

NOTICE
OF
MEETING
LICENSING PANEL

will meet on

TUESDAY, 20TH APRIL, 2021

At 6.00 pm

by

VIRTUAL MEETING - ONLINE ACCESS, ON [RBWM YOUTUBE](#)

TO: MEMBERS OF THE LICENSING PANEL

COUNCILLORS GURPREET BHANGRA (CHAIRMAN), DAVID HILTON (VICE-CHAIRMAN), PHIL HASELER, JOHN BOWDEN, GERRY CLARK, DAVID CANNON, JOHN BALDWIN, MANDY BRAR, KAREN DAVIES, JON DAVEY AND GEOFF HILL

SUBSTITUTE MEMBERS

COUNCILLORS MAUREEN HUNT, ROSS MCWILLIAMS, GARY MUIR, JULIAN SHARPE, SHAMSUL SHELM, DONNA STIMSON, CLIVE BASKERVILLE, SIMON BOND, DEL CAMPO, NEIL KNOWLES AND HELEN TAYLOR

Karen Shepherd – Head of Governance - Issued: 12 April 2021

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator **Shilpa Manek** 01628 796310

Recording of Meetings – In line with the council's commitment to transparency the Part I (public) section of the virtual meeting will be streamed live and recorded via Zoom. By participating in the meeting by audio and/or video, you are giving consent to being recorded and acknowledge that the recording will be in the public domain. If you have any questions regarding the council's policy, please speak to Democratic Services or Legal representative at the meeting.

AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
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2.	<u>DECLARATIONS OF INTEREST</u> To receive any declarations of interest.	3 - 4
3.	<u>MINUTES OF THE LAST LICENSING PANEL</u> To confirm the Part I Minutes of the meeting held on 13 October 2020.	5 - 10
4.	<u>MINUTES OF THE LICENSING AND PUBLIC SPACE PROTECTION ORDER SUB COMMITTEE</u> To agree the minutes of the sub-committee held on 7 th and 29 th January 2021.	11 - 26
5.	<u>STATEMENT OF LICENSING POLICY - FIVE YEAR REVIEW</u> To consider the report.	27 - 56
6.	<u>DATES OF FUTURE MEETINGS</u> The dates of future meetings are: 6 July 2021 12 October 2021 1 February 2022 19 April 2022	

MEMBERS' GUIDE TO DECLARING INTERESTS IN MEETINGS

Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a DPI or Prejudicial Interest. If a Member has already disclosed the interest in their Register of Interests they are still required to disclose this in the meeting if it relates to the matter being discussed.

A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in the discussion or vote at a meeting.** The speaking time allocated for Members to make representations is at the discretion of the Chairman of the meeting. In order to avoid any accusations of taking part in the discussion or vote, after speaking, Members should move away from the panel table to a public area or, if they wish, leave the room. If the interest declared has not been entered on to a Members' Register of Interests, they must notify the Monitoring Officer in writing within the next 28 days following the meeting.

Disclosable Pecuniary Interests (DPIs) (relating to the Member or their partner) include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any licence to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where:
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

A Member with a DPI should state in the meeting: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations on the item: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Prejudicial Interests

Any interest which a reasonable, fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs the Member's ability to judge the public interest in the item, i.e. a Member's decision making is influenced by their interest so that they are not able to impartially consider relevant issues.

A Member with a Prejudicial interest should state in the meeting: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations in the item: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Personal interests

Any other connection or association which a member of the public may reasonably think may influence a Member when making a decision on council matters.

Members with a Personal Interest should state at the meeting: ***'I wish to declare a Personal Interest in item x because xxx'. As this is a Personal Interest only, I will take part in the discussion and vote on the matter.***

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Agenda Item 3

LICENSING PANEL

TUESDAY, 13 OCTOBER 2020

PRESENT: Councillors Gurpreet Bhangra (Chairman), David Hilton (Vice-Chairman), John Bowden, Gerry Clark, David Cannon, Phil Haseler, John Baldwin, Mandy Brar, Karen Davies, Jon Davey and Geoff Hill

Also in attendance: Public Speakers: Mr Yasir, Mr Sabir and Mr Pazir

Officers: Shilpa Manek, Greg Nelson and David Scott

APOLOGIES FOR ABSENCE

No apologies for absence were received.

DECLARATIONS OF INTEREST

No declarations of interest were received.

MINUTES

RESOLVED UNANIMOUSLY: That the minutes of the last meeting be approved. This was proposed by Councillor Haseler and seconded by Councillor Cannon.

MINUTES OF THE LICENSING AND PUBLIC SPACE PROTECTION ORDER SUB COMMITTEE

RESOLVED UNANIMOUSLY: That the minutes of the last Licensing and Public Space Protection Order Sub Committee were an accurate record. This was proposed by Councillor Brar and seconded by Councillor Haseler.

ADOPTING STATUTORY TAXI & PRIVATE HIRE VEHICLE STANDARDS

Greg Nelson, Trading Standards & Licensing Manager, introduced the report. The Panel were being asked to agree the recommendations set out in the report.

The Chairman invited Mr Sabir, Mr Yasin and Mr Pazir to address the Panel:

Mr Sabir informed the Panel that Covid had had a major impact on taxi drivers. The total lockdown had stopped fares and had caused him to be lost and confused as he could not support his family and all pre bookings were being cancelled. It had been very difficult to sustain the vehicles in the trade. With no travelling and airports being closed and no work commute, business had almost stopped. Many taxi drivers were trying to find other jobs to support their families. He was very concerned about the bleak future. Mr Sabir pointed out that RBWM should follow the same process as Wokingham Borough Council, where the drivers were handing back their licenses, the council had decided to extend their life of taxi vehicles without a maximum number of years and to reduce their licence fees. The drivers understood that RBWM had given extensions to the licenses and had not charged a fee which all drivers were grateful for. This was only till September 2020. Any drivers that had licenses to be renewed after September were given no privileges as the ones before September. Drivers were finding it extremely difficult to carry on their trade and support their families and could not afford the fees and insurance going forwards. Mr Sabir suggested that a cap be put on vehicles so that no more were issued and to get rid of the Windsor Marshal at Victoria Street, that they were paying towards along with the council. Mr Sabir was aware that the Windsor Marshal had

been in and out of post since the lockdown. The premium that was paid for the Hackney Carriage plate licence needed to be reduced since the service was no longer required. With these implementations, both the drivers and the council could save money as no nightclubs were open and no night time economy.

Mr Sabir informed the Panel that the drivers had no problems with the recommendations in the report. However, some drivers would be treated unfairly. The council would need to be more open and transparent in dealing with cases so the livelihood of drivers was not affected further. Mr Sabir suggested that the council have a conviction policy as regards to criminal records and to what extent a driver could be regarded as a risk. This detailed information would assist all drivers to understand and therefore comply.

The third point that Mr Sabir raised was that the drivers were happy that the policies for recommendation and the CCTV policy would be going to consultation but they were all concerned that with all the fees they were paying, in these unusual times, the recommended policies would incur further costs to the drivers which would be unfair and not right.

Mr Yasin informed the Panel that he agreed with everything that Mr Sabir had said and wanted to add a point on the language policies. Mr Yasin said that some drivers had been working in the trade for over thirty years and their language skills, spoken, were not a problem but their writing and reading skills were not that great. If these drivers had to be tested, it would not be fair as they had traded for such long times. It would be unfair to cancel their licenses.

Mr Pazir was invited to speak but was unable to join the discussion.

Greg Nelson thanked both speakers and answered a few of their points. Greg Nelson commented on the marshal, the council were looking at the best use of the marshal. A full consultation and agreement would be carried out if any changes were to take place to the position. With respect to the point about knowing who is a risk, each case would be treated on its own merits and the council would only act on the evidence available, only act when necessary and proportionally and all drivers would have the right to appeal upon any action that was taken. Greg Nelson confirmed that he was aware of the changes that Wokingham Borough Council had made, they had made a reduction of £40 to their Hackney fees this year and had extended the age of the vehicles for a twelve month period. Greg Nelson confirmed that he would be happy to discuss this with senior colleagues and councillors. Greg Nelson responded to Mr Yasin on the point of the English language policy and accepted that many drivers had been driving for many years and appreciated that their written English was not great. Greg Nelson made it clear that this would only be raised where an officer had cause to believe that an existing drivers English was a problem and was not enabling them to do their job properly would they seek the driver to do some English testing. The main point was to keep the residents safe. There were no intentions to start testing existing drivers.

Councillor Cannon proposed the motion as recommended in the report. This was seconded by Councillor Hilton.

Councillor Cannon reminded all that the role of the Panel was as a taxi regulator and the first priority had to be the safety of the residents and passengers using the taxis that were operating in the borough. The recommendations in the report were mandatory from government with the only caveat saying that except there were exceptional circumstances for them not to be implemented. Councillor Cannon highlighted that he would have been surprised if any Member felt that the recommendations were unsuitable to keep the residents safe. Two of the recommendations were not mandatory and the Officer had highlighted these, first being the English language provision and the second being the CCTV, and to speak with the trade and get their views on this as there would be impacts, financial and GDPR on them. However, the main reason was to protect the public and for the drivers to protect the public, which they did a very good job of. The drivers provided a safe, secure transport service for the residents and the Panel needed to ensure that this continued. All the recommendations

enhanced the safety of the residents and passengers. This was a sensible and proportional step forward.

Councillor Hilton pointed out that the drivers had no concerns with the policies and the policies offered protection to the drivers as much as they did to the passengers. Councillor Hilton addressed Mr Sabir's concerns and highlighted as did Greg Nelson that each case would be looked at on its own merits and actions would only be taken when they had to. Councillor Hilton commented on the language issue and said that drivers needed to have an adequate command of English to communicate with their passenger and the licensing officer. Councillor Hilton concluded that these were sensible proposals and were statutory requirements from government, who expect the council to adopt these unless there were compelling reasons not to. Councillor Hilton said he fully supported the motion.

