying club. Also exempt will be when alcohol is sold wholesale to premises users operating under a temporary event notice

## **19 Mail Order supply of alcohol**

- 19.1 Where alcohol is sold to the public by mail order the premises or warehouse from which the alcohol is dispatch will require a licence.

## **20 Garages**

- 20.1 With regard to the licensing of garages and/or filling stations Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises that are primarily used as a garage. The Licensing Authority must decide whether or not a premises is used primarily as a garage. The accepted approach is based on “intensity of use” to establish “primary use”. For this reason, the Licensing Authority will expect an applicant to provide comprehensive statistical information with their application on the intensity of use to establish primary use.
- 20.2 Where there is insufficient evidence to establish primary use (e.g. where there is a new build) the Licensing Authority shall decide whether to deal with any issues through enforcement action after the licence is granted or defer granting the licence until the primary use issue can be established to the Licensing Authority’s satisfaction. R (Murco Petroleum Limited) v Bristol City Council 2010 addresses the issue of Licensing Authority’s compelling applicants to answer questions and to supply relative turnover figures if requested to do so. The Licensing Authority’s role is not merely adjudicatory; it may also take a more inquisitorial stance.
- 20.3 In order to promote the four Licensing Objectives, the Licensing Authority may consider seeking Premises Licences for land or buildings under public ownership within the district. The Local Authority will seek to encourage and promote festivals, carnivals and similar events in the district to provide a more vibrant community.
- 20.4 In addition, the Licensing Authority encourages local Town and Parish Councils to seek Premises Licences for land or buildings under public ownership within the community.

## **21 Late Night Refreshment**

- 21.1 It is recognised that the provision of late night refreshment forms an important part of the district's late night economy. As such where late night refreshment is provided between the hours of 11pm and 5am applicants must demonstrate in their Operating Schedule how they will promote the four Licensing Objectives, particularly with regard to the Prevention of Crime and Disorder and the Public Nuisance Licensing Objectives.
- 21.2 Where an applicant wishes to sell alcohol either on or off the premises in such an establishment or provide an alcohol delivery service, the Licensing Authority recommends that the Operating Schedule sets out specific measures to ensure the prevention of Crime and Disorder and Public Nuisance in the vicinity of the premises. Existing premises that seek to provide an alcohol delivery service are expected to notify the Licensing Authority that they are operating such a service setting out specific measures they intend to take to promote the licensing objectives.
- 21.3 Where a delivery service is operated from these premises extra care must be taken by the operator with regard to compliance/breach of licensing hours. For example, a pizza order must be capable of reaching the customer at the delivery address by no later than the end of the permitted hours.
- 21.4 The Licensing Authority recommends takeaways and late night refreshment houses have a responsible policy for regularly clearing litter from outside their premises whilst the premises are open and at the end of the working day. Such a policy could also include notices displayed advising customers to use the bins provided.
- 21.5 The Licensing Authority under power given in regulations exempts the following from requiring a Late Night Refreshment Licence:
1. Motorway service areas;
  2. Petrol stations;
  3. Local authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;
  4. Schools (except domestic premises) unless there is an event taking place at which more than 500 people are present
  5. Hospitals (except domestic premises); and
  6. Community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present.

## **22 Mobile Premises**

- 22.1 Where licensable activities take place in mobile vehicles, a Premises Licence will be required for the land upon which the vehicle operates. The application must specify the pitch from where trading is to take place. The premises licence will be in addition to any street trading licence or consent that may be required. Where a street trading licence or consent is in force it may have more onerous conditions than the premises licence in which case the licensee will be expected to abide by the more onerous conditions.

- 22.2 As this type of premises is likely to cause people to congregate, the Licensing Authority will expect applicants to demonstrate specific measures to prevent Crime and Disorder, prevent Public Nuisance and promote Public Safety.
- 22.3 In addition, the Licensing Authority shall expect the applicant to consider specific measures to ensure that litter from such premises is regularly disposed of.

## **23 Gaming Machines**

- 23.1 Where licensed premises intend to provide more than two Category C or D gaming machines, the Licensing Authority will hold a licensing hearing to determine the application for an alcohol-licensed premises gaming machine permit.
- 23.2 Compliance within the Gambling Commission's Codes of Practice relating to gaming machines on licensed premises is mandatory.

## **PART 5**

### **24 Personal Licences**

- 24.1 Where a Premises Licence authorises the supply of alcohol, every supply of alcohol must be made or authorised by a Personal Licence Holder. Whilst this does not mean that the Personal Licence Holder must be present at every sale of alcohol or directly supervise each sale, authorisation should be meaningful and properly managed.
- 24.2 The Licensing Authority advises that it is good practice for the Personal Licence holder to give specific written and dated authorisation to individuals to demonstrate due diligence. Whilst the Designated Premises Supervisor ("the DPS") and Personal Licence Holder may authorise sales in their absence, they still remain responsible for those sales. Similarly, the Premises Licence Holder also remains responsible for ensuring that the licensing law and conditions are complied with at that premises.
- 24.3 Where a community premises applies for an exemption from the requirement to have a DPS, the Licensing Authority must be satisfied that arrangements for the management of the premises by their Committee or Board of individuals are sufficient to ensure the adequate supervision of the supply of alcohol on the premises. The applicant will be required to set out how the premises is managed, its committee structure and how the supervision of alcohol sales are conducted. Copies of the Constitution and other management documents must be submitted. The management committee is strongly encouraged to notify the Licensing Authority if there are any key changes in the committee's composition as this committee will collectively be responsible for ensuring compliance with licence conditions and licensing law. Where management arrangements are unclear, the Licensing Authority may seek further details to confirm that the management board or committee is properly constituted and accountable. While overall responsibility lies with the management committee where premises are hired out, the hirer will be clearly identified as having responsibilities falling within their control. Community premises are encouraged to check with the Licensing Authority before making any application.

- 24.4 Where a Premises Licence is in force authorising the supply of alcohol, a DPS will need to be nominated. The main purpose of the DPS is to ensure that there is always one specified individual who can be readily identified by Responsible Authorities as the individual who has day-to-day responsibility for running the business and who can therefore ensure that any problems are dealt with swiftly. As such the DPS will occupy a pivotal position. Experience has proved that in some cases the Premises Licence Holder has employed a DPS who is remote from the premises and therefore not involved in the day-to-day running of that premises. In these cases where there is no individual readily identifiable by Responsible Authorities, the Licensing Authority will therefore pay particular attention to those premises where the DPS is remote and not the person responsible for the daily running of the premises.
- 24.5 Whilst the Licensing Authority recognises that a DPS may supervise more than one premises, the DPS must be able to ensure that the four Licensing Objectives are promoted and that the licensing law and licensing conditions are complied with. Where the DPS is not available at the premises for whatever reason, the Licensing Authority recommends a responsible individual is nominated who can deal with matters in the absence of the DPS. In addition, the Licensing Authority recommends that a notice is displayed prominently indicating the name and position of that nominated person. Whenever alcohol is to be sold it is recommended that written and dated consent be given to that nominated person.
- 24.6 Applicants for Personal Licences with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions upon application. In such cases, the Licensing Authority will advise North Yorkshire Police and, where an objection is received on crime prevention grounds, a hearing will be held to determine whether or not a licence should be granted.
- 24.7 Where a Personal Licence holder appears before a magistrates' court for a relevant offence, the Licence holder must produce his licence to the court at the first hearing or provide the court with a valid reason why they are unable to produce that licence. The magistrates and/or the crown court will then decide on what action, if any, to take.
- 24.8 Where an applicant for a Personal Licence is convicted of a relevant offence as listed in the Licensing Act 2003, the applicant is required to advise the Licensing Authority as soon as is reasonably practicable so that the Licence can be amended.
- 24.9 Experience has indicated that a number of Personal Licence Holders have failed to produce their Personal Licence to the court in accordance with Section 128 of the 2003 Act. The Licensing Authority views this at best as negligent and at worst placing the public at risk as some of the offences have been serious. In view of this the Licensing Authority will take appropriate action against those who continue to fail to notify the courts and provide notification of their change of address in accordance with their statutory duty.
- 24.10 All offences under the Licensing Act 2003 are considered summary offences that normally have to be prosecuted within 6 months of the offence. However, by virtue of Section 186(3) the time limit for the laying of information has been extended from 6 months to 12 months from the date of the offence.

