

NOTICE  
OF  
MEETING  
**LICENSING PANEL**

will meet on

**TUESDAY, 12TH OCTOBER, 2021**

**At 7.00 pm**

by

**GREY ROOM - YORK HOUSE, ON [RBWM YOUTUBE](#)**

TO: MEMBERS OF THE LICENSING PANEL

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

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: 04/10//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](http://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>
1.	<u>APOLOGIES FOR ABSENCE</u>  To receive any apologies for absence.	-
2.	<u>DECLARATIONS OF INTEREST</u>  To receive any declarations of interest.	3 - 4
3.	<u>MINUTES OF THE LICENSING PANEL</u>  To confirm the Part I Minutes of the meeting held on	5 - 6
4.	<u>MINUTES OF THE LICENSING AND PUBLIC SPACE PROTECTION ORDER SUB COMMITTEE</u>  Panel to note the minutes of previous licensing and public space protection order sub-committees.	7 - 78
5.	<u>GAMBLING ACT 2005 STATEMENT OF PRINCIPLES - THREE YEAR REVIEW</u>  Panel to consider the report.	79 - 116
6.	<u>DATES OF FUTURE MEETINGS</u>  1 <sup>st</sup> February 2022, 18 <sup>th</sup> April 2022.	-

## MEMBERS' GUIDE TO DECLARING INTERESTS AT 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 Disclosable Pecuniary Interest (DPI) or Other Registerable 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.

Any Member with concerns about the nature of their interest should consult the Monitoring Officer in advance of the meeting.

### Non-participation in case of Disclosable Pecuniary Interest (DPI)

Where a matter arises at a meeting which directly relates to one of your DPIs (summary below, further details set out in Table 1 of the Members' Code of Conduct) you must disclose the interest, **not participate in any discussion or vote on the matter and must not remain in the room** unless you have been granted a dispensation. If it is a 'sensitive interest' (as agreed in advance by the Monitoring Officer), you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted by the Monitoring Officer in limited circumstances, to enable you to participate and vote on a matter in which you have a DPI.

Where you have a DPI on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

*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 (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her 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 council.*
- *Any licence to occupy land in the area of the council for a month or longer.*
- *Any tenancy where the landlord is the council, and the tenant is a body in which the relevant person has a beneficial interest in the securities of.*
- *Any beneficial interest in securities of a body where:*
  - a) *that body has a place of business or land in the area of the council, 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.

### Disclosure of Other Registerable Interests

Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (summary below and as set out in Table 2 of the Members Code of Conduct), you must disclose the interest. **You may speak on the matter only if members of the public are also allowed to speak at the meeting** but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive interest' (as agreed in advance by the Monitoring Officer), you do not have to disclose the nature of the interest.

*Other Registerable Interests (relating to the Member or their partner):*

*You have an interest in any business of your authority where it relates to or is likely to affect:*

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority*
- b) any body*
  - (i) exercising functions of a public nature*
  - (ii) directed to charitable purposes or*

*one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)*

### **Disclosure of Non- Registerable Interests**

Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a DPI) or a financial interest or well-being of a relative or close associate, you must disclose the interest. **You may speak on the matter only if members of the public are also allowed to speak at the meeting** but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive interest' (agreed in advance by the Monitoring Officer) you do not have to disclose the nature of the interest.

Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a friend, relative, close associate; or
- c. a body included in those you need to disclose under DPIs as set out in Table 1 of the Members' code of Conduct

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

Where a matter **affects** your financial interest or well-being:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

**You may speak on the matter only if members of the public are also allowed to speak at the meeting** but otherwise **must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation**. If it is a 'sensitive interest' (agreed in advance by the Monitoring Officer, you do not have to disclose the nature of the interest.

### **Other declarations**

Members may wish to declare at the beginning of the meeting any other information they feel should be in the public domain in relation to an item on the agenda; such Member statements will be included in the minutes for transparency.

# Agenda Item 3

## LICENSING PANEL

TUESDAY, 20 APRIL 2021

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

Officers: Shilpa Manek, Greg Nelson, David Cook and Tracy Hendren

### APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Bowden. Councillor Davey would be arriving to the meeting, a little late.