After some discussion about the procedure, Councillor Baldwin proposed an amendment to the motion as follows:

Agrees that the proposed changes to the current RBWM Hackney Carriage Driver and Vehicle Policy & Conditions, the RBWM Private Hire Driver and Vehicle Policy & Conditions and the RBWM Private Hire Operator Policy & Conditions ("RBWM policies") be sent out to consultation with the trade immediately and that the post consultation changes be brought to the Licencing panel at the earliest possible date at which time those and any other minor amendments can be considered.

Councillor Baldwin's justification for the amendment was that within the terms of reference of the Licensing Panel, the purposes of the Panel included the determination and review of both the Hackney Carriage and the Private Hire Driver and Vehicle Policy and Conditions as well as consultations with representative organisations of the relevant trades on matters of concern to users and the trade. Councillor Baldwin's proposed amendments to those Policies and Conditions were matters of concern worthy of consultation. Councillor Baldwin informed the Panel of the first principle of Gunning (which must underpin every public consultation that takes place in the UK) was that Consultation should take place at a formative stage of the development of the policies. Yet here, the Panel were being asked to agree to the changes first with a consultation to follow. Final versions of the amended policies were to be agreed under delegated responsibility of lead Councillors, the chair, and officers. There was no logical reason why the consultation should not take place first, after which a report of recommended changes, informed by the consultation could be brought to the Panel for agreement. Moreover, for one section of the national standards, the part dealing with CCTV inside vehicles, this was indeed the approach being taken, with no recommended policy amendments proposed until after the consultation. Councillor Baldwin felt that this approach was always best practice and should be extended to all the proposed policy changes. Councillor Baldwin said that it may be argued that the process was legally safe because there was still a final decision to be made of the policy wording, which was proposed to be made under delegated authority. However, there was an issue with this arrangement because it meant that the final decision would be made in private without the opportunity for affected persons to address the decision makers through public speaking. Such would not be the case were the recommendations, perhaps amended due to consultation, were brought back before this panel. This would avoid a looming human rights issue, as those potentially seriously impacted by the final decision on the policy amendments were entitled to a fair hearing.

Councillor Brar seconded the amendment.

Councillor Bowden commented that he had taken part in many taxi appeals. Councillor Bowden discussed the DBS and drivers not declaring their convictions so supported the recommendations. He suggested that the DBS should be a rolling, continuous DBS. This was essential. Councillor Bowden felt the English language recommendation was essential too. It was necessary to have a good command of the English Language. Councillor Bowden fully supported the recommendations in the report.

Councillor Hill spoke in support of the amendment on the recommendations as it was a great way forward but agreed that the consultations should take place first before making the decisions. On the point about the English language, Councillor Hill felt that it would be expected that drivers spoke sufficient English to do their job proficiently and properly. With respect to written English, a driver would only need to do so much to do their job. Great care needed to be taken with the exams and make sure they were focussed on drivers being able to do their job properly and cope with any circumstances they may meet in their daily work properly and professionally. Councillor Hill acknowledged that the business had fallen dramatically for drivers and that had major impacts on their livelihood and support for their families. Councillor Hill suggested being very careful and mindful and to extend some concessions to the drivers to help them financially in these very difficult times. The CCTV would be an additional cost and would seek to delay the implementation as it would cost the drivers money and the GDPR formalities are costly and tricky to complete. Councillor Hill suggested that this be revisited once Covid was behind us. Councillor Hill agreed with the fit and proper person test and the previous convictions but felt that the recommendation was quite subjective and it needed to be clarified further and that was the reason that the consultation was important first before making the decision.

Councillor Cannon disagreed with Councillor Baldwin's amendment. Councillor Cannon asked who Councillor was referring to when he said 'our' amendment. Councillor Cannon felt that the reference to the Gunning principles had been misrepresented or misunderstood. The Gunning principles were used for when there was an option, the recommendations in the report were mandatory conditions set by Department of Transport unless there were exceptional circumstances not to adopt them. Of the two recommendations that are not mandatory, the CCTV will go out for consultation as there is an option for this one. The safety of the residents was the most important factor. Councillor Cannon suggested that the decisions needed to be made at the meeting and then sent out for consultation. If concerns were raised from the consultation then they would be brought back to the Panel. Councillor Cannon did not support the amendment.

Councillor Clark also sympathised with the drivers and like many other small businesses had really suffered as a result of Covid. Councillor Clark pointed out that the recommendations read that in para 2.5 it says that the department therefore expects these recommendations to be implemented unless there is a compelling local reason not to. Any reasons not to adopt these would have to be demonstrably local concerns which were overriding and therefore would prevent the department's recommendations to be carried out by enforcing or putting in force the recommendations. The consultation would be the identification of local issues which prevented the implementation of the points laid out in the recommendations in the report. Councillor Clark continued to say the point three confirmed that after the consultation, the decision would lie with the Head of Communities, Officers and the Licensing Panel to agree the final points. The consultation would be looking at the local concerns. Councillor Clark did not support the amendment.

Councillor Hilton highlighted that both speakers had no concerns with the recommendations. The report reads that government went through a consultation with the trade, regulators and Safety campaign groups across the country. Councillor Hilton did not support the amendment.

Greg Nelson commented that the adoption of these recommendations was mandatory as there were legal consequences if they were not.

Councillor Brar commented that she agreed with everyone that safety of the residents was the most important thing but felt that a consultation was required before the decision was made. Councillor Brar pointed out that being from the BAME community, she didn't agree with recommendation 11 as many of the taxi drivers were also from the BAME community. Councillor Brar was concerned about drivers taking the English test after years of driving as they could lose their livelihood if they failed.

David Scott assisted to clarify the situation. The expectations of the Department of Transport were expected to be put into place unless there were compelling local reasons not to. This is what the consultation with the drivers would be on. If any local reasons are flagged up, as the head of Communities, to whom the delegation is with, in consultation with the Chairman of Licensing Panel and the Lead Member, Councillor Cannon, this would be discussed and if they were compelling, would be brought back to the Panel to consider. The national consultation had already taken place and this was a very comprehensive process undertaken by the Department of Transport. The discussions at this Panel were for local compelling reasons, which would be the only basis upon which they couldn't be implemented. David Scott reassured the Panel that he had listened carefully to the debate and fully understood the concerns that had been raised.

Councillor Baldwin talked to the amendment that was proposed by him and seconded by Councillor Brar. He felt that the recommendations were not mandatory otherwise they would have been mandated. Councillor Baldwin stressed that it was crucial to carry out the consultation first before making a decision.

Councillor Hill pointed out that all agreed with the recommendations but felt it necessary to carry out the consultation first before making the decisions.

Councillor Davey appreciated the amendment of carrying out the consultation first. Councillor Davey commented on the entire decision making process.

A named vote was taken.

Councillor Baldwin's Amendment (Amendment)	
Councillor Gurpreet Bhangra	Against
Councillor David Hilton	Against
Councillor John Bowden	Against
Councillor Gerry Clark	Against
Councillor David Cannon	Against
Councillor Phil Haseler	Against
Councillor John Baldwin	For
Councillor Mandy Brar	For
Councillor Karen Davies	For
Councillor Jon Davey	For
Councillor Geoffrey Hill	For
Rejected	

Upon being put to the vote, the amendment fell.

Members returned to debating the substantive motion.

A named vote was taken.

Recommendations in the report (Motion)	
Councillor Gurpreet Bhangra	For
Councillor David Hilton	For
Councillor John Bowden	For
Councillor Gerry Clark	For
Councillor David Cannon	For
Councillor Phil Haseler	For
Councillor John Baldwin	Abstain
Councillor Mandy Brar	Abstain
Councillor Karen Davies	Abstain
Councillor Jon Davey	For
Councillor Geoffrey Hill	For

Carried

The motion was passed.

RESOLVED: That the recommendations in the report were agreed.

DATES OF FUTURE MEETINGS

Members noted the next meeting of the Licensing Panel would be 2 February 2021.

If an additional meeting was required after the consultation, the clerk would be advised by Licensing and would arrange.

The meeting, which began at 6.15 pm, finished at 8.00 pm

CHAIRMAN.....

DATE.....

Public Document Pack Agenda Item 4

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

THURSDAY, 7 JANUARY 2021

PRESENT: Councillors David Cannon, Karen Davies and David Hilton

Also in attendance: Mr Anil Kumar (Applicant), Mr Phillip Bicknell (Business Advisor for Applicant), Ms Susan Tunnacliffe (In support), Mr Jernail Gill, Ms Emma Brooks, Ms Julie Cracknell and Mr Andrew Toll (Objectors)

Officers: David Cook, Craig Hawkings, Rachel Lucas, Shilpa Manek and Michael McNaughton

APPOINTMENT OF CHAIRMAN

RESOLVED UNANIMOUSLY: That the Chairman for the Panel was proposed and seconded to be Councillor David Cannon. This was proposed by Councillor Hilton and seconded by Councillor Davies.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Bowden and Councillor Hilton was substituting.

DECLARATIONS OF INTEREST

Councillors Cannon and Hilton declared a personal interest as they both knew Mr Phillip Bicknell as he was previously a borough councillor.

MINUTES

RESOLVED UNANIMOUSLY: That the minutes of the last LPSPOSC held on 15 October 2020 to be noted to be a true record.

PROCEDURES FOR SUB COMMITTEE

The Clerk went through the procedures for the Sub Committee.

CONSIDERATION OF AN APPLICATION OF A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003

The reporting officer, Craig Hawkings, Licensing Enforcement Officer, introduced and went through the report.

This meeting of a Licensing Sub-Committee was convened to hear an application for a new premise located within the Royal Borough of Windsor & Maidenhead. In line with Licensing Act 2003 S18 (3)(a) when relevant representations are made against an application, a hearing must be held to consider them. A relevant representation made against an application for a new premises licence must relate to at least one of the four licensing objectives set out in the Licensing Act 2003. These are 'The Prevention of Crime and Disorder', 'Public Safety', 'The Prevention of Public Nuisance', and 'The Protection of Children from Harm'.

The purpose of this hearing was for the Sub-Committee to hear the application, receive written and oral representations from other parties and then to make a decision in respect of the application.

The Applicant was Mr Anil Kumar of The Lounge, 13a High Street, Windsor, SL4 1LD. Mr Kumar had applied, under the Licensing Act 2003, for a New Premises licence to be granted.