## PART 6

### 25 Temporary Event Notices

- 25.1 The Licensing Act 2003 provides for a light touch authorisation by way of a TEN under which any person (the premises user) may submit a notification to the Licensing Authority to conduct licensable activities on a temporary basis.
- 25.2 A TEN may be given for part of a building such as a single room within a village hall, a plot within a larger area of land or a discrete area within a marquee, as long as the Notice clearly describes the area where the event is to be held.
- 25.3 Although premises users are not required to be on the premises for the event, they will remain liable for any offences that may be committed at the premises whilst the TEN is in place.
- 25.4 As a TEN does not relieve the premises user from any requirements under other regulatory regimes, the Licensing Authority recommends the user contact the Planning Authority, Highways and any other relevant authority well in advance of the event to ensure any other permissions are in place.
- 25.5 It is strongly recommended to avoid the potential of police objections to contact the North Yorkshire Police Licensing Officer and the Environmental Protection Team prior to the submission of the TEN and outline any measures in place to promote the Crime and Disorder and Prevention of Public Nuisance Licensing Objectives.
- 25.6 For larger scale or outdoor events, the Licensing Authority encourages event organisers to seek advice from the Safety Advisory Group in advance of submitting their application. The group will be able to offer local advice on other legislative requirements, such as health and safety issues, road closures, the use of pyrotechnics, local byelaws, etc. along with the need to prevent anti-social behaviour.
- 25.7 The Licensing Authority accepts that there is now a provision for a late TEN to be submitted. These must be received no later than 5 working days (not including the date of receipt of the notice or the date of the event) prior to the event. If objections are received to a late TEN a Counter Notice will be issued and the event will not be allowed to take place.
- 25.8 Event organisers are advised to submit their TEN to The Police Licensing Officer, North Yorkshire Police Headquarters, The Licensing Section, Fulford Road, York, YO10 4BY In addition, event organisers are advised to submit their application to the Licensing Authority and the Environmental Protection Team on a weekday and in any event before 12 midday on a Friday in order to ensure a quick, efficient and timely response.
- 25.9 Temporary Event Organisers are advised to submit their TENS well before the date of the event and in any event, must submit their notifications to the Licensing Authority in accordance with the number of working days currently specified in Regulations. When serving notices, organisers should serve the notice on the Licensing Authority, Police and Environmental Health at the same time. This then ensures that the Responsible Authorities have sufficient opportunity to consider the

notice in line with the Prevention of Crime and Disorder and Prevention of Public Nuisance Licensing Objectives.

- 25.10 It is a legal requirement for all organisers to assess the Health and Safety and Fire Risk associated with their event and document any significant findings. Guidance on how to conduct such risk assessments may be obtained from the relevant enforcing authority. In any event, the Licensing Authority will notify the Fire Authority of all TENS submitted so that they can offer advice to event organisers if necessary. Members of the Safety Advisory Group will also be notified of all TENS for similar reasons. Organisers are recommended to give thought to the provision of first aid at such events. It should be noted that if the Fire Authority is of the opinion that the use of premises/venue involves, or will involve, a risk to relevant persons so serious, including anything affecting their escape from the premises in the event of fire, the Fire Authority may prohibit or restrict premises use without notice.
- 25.11 Event organisers are reminded of Police powers to close down events without notice, on the grounds of disorder, the likelihood of disorder, or public nuisance. The Licensing Authority, therefore, expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example, sales of alcohol to children or to drunken individuals. Event organisers are advised to contact the Licensing Authority for further advice.

## **PART 7**

### **26 Club Premises Certificate**

- 26.1 In order for a qualifying club to supply alcohol and provide other licensable activities on Club premises, a Club Premises Certificate is required. Qualifying conditions are specified in section 62 of the 2003 Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support the fact that the Club is non-profit making. Additional information is available from the Council and in Guidance Notes.
- 26.2 The Licensing Authority will require the Club to produce an Operating Schedule evidencing how it will promote the four Licensing Objectives. The Operating Schedule will form part of the Club Premises Certificate.
- 26.3 Where a Club intends to open its premises to the general public, the Licensing Authority recommends a Temporary Event Notice or Premises Licence. Whilst there is no definition of 'guest' within the Licensing Act 2003, the term may include a wide variety of people who are invited by the Club. The manner in which they are admitted as 'guests' would be for the Club to determine and set out in its Club Rules. Where the point is reached that a Club is providing commercial services to the public it will no longer be considered to be conducted in good faith and would therefore no longer meet General Condition 3 in Section 62 of the Licensing Act 2003. Where the Licensing Authority considers a club has ceased to operate in good faith, it will give the Club notice withdrawing their Club Premises Certificate. The Club shall be entitled to appeal this decision and where the appeal is not successful; the Club will be required to apply for a full Premises Licence.

- 26.4 The Licensing Authority will require the Club Secretary's contact details to be readily available in the event of an emergency.

## **PART 8**

### **27 Operating Schedule**

- 27.1 The Operating Schedule is a key part of the application form whereby applicants may volunteer appropriate conditions to demonstrate compliance of the licensing objectives by describing the steps they intend to take to promote these objectives. These volunteered conditions will then form conditions on the Premises Licence or Certificate. In completing an Operating Schedule, applicants are expected to have regard to this Policy.
- 27.2 The Licensing Authority encourages applicants and existing operators to plan ahead to meet their legal responsibilities under the Equality Act 2010. In addition, applicants are expected to include positive proposals in their Operating Schedule on how they will manage any potential risks. Where their operation is within a cumulative impact area, they will be expected to demonstrate how the operation of their premises will not add to the cumulative impact already being experienced in that area.
- 27.3 Premises Licence and Club Premises Certificate applicants may wish to refer to their Fire Safety and Health and Safety risk assessments that they will have conducted. Applicants are advised to seek the views of professional experts in relation to the preparation of these risk assessments. Where a maximum occupancy is set, applicants are advised to have an appropriate method in place to monitor the numbers of people entering and exiting the premises.
- 27.4 In completing their Operating Schedule the Licensing Authority suggest an applicant considers the following:

#### General

- Premises log book
- Management and staff training and awareness of duties under the Licensing Act
- Policies and procedures relating to e.g. age restricted sales, capacity, noise monitoring, dispersal, queuing, etc
- Safe capacities
- Evidence of competent management procedures

#### Prevention of Crime and Disorder

- Drugs policy
- CCTV
- Pub Watch and Radio links with other licensed premises
- Security Industry Authority Door supervisors and Approved Contractor Scheme
- Polycarbonate or shatterproof vessels



- An appropriate ratio of tables and chairs to customers
- Management of outside areas
- Use of 'spikeys' or similar anti-drink spiking device
- Calming atmosphere at close of business/event
- Safe capacities
- Queuing policy
- Stewards for events and event plan