### DECLARATIONS OF INTEREST

Councillor Brar declared a personal interest that she was a licensee in the borough.

Councillor Bhangra declared a personal interest that he held a Transport for London PCO Chauffeur licence and was a SIA close protection Officer.

### MINUTES OF THE LAST LICENSING PANEL

**RESOLVED UNANIMOUSLY: That the minutes of the meeting held on 13 October 2020 were a true and accurate record.**

This was proposed by Councillor Clark and seconded by Councillor Baldwin.

### MINUTES OF THE LICENSING AND PUBLIC SPACE PROTECTION ORDER SUB COMMITTEE

**RESOLVED UNANIMOUSLY: That the minutes of the meetings held on 7 and 29 January 2021 were a true and accurate record of the meetings.**

This was proposed by Councillor Clark and Councillors Brar and Davies.

### STATEMENT OF LICENSING POLICY - FIVE YEAR REVIEW

The Chairman briefly introduced the item.

The item began with a brief discussion on whether the report and the recommendations within it should have been proposed and seconded before the Officer introduced the item. After a lengthy discussion, the clerk suggested that the Officer introduce the report and then a panel debate take place and then for Members to propose and second the recommendations.

Greg Nelson, Trading Standards & Licencing Manager, introduced the report.

Councillor Davies recommended that the Safeguarding Partnership be added to paragraph 1.3, as well as, the statutory consultees, consult on the future policy as there was overlap of licensing and safeguarding.

This was seconded by Councillor Hill.

Councillor Cannon was very happy to support the recommendation made by Councillor Davies for the future policy when it was next reviewed.

**ACTION: Greg Nelson to include the Safeguarding Partnership to consult on the future policy when reviewed.**

Councillor Baldwin asked for clarification on the actual anniversary date of the expiry. Greg Nelson suggested that it had technically expired in January 2021. Councillor Baldwin commented that this was coming to Panel four months after it had expired. Councillor Baldwin asked why it was so late coming to Panel and Greg Nelson informed the Panel that they had been working with the Home Office to see if the borough would get dispensation.

Councillor Baldwin commented that since the Panel had debated statutory consultees and voluntary consultees, he had noted from the report that even though the policy had no impact on adults, Hilary Hall had been consulted. Councillor Baldwin asked why Kevin McDaniel had not been consulted even though children were impacted. Greg Nelson informed the Panel that Hilary Hall had been consulted as she was the Head of Service of the team that Greg Nelson worked in.

Councillor Hilton commented that he was totally in agreement all attempts to make the documents clearer and easier to understand by residents. The document would give a very clear understanding to anyone reading it.

Councillor Cannon reassured Councillors that the consultations that had been carried out by Greg Nelson were all statutory and required consultees that had been consulted, mentioned in paragraph 1.3. It had been identified that these were the people that needed to be consulted. Trade had not been consulted as it had not been possible. Councillor views on safeguarding are in addition to the required consultees.

The clerk took a named vote on the proposal that Councillor Davies made and was seconded by Councillor Hill. This was to add the Safeguarding Partnership to consultee list for the future policy.

**RESOLVED UNANIMOUSLY: That the proposal made to add the Safeguarding Partnership to the consultee list for the future policy.**

The clerk took a named vote on the recommendations in the report. This was proposed by Councillor Cannon and seconded by Councillor Hill.

**RESOLVED UNANIMOUSLY: That the Licensing Panel 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)**

DATES OF FUTURE MEETINGS

Members noted the future meeting dates of the Licensing Panel.

The meeting, which began at 6.00 pm, finished at 7.00 pm

CHAIRMAN.....

DATE.....

# Agenda Item 4

## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

THURSDAY, 1 JULY 2021

PRESENT: Councillors John Bowden, David Cannon, Geoff Hill and Sayonara Luxton

Also in attendance: Councillor Maureen Hunt

Officers: Neil Allen, Craig Hawkings, Mark Beeley and Shilpa Manek

### APPOINTMENT OF CHAIRMAN

**RESOLVED UNANIMOUSLY: That Councillor John Bowden be Chairman for both applications.**

The Panel for the ATIK application was Councillors Bowden, Cannon and Hill.

The Panel for the Black Boys Inn was Councillors Bowden, Hill and Luxton.

### APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor David Cannon. Councillor Sayonara Luxton substituted for the second, Black Boys Inn application.

### DECLARATIONS OF INTEREST

For the ATIK Application:

Councillor John Bowden declared a personal interest as he had previously served on the Panel for an application for these premises. Councillor Bowden also declared that he lived approximately 200 yards from the premises and his third declaration was that he personally knew one of the objectors, he had previously spoken about general antisocial behaviour at the objector's premises in Victoria Street in the past.

For the Black Boys Inn Application:

No declarations of interest were received.

### PROCEDURES FOR SUB COMMITTEE

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

#### **ATIK Application**

Councillor Bowden in his role as Chairman made an application for advice to Legal to adjourn the proceedings as there were a large number of objections and a large number of documents for the Panel to consider. The Chairman felt that the Panel's ability to do this was impaired, over a Zoom meeting, both for the ability to conduct the meeting and also through the volume of documentation to read. This was solely in the public interest and also taking into consideration that the time allocated was not sufficient for all objectors to give their position. The Chairman suggested that the Panel be held face to face on a suitable date.

One of the public speakers, Jessica Ainley, asked to clarify that until a hearing was heard and a decision made, the club could not open. Craig Hawkings confirmed that there would be no licence for the club to open until the hearing and the subsequent decision. Craig Hawkings continued that if everything went to plan and the restrictions were lifted on 19 July, the club, or anyone, could apply for a temporary event notice for up to 499 persons to attend a venue. The premises licence would not be granted until the application was determined. The Legal representative confirmed this.

The Legal representative also gave advice to the Panel for the grounds for an adjournment which fell under Regulation 12 of the 2005 Regulations, the test where it was considered to be necessary for the consideration of any representations or notice made by a party. The Legal representative confirmed that the ability to deal with the quality of the representations in terms of making the decision.

The Applicants representative, Jonathan Smith, commented that the application had been timed correctly and lodged in good time for Freedom Day in July. They were under property contractual restrictions with the landlord that the applicant needed to try and satisfy if the licence was granted on a new lease. The concern was that all paperwork had been submitted in good time before today and discussions had taken place to whether the hearing would be held in person or virtually and it had been confirmed to us that it would be held in Zoom. The applicant was disappointed that it was being adjourned and would have been happy to have attended in person with all the clients, who had all congregated at the offices in Nottingham. The applicant asked when the hearing would be deferred to. The applicant requested that it be heard within seven days and then the decision be given on the day of the hearing. The Chairman advised that the logistics of organising another meeting would all have to be considered, including finding a Panel and the availability of Officers and the venue. The applicant commented that since the meeting had begun, it would have to be the same three councillors.

Councillor Cannon commented that getting the next meeting date within seven days was reasonable subject to all the conditions that had been mentioned.

The Chairman advised all that he would not be available for the next meeting. Jessica Ainley, public speaker, commented that she was a professional, working full-time, was a mother with two children and it would be very difficult to readjust her diary. Jessica Ainley requested that the meeting take place in the evening.

This meeting ended for the Panel to discuss in private.

**Decision: that the meeting would adjourn until a suitable date was found for a face to face meeting.**

### **Black Boys Inn Application**

The Chairman commented that he had been considering the volume of work that had to be undertaken, the number of documents that were before the Panel and the number of objectors that were before the Panel that wanted to put their objections across. The Chairman and the Panel were of the opinion that this application was not suitable for a virtual meeting and the effect would be that the reports and evidence would not have had the appropriate amount of time and ability for the Councillors to consider all the evidence, the volume of documents to be seen and also covered visually by the laptops and iPads that Members had and visually talking at the same time would be too voluminous. The Chairman wanted to retire to take legal advice to adjourn the hearing under Regulation 12 of the Licensing Act 2003 to be held face to face, in public, as this was a very large application.



A public speaker, Mr Jon Payne, representative of a number of residents, requested that the Panel considered the first page of the letter of representation that had been submitted which was in relation to the validity of the application, there were a number of discrepancies that had been highlighted, as to whether the application should be considered.