The application was to:

1. To Licence the first floor of 13 High street, Windsor for the purposes of operating as a Restaurant for the sale of alcohol for (Consumption On and OFF (Both) the premises).

A summary of the application is as follows: -

- The standard opening hours of the premises would be 10:30 Until Midnight Monday to Sunday
- To permit the sale by retail of alcohol for consumption On and OFF (both) the premises from 10:30am until Midnight Monday to Sunday
- To permit the provision of late-night refreshment from 23:00 until Midnight Monday to Sunday.
- To Permit Live Music (Indoors) from 10:30am until Midnight Monday to Sunday.
- To permit Recorded Music (Indoors) from 10:30am until Midnight Monday to Sunday.
- To Permit Performances of Dance (Indoors) from 10:30am until Midnight Monday to Sunday.
- To Permit anything similar description to falling within (e) (f) or (g)(Indoors) from 10:30am until Midnight Monday to Sunday.

The Designated Premises Supervisor (DPS) would be Mr Anil Kumar.

This application had received no representations from the responsible authorities which include Royal Borough Fire and Rescue Service, Planning, Local Safeguarding Children's Board, Public Health, Trading Standards, Thames Valley Police and RBWM Licensing. There were representations from Environmental Health. Extra conditions had been proposed by Thames Valley Police and Trading Standards in addition to the proposed conditions received within the application. The applicant had agreed to all the conditions proposed by both responsible authorities. There had been 16 individual representations from residents that were relevant as they related to one or more of the four licensing objectives.

The Licensing Panel Sub Committee was obliged to determine the application with a view to promoting the four licensing objectives which are:

- The prevention of crime and disorder;

- Public safety;
- The prevention of public nuisance
- The protection of children from harm.

In making its decision, the Sub-Committee was also obliged to have regard to national guidance and the Council's own Licensing Policy. The Sub-Committee must have regard to all of the representations made and the evidence that it heard.

The Sub-Committee must, having regard to the application and to the relevant representations, take such step or steps as it considered appropriate for the promotion of the licensing objectives.

The steps that were available to the Sub-Committee were:

- (a) Reject the application;
- (b) Refuse to specify a person in the licence as the premise's supervisor;
(*Note – not all of these will be relevant to this particular application)
- (c) Grant the application but modify the activities and/or the hours and/or the conditions of the licence;
- (d) Grant the application.

Where conditions were attached to a licence then reasons for those conditions must be given.

The Sub-Committee were reminded that any party to the hearing may appeal against the decision of the Sub-Committee to the Magistrates' Court within 21 days of the notification of the determination.

Questions to the Reporting Officer

Councillor Davies was very pleased to hear that the application hours had been amended in line with what's been recommended to midnight. Councillor Davies asked if that was in line with other restaurants along the same stretch of the High Street. The Reporting Officer confirmed that this was, and that the applicant was very willing to take on the recommendations made by trading standards and TVP and the time they felt was reasonable.

Councillor Cannon asked a couple of questions, just for clarification, was the premises above another restaurant and what were the hours of opening for that restaurant? The Reporting Officer confirmed that there was another restaurant downstairs and its hours were similar. Councillor Cannon asked if the application was for a new premise, the Reporting Officer explained that the application is for a new premise. There is currently a previous license in force held by a previous tenant to the property which was formally known as Suede Bar. This was a completely new, separate application with no connections to the previous licence holder. The previous licence was for a bar/restaurant. The Reporting Officer pointed out that there had been issues between the owner and environmental health, TVP and planning, hence this was a separate application from that licence. The license could have been transferred but this way was the more sensible option.

Councillor Hilton talked about the 2015 planning application that was for the entire premises, ground level and first floor to change to a b1 classification. The fact that the premises was now split into two now, Councillor Hilton asked if this was relevant to the new premises licence application. The Reporting Officer explained that when an application was made, the applicant needed to include a plan showing the area that was ring-fenced and covered in the application and this had been provided and was only for the first floor.

Applicants Case

Mr Anil Kumar informed the Panel that he was a local resident and was surprised that the application had come to Panel. However, Mr Kumar now understood why the letters of objection had been submitted and was shocked at what residents and the council had had to put up with for years from the previous operators. Mr Kumar explained that the original licence application had replicated the previous one as he was unaware of all the issues and that was the reason hen and stag parties had been included but they would now concentrate private bookings for lunch and dinner for various groups across the community such as the rotary club and women's institute. Mr Kumar stressed that he would not tolerate any diners arriving intoxicated in any state or form. Mr Kumar informed the Panel that he was a family man with three young children and had collectively decided to take on a business venture with considerable financial investment and personal reputation at risk. Mr Kumar explained that had he had knowledge of the previous issues; he would have had earlier dialogue with the residents about the vision of the restaurant. Mr Kumar explained that he had already held a license in a neighbouring authority for ten years and was fully convert with the license of law surrounding the hospitality industry. The location of the restaurant on the High Street and opposite the church could provide a unique ambience for diners and he was very confident that the restaurant would attract a number of different customers. Once back to normal after Covid, the business would employ up to ten people in various roles, paying the minimum wage to make sure the best service was offered. Mr Kumar informed all that he was happy to be contacted by local residents directly if they had any issues or concerns. Mr Kumar informed the committee that he had read all the objections. Mr Kumar commented that he would have opened a bar/restaurant under the arches in Windsor if that's what he was wanted and not what in the location he had opted for.

Questions to the Applicant by Members

Councillor Davies asked Mr Kumar for more information about the nature of the business, the type of restaurant it would be and the target audience. Mr Kumar informed the Committee that there was a niche market for cheese from around the world so the restaurant would be specialist cheese restaurant. This would be the current focus and if that was not to work then he would look into other options of restaurants and food types.

Councillor Hilton asked what was different from what was at the premises before. Mr Kumar responded saying that he had not been aware of what was there before. This was a small venue with fifty covers at the other end of town which was quite unique and there was no one else selling just cheese in Windsor. Also since the premises was close to the Long Walk, it would be great to offer picnic baskets in the summer.

Councillor Cannon confirmed that it would be a restaurant and not a bar/restaurant and Mr Kumar agreed that this was correct. Mr Kumar clarified that there was a bar on

the premises but that would be used to dispense hot and cold drinks for the restaurant. There was no dance floor in the restaurant.

Councillor Hilton asked about the licence and that it was applying for the ability to play both recorded and live music. Councillor Hilton asked how this would be played in the restaurant and Mr Kumar informed the Committee that this was mainly for private parties. However, since taking ownership of the premises a soundproof wall had been put into place on the right hand side of the venue so that this would reduce sound being filtered across two neighbouring properties and outside. An amplifier had also been installed so that if the noise hit 82 dps, it would automatically shut off.

Councillor Hilton asked how significant private parties were to the restaurant and the business model and if in a private party and people started to dance how would that be managed. Mr Kumar responded that if there was a private party than the doors would be closed to other people. Councillor Hilton commented that that a private party would create more noise and the party may want to dance. Mr Kumar responded that anyone booking a private party would be informed of the noise policy. If a private party was in the restaurant no other customers would be given a table.

Questions to the Applicant by the Reporting Officer

None.

Questions to the Applicant by Legal

None.

Questions to the Applicant by Objectors

Mr Gill asked if it was a cheese restaurant and was there a kitchen. Mr Kumar responded that there was a kitchen on the premises. Mr Gill asked why was there a need for live amplified music and Mr Kumar responded that this was for private functions or parties for children. Mr Kumar said he would like to offer a variety for people to have a nice dining experience.

Emma Brooks asked if Mr Chelsea Singh would have anything to do with this restaurant and was he involved with this new restaurant, as he was involved with this venue before. Mr Kumar confirmed that Mr Chelsea Singh had nothing to do with this restaurant. Emma brooks asked if there would be DJ's at the restaurant paying loud music and Mr Kumar responded that there would not be. Mr Kumar was envisaging a man with a guitar playing in the background whilst people enjoyed their dinner. The venue had the same sound system as before but a new limitator had been installed.

Julie Cracknell asked for reassurance that the music would be soft and would not be banging music. Mr Kumar reassured everyone that it would not be banging music.

Andrew Toll asked what a cheese restaurant was and if there would be tables and chairs. Mr Kumar responded that there would be tables and chairs. Mr Kumar informed Mr Toll that he could be contacted directly if there were any issues or concerns. Mr Kumar was happy to have a regular forum with the residents and the council to discuss any issues and tackle them together and work on solutions. Mr Toll was concerned that the patrons of the restaurant would use the bus shelter as a smoking hut and there would once again be noise pollution.

Arrouse Simmons asked Mr Kumar if he had built an additional kitchen or if you would be using the kitchen that belonged to the restaurant downstairs. Mr Kumar responded that he would be using the kitchen downstairs. Miss Simmons commented that the kitchen downstairs was very small. Miss Simmons asked how the patrons would enter the new restaurant and Mr Kumar responded that this would be through the front door. Miss Simmons asked where the staff would take breaks and Mr Kumar informed the Committee that this would be in a staff room on the first floor. Mr Kumar was not aware where smokers would go on their break but assured everyone that his staff would not use the backyard to smoke.

Dr Shinski asked if Mr Kumar had put in a different soundproof wall to the one that was there before. Mr Kumar responded that there had been no soundproof wall at the premises when he had taken over the premises. Dr Shinski asked if there was a dance floor in the premises. Mr Kumar responded that the restaurant had now been arranged to have tables and chairs there and was happy for Dr Shinsky to visit and see the new arrangements. There was no dance floor. The floor was wood all the way through the premises, the carpet had been removed.

Objectors Cases

Mr Gill put forward his case to the Committee explaining that when the previous application was applied for, it gave the same promises, however the reality was very different for two and a half years when it has been nothing but hell. There had been no regulations and the music had been played very loudly. The premises had a noise limiter but that could be easily bypassed. There had been huge levels of noise pollution and disruption for local residents and that had not been regulated. Mr Gill was concerned that Mr Kumar was going to be using the downstairs kitchen. Mr Gill was concerned that the restaurant would be playing amplified music and since the walls had been insulated, the same music system was in place and the noise limiter which was already there was still going to be used, nothing was going to change.