### Public Safety

- Health and Safety and Fire Safety risk assessments and staff training
- Safeguarding measures
- Use of CCTV in and around the premises
- Safe capacities and monitoring procedures
- Provision of local taxi companies who can provide safe transportation home
- Procedures to control access to and egress from premises
- Patrolling of premises
- Glass clearance policy
- Control of ventilation
- Control of litter immediately outside the premises
- First aid trained staff
- Adequate external lighting
- Consideration of the safety of performers appearing at any premises
- Indoor sporting events: medical practitioner; use flame retardant material, proximity of public to the activity; water sports events – lifeguards
- Stewards for events and event plan; and regard to standards of the National Sporting Body
- Ensuring appropriate access for emergency services

### Prevention of Public Nuisance

- Control of general noise, disturbance, light, odour, litter and anti-social behaviour
- Whilst regulated entertainment is taking place, management of noise disturbance
- Control of litter (e.g. cigarette ends, rubbish, etc), vomiting, urinating and anti-social behaviour in the vicinity of the premises
- Dispersal policy to ensure customers respect their neighbours
- Removal of persons causing disturbance
- Management of outside areas, e.g. pub gardens, smokers, etc.
- Control of deliveries in early hours
- Queuing policy
- Winding down period

### Protection of Children from Harm

- Refusals book
- Consideration of access to premises where adult entertainment may take place
- Consideration to proximity of premises to schools and youth clubs
- Clarity on activities and times at which events take place to determine whether or not it is appropriate to allow access to children
- Challenge 21 policy
- tills prompts at retail outlets
- Measures to control access to hotel minibars in rooms occupied by children

- Operational measures to avoid proxy purchases
- How to prevent children from being exposed to alcohol sales at under age events, gambling, incidents of violence and disorder and drugs or drug taking
- Consideration of safeguarding issues
- Consideration of children as performers where relevant
- Supervision of children
- Under 18 event Code of Conduct, for example: searches, ticketed event, door supervisors, stewards monitoring event, set hours for event, restricted event, policy to ensure young people leave premises safely, etc.

27.5 These lists are not exhaustive and advice can be obtained from the relevant responsible authorities. However, applicants are reminded again to contact the relevant Responsible Authorities to seek their expert advice before an application is submitted to the Licensing Authority.

27.6 Where an applicant is a vessel, the Licensing Authority strongly recommends advice be sought from the Maritime & Coastguard Agency prior to submitting the application form. This Agency will offer advice on the safety of passengers aboard the vessel.

## **PART 9**

### **28 Enforcement**

28.1 With regard to enforcement action the Licensing Authority will take a stepped approach to enforcement in line with the Enforcement Policy.

28.2 The Licensing Authority will use a multi-agency approach to ensure the premises complies with the licensing laws and promotes the licensing objectives. This includes the sharing of relevant information about premises and licence holders and may include making copies of all written correspondence between the Licensing Authority and the licence holder available to Responsible Authorities

28.3 The Licensing Authority may seek to meet with the licence or certificate holder and/or DPS working closely with them and relevant Responsible Authorities in implementing a Premises Improvement Plan as an alternative to formal action where appropriate.

28.4 Where the premises does not comply with an agreed Improvement Plan and continues to breach the licensing laws and/or licence conditions, the Licensing Authority will consider further sanctions, either by way of a review, formal caution, prosecution or serving of a s19 Closure Notice. In any event, the Licensing Authority will have regard to the Regulators' Code and the Enforcement Concordat together with the Council's own Enforcement Policy.

28.5 However, where the premises continues to flout the law, act irresponsibly, or serious issues are identified firm action will be taken that may include immediate prosecution, particularly where the licensing objectives have been undermined.

28.6 Enforcement action will be:

- Targeted toward those premises presenting the highest risk;

- Proportionate to the nature and seriousness of the risk those premises present;
  - Consistent, so that the Licensing Authority takes similar approaches in similar situations;
  - Transparent, so those who are subject to enforcement action know what to expect; and
  - Accountable so that the Licensing Authority and its officers take responsibility for their actions.
- 28.7 In order to ensure compliance with the law and licensing conditions, the Licensing Authority will carry out with North Yorkshire Police whenever possible unscheduled 'non routine' evening inspections. After each visit the DPS and licence or certificate holder will be notified of any concerns and be given an opportunity to rectify any issues. Where one off events take place, the Licensing Authority may also carry out inspections to ensure the Licensing Objectives are promoted.
- 28.8 In addition, the Licensing Authority will conduct checks to ensure that official notices for new applications, varied applications, reviews and minor variations are accurate and clearly displayed. Notices for reviews shall be displayed at or near the site of the premises, and where there are concerns these shall be regularly checked and recorded.
- 28.9 The licence/certificate holder is required to ensure that the Premises Licence/Club Premises Certificate, or certified copy of that licence or certificate, is kept at the premises and in the custody, or under the control of, either the licence/certificate holder or a person who works at the premises and whom the licence holder has nominated in writing to have custody of that licence. In addition, the 2003 Act requires that a summary, or certified copy, is prominently displayed at the premises together with a notice specifying the name of the person nominated to have custody of the licence. Experience has proved that a number of licensees/certificate holders are not aware of this legislative requirement. With regard to enforcement, where a premises does not display the licence summary or does not have the licence/certificate, or certified copy, on the premises, then the Licensing Authority will write to the licence/certificate holder giving them an initial warning prior to taking any legal action. Continued failure will result in further sanctions being taken as outlined above.
- 28.10 Any decision to instigate legal proceedings will take account of the criteria set down in the Code for Crown Prosecutors and Attorney General Guidelines.

## **29 Fees: Annual Licence Fees**

- 29.1 The PRSR Act gives the Licensing Authority the power to suspend a licence or certificate if the holder fails to pay the annual licence fee promptly in accordance with the invoice. Where the licence/certificate holder fails to pay the annual fee when due the Licensing Authority will notify the licence/certificate holder in writing specifying the date on which the suspension takes effect. This date will be two working days after the day the Licensing Authority has given the licence/certificate holder such notice. The Licensing Authority will work with North Yorkshire Police and appropriate action will be taken when the premises continues trading whilst suspended.

- 29.2 Where the licence/certificate holder has paid the annual fee the Licensing Authority will lift the suspension and inform North Yorkshire Police accordingly.

## **PART 10**

### **30 Licensing Committee**

- 30.1 Decisions on all licensing matters shall be taken in accordance with an approved scheme of delegation. This is aimed at underlining the principles of timely, efficient and effective decision-making.
- 30.2 The Licensing Committee will consist of 10 Members. The Licensing Sub-Committee will conduct any Hearings required under the 2003 Act.
- 30.3 Applications for Premises Licences, Club Premises Certificates or Temporary Event Notices where relevant representations have been received and not withdrawn will be dealt with by a Licensing Sub Committee unless such representations are considered irrelevant, frivolous or vexatious or unless the Licensing Authority, the applicant and everyone who has made representations agree that a hearing is not necessary.

The decision determined by the Licensing Sub-Committee shall be accompanied by clear and cogent reasons, having had due regard to the Human Rights Act 1998 and all other legislation.

## **PART 11**

### **31 Administration, Exercise and Delegations of Functions**

- 31.1 The 2003 Act provides that the functions of the Licensing Authority, including all its determinations, are to be carried out by its Licensing Committee with the exception of the preparation of this Policy. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Licensing Committee has delegated certain decision and functions and has established Sub Committees to deal with them.
- 31.2 Officers have delegated powers to deal with all the Licensing functions of the Licensing Authority save for those where the Act specifically reserves the powers only to the Licensing Committee or to the full Council.
- 31.3 The table at Appendix 1 sets out the agreed delegation of decisions and functions to the Licensing Committee, Licensing Sub Committees and authorised officers.
- 31.4 The Licensing Committee has approved its own rules relating to the procedure of hearings by the Licensing Sub Committee under the Licensing Act 2003.