The Applicant, Mr Matthew Valentine, commented that he understood that legal advice needed to be taken but he would like to hear what advice the legal representative was giving the Panel and be involved in the debate on the adjournment. The Applicant commented that he was trying to open a business that was costing money every single day. It was very important to have certainty and clarity. The Applicant commented that he also had rights to have the application determined within a certain period. The Applicant felt that the Council had made an error and published the incorrect application, which was not even relevant, and the vast number of complaints made by the public were referring to the incorrect application. The Applicant wanted to hear the legal advice to help put his mind at rest.

Councillor Maureen Hunt wanted to comment on the points raised by the Applicant, but the Chairman did not allow this. Councillor Hunt asked if the new meeting would be held after the 19 July. The Chairman advised that this depended on the logistics.

The Clerk asked for the Legal representative to comment.

The Legal representative advised all present that the Panel had the power to adjourn under Regulation 12 of the 2005 hearing regulations which read, a hearing may be adjourned where it was considered necessary for the consideration of any representation or notice made by a party. The Legal representative continued that he was hearing that the Chairman was concerned about the format of a virtual meeting meaning that the Panel couldn't properly consider the representations during the meeting. The Legal representative commented that the test was whether it was necessary to adjourn and the Chairman said it was.

Councillor Luxton clarified whether the Panel could adjourn, and the Legal representation agreed that they could under Regulation 12. It would now be advisable to move into a private session to consider all the points and then inform the decision to all present.

The Applicant made one final comment that everyone else was carrying on in these difficult times and carrying out their meetings in this format, on Zoom. The Applicant understood that the Panel needed more time to look at this, but the documentation had been available for some time. The Applicant felt that he had a right to have his application heard today. If the Panel were to adjourn, was there a process that he could have a temporary leave to open in case there were legal issues in meeting in person before 19 July.

The Councillors, Legal representative and the clerk left the meeting.

**Decision: The Chairman announced that the meeting would be adjourned. The Chairman continued that the meeting would be rescheduled for a face to face meeting so that the Panel could listen and hear both the applicant and the objectors in a fair and meaningful way, in the public interest, the volume of material and the discussions that were required were unsuitable for a Zoom meeting, at this stage.**

The meeting, which began at 11.30 am, finished at 2.30 pm

CHAIRMAN.....

DATE.....

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## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

WEDNESDAY, 7 APRIL 2021

PRESENT: Councillors Gurpreet Bhangra, Mandy Brar and David Cannon

Also in attendance: Councillors John Baldwin, Gerry Clark, Gurch Singh and Donna Stimson, John Sennett (Applicant), Sarah Taylor (Applicant's Agent) and Bijou Dunn (Objector)

Officers: Andy Carswell, Craig Hawkings and Rachel Lucas

### APPOINTMENT OF CHAIRMAN

**RESOLVED UNANIMOUSLY:** That Cllr Cannon be appointed Chairman of the Sub Committee.

### APOLOGIES FOR ABSENCE

None.

### DECLARATIONS OF INTEREST

None.

### PROCEDURES FOR SUB COMMITTEE

The clerk outlined the procedure for the meeting that would be followed. All parties indicated they understood.

### CONSIDERATION OF THE RENEWAL OF A SEXUAL ENTERTAINMENT VENUE LICENCE

#### **Officer Reporting's statement**

Craig Hawkings, Licensing Enforcement Officer, introduced the item and went through the report. He explained that the Sub Committee had been called to consider the application to renew the Sexual Entertainment Venue licence of the premises known as The Honeypot, 81 Queen Street, Maidenhead SL6 1LT. Such licences were renewed on an annual basis, and the licence for this premises had been renewed each year since first being granted in 2011. There were no proposed changes to operating hours or conditions of the licence. Craig Hawkings said the proposed renewal had been brought to the Sub Committee as objections had been raised on behalf of residents living nearby, which made a hearing necessary. He said no objections to the renewal had been made by Thames Valley Police, and there were no outstanding complaints relating to the venue or vicinity.

Craig Hawkings told the Panel that an application or renewal could not be refused on moral grounds or values. He drew Members' attention to Paragraph 12 Section 3 of the relevant act, which stated that a licence could be refused:

(a) if the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.

(b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

(c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality.