Councillor Hilton asked where the noise came from that affected Mr Gill, was it through the walls or from the front of the building? Mr Gill responded that mainly through the walls followed closely by the front. Since the building was a Grade II listed building with a large window to the front, the noise came straight out the front affecting the neighbouring properties. The noise also came from the bus shelter and smokers talking loudly.

No questions from Councillor Davies.

Councillor Cannon asked how long they had lived at the property and what was at the premises when they moved there. Mr Gill responded that they had been there since 2012 when the neighbouring property had been a nursery.

Michael McNaughton, Environmental Services, RBWM, made the following objections to the Committee. The noise pollution in the past had been from various aspects, not only amplified and ambient music but also from raised voices both inside and outside the premises. A noise report had been submitted by the previous licence holder showing the noise levels. The building was glass and noise also travelled. A notice had been served on the premises and was partly for a report to be submitted showing that a noise limiter was installed on the premises and was functioning. Michael McNaughton asked Mr Kumar if the wall had been reinsulated and the new limiter had

been installed as a result of the previous report or a new report. Mr Kumar informed the Committee that the premises was not currently open but both had been installed as the front of the building was glass and since noise travelled. There had also been an enforcement notice about their colour of the front of the building so that had to be done straight away. Mr Kumar was also aware that there were residents on both sides of the premises.

The Legal representative interjected and advised the Committee that both a Arousse Simmonds and Dr Shinsky had not registered to speak. The responses from Ms Simmonds had been submitted after the valid consultation period and Dr Shinsky had not registered. The regulations for this were absolute in relation to this and this was a question of fairness as other residents had tried to register to speak after the notice period and had been refused. The Chairman commented that if we did not comply with the rules it would give either party the reason to appeal so on that decided that if someone had not registered they would not be allowed to put their case forward on the grounds of fairness and because of the regulations that were in place. So the two unregistered speakers would not be able to speak but their representations had been considered by the Committee. The other Panel members agreed with the Chairman's decision.

Councillor Hilton asked Michael McNaughton if he was aware of any new acoustic measurements and if the application was granted, did the Officer think that the conditions should remain in place on the basis of an appropriate noise assessment. Councillor Hilton asked if the officer had any thoughts on what could be done about the noise from the front window. Michael McNaughton responded that unfortunately the noise expert was on leave so he could not comment on what could be done about the noise from the front. Michael McNaughton commented that there were no mitigation measures for the voices outside the premises other than an actual person standing there telling people to keep to keep the noise down.

Councillor Davies asked where the noise complaints came from and Michael McNaughton commented that the original complaint was from the ambient and amplified music and also from raised voices from inside the premises.

Councillor Cannon asked that everything that had been reported by the Officer was about or from the premises when the premises was under a different licence and a different person and Michael McNaughton commented that this was correct. Councillor Cannon asked if the restaurant below the premises had similar issues as people must have gone out to smoke from there too. Michael McNaughton commented that he was not aware of any complaints. The main issue was on the first floor level as there were residents on either side of the premises and these were affected by the ambient and amplified music.

Emma Brooks informed the Committee that her concerns were that this new restaurant would be open from 10:30 a.m. until midnight serving alcohol and playing music and this would attract a younger crowd so there would be noise from coming from this premises. People would be leaving the premises and sometimes needing to urinate so did so in the alley near the restaurant which lead to a courtyard where they lived. So not only, were they dealing with noise but also antisocial behaviour, fighting, vomiting, smoking and drug remains and broken bottles and cans. The restaurant did not need the sound system as that would be an issue again. The one kitchen and the narrow staircase were also concerning.

The Committee members had no questions.
The Reporting Officer had no questions.
The Applicant had no questions.

Julie Cracknell commented that all of her points had already been made.

The Committee members had no questions.
The Reporting Officer had no questions.
The Applicant had no questions.

Andrew Toll lived directly next door to the premises. The entire of his apartment was directly connected to the premises. The noise was very loud. Mr Toll was concerned about his general health and wellbeing with all the anti-social behaviour and noise pollution.

Councillor Cannon asked what the premises had been when Mr Toll had moved into his apartment and Mr Toll commented that it had been Suede Bar.

Mr Toll asked if the balcony doors would be open to customers and Mr Kumar commented that they would not.

There were no further questions from members, officers and the applicant.

Mr Philip Bicknell, advisor for the applicant, commented that he was astounded that the previous licence holder had been able to create such misery for the residents and nothing had been done. Mr Kumar was a family man and wanted to open a restaurant and not a nightclub or a bar. Mr Kumar would be available if there were any issues.

Susan Tunnicliff had known the applicant for more than 10-years. They were a family who were very friendly and would not be looking to upset the local residents. A cheese restaurant was very innovative for Windsor. This restaurant would offer local employment. They should not be judged on the previous occurrences or applicants. Susan Tunnicliff commented that Mr Kumar was brave to be opening in the current times.

All parties summed up their comments. The comments included the following points and concerns from the local residents. These included noise pollution, amplified and ambient music, no kitchen for the restaurant, the sound system and anti-social behaviour.

Mr Kumar summed up saying that he had measures in place and was happy to have regular meetings with residents and distribute a direct number for him and had no specific target audience as it was a restaurant.

Craig Hawkings summed up and commented that there was always a process of review in place if the licence was granted and if a nuisance being caused. Anyone could apply for the licence to be reviewed. This process would be similar to the application process with a 28 day consultation period that would take place as well as the correct advertising.

Decision

After careful consideration of all the evidence, the Sub-Committee decided to allow the application with the following conditions:

- A new noise assessment is carried out in accordance with BS4142 2014 or a report submitted confirming that any noise limiter already installed in the premises is working in accordance with levels agreed and set out in section 6 of KP Acoustics Ltd report ref 185333 NIA01 – To reduce the risk of public nuisance through excessive noise being transmitted into neighbouring properties and the vicinity.
- Opening hours to be from 10.30am until 12am midnight with no extension - To prevent public nuisance.
- DPS or nominated person to be trained on how to work the CCTV system to the standard where the nominated person is able to download any potential evidence required by Thames Valley Police employees and Authorised Persons as defined by Sections 13 & 69 Licensing Act 2003 – to satisfy the licensing objective Prevention of Crime and Disorder.
- DPS or nominated person is responsible in supplying the necessary media (discs, data stick) containing any downloaded content - to satisfy the licensing objective Prevention of Crime and Disorder.
- To develop a management plan, in place in conjunction with Environmental Health to prevent public nuisance.
- To develop a management plan, in place in conjunction with Environmental Health to prevent public nuisance.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council and Objectors. The Panel also heard oral evidence provided from the following:

- Craig Hawkings (Reporting Officer, RBWM)
- Yourself (Applicant)
- Mr Phillip Bicknell (Applicant business advisor)
- Mr Michael McNaughton (Environmental Health, RBWM)
- Mr Jernail Gill (Objector)
- Ms Emma Brooks (Objector)
- Ms Julie Cracknell (Objector)
- Mr Andrew Toll (Objector)
- Ms Susan Tunnacliffe (Supporter)

In making their decision, the Sub-Committee also had regard to national guidance and the Council's own Licensing Policy and to its duty to promote the four licensing objectives.

The meeting, which began at 2.00 pm, finished at 5.00 pm

CHAIRMAN.....

DATE.....

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LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

FRIDAY, 29 JANUARY 2021

PRESENT: Councillors John Bowden, Gerry Clark and Geoff Hill

Also in attendance: Councillors Mandy Brar, David Cannon, Samantha Rayner and Gurch Singh

Officers: Mark Beeley, Michael McNaughton, Craig Hawkings, Shilpa Manek and Rachel Lucas

APPOINTMENT OF CHAIRMAN

Mark Beeley, Democratic Services Officer, opened the meeting and explained that a Chairman would need to be appointed for the meeting.

A motion for Councillor Hill to be Chairman was put forward, which was proposed by Councillor Bowden and seconded by Councillor Clark.

RESOLVED UNANIMOUSLY: That Councillor Hill be appointed as Chairman of the Licencing Panel Sub Committee for the duration of the meeting.

APOLOGIES FOR ABSENCE

There were no apologies for absence received.

DECLARATIONS OF INTEREST

Councillor Bowden declared a personal interest because he had met the applicant, along with Councillors Rayner and Shelim, at the venue. At the time, Councillor Bowden disclosed that he was a member of one of RBWMs Planning Panels and that he was visiting as an observer. Furthermore, Councillor Bowden represented the ward which this application was located but would be coming to the Sub Committee with an open mind.

PROCEDURES FOR SUB COMMITTEE

The Sub Committee and those present noted the meeting procedures.

CONSIDERATION OF APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003

The reporting officer, Craig Hawkings, Licensing Enforcement Officer, introduced and went through the report.

This meeting of a Licensing Sub-Committee was convened to hear an application for a new premise licence located within the Royal Borough of Windsor & Maidenhead. In line with Licensing Act 2003 S18 (3)(a), when relevant representations are made against an application, a hearing must be held to consider them. A relevant representation made against an application for a new premises licence must relate to at least one of the four licensing objectives set out in the Licensing Act 2003. These are 'The Prevention of Crime and Disorder', 'Public Safety', 'The Prevention of Public Nuisance', and 'The Protection of Children from Harm'.

The purpose of this hearing was for the Sub-Committee to hear the application, receive written and oral representations from other parties and then to make a decision in respect of the application.

The Applicant was Mr Graham Lumley for the premises 14-15a Goswell Hill, Windsor, SL4 1RH. Mr Lumley had applied, under the Licensing Act 2003, for a New Premises licence to be granted.

The application was:

- 1) To Licence 14a – 15a Goswell Hill, Windsor, SL4 1RH Including the Plaza, Windsor for the purposes of operating as a Bar / Restaurant for the sale of alcohol for (Consumption On the premises).

A summary of the application was as follows:

The standard opening hours of the premises:

- 11:00 Until 23:00 hrs Monday to Sunday

To permit the sale by retail of alcohol for consumption On the premises:

- 11:00 until 22:00 hrs Monday to Sunday

The Designated Premises Supervisor (DPS) would be Miss Amelia Lumley.