## **32 The role of District Councillors**

- 32.1 The Licensing Authority recognises that District Councillors play an important role in the local community. They may make representations in writing and speak at the hearing on behalf of any other person such as a local resident or business if specifically asked to do so. They can also make representations in their own right if they have concerns about a premises.
- 32.2 Residents or businesses may wish to contact their local District Councillor in respect of a licence/certificate application. Details of how to contact District Councillors may be obtained from the Council's website. Where a resident or business seeks the assistance of a District Councillor it is helpful if they can send them any evidence that a premises is causing a problem in the area. It is also helpful if a resident or business that makes a representation on an application to send a copy of their representation to the relevant District Councillor. This then helps them to gain an understanding of local feelings.
- 32.3 District Councillors may attend hearings of licensing sub committees considering applications and speak on behalf of local residents and businesses, but only if:
- They have made a personal representation;
  - They have made a representation on behalf of local residents or business as 'community advocates'
  - They have been nominated by (an objector) who cannot attend the hearing or prefers to be represented at the hearing.
- 32.4 District Councillors may however attend a hearing as an observer or as part of training for the Licensing Committee.
- 32.5 District Councillors wish to be kept informed of licensing related matters within Selby District, such as applications and reviews. The 2003 Act does not prevent Licensing Authorities from providing this information to Councillors, for instance by way of regular updates, as long as it is done in a neutral way that could not be seen as "soliciting" representations. Elected members will be signposted to the Councils Website where all current application/review notices can be viewed.

## **PART 12**

### **33 Appeals Against Licensing Authority decisions**

- 33.1 Following a hearing of an application by the Licensing Authority, the applicant or any objector has the right to appeal against that decision to York Magistrates' Court within 21 days. In hearing an Appeal against the Licensing Authority's decision, the court will have regard to this Policy and the Guidance issued under Section 182 of the Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.
- 33.2 Where an appeal has been lodged against a decision of the Licensing Authority, the Licensing Authority will in all cases be the respondent to the appeal and may call as witnesses any other person or Responsible Authorities who made representations against the application if it so chooses. In addition, and provided the court considers

it appropriate, the Licensing Authority may also call as witnesses any individual or body it considers may assist in their response to an Appeal.

## **PART 13**

### **34 Complaints against licensed premises**

- 34.1 Where the Licensing Authority receives complaints against a licensed premises, complainants are advised in the first instance, whenever possible, to raise their complaint directly with the licensee in order to resolve the matter. The Licensing Authority, however, recognises that it is not always possible or practical for the public to raise complaints directly with the licensed premises. In such circumstances complaints in the first instance should be addressed to: The Lead Officer of Enforcement Selby District Council, Civic Centre, Doncaster Road, Selby, YO8 9FT; or email the Council at [info@selby.gov.uk](mailto:info@selby.gov.uk).
- 34.2 Complaints will be dealt with in a timely and efficient manner.
- 34.3 It is expected that all noise-related complaints are initially raised with the Council's Community Officers and complaints regarding unlicensed activities and operating outside the permitted hours are raised with the Licensing Authority or Police Licensing Officer.
- 34.4 On receipt of a licensing complaint, a relevant Officer will investigate the circumstances, discussing the complaint with the DPS of the licensed premises, the licence/certificate holder, any relevant Responsible Authority and the complainant. Where it is a valid complaint, the Licensing Authority shall endeavour to seek a resolution through informal means prior to taking any formal sanction, dependant on the nature of the complaint.
- 34.5 The Lead Officer of Enforcement is responsible for considering complaints in the context of this Policy and will determine whether or not it is a relevant complaint. This officer will authorise suitably qualified officers to discharge duties as appropriate to their seniority, professional qualifications and/or experience.
- 34.6 Where there is a serious complaint, then the Lead Officer of Enforcement shall ensure that it is investigated and enforcement action taken where necessary. The Licensing Authority shall act in accordance with the Enforcement Policy and in accordance with the Regulators' Code and the Enforcement Concordat.
- 34.7 With regard to whether or not a complaint/representation is relevant, the Lead Officer of Enforcement in conjunction with the Solicitor to the Council shall decide on whether it is vexatious, frivolous, repetitive or not relevant (that is, in line with one or more of the four Licensing Objectives) and there is no right of appeal against this decision. Aggrieved objectors should take their own legal advice. The exclusion of a complaint/representation on the grounds that it is repetitious does not however apply to Responsible Authorities. Responsible Authorities may make more than one request for a review of a Premises Licence/Certificate within the 12-month period or

other reasonable interval agreed by the Licensing Authority. Where the decision is made that a complaint is vexatious, frivolous, repetitious or irrelevant, the complainant will be informed of this in writing with full reasons being given for the decision.

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## Appendix 1 – DELEGATION OF FUNCTIONS

Matters to be dealt with	<i>Council</i>	Sub Committee	Officer
Licensing Policy approval	All cases		
Application for a Personal Licence		If Police objection	If no Police objection
Application for a Premises Licence or Club Premises Certificate		If relevant representation made	If no relevant representation made
Application for a Provisional Statement		If relevant representation made	If no relevant representation made
Application to vary Premises Licence or Club Premises Certificate		If relevant representation made	If no relevant representation made
Application to vary DPS		If Police objection	All other cases
Request to be removed as DPS			All cases
Application for transfer of premises licence		If Police objection	All other cases



<b>Matters to be dealt with</b>	<i>Council</i>	<b>Sub Committee</b>	<b>Officer</b>
<b>Applications for interim authorities</b>		<b>If Police objection</b>	<b>All other cases</b>
<b>Application to review licence or Club Premises Certificate</b>		<b>All cases</b>	
<b>Decision on whether a complaint is irrelevant, repetitious, frivolous, vexations or repetitious, etc.</b>			<b>All cases</b>
<b>Decision to object when local authority is a consultee and not the relevant authority considering the application</b>		<b>All cases</b>	
<b>Determination of an objection to a TEN</b>		<b>All cases</b>	
<b>Imposition of existing conditions on a standard TEN (s.106A of the 2003 Act)</b>		<b>All cases</b>	
<b>Determination of application to vary licence at community premises to include alternative licence condition</b>		<b>If police objection</b>	<b>All other cases</b>

<b>Matters to be dealt with</b>	<i>Council</i>	<b>Sub Committee</b>	<b>Officer</b>
<b>Decision on whether to consult other Responsible Authorities on minor variation application</b>			<b>All cases</b>
<b>Determination of minor variation application</b>			<b>All cases</b>
<b>Acting as a Responsible Authority on behalf of the Licensing Authority</b>			<b>All cases</b>
<b>Suspension of a licence or Club Premises Certificate for non-payment of annual fee</b>			<b>All cases</b>
<b>Specify the date on which suspension takes effect (min. 2 working days)</b>			<b>All cases</b>
<b>Decision to introduce, vary or end a late night levy</b>	<b>All cases</b>		
<b>Other decisions relating to administration and design of levy</b>	<b>All cases</b>		

<b>Matters to be dealt with</b>	<i>Council</i>	<b>Sub Committee</b>	<b>Officer</b>
<b>Decision to introduce, vary or revoke an Early Morning Restriction Order</b>	<b>All cases</b>		

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## Appendix 2 - LICENSING ACT 2003 GLOSSARY