(d) that the grant or renewal of the licence would be inappropriate, having regard

(i) to the character of the relevant locality; or

(ii) to the use to which any premises in the vicinity are put; or

(iii) to the layout, character or condition of the premises, vehicle, vessel, or stall in respect of which the application is made.

Craig Hawkings confirmed that the applicant had not been convicted of any offence. He stated that the options open to the Sub Committee were to allow the renewal application, attaching any conditions they deemed appropriate, or to refuse it. In the event of a refusal, written reasons for the decision would need to be given.

### **Member questions to the Officer Reporting**

Responding to a question from Cllr Cannon, Craig Hawkings confirmed Thames Valley Police were the only statutory consultee and there was no other responsible authority involved. Regarding the letter of objection from residents, Craig Hawkings said it had been signed by seven people.

Cllr Cannon asked Craig Hawkings if there had been any material changes to the character of the area since the licence was last renewed. Craig Hawkings said there had not been, although he was aware of redevelopment of the town centre that was taking place or planned. Cllr Brar asked if redevelopment would have any impact on the licence, which Craig Hawkings said it would not.

### **Applicant's questions to the Officer Reporting**

Sarah Taylor, the Applicant's agent, said she had no questions of the Officer Reporting.

### **Applicant's case**

Sarah Taylor, the Applicant's agent, said the premises had been operating as a sexual entertainment venue for 21 years and had held a Sexual Entertainment Venue licence since the relevant legislation was introduced in 2011. The licence had been renewed without any issues until this Sub Committee hearing was called.

John Sennett, the Applicant, said the venue had a good relationship with the police. The venue had not been open for the last 12 months due to the Covid19 pandemic.

Sarah Taylor said the nature of the objections related to the locality, and the suitability of the premises to be in that locality. She said she was aware of planned redevelopment work taking place in Maidenhead town centre, but it could be several years before this was completed and therefore the locality had not changed. More bars and restaurants were planned, which would have a place in the night time economy in addition to the existing premises. She said that neighbouring blocks of flats had only been built in the last few years, and the premises had been there before the flats were constructed.

Sarah Taylor said there were no windows on the ground floor of the premises that would allow passers-by to see inside, and the exterior signage was discreet and did not indicate the nature of the business. Although it was in close proximity to other commercial premises, the venue did not open until after the majority of these businesses had closed for the day. As it was a town centre location, there were other routes to avoid walking past it. John Sennett said when

the premises was open there were always two door staff on duty and there were two sets of double doors, which prevented passers-by being able to see in. It was noted that the premises was near to a church. John Sennett said the premises was closed on a Sunday, and there had never been any conflict between the two venues.

Sarah Taylor reminded Panel members that they should not make a moral judgement on the premises, and should treat it as a legitimate business venture in an industry that was heavily regulated.

It was noted that two incidents had been reported to police, in 2016 and 2019. However the police had not raised either of these as an issue in their submission to the licensing authority. John Sennett explained the 2019 incident had taken place outside on the taxi rank after the premises had already closed. He said the premises had been used as a reference point to allow police officers to attend to the incidents. John Sennett said the premises did not operate a happy hour or drinks promotions, and the clientele was generally of an older demographic to other town centre establishments. Sarah Taylor said establishments with a Sexual Entertainment Venue licence generally attracted less crime and disorder than those venues with an alcohol licence.

John Sennett said the venue's performers would wait inside the premises when waiting to be picked up in either a car or taxi, and many had specific drivers who could take them to and from the venue at discounted rates. They would not wait outside on the rank waiting to be picked up. In addition customers would be told to wait inside the foyer rather than outside.

### **Member questions to the Applicant**

Cllr Bhangra asked about safety and security procedures in place at the venue. John Sennett said performers would be walked either to cars, taxis or the railway station by members of the door staff and would never be left unaccompanied. Some performers travelled to the venue from London and would have their own driver from a taxi company local to them, who they knew.

Responding to questions from Cllr Cannon, John Sennett confirmed there were no unresolved complaints and no other complaints had been made, and that the venue had been closed for the last year. John Sennett said there had been no new buildings in the area in the last year.

Craig Hawkings stated he had no questions for the applicant. He reminded Members of the 14 conditions of the venue's licence.

### **Other persons