This application had received no representations from the responsible authorities which included; Royal Borough Fire and Rescue Service, Planning, Local Safeguarding Children's Board, Public Health, Trading Standards, Thames Valley Police and RBWM Licensing. There were representations from Environmental Health. Extra conditions had been proposed by Thames Valley Police in addition to the proposed conditions received within the application. The applicant had agreed to all the conditions proposed by Thames Valley Police. There had been no individual representations from residents that were relevant to the application.

The Licensing Panel Sub Committee was obliged to determine the application with a view to promoting the four licensing objectives which were:

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

In making its decision, the Sub-Committee was also obliged to have regard to national guidance and the Council's own Licensing Policy. The Sub-Committee must have regard to all of the representations made and the evidence that it heard.

The Sub-Committee must, having regard to the application and to the relevant representations, take such step or steps as it considered appropriate for the promotion of the licensing objectives.

The steps that were available to the Sub-Committee were:

(a) Reject the application;

(b) Refuse to specify a person in the licence as the premise's supervisor;

(*Note – not all of these will be relevant to this particular application)

(c) Grant the application but modify the activities and/or the hours and/or the conditions of the licence;

(d) Grant the application.

Where conditions were attached to a licence then reasons for those conditions must be given.

The Sub-Committee were reminded that any party to the hearing may appeal against the decision of the Sub-Committee to the Magistrates' Court within 21 days of the notification of the determination.

Questions to the Reporting Officer

Councillor Bowden commented on the licence being primarily for the plaza area. He asked if there was a difference in the application being outside. The Reporting Officer said that the licence covered the inside premises and also the plaza area outside which was owned by the applicant.

Councillor Bowden asked if notification had been given to other shops and businesses in the immediate area. The Reporting Officer explained that the only requirement was to put an advert in the local newspaper and put up blue notices in the area. These requirements were fully complied with.

Councillor Bowden asked where drinks would be consumed on the premises. The Reporting Officer said that drinks would be served and consumed in the outside plaza area.

Councillor Hill asked if consideration had been given to people walking past the plaza and visiting the businesses around the plaza. The Reporting Officer said that this would be considered as part of the planning process as it was on private land.

Councillor Hill said that there could be a temptation for customers to take alcohol off the site. The Reporting Officer said that the licence was to sell alcohol on site and it would be up to the licence holder to ensure that alcohol was not taken off site. There was a no drinking policy in Windsor Town Centre.

Councillor Hill commented on the recommendation from TVP that alcohol sales ceased at 10pm. Environmental Health had recommended that a 7pm limitation was brought in and also objected to the application. The Reporting Officer explained that TVP had originally objected to the application but this was withdrawn when the applicant agreed to the conditions that they recommended.

Councillor Hill asked if the two premises could be treated separately and have different closing times. The Reporting Officer said that this was possible but in this case it would probably be easier to consider the application as one location.

The applicant did not have any questions for the Reporting Officer.

Applicants Case

Mr Graham Lumley gave the Sub Committee some background to the businesses which he owned. Mr Lumley ran two businesses with his son and daughter who were heavily involved, with the main target being the family market. 20% of customers were 18-22 while 84% were families. 75% of customers who booked the experiences were women and most of the customers were from local and surrounding areas. Mr Lumley lived in Windsor and he wanted to help improve the town, the area that the application was centred on was currently not a nice

area. The plaza area would predominately be for table service and would be more like a restaurant than a pub. There would be very little standing space, with around a dozen places at the bar only.

Questions to the Applicant by Members

Councillor Bowden commented on the size of the plaza and asked how much space was available around the edge of the plaza. Mr Lumley said that there would be a minimum of 2 metres around the whole perimeter and the plaza would not intrude on the paved area.

Councillor Bowden asked the applicant if they had applied for planning permission. Mr Lumley said that an application had originally been made to the council but there had been no verbal communications from the planning team so the application was withdrawn. Plans had now been resubmitted to the council.

Councillor Clark asked how many people usually used the escape room premises and how many that it was planned to be if the plaza area was granted permission. Mr Lumley explained that they wanted to be within the law, for example if a customer wanted to sit in the reception area of the escape room experience with a drink then they could do so if he was granted this licence. Mr Lumley said that there would be a maximum of 120 covers in the plaza.

Councillor Clark asked how long customers usually stayed on the premises for. Mr Lumley said that it was usually around an hour.

Councillor Hill referenced the concerns of the Environmental Health team on public nuisance and noise. He asked about the toilet facilities which would be provided on the premises. Mr Lumley said that there were anti-social behaviour problems in the area already and he hoped that the plaza would help to improve the areas reputation and image. Toilet facilities would come as part of the planning application.

Councillor Hill asked further questions on the opening hours, how the premises would be secure at night and what the applicant would do to prevent alcohol being taken off the premises. Mr Lumley said that the area was contained but may have to look at door staff as part of the planning application. The fence around the plaza would ensure that people were kept out and would also be difficult to get in. It was important that the opening hours were not significantly limited, as had been suggested in the objection by Environmental Health.

Councillor Bowden asked if there would be any additional lighting provided by the applicant in the plaza. Mr Lumley said that each individual hut would have lighting along with other additional lighting in the plaza. The lighting in the area currently needed to be reviewed and upgraded.

Other persons to make their representations

Michael McNaughton, Environmental Health, said that the activities that were proposed on the site could cause problems as historically the team had received noise complaints caused by behaviour in the area. He did not believe the issue of noise had been appropriately addressed by the applicant and therefore the Environmental Health had objected to the application.

Members to ask questions of other persons

Councillor Clark asked Michael McNaughton if any conversations had been held with the applicant around the issues that had been raised.

Michael McNaughton confirmed that the team had discussed the application with Mr Lumley and explained that a robust management plan was needed to show how potential complaints would be dealt with. A professional noise assessment would take in background noise and see what mitigation could be put in place. However, noise was subjective so the noise assessment was not an alternative to the objection from Environmental Health.

Applicant to ask questions of other persons

Mr Lumley clarified a few of the points raised by Michael McNaughton. He said that the only residents in the area were on Bridgewater Terrace. A letter had been posted through every letter box on the street to make local residents and businesses aware of the plans and there had been direct communication too to discuss any issues.

Councillor Singh and Councillor Rayner joined the meeting.

Summary

Mr Lumley felt that he had expressed everything he wished to say.

Craig Hawkings, Reporting Officer, summarised the four licensing objectives and reminded the Panel of the four options that they could choose for this application.

Decision

After careful consideration of all the evidence, the Sub-Committee decided to allow the application with the following conditions:

- Digital CCTV monitoring system to be installed and maintained to Thames Valley Police standard. Recording to be kept securely for 31 days and made available to Thames Valley Police employees and Authorised Persons as defined by Sections 13 & 69 Licensing Act 2003 upon request.
- DPS or nominated person to be trained on how to work the CCTV system to the standard where the nominated person is able to download any potential evidence required by Thames Valley Police employees and Authorised Persons as defined by Sections 13 & 69 Licensing Act 2003.
- DPS or nominated person is responsible in supplying the necessary media (discs, data stick) containing any downloaded content.
- DPS or nominated person to attend the Local Pub watch scheme.
- Appropriate barriers to be used to ensure the seating area is enclosed and controlled.
- 12 customers to be seated at the bar area.
- Sale of Alcohol to be 10.00pm with the premises to be closed at 11.00pm.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council and Objectors. The Panel also heard oral evidence provided from the following:

- Craig Hawkings (Reporting Officer, RBWM)
- Mr Graham Lumley (Applicant)
- Mr Michael McNaughton (Environmental Health, RBWM)

In making their decision, the Sub-Committee also had regard to national guidance and the Council's own Licensing Policy and to its duty to promote the four licensing objectives.

The meeting, which began at 2.00 pm, finished at 3.00 pm

CHAIRMAN.....

DATE.....

Report Title:	Statement of Licensing Policy – Five Year Review
Contains Confidential or Exempt Information	No – Part 1
Lead Member:	Councillor D Cannon, Lead Member for Public Protection and Parking
Meeting and Date:	Licensing Panel 20 April 2021
Responsible Officer(s):	Hilary Hall, Director of Adults, Health and Commissioning Tracy Hendren, Head of Housing, Environmental Health and Trading Standards
Wards affected:	All



REPORT SUMMARY

RBWM is a licensing authority under the Licensing Act 2003. This Act requires that, every five years, licensing authorities prepare and publish a statement of its licensing policy.

This report presents and seeks the endorsement by the Licensing Panel of the RBWM Licensing Policy Statement 2021 – 2026, and the Panel’s recommendation to Full Council that this new policy be adopted.

The new policy may be considered as interim in nature for the reasons set out in the report

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Licensing Panel notes the report and:

- i. **Recommends to Full Council that the RBWM Licensing Policy Statement 2021 - 2026 be adopted (noting the interim nature of the Policy as set out in paragraphs 2.8 - 2.10)**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Table 1: Options arising from this report

Option	Comments
The Licensing Panel recommends to Full Council that the RBWM Licensing Policy Statement 2021 - 2026 be adopted	RBWM would comply with its statutory requirements
This is the recommended option	
The Licensing Panel does not recommend to Full Council that the RBWM Licensing Policy Statement 2021 - 2026 be adopted	RBWM would not comply with its statutory requirements

- 2.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act.
- 2.2 The RBWM Licensing Policy Statement 2016 – 2021 can be found at https://www.rbwm.gov.uk/sites/default/files/2020-04/licensing_policy_statement.pdf
- 2.3 The review of this policy and the publishing of a new policy for 2021 – 2026 should have been completed by January 2021 following a consultation with
- Thames Valley Police
 - Royal Berkshire Fire & Rescue
 - Public Health
 - persons/bodies representative of local premises licence holders;
 - persons/bodies representative of local club premises certificate holders;
 - persons/bodies representative of local personal licence holders; and
 - persons/bodies representative of businesses and residents in its area.
- 2.4 However it has not been possible to fully carry out this review and consultation process due to the effects of the coronavirus outbreak. Thames Valley Police and Public Health have been stretched to the limits in dealing with the outbreak. Many licenced premises have been closed completely since March 2020 and those that have been able to operate have only been allowed to do so for limited periods and in limited capacities.
- 2.5 This means that the future for the hospitality sector is extremely uncertain at present with licenced businesses struggling to continue operating. It is impossible to know at this time what the licenced trade will look like in RBWM once the outbreak is ended, or indeed for some considerable time afterward. Therefore, to try and consult with this sector at this time is simply not feasible or reasonable.
- 2.6 As well as this, the review process requires that consideration is given to the current licensing climate in RBWM and nationally, changes that may have taken place over the last five years, changes to national guidance and a range of other factors to ensure that our policy will be fit for the next five years. Again, this is simply not possible during or immediately after a period of sustained lockdown.
- 2.7 Taking all of this into account, a number of licensing authorities approached the Home Office in August 2020 to ask for an extension of 18 months to 2 years before having to publish a new licensing policy (the Secretary of State has the power to make regulations under the 2003 Act about the determination and revision of policies). Unfortunately this did not have any effect so the requirement to renew our policy appears to be still in place.
- 2.8 That being the case, and under the circumstances set out above, the RBWM Licensing Policy Statement 2021 – 2026 that has been prepared and is hereby presented to the Licensing Panel has not been fully consulted on, as required, and so, with the agreement of the Panel, this may be considered as an interim policy until such times as a full consultation can take place.