<b>Authorised Persons/Officers</b>	<p>Officers empowered by the 2003 Act to carry out inspection and enforcement roles. This group includes:</p> <ul style="list-style-type: none"> <li>• Officers of the Licensing Authority</li> <li>• Fire Authority Inspectors</li> <li>• Inspectors locally responsible for the enforcement of the Health and Safety at Work, etc. Act 1974; and</li> <li>• Environmental Health Officers</li> <li>• Trading Standards Officers</li> </ul> <p>North Yorkshire Police are separately empowered and not included in the above list.</p>
<b>Child</b>	Any person who is under the age of 16 years.
<b>CIP</b>	Cumulative Impact Policy
<b>Club Premises Certificate (CPC)</b>	A Licence to supply alcohol to members of a Qualifying Club and sell it to members and their guests on the premises without the need for any member or employee to hold a Personal Licence.
<p><b>Conditions:</b></p> <p><b>Proposed Condition</b></p> <p><b>Imposed Condition</b></p> <p><b>Mandatory Condition</b></p>	<p>Conditions proposed by the applicant in the Operating Schedule.</p> <p>Conditions imposed by the Licensing Authority after a licensing hearing</p> <p>Conditions laid down by the Licensing Act 2003 as amended</p>
<b>Cumulative Impact</b>	Where there is a potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area.
<b>Designated Premises Supervisor (DPS)</b>	A specified individual holding a Personal Licence, who is responsible for the day to day running of the business and whose name will appear on the Premises Licence.
<b>DCMS</b>	Department of Culture Media & Sports, now known as Department of Culture, Olympics, Media & Sport.
<b>Frivolous Representation</b>	Representation or objection that is categorised by its lack of seriousness.
<b>Late-Night Refreshment</b>	The supply of hot food and drink between the hours of 11pm and 5am for consumption on or off the premises.

<b>Licence Holder</b>	Licence holder is defined as the Premises Licence Holder or Club Premises Certificate Holder.
<b>Licensable Activities</b>	<ul style="list-style-type: none"> <li>• The sale of alcohol by retail</li> <li>• The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club</li> <li>• The provision of regulated entertainment</li> <li>• The provision of late-night refreshment</li> </ul>
<b>Licensing Objectives</b>	<ul style="list-style-type: none"> <li>• Prevention of Crime and Disorder</li> <li>• Public Safety</li> <li>• Prevention of Public Nuisance</li> <li>• Protection of Children from Harm</li> </ul>
<b>Licensing Qualification</b>	Qualification obtained from for example the British Institute of Innkeeping and a requirement for a Personal Licence.
<b>Occupancy Levels</b>	Safe occupancy limits for a premises or venue is determined by the size of the premises or venue combined with ensuring that escape routes are adequate for the people, and numbers of people, who are likely to use them. This prevents overcrowding which can lead to crime, disorder and concerns over public safety.
<b>'Other Persons'</b>	Defined as any individual, body or business affected by the operation of a licensed premises, regardless of their geographic proximity to the premises.
<b>Operating Schedule</b>	<p>This forms part of the completed application form for a Premises Licence and must promote the 4 Licensing Objectives. It must include:</p> <ul style="list-style-type: none"> <li>• The relevant licensable activities</li> <li>• The times during which the applicant proposes that the relevant licensable activities are to take place</li> <li>• Any other times during which the applicant proposes that the premises are to be open to the public</li> <li>• Where the applicant wishes the licence to have effect for a limited period, that period</li> <li>• Where the relevant licensable activities include the sale by retail of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor</li> <li>• Whether the relevant licensable activities include the supply of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both</li> <li>• The steps which the applicant proposed to take to promote the 4 Licensing Objectives.</li> </ul>
<b>Personal Licence</b>	A Licence to authorise individuals to sell or supply alcohol or authorise the sale or supply of alcohol for consumption on or off the premises for which a Premises Licence is in force for the carrying on of that activity. Valid for 10 years.

<b><i>Prejudicial Interest (Members)</i></b>	An interest that a member of the public would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
<b><i>Premises Improvement Plan</i></b>	An agreed action plan with timeframes agreed between the licence holder and the Responsible Authority.
<b><i>Premises Licence</i></b>	A Licence in respect of any premises, such as land or buildings within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless reviewed or revoked.
<b><i>Proprietary Clubs</i></b>	Clubs run commercially by individuals, partnerships or business for the purpose of profit.
<b><i>Provisional Statement</i></b>	A statement where premises are being constructed or extended or substantially altered that the Licensing Authority would be provisionally minded to grant a Licence on completion of the works.
<b><i>Proxy Purchases</i></b>	Illegal purchasing of alcohol on behalf of a person under the age of 18.
<b><i>Qualifying Club</i></b>	Where members have joined together for particular social, sporting or political purposes and then combined to buy alcohol in bulk as members. Examples of Qualifying Clubs are: <ul style="list-style-type: none"> <li>• Conservative, Labour and Liberal Clubs</li> <li>• Royal British Legion</li> <li>• Ex-Servicemen's Club</li> <li>• Working Men's Club</li> <li>• Social and Sports Clubs</li> </ul>
<b><i>Regulated Entertainment</i></b>	Entertainment that is defined by statute.
<b><i>Relevant licensed premises</i></b>	Premises that are authorised to supply alcohol for consumption on the premises by a premises licence or CPC.
<b><i>Relevant Offences</i></b>	As set out in Schedule 4 to the Licensing Act 2003.
<b><i>Relevant Representations</i></b>	Representations, or objections, are relevant if they relate to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives.

<b>Responsible Authorities</b>	<p>This group can make relevant representations and includes public bodies such as:</p> <ul style="list-style-type: none"> <li>• Relevant Licensing Authority</li> <li>• North Yorkshire Police (Chief Officer of Police)</li> <li>• Children and Young People’s Service</li> <li>• North Yorkshire Fire &amp; Rescue Authority</li> <li>• North Yorkshire Trading Standards</li> <li>• The Local Enforcement Agency for the Health and Safety at Work, etc. Act 1974</li> <li>• The Local Authority Environmental Health Service</li> <li>• North York Moors Planning Authority/Local Authority Planning Service</li> <li>• Primary Healthcare Trust (or its equivalent)</li> <li>• Maritime and Coastguard Agency (if applicable)</li> </ul>
<b>Safety Advisory Group</b>	<p>Safety Advisory Group – a group of officers from the Council’s Enforcement team, Highways, Police, Fire, Ambulance, Health and Safety, Emergency Planning formed to offer advice to applicants on carrying out events either under a TEN or a restricted Premises Licence</p>
<b>Special Policy</b>	<p>A policy contained within the Statement of Licensing Policy to deal with cumulative impact.</p>
<b>Temporary Events Notice (TEN)</b>	<p>A Notice served on the Licensing Authority for the temporary carrying on of the sale of alcohol, provision of regulated entertainment or late-night refreshment at a premises not authorised by a Premises Licence or Club Premises Certificate. This Notice is subject to certain limitations as laid down by the Licensing Act 2003.</p>
<b>TEN – 10 working days’ notice</b>	<p>10 working days <u>exclusive</u> of the day on which the event is to start <u>and</u> <u>exclusive</u> of the day on which the Notice is given to the Licensing Authority.</p>
<b>Types of Authorisation</b>	<ul style="list-style-type: none"> <li>• Premises Licence</li> <li>• Club Premises Certificate</li> <li>• Personal Licence</li> <li>• Provisional Statement</li> <li>• Temporary Events Notice</li> </ul>
<b>Vexatious Representation</b>	<p>A representation may be considered vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification.</p>
<b>Vicinity</b>	<p>A term which has been removed from the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2011. Previously, the Licensing Authority in making their initial decision on the question of vicinity had to consider whether the individual’s residence or business is likely to be directly affected by disorder and disturbance occurring on those premises.</p>

## Appendix 3 – RESPONSIBLE AUTHORITY CONTACT LIST

In accordance with the s182 Guidance this policy lists all the relevant contact points where members of the public may obtain general advice. The Licensing Authority in particular recommends that all applicants seek advice from the Responsible Authorities below prior to submitting applications.