- 2.9 This approach will ensure that a policy is in place to allow licensing functions to continue, with guidance being provided for all involved in this field.
- 2.10 This approach, and the new policy that has been drafted, has been agreed with Thames Valley Police, RBFR and Public Health.
- 2.11 This means that there are no radical changes from the previous policy, and the changes that have been made are largely presentational.
- 2.12 As and when the full effects of COVID on the licenced trade in RBWM can be determined and the local licensing environment can be properly assessed, a full consultation with the trade will be possible. Once that is carried out, if needs be, an amended policy can be brought back to a future Licensing Panel for endorsement (the 2003 Act does allow for licensing authorities to review and revise their policies outside of the five yearly cycle).

3. KEY IMPLICATIONS

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
RBWM will comply with statutory requirements, and provide guidance to service users	Prior to date of adoption of this Policy	From date of adoption of this Policy	n/a	n/a	Date of Full Council

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 None

5. LEGAL IMPLICATIONS

- 5.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of its licensing policy at least every five years. Failure to do so would mean RBWM is failing in its statutory duty.

6. RISK MANAGEMENT

- 6.1 There are several risks identified

Table 3: Impact of risk and mitigation

Risk	Level of uncontrolled risk	Controls	Level of controlled risk
Censure of RBWM and reputational damage for failure	High	Clear policy in place	Low

to comply with statutory obligation			
Lack of information and guidance for those subject to the Licensing Act 2003	Medium	Clear policy in place	Low

7. POTENTIAL IMPACTS

- 7.1 An EQIA screening assessment has been completed and a full assessment is not required. See <https://www.rbwm.gov.uk/sites/default/files/2021-03/2021-eqia-rbwm-statement-of-licensing-2021-2026.pdf>
- 7.2 Climate change/sustainability. There are no potential impacts of the recommendations in relation to climate change/sustainability
- 7.3 Data Protection/GDPR. Under the policy presented in this report, any personal data that is not already being processed under RBWM/Licensing data protection/GDPR procedures and protections will be subject to those same procedures and protections.

8. CONSULTATION

- 8.1 As set out in paragraphs 2.4 and 2.5, a full statutory consultation has not been possible. However, Thames Valley Police, RBFR and Public Health have given their agreement to the approach taken to the production of the new policy.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 If Members agree to the changes set out in this report it will be taken to Full Council at the earliest opportunity.

10. APPENDICES

- 10.1 This report is supported by 1 appendix:
- Appendix A - The RBWM Licensing Policy Statement 2021 – 2026

11. BACKGROUND DOCUMENTS

- 11.1 None

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Cannon	Lead Member for Public Protection and Parking	01/04/2021	09/04/2021

Name of consultee	Post held	Date sent	Commented & returned
Cllr Bhangra	Chair of the Licensing Panel	01/04/2021	09/04/2021
Hilary Hall	Director of Adults, Health and Housing	25/03/2021	26/03/2021
Tracy Hendren	Head of Housing, Environmental Health and Trading Standards	25/03/2021	26/03/2021

REPORT HISTORY

Decision type: Licensing Panel Decision	Urgency item? No	To Follow item? No
Report Author: Greg Nelson, Trading Standards & Licensing Manager 07970 776526		

Royal Borough of Windsor and Maidenhead

Statement of Licensing Policy

2021 - 2026

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1. Introduction

- 1.1 The Royal Borough of Windsor & Maidenhead is a licensing authority as defined in the Licensing Act 2003.
- 1.2 The Licensing Act 2003 requires licensing authorities to publish a licensing policy statement every 5 years. This is the Statement of Licensing Policy for the Royal Borough of Windsor and Maidenhead 2021-2026
- 1.3 Licensing authorities are required to consult with the following when drawing up a licensing policy;
 - The chief of police
 - The fire authority
 - Public health
 - Persons representing holders of existing licenses
 - Persons representing registered clubs
 - Persons representing businesses and residents in the council's area
- 1.4 Due to the ongoing effects of COVID, which started in March 2020, a full consultation was not possible at the time that this policy was drawn up.
- 1.5 This policy is will therefore be considered to be an interim policy until such times as a full consultation can take place. This approach has been agreed with Thames Valley Police, Royal Berkshire Fire & Rescue and Public Health.
- 1.6 This Statement of Licensing Policy will not be used to attach conditions that duplicate other regulatory regimes unless they relate to specific issues that cannot be addressed elsewhere.
- 1.7 The licensing authority will not use this policy to impose standard conditions on licenses without regards to the merits of each individual case. However, it does include model conditions for guidance for when conditions are required to be imposed.

2. Licensing Objectives and other Key Aims and Purposes

2.1 Licensable Activities

This policy relates to the following activities:

- a) The sale by retail of alcohol
- b) The supply of alcohol to qualifying clubs
- c) The provision of regulated entertainment
- d) The provision of late night refreshment

- 2.2 The four licensing objectives covered by this policy, as set out in the Licensing Act 2003, are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

2.3 These four objectives are of equal importance. There are no other statutory licensing objectives so the promotion of these four objectives is a paramount consideration at all times.

2.4 This Statement of Policy reflects the guidance issued by the Home Office under section 182 of the Licensing Act 2003 (version published April 2018).

2.5 Paragraph 1.5 of the section 182 guidance states that licensing legislation supports a number of key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. These include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licenced premises.
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing the problems.
- Recognising the important role which pubs and other licenced premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises.
- Providing regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area.
- Encourage greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

3. The Royal Borough

3.1 The Royal Borough of Windsor and Maidenhead currently has over 700 licenced premises including Windsor and Ascot racecourses, Legoland and Eton College. Other licensed premises include public houses, night clubs, members clubs, restaurants and takeaways, as well as a theatre and a cinema.

3.2 Windsor is one of the top 4 night-time economy centres within the Thames Valley Police area.

4. Principles

4.1 Each and every application for a licence will be considered on its own merits and on a case by case basis. Determinations will be made in accordance with this Statement of Licensing Policy and with the section 182 Guidance issued by the Secretary of State.

4.2 Cumulative impact. “Cumulative impact” for the purpose of this policy means the potential impact on the promotion of the four licensing objectives of a significant number of licenced premises concentrated in an area or areas.

4.3 The Council recognises that where there are several premises providing licensable activities in the same area the cumulative impact may have an adverse effect on the community, in particular from nuisance and disorder.

4.4 The Police and Crime Act 2017 amended the Licensing Act 2003 to place Cumulative Impact Assessments on a statutory footing by introducing section 5A of the Licensing Act.

4.5 RBWM Licensing intended to undertake a Cumulative Impact Assessment of the Windsor town centre night-time economy in 2020. The COVID pandemic and its impact on the licenced trade meant this was not possible. It is the intention of RBWM Licensing to undertake such a Cumulative Impact Assessment once it is possible to take place.

4.6 Licensing is not the primary mechanism for controlling antisocial behaviour away from premises and beyond the control of operators. However, it is a key aspect of such control and licensing law is part of the holistic approach to management of the evening and night-time economy in town centres.

4.7 The licensing authority will exercise its function under the Licensing Act 2003 with due regard to requirements and responsibilities placed upon them by other legislation. Legislation which may be relevant includes.

- The Health and Safety at Work etc. Act 1974
- The Noise Act 1996
- The Environmental Protection Act 1990
- The Crime and Disorder Act 1998
- The Clean Neighbourhoods and Environmental Act 2005
- The Gambling Act 2005
- The Regulatory Reform (Fire Safety) Order 2005

- 4.8 The licensing authority recognises its duty to promote equality under the terms of the Race Relations Act 1976 (Amendment) Regulations 2003 and the Equality Act 2010.
- 4.9 The licensing authority will also continue to work with legislation concerning immediate issues such as the coronavirus pandemic.
- 4.10 The licensing authority will secure the integration of licensing with local crime prevention, planning, transport, tourism, race equality and cultural strategies, together with other plans for management of town centres and the night-time economy, by consultation, dialogue and joint working with the departments and agencies concerned.
- 4.11 So far as possible, duplication with other regulating agencies will be avoided and conditions will only be attached to licences which are necessary for the promotion of the licensing objectives set out in paragraph 2.2.

5. Conditions

- 5.1 Standardised conditions will be avoided but a selection may be made from the pool of conditions annexed to this report (see Annex 1). Conditions will be tailored to the individual style and characteristics of the premises. So far as possible, conditions will reflect local crime reduction strategies.
- 5.2 The Council maintains that licensing is about the control of licenced premises, qualifying clubs and temporary events within the terms of the 2003 Act. Any terms and conditions attached to licences will be focused on matters which are within the control of individual licensees and others granted relevant permissions, centring on the premises and their vicinity.

6. Key Strategies for 2021-2026

6.1 Framework Hours

As in the 2016-2021 Licensing Policy, having considered the evidence of alcohol related crime, disorder and anti-social behaviour, the number of late night premises and, in particular, the social, practical and regulatory impacts on the morning after the night before, the licensing authority has adopted a Framework Hours Policy. This Framework Hours Policy will apply to new and variation applications. The framework hours are:

Premises Type	Commencement hour for Licensable Activities No earlier than	Terminal hour for Licensable Activities No later than
Off licence	09:00	23:00
Restaurant/Café	09:00	01:00
Pubs/Bars/Nightclubs	09:00	02:00
Takeaways	N/A	02:00

- 6.2 The Framework Hours Policy is not an entitlement. An applicant will still need to demonstrate that, for the terminal hour of 02:00 to apply, it can operate so as to promote the licensing objectives and that the application and proposed operation is reasonably acceptable in the particular location.
- 6.3 Hot takeaway food and drink
Late night refreshment venues are those whose activities include supplying hot food and drink for consumption off the premises between the hours of 23:00 and 05:00.
- 6.4 These types of premises are often found in clusters or in close proximity to late night bars, clubs and other potential crime and disorder hotspots which can give rise to a negative cumulative impact on one or more of the licensing objectives. The licensing authority will have regard to the layout of the local area of the premises, the local environment and, in appropriate cases, the cumulative impact of such operations.
- 6.5 Late night refreshment venues are expected to provide a robust Operating Schedule outlining in particular how they will address the prevention of crime and disorder and public nuisance objectives if their application is outside of the Framework Hours. This will include the public nuisance being caused by deposits of litter in the area.
- 6.6 For the purpose of this policy, premises shall be considered as a restaurant or café if the sale of alcohol is made only to seated customers who are dining in the premises and where this is a condition of the licence, or a condition volunteered in the Operating Schedule for the premises. Where such conditions have not been offered the premises will be treated as a public house.
- 6.7 For the purpose of this policy, a premises shall be considered an off licence where the sale of alcohol is for consumption off the premises only, and includes petrol stations, corner shops and convenience stores.
- 6.8 Licensing and Planning Protocol - Please refer to Annex B – Licensing and Planning Protocol
- 6.9 Wider Community Interest - The licensing authority considers that its licensing functions are exercised in the public interest. Furthermore, the licensing authority is under a duty to take any steps with a view to the promotion of the licensing objectives in the interests of the wider community and not just those of the individual licence holder.
- 6.10 The following will be taken into account by the licensing authority and responsible authorities where an application is made for a premises licence within close proximity to residential properties, and which may have an effect on the promotion of the licensing objectives:
- The nature of the activities on the premises

- The character of the surrounding area
- Measures for limiting noise emissions from the premises. These may include as appropriate noise limitation devices, sound insulation, whether windows are to be opened, the insulation of acoustic lobbies and double glazing
- Measures to deal with queuing, where necessary
- Use of outdoor areas
- The location of outdoor smoking areas
- Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, the use of dedicated hackney carriage / private hire firms, notices in the premises requesting customers to respect neighbours
- Winding down periods, particularly in public houses and nightclubs etc.

7. Promoting the Prevention of Crime and Disorder

7.1 Where appropriate, the licensing authority and responsible authorities may propose conditions relating to the following issues in relation to the Prevention of Crime and Disorder objective:

- Measures to prevent bottles being carried from premises
- Use of drinks promotions
- Measures to prevent binge drinking
- Participation in the Pub Watch Scheme
- Use of door supervisors
- Training staff in crime prevention measures
- Search procedures
- Use of close circuit television
- Lighting
- Where premises are new, designing out crime
- Quality of surveillance of the premises

7.2 Drugs. The licensing authority recognises that drug use by young people in a club environment is not something that is relevant to all licenced premises. However, it is also recognised that special conditions will need to be imposed for certain types of venues to reduce the sale and consumption of drugs.

7.3 Where relevant representations are made by Thames Valley Police, the conditions to be imposed in such cases are set out in Annexe 1 – Pool of Conditions, although further conditions may be imposed from time to time. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs and Alcohol Action Team and the police.

7.3 In addition to meeting the requirements of the licensing objectives, licensees have a social responsibility not to sell drug paraphernalia and other products that promote drug use.

7.4 Officers of the Licensing Team will engage in the following activities: -

- Provide clear information on how to apply for a Premises Licence or Club Premises Certificate.

- Advise venue owners on how to establish and maintain a safe environment.
- Advise venue owners, in partnership with Thames Valley Police, on developing a venue drugs policy.
- Liaise with the police and other officers to ensure good communication about potentially dangerous venues.
- Encourage venues to use outreach services.
- Encourage venues to provide safe transport home.
- Monitor the operation of clubs at times of peak occupancy.
- Ensure that door supervisors are properly registered with the Security Industry Authority.
- Offer to assist with detecting drugs with the use of sniffer dogs and the “Itemiser” drugs detection equipment.

7.5 Door Supervisors. Whenever any persons are employed at licenced premises to carry out any security activity, all such persons must be licenced with the Security Industry Authority.

7.6 Where relevant representations are made, the licensing authority may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the licensing authority may impose a condition that licenced door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

8. Promoting Public Safety

8.1 Where appropriate, the licensing authority and responsible authorities may propose conditions relating to the following issues in relation to the Public Safety objective:

- The use of shatterproof glasses
- The promotion of sensible drinking
- Measures taken to prevent drug spiking
- Drugs policies
- Safe capacities

8.2 In appropriate cases, the following conditions may be imposed on premises’ licences to ensure the safety of those attending the premises:

- that a personal licence-holder shall be present at all times when the premises are open for the sale of alcohol
- suitably qualified first aiders will be required

8.3 Capacity. Fire Safety Certificates should impose number restrictions for individual premises. The Licensing Authority and Responsible Authorities may impose conditions in relation to the maximum number of persons to attend premises where: -

- It considers it to be necessary for the purpose of the prevention of crime and disorder or the promotion of public safety.
- If the fire safety certificate was issued prior to any licensable activity taking place at the premises or if activities have changed since the certificate was

issued. In those circumstances, the Council may impose a maximum number of persons to be in the premises at any one time to ensure the safety of those persons at the premises and to ensure a safe means of escape from fire. The implementation of any of these conditions will be following advice from the Fire Authority.

9. Promoting the Prevention of Public Nuisance

9.1 Where appropriate, the licensing authority and responsible authorities may propose conditions relating to the following issues in relation to the Prevention of Public Nuisance objective:

- The disposal of waste, particularly glass
- The use and maintenance of plant, including air extraction and ventilation systems
- Litter in the vicinity of the premises
- Smoking outdoors
- Noise from deliveries / collections to and from the premises
- Measures to control behaviour and queues
- Whether door supervisors are able to stay at the entrance to encourage quiet departure
- The provision of hackney carriage / private hire services at the premises
- Signs on doors and on tables encouraging consideration to the neighbours

9.2 Noise. The licensing authority and responsible authorities may impose conditions to licenced premises to prevent unnecessary noise and disturbance to local residents. This may include restrictions on times when music or other licensable activities may take place and may impose technical restrictions on levels of sound at the premises.

10. Promoting the Prevention of Children from Harm

10.1 The Royal Borough recognises that the protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms directly associated with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of certain films and adult entertainment).

10.2 The licensing authority will consider the need to protect children from sexual exploitation when undertaking licensing functions. Applicants are therefore expected to provide a robust Operating Schedule outlining how they will address the Prevention of Children from Harm objective.

10.3 The licensing authority encourages licence holders and operators of licenced premises:

- To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a criminal offence
- To raise awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

- 10.4 All applicants need to demonstrate how children and young people will be safeguarded if attending the licenced premises, or how it will be ensured that they do not gain access to the premises if not appropriate.
- 10.5 The licensing authority and other responsible authorities may propose conditions or restrictions in relation to the Protection of Children from Harm objective. These may include;
- Limitations on the hours when children may be present
 - Age limitations below 18
 - Limitations or exclusions when certain activities are taking place
 - Requirements for accompanying adults
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place
 - The provision of a full range of non-alcoholic drinks
- 10.6 Where cinemas are concerned, the Council may impose conditions that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the local authority itself.
- 10.7 Conditions may be imposed on licences where unaccompanied children will be present at places of public entertainment where adult staff must be present to control the access and egress of children and to ensure their safety.

11. Consumption of Alcohol in Public Places

- 11.1 In October 2014, the Antisocial Behaviour, Crime and Policing Act 2014 was introduced across England and Wales. This legislation allows the Council to adopt the relevant powers to designate parts of its area as places where alcohol may not be consumed publicly. PSPOs (Public Space Protection Orders) are intended to deal with a particular nuisance or problem in an area that negatively affects the local community.
- 11.2 The Council's current PSPOs which details restrictions in place across the Borough can be found at <https://www.rbwm.gov.uk/home/community-and-living/community-safety-and-crime/public-space-protection-orders>.

12. Enforcement

- 12.1 The licensing authority has already established joint inspections of premises together with Thames Valley Police which is considered to be highly effective. It is proposed to continue such inspections to ensure the prevention of crime and disorder and the safety of the public.
- 12.2 Inspections will take place at the discretion of the Trading Standards & Licensing Manager and partner agencies, and resources will be concentrated on areas of need.
- 12.3 The Licensing Team will engage with other partner agencies as necessary. The Council has an Enforcement & Prosecution Policy which is available on the Council's website. Enforcement action will be taken in accordance with that policy.

13. Film Exhibition

- 13.1 In connection with the exhibition of films, conditions will specify that immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Film Classification, there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium, a reproduction of a certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the category of the film.
- 13.2 For a film passed by the Council, conditions will require notices to be displayed both inside and outside the premises so that persons entering can readily read them and be aware of a category attached to any film or trailer.

14. Retail Radio Scheme

- 14.1 All premises licensees will be encouraged to subscribe to the Council's radio system. For some premises it will be considered that subscription to the scheme should be a condition of the licence to assist with the reduction of crime and disorder at the premises.

15. Pub Watch

- 15.1 Premises licensees or an appropriate representative are encouraged to join and attend their local Pub Watch.
- 15.2 Further information about the Pub Watch Scheme can be found at www.nationalpubwatch.org.uk or supplied by the Licensing Team, upon request

ANNEX1 – Pool of Conditions

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, the following options should be considered as measures which, if necessary, would promote the licensing objectives.