The Licensing Team  
Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

Tel: 01757 705101  
Fax:01757 292229  
e-mail: [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk)

**Please note the Licensing Authority is also a  
Responsible Authority in its own right (see below)**

### *North Yorkshire Police*

Alcohol Licensing Unit  
North Yorkshire Police  
Fulford Road  
York  
YO10 4BY

Tel: 01904 669498

e-mail: [nyplicensing@northyorkshire.pnn.police.uk](mailto:nyplicensing@northyorkshire.pnn.police.uk)

### *North Yorkshire Fire & Rescue Authority*

North Yorkshire Fire and Rescue Authority  
Chief Fire Officer  
Fire Brigade Headquarters  
Crosby Road  
Northallerton  
North Yorkshire  
DL6 1AB



**Health & Safety Enforcement for all Local Authority/County Council-owned and operated premises**

The Operations Manager  
Health & Safety Executive  
The Lateral  
8 City Walk  
Leeds

Tel: 0113 2834200  
Fax: 0113 2834382

LS11 9AT

**Social Services**

Director of the Children and Young People's Service  
North Yorkshire County Council  
Children and Young People's Service  
Room 122  
County Hall  
Northallerton  
DL7 8AE

Tel: 01609 780780

**Trading Standards**

North Yorkshire Trading Standards  
Unit 4/5, Block B  
Thornfield Business Park  
Standard Way  
Northallerton  
DL6 2XQ

Tel: 01609 760616

**Director of Public Health**

Director of Public Health,  
North Yorkshire County Council,  
County Hall,  
Northallerton  
DL7 8AD

Tel: 01609 780780

This list may from time to time be subject to change and applicants and existing licence holders are recommended to contact the Licensing Authority for an up to date list.



## Licensing Committee – Licensing Policy Consultation

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Venue:	Committee Room
Date:	Monday 12 October 2015
Time:	10.00am
Present:	Councillors C. Pearson (Chair), K Ellis (Vice-chair), Mrs J Chilvers, Mrs S Duckett, M Hobson, M Jordan, B Marshall, J Thurlow and Mrs D White
Other Councillors:	Councillor I Chilvers
Officers Present:	Gillian Marshall, Solicitor to the Council and Daniel Maguire, Democratic Services Officer
Apologies for absence:	Councillor R Sweeting

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The Solicitor to the Council guided Councillors through the proposed Licensing Policy, which had been presented to Councillors at the Licensing Committee meeting on 7 September. A public consultation was currently ongoing and was scheduled to end on 26 October 2015. Councillors were able to ask questions and make submissions to the consultation. It was confirmed that a representative of North Yorkshire Police will attend the November Committee meeting to provide additional information and advice.

The Solicitor to the Council advised that the Licensing Authority is unable to refuse or impose conditions on applications where no relevant representations have been made. It was confirmed that public notices are displayed at premises and in local newspapers and that a list of applications is circulated to Councillors. Objections can be raised by any person or organisation.

### Fast Food Outlets

It was confirmed that controlling the number of these outlets is not generally a licensing matter; demand is also not a valid consideration for a Licensing Authority. In some cases a Licensing Authority may wish to consider a Cumulative Impact Assessment (CIA), which would require the identification of an area where there are enough premises to assume that no more are needed. Currently there are no CIAs in the Selby District; normally such

issues are identified by the Police. The Committee confirmed that it did not feel there was currently demand for a CIA.

### Late Night Refreshments

Currently any premise that serves hot food between 11pm and 5am requires a Late Night Refreshment licence. The Solicitor to the Council advised that the Deregulation Act allows a Licensing Authority to amend its policy to provide that not all late night establishments require a licence. This could be determined by geography, such as providing that Late Night Refreshment licences are only required within urban areas. Alternatively it could be determined by type of premise, for example to exempt motorway service areas, petrol stations or community centres.

The Committee confirmed that it was supportive of changes to the policy that allowed for the deregulation of certain types of Late Night Refreshment licences subject to confirmation from North Yorkshire Police that it had no concerns that this would increase crime and disorder.

### Early Morning Restriction Orders

The Police Reform and Social Responsibility Act 2011 provides the Licensing Authority with the discretion to restrict sales of alcohol between midnight and 6am by introducing an Early Morning Restriction Order (EMRO). The introduction of an EMRO must be evidence based and may include the use of a Cumulative Impact Assessment. The Committee felt that there was no evidence at present to support an EMRO but the Committee requested that the power be retained in the Licensing Policy should the situation change in the future.

*Councillor Jordan left the meeting at this point (11am).*

### Late Night Levy

The Committee did not recommend the introduction of a Late Night Levy because it would need to apply district wide rather than targeting problem premises, but recognised that this discretionary power could be introduced by full Council.

### Standard Conditions

The Committee recognised that standard conditions were not appropriate under the Act. Nonetheless standardised wording for common conditions such as proof of age schemes would help to ensure consistency and strengthen enforcement. The Committee supported the proposal to prepare draft conditions as a separate document to aid applicants and those making representations. The alternative would be to include draft conditions in the Policy, which would then require a policy review to make subsequent changes. The Solicitor to the Council advised that a pool of draft conditions would be brought to the Committee in December or January.

### Next steps

The Committee were advised that the public consultation would close on 26 October 2015 and that a final draft would be presented to Executive and then to Council on 1 December. If approved, the policy would come into force on 1 January 2016. The Solicitor to the Council invited Councillors to submit any further comments to her directly in advance of the consultation closing.

**Alcohol Licensing Policy – Summary of Consultation Responses**

In addition to the submission from Licensing Committee 3 other consultation responses were received. These are as follows:

Name	Address	Comment
Claire Robinson Health Improvement Manager	Public Health Health and Adult Services North Yorkshire County Council County Hall Northallerton North Yorkshire DL7 8DD	<p>To add the following wording to section 12:</p> <p>Health in North Yorkshire</p> <ul style="list-style-type: none"> <li>• Increasing risk and higher risk drinking in North Yorkshire to be estimated at 25.7%, higher than the national average of 23.6%</li> <li>• alcohol related hospital admissions are increasing year on year;</li> <li>• nearly 200 people per annum die in the county as a result of alcohol.</li> </ul> <p>There has also been a long-term increase in the proportion of alcohol purchased from off-license outlets and consumed at home rather than in pubs and bars. This change in drinking patterns is largely driven by low cost alcohol available from the off trade. The Licensing Authority has ensured that the policy recognises this shift in drinking patterns.</p> <p>The Authority supports the North Yorkshire Alcohol Strategy and will, where possible, work in partnership for dealing with both actual and potential harms from alcohol.</p>
Peter Hudson Group Manager Head of Prevention & Protection	North Yorkshire Fire and Rescue Service	No comments to make on the policy
Magic Action Promotions	Not provided	No comments to make on the policy

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## Public Session

Report Reference Number: C/15/11

Agenda Item No: 13

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<b>To:</b>	<b>Council</b>
<b>Date:</b>	<b>1 December 2015</b>
<b>Author:</b>	<b>Tom Ridley, Policy Officer</b>
<b>Lead Officer:</b>	<b>Keith Dawson, Director - Access Selby</b>
<b>Executive Member</b>	<b>Cllr Crane, Leader of the Council</b>

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### **Title: Community Infrastructure Levy (CIL)**

#### **Summary:**

Councillors may be familiar with the development of the Community Infrastructure Levy (CIL) for Selby. The Executive had previously agreed to progress setting a CIL charge on new development in order to help fund the necessary infrastructure required to support new growth. Selby District Council held an Examination in Public (EIP) on the CIL Draft Charging Schedule on 12/08/15 which looked at the whether the CIL Draft Charging Schedule met the requirements of the Planning Act 2008 and the associated Regulations and Guidance.