Retail Radio

The Council's retail radio connects premises licence holders, designated premises supervisors, managers of premises and clubs to the local police and can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

The radios provide two-way communication enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour that are about in a particular area. Radios can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that such systems should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centres with a high density of licenced premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

A condition requiring radio links to the police will include the following elements:

- A requirement that radio equipment is kept in working order at all times;
- A requirement that the radio link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- A requirement that any police instructions/directions are complied with whenever given; and
- A requirement that all instances of crime or disorder are reported via the radio by the designated premises supervisor or a responsible member of staff.

Door Supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- Keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- Maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety.

Bottle Bans

Glass bottles may be used as weapons inflicting serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

A condition requiring that no sales may be made of beverages in glass bottles for consumption on the premises may include the following elements:

- No bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also takes place).

In appropriate circumstances the condition could include exceptions, for example, as follows:

- But bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Plastic Containers and Toughened Glass

Glasses containing drinks may be used as weapons during incidents of disorder and can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass, which inflicts less severe injuries, where considered necessary.

Location and style of the venue and the activities carried on there would be particularly important in assessing whether such a condition is necessary. For example, the use of glass containers on terraces of some outdoor sports grounds may obviously be of concern and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licenced premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

CCTV should be installed and working to the satisfaction of Thames Valley Police.

CCTV images must be kept for 31 days and made available upon the request of Thames Valley Police employees and authorised persons, as defined by sections 13 & 69 of the Licensing Act 2003.

The DPS or nominated person should be trained on how to work the CCTV system to the standard where the nominated person can download any potential evidence required by Thames Valley Police employees or authorised persons, as defined by Sections 13 & 69 of the Licensing Act 2003.

The nominated person is responsible for supplying the necessary media (discs, data stick).

Open Containers Not to be Taken from the Premises

Drinks purchased in licenced premises or clubs may be taken from those premises for consumption elsewhere when this is permitted by the premises licence. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on Drinking Areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify the areas but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Capacity Limits

Although most commonly made a condition of a licence on public safety grounds, consideration will be given to conditions which set capacity limits for licenced premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration will also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

Proof of Age Cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licenced premises requiring the production of "proof of age" before such sales are made.

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. A condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bags being unattended because of concerns about terrorism. The notice should display the name of a contact for customers if they wished to report concerns.

Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

Large Capacity Venues used Exclusively or Primarily for the “Vertical” Consumption of Alcohol (HVVDs)

“High volume vertical drinking” premises (HVVDs) are premises with exceptionally high capacities, used primarily or exclusively for the sale of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions will be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- A prescribed capacity;
- An appropriate ratio of tables and chairs to customers based on the capacity; and
- The presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

Disabled people

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and disabled people on the premises are made aware of those arrangements

Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- All exit doors are easily openable without the use of a key, card, code or similar means;
- Doors at such exists are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- All fire resisting doors to ducts, service shafts and cupboards shall be kept locked shut; and
- The edges of the treads of steps and stairways are maintained so as to be conspicuous

Safety checks

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a Log-book

Special effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:

- Dry ice machines and cryogenic fog;
- Smoke machines and fog generators
- Pyrotechnics, including fireworks;
- Real flame;
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide The Radiation Safety of Lasers used for Display Purposes [HS (G)95] and BS EN 60825: Safety of Laser Products);
- Explosives and highly flammable substances

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

Conditions Relating to the Protection of Children from Harm

For any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity of entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.

Applicants wishing to allow access for children to premises where these associations may be relevant, when obtaining or varying a premises licence or club premises certificate, should:

- Explain their reasons; and
- Outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the Operating Schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, the Council, following relevant representations made by responsible authorities and interested parties, will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary.

The Council will consider:

- The hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00 pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- Types of event or activity in respect of which no age restrictions may be needed, for example;
 - Family entertainment; or
 - Non-alcohol events for young age groups, such as under 18s dances
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
 - During "Happy Hours" or on drinks promotion nights;
 - During activities outlined in the first bullet point in the first paragraph above.

Age Restrictions - Cinemas

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of Section 20, requiring the admission of children to films to be restricted in accordance with recommendation given either by a body designated under Section 4, the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- A condition that where the Council itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;

- A condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:

U – Universal - Suitable for audiences aged four years and over

PG - Parental Guidance - Some scenes may be unsuitable for young children.

12A - Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.

15- Passed only for viewing by persons aged 15 years and over

18- Passed only for viewing by persons aged 18 years and over

- That conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited onscreen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- A condition that when the licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms.

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

“Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person’s parent or legal guardian has first been obtained.”

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Performances Especially for Children

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:

- An attendant to be stationed in the area(a) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.
- The Council, having regard to any representations made by responsible authorities on the issue, will also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in Performances

The Council may consider the following matters:

- Venue – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- Fire safety – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- Special effects - it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- Care of children – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletin.

Proof of Age Cards

Where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm.

ANNEX 2 – Licensing and Planning Protocol

Licensing and Planning are two separate regimes. As a matter of law the licensing authority could not refuse an application because of the absence of appropriate planning consent. However, the licensing authority would generally expect applicants to have planning and other permissions required for lawful operation of the premises in place at the time of the licensing application.

For the avoidance of doubt, the granting of any variation to an existing licence which involves a material alteration to a building does not relieve the applicant of the need to apply for planning permission, listed building consent or building regulations approval where appropriate.

Whilst there is a clear distinction and separation between the licensing authority and planning authority in terms of their remit, there are times when there are overlapping considerations. In order to secure proper integration across the Council's range of policies, the licensing authority will expect applicants to demonstrate that their proposed use of a premises is lawful in planning terms, including complying with any conditions and timings that may be imposed upon a planning consent prior to any application being submitted under the Licensing Act 2003.

The licensing authority has recognised that the overlap between the objectives of licensing and planning are a source of confusion for operators and the wider community. It is clear that planning, building control and licensing should properly be separated to avoid duplication and inefficiency. This is relatively easy to state but much harder to formulate any general principle that would assist in demarcating the respective competences of the planning and licensing authorities.

It may however be generally stated that the framework and substance of the Licensing Act 2003, and its underlying rationale, would strongly suggest that operational matters are intended primarily for regulation by the licensing authorities.

The inevitable confusion that arises in the practical application of overlapping yet separate regimes undermines the key aim and purpose of greater community involvement in licensing decisions. The Royal Borough has developed a Licensing and Planning Protocol to assist in the proper demarcation of the respective competencies of the licensing and planning regimes.

Context

The Licensing Act 2003 is the legislation that regulates the operation of licenced premises. The licensee is held as responsible for the proper operation of the premises. The Licensing objectives are:

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

The Planning Act 2008 is clear that planning permission runs with the land; all planning decisions should be made in line with the national and local planning

policies and should balance the environmental, social and economic impacts of a development.

There is a tension between the two legislative frameworks when it comes to the management of the night-time economy. The Royal Borough has in the past used planning conditions to limit the hours of operation of licenced premises and has also imposed similar restrictions on licences via licence conditions.

However, because the legal considerations and policy framework are different for the two processes there is, in theory and in practice, the possibility of a licenced premises having a planning condition stating one 'closing time' and a licence condition stating another. This is unhelpful not only to the proprietor/operator of the premises, but also to local residents, and hinders the effective management of the night-time economy locally.

The Council has a responsibility to take into account the expectations of local residents to be able to live in peace and enjoy their homes without unreasonable noise, disturbance or fear of crime. Therefore, it is an important duty of the Council to effectively manage the night-time economy wherever licenced premises exist.

The most flexible and proactive tool to manage these premises is the licensing regime as any issues arising through mismanagement of opening hours conditions can be dealt with through the current well-established licence review process.

Having a generic regime responsible for the hours of operation of these premises will mean that there is a greater clarity for residents and licensees, a single point of responsibility for enforcement and simpler town centre management.

Planning Applications

If they believe that a premises subject to a planning application may require a premises licence, the Planning team will liaise with Licensing to see if such a licence is required.

If the premises is likely to require such a licence, then, when granting planning permission, the Royal Borough's Planning team will not include any planning conditions that control the premise's hours of operation.

Licensing Applications

Applicants are already required by statute to send a copy of their application to the Royal Borough's Planning team

The Planning team will ensure that all copies received are considered jointly by both Development Control Planning Officers and by the Planning Enforcement team to see if a relevant objection needs to be mounted or a concern raised with the Licensing team.

If it is felt that an objection or concern should be raised, Development Control Planning Officers will liaise with the Licensing team.

If a licence condition specifies an earlier closing time, then the Royal Borough's Licensing team will enforce the condition in the same way that they have done since the Licensing Act 2003 was implemented.

This entails the use of an annual programmed set of proactive night-time and weekend operations, as well as responding to changes in the Royal Borough's night-time economy and responding to complaints made by residents, the police and other concerned parties and to any intelligence received.

During the course of their normal enforcement duties, licensing officers will, when encountering premises that are allegedly breaching an earlier planning condition closing time:

- remind licensees of their planning conditions and encourage licensees to abide by them
- capture evidence and report the matter to the Planning Enforcement team
- provide relevant witness statements if subsequently requested by the Planning Enforcement team, and
- if required, act as witnesses in any subsequent legal proceedings should formal action be pursued

Both Licensing and Planning teams will also ensure that Lead Members are informed of any and all enforcement actions at their normal Lead Member briefings.

ANNEX 3 - Delegation of Functions

Matter to be Dealt With	LPSPO Sub Committee	Officers
Application for Personal Licence	If an objection is made	If no objection is made
Application for a Personal Licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If representation is made	If no representation is made
Application for provisional statement	If representation is made	If no representation is made
Application to vary premises licence/club premises certificate	If a representation is made	If no representation is made
Application to vary Designated Premises Supervisor	If a police objection is made	All other cases
Request to be removed as Designated Premises Supervisor		All cases
Application for transfer of premises licence	If a police objection is made	All other cases
Applications for Interim Authorities	If a police objection is made	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether complaint is irrelevant, frivolous, vexatious etc.		All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a Temporary Event Notice	All cases	
Applications for minor variations		All cases
Delegation of authority in relation to powers of entry		Head of Housing, EH & TS
Authority to make a representation to review a licence on behalf of the Licensing Authority as a Responsible Authority		Trading Standards & Licensing Manager

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