The Examiner has issued his report and concluded that, subject to minor modifications, the Selby District Council Community Infrastructure Levy Draft Charging Schedule provides an appropriate basis for the collection of the levy in the district. The modifications required relate to adding definitions of retail warehouse and supermarket development types to the Schedule for clarity. Subject to these modifications, the Council is able to demonstrate that it has sufficient evidence to support the Schedule and can show that the levy rates would be set at levels that will not put the overall development of the district, as set out in its adopted Core Strategy, at risk. The proposals would secure an important funding stream for infrastructure necessary to support planned growth in the district. The Examiner's report and minor modifications should be viewed as a successful outcome for the Council.

#### **Recommendations:**

Following consideration of the proposals by the Executive on 5th November 2015 Council is recommended to:

- i. **Adopt the Community Infrastructure Levy Charging Schedule and implement the Community Infrastructure Levy charges from 1 January 2016.**

## **Reasons for recommendation**

To adopt and implement the Community Infrastructure Levy in order to help fund the necessary infrastructure required to support new growth.

### **1. Introduction and background**

- 1.1 From 6<sup>th</sup> April 2015 Councils are only able to collect scaled back Section 106 contributions on items that are required to make an individual development acceptable in planning terms. Councils may also not pool more than 5 contributions received since 2010 for the same item of infrastructure. Section 106 Agreements now deal largely with on-site matters. However Councils can choose to introduce a Community Infrastructure Levy (CIL) on new development to top up the scaled back Section 106 receipts. The CIL charging schedule must be based on viability evidence and strike an appropriate balance between charging an appropriate levy for the provision of infrastructure and not inhibiting development from coming forward.
- 1.2 The CIL is a non-negotiable charge on new buildings in £s per square metre and the rates must be set out in an approved Charging Schedule. In Selby there are a range of rates proposed for different types of development. It will be charged on most buildings/extensions over 100 sqm and dwellings of any size, based on a net increase in floorspace. The Community Infrastructure Regulations make a number of provisions, some compulsory and others non-compulsory for charging authorities to give relief or exemption from the levy. In each case it is only granted in respect of the chargeable development. The CIL becomes payable on the grant of planning permission, but is paid when development commences on site.
- 1.3 Selby District Council prepared a CIL Draft Charging Schedule which proposed three housing development charging zones of £10/£35/£50 per sqm with £110 per sqm for supermarkets and £60 per sqm for retail warehouses. This work followed statutory consultation and included duty to cooperate procedures engaging local authorities. This was approved for an Examination in Public (EIP) at the Executive Meeting of 5 March 2015.

### **2. The Report**

- 2.1 The purpose of this report is to seek Council's approval to adopt the Selby District Council Community Infrastructure Levy (CIL) Charging Schedule as recommended by Executive Board on 5th November 2015.



- 2.2 Selby District Council held an EIP on the CIL Draft Charging Schedule on 12 August 2015 which looked at whether the CIL Draft Charging Schedule met the requirements of the Planning Act 2008 and the associated Regulations and Guidance. The Examiner looked at the evidence submitted at all stages of consultation and gave the opportunity for evidence to be submitted for discussion. The examination took half a day with officers fully presenting the Council's position.
- 2.3 The CIL Examination Final Report was received from the Examiner on 16 September 2015. The Examiner states that Council has sufficient evidence to support the CIL Charging Schedule and can show that the levy is set at a level that will not put the overall development of the Selby District at risk. The Examiner recommends that the Charging Schedule should be approved in its published form without changes to any of the proposed rates. He is satisfied that the evidence represents a robust assessment of the necessary infrastructure and possible sources of funding, and that the Council has taken a cautious but realistic approach in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the District. Furthermore the proposed rates are justified by the appropriate available evidence.
- 2.4 The only recommendations for changes are as agreed with the Council at the EIP, which are very minor amendments to improve clarity.
- 2.5 Charging Schedule
- Housing Zones
- 2.5.1 The CIL Draft Charging Schedule proposed three housing development charging zones of £10/£35/£50 per sqm. The Examiner found that the proposed rates are justified and supported by the available viability evidence and are set at the appropriate level. The three proposed residential zones provide sufficient comfort that the rates will not prevent the housing needs of the district from being met.
- Supermarkets and Retail Warehouses
- 2.5.2 The CIL Draft Charging Schedule proposed rates of £110 per sqm for supermarkets and £60 per sqm for retail warehouses. The Examiner found that the proposed rates are justified and supported by the available viability evidence and are set at the appropriate level. However to add further clarity to the Charging Schedule the Examiner recommended the definition of supermarket and retail warehouse used by the Council in the Economic Viability Assessment be stated in the Charging Schedule.
- 2.6 Final Charging Schedule – Appendix 1

- 2.6.1 As a result of the Examiner's report, very minor modifications have been made to the final Charging Schedule to reflect the recommendations made; the final document for adoption is attached at Appendix 1.

### **3. Legal/Financial Controls and other Policy matters**

#### **Legal Issues**

- 3.1 The charging schedule must be formally approved by a resolution of the full council of the charging authority. The resolution should include an appropriate commencement date, following or on approval.

#### **Financial Issues**

- 3.2 The estimated receipts from adoption of the CIL are £444,000 per annum. The Council will be required to pay the appropriate proportion of the receipts to the local town or parish council as identified in the Executive report 5<sup>th</sup> November 2015. The Council is also able to deduct an admin charge of up to 5% from the receipts.

### **4. Conclusion**

- 4.1 After a successful EIP the Examiner is satisfied that the evidence represents a robust assessment of the necessary infrastructure and possible sources of funding, and that the Council has taken a cautious but realistic approach in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the District. The CIL Charging Schedule is therefore now ready to progress to adoption. Officers recommend that the earliest date that the levy could be adopted is 1 January 2016 due to the need to implement the necessary IT and systems and to allow existing applications time to complete their approval processes.
- 4.2 Once adopted the CIL will enable the Council to 'top up' Section 106 payments and other funding sources to provide the infrastructure required as a result of PLAN Selby. The adoption of the CIL should be considered a success for the Council.

### **5. Background Documents**

*There are no background documents as the relevant associated documentation is all available as published works. All of the Community Infrastructure Levy evidence base documents were submitted for independent Examination, and are available at:*

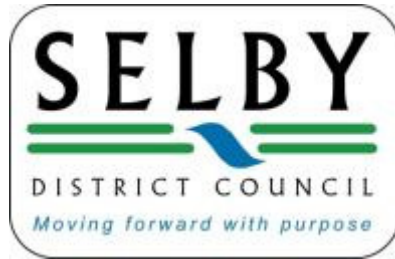
<http://www.selby.gov.uk/community-infrastructure-levy-cil>

**Contact Officer:**

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**Appendices:**

Appendix 1 - Charging Schedule



# Community Infrastructure Levy

Draft Charging Schedule

October 2015

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## **i. Statement of Statutory Compliance**

*The CIL Draft Charging Schedule has been approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012 2013 and 2014)*

*and Part 11 of the Planning Act 2008 (as amended by Part 6 of the Localism Act 2011). In setting the levy rates, Selby District Council considers it has struck an appropriate balance between;*

*a) the desirability of funding from CIL in whole or in part the actual and estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding, and*

*b) the potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across the Selby District.*

*This Charging Schedule was approved by on [date to be inserted following examination]*

*This Charging Schedule will come into effect on [date to be inserted following a successful examination and full Council approval]*

## **1.0 Introduction**

1.1 This document is the Draft Charging Schedule (DCS) for the Selby District Council Community Infrastructure Levy (CIL). This document contains the Charging Schedule itself along with Charging Zone Maps as well as an explanation and background of CIL to make the process easier to understand.

1.2 The CIL is a tariff system that local authorities can choose to charge on new development in their area by setting a Charging Schedule. The CIL is a charge levied on new buildings and extensions to buildings according to their floor area. In this way money is raised from developments to help the Council pay for infrastructure such as schools, public transport improvements, greenspace, highways, and other facilities to ensure sustainable growth. It can only be spent on infrastructure needs as a result of new growth and will be a mandatory charge. The CIL will replace the current Section 106 (s106) 'tariff' approaches which are currently used for this purpose because the Council can no longer use s106s in the same way from April 2015 due to a change in government regulations. However s106s will continue to be used for affordable housing and anything required for the specific development site to make it acceptable in planning terms, further details of this are outlined in this document. The CIL regulations are clear the CIL should not be set at such a level that it risks the delivery of the development plan, and has to be based on viability evidence

### Who is liable for the payment of CIL?

1.3 The regulations state the registered owner of the land is liable to pay the CIL, unless another party claims liability and declares this to the council. On adoption of CIL the council intends to incorporate a section for this into the application. For example a developer may have a contract with the land owner to develop a site and therefore declare they are liable for the CIL payment on the owner's behalf. The regulations and governments intention is that those who benefit financially when planning

permission is granted should share some of that gain with the community. That benefit is also transferred when the land is sold with planning permission, which also runs with the land. The CIL can also be paid to the Council 'in kind' through the transfer of land or the provision of infrastructure, however this will be at the Councils discretion and will be tested on a case by case basis.

#### When is CIL due for payment?

- 1.4 The levy's charges will become due on the 'commencement of development' the definition of which is the same as that used in current planning legislation. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy that will be due for payment. Upon commencement of development payments must be made in full or in line with the council's instalments policy and failure to do so can lead to a prison sentence.

#### What can the Council spend CIL on?

- 1.5 CIL can only be spent on 'Strategic Infrastructure' which includes transport, flood defences, schools, health and social care facilities, parks and green spaces, cultural and sports facilities as well as maintenance and improvement of facilities affected by development. Items that the council wishes to spend CIL money on must be published in a Regulation 123 List (R123) and only items on this list can receive CIL funding. From April 2015 s106 can only be sought for items not listed on the R123 list and only for infrastructure directly required to make development 'acceptable in planning terms'. The R123 list also ensures that no 'double dipping' occurs and that a development cannot make a payment for the same item through CIL and s106.
- 1.6 The regulation state that the council is required to provide a 'Meaningful Proportion' to areas where development takes place. The Selby District Council catchment is fully covered by Parish/Town Councils therefore Town/Parish Councils are due 15% of any CIL payments collected within their area. Areas that have an adopted Neighbourhood Plan will receive 25% as a government incentive to accept



development through a Neighbourhood Plan. Unlike the councils CIL receipts, the Parish Council's meaningful proportion is not tied to the R123 and does not have to be spent in consultation with SDC. However Parish Councils do have to spend the meaningful proportion in line with the following CIL regulations:

- (a) "The provision, improvement, replacement, operation or maintenance of infrastructure; or,
- (b) Anything else that is concerned with addressing the demands that development places on an area" (Regulation 59C).

## **2.0 Background to the Draft Charging Rates & Zones**

- 2.1 Peter Brett Associates (PBA), formerly Roger Tym & Partners, was commissioned by SDC to provide specialist services for the development and preparation of a Community Infrastructure Levy (CIL) Economic Viability Assessment. The Viability Assessment has been used to inform the council of the appropriate charges and zones as well as explaining in detail the approach and methods used for setting the rates. This document along with 2 updates can be found on the Councils website:

[Community Infrastructure Levy, Economic Viability Assessment September 2013](#)

(hyperlink will be inserted upon adoption)

[Selby Community Infrastructure Levy, Addendum Report April 2014](#)

(hyperlink will be inserted upon adoption)

[Community Infrastructure Levy, Revised Draft Charging Schedule Report November 2014](#)

(hyperlink will be inserted upon adoption)

### 3.0 THE DRAFT CHARGING SCHEDULE

- 3.1 CIL will be applied on the chargeable floor space of all new development apart from that exempt under the Community Infrastructure Levy Regulations 2010 (as amended 2011, 2012, 2013, and 2014) and specifically Part 2 and Part 6.

These exemptions from the CIL rates are:

- a) Where the gross internal area of a new buildings or extensions to buildings will be less than 100 square metres (other than where the development will comprise one or more dwellings);
  - b) A building into which people do not normally go;
  - c) A building into which people go only intermittently for the purpose of maintaining or inspecting fixed plant or machinery;
  - d) A building for which planning permission was granted for a limited period;
  - e) Development by charities of their own land to be used wholly or mainly for their charitable purposes;
  - f) Social Housing;
  - g) Vacant buildings brought back into the same use;
  - h) Floorspace resulting from change of use development where part of the building has been in continuous lawful use for at least six months in the three years twelve months prior to the development being permitted;
  - i) Houses, flats, residential annexes and residential extensions which are built by 'self-builders';
  - j) Mezzanine floors of less than 200 square metres inserted into an existing building, unless they form part of a wider planning permission that seeks to provide other works as well.
- 3.2 SDC has chosen to adopt an Instalments Policy, which allows those liable for CIL to pay their CIL charge in phased stages, this is set out in a separate document.
- 3.3 The Council has chosen to adopt an Exceptional Circumstances Policy, whereby developers can request strictly through a viability appraisal for some or all of the CIL charge to be waived this is set out in a separate document and has very narrow criteria.

## 3.4

Use	Proposed CIL Charge per sq. m.
<p><b>Private Market Houses (excl. apartments)</b>  Low value areas  Moderate value areas  High value areas</p>	<p>£10  £35  £50</p>
<p><b>Supermarket</b>  Supermarkets are large convenience-led stores where the majority of custom is from people doing their main weekly food shop. As such, they provide a very wide range of convenience goods, often along with some element of comparison goods. In addition to this, the key characteristics of the way a supermarket is used include:</p> <ul style="list-style-type: none"> <li>- The area used for the sale of goods will generally be above 500 sq. m.</li> <li>- The majority of customers will use a trolley to gather a large number of products;</li> <li>- The majority of customers will access the store by car, using the large adjacent car parks provided;</li> <li>- Servicing is generally undertaken via a dedicated service area, rather than from the street.</li> </ul>	<p>£110</p>
<p><b>Retail Warehouse</b>  Retail warehouses are usually large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods. They can be stand-alone units, but are also often developed as part of retail parks. In either case, they are usually located outside of existing town centres and cater mainly for car-borne customers. As such, they usually have large adjacent, dedicated surface parking.</p>	<p>£60</p>
<p><b>Public/Institutional Facilities as follows: education, health, community and emergency services</b></p>	<p>£0</p>
<p><b>All other chargeable development (incl. apartments)</b></p>	<p>£0</p>

3.5 The charging zones which these rates apply to are set out on the following map which is presented on an OS base as required in the regulations.

3.6 This map is also available on SDC website and clearly demonstrates the boundaries (hyperlink will be inserted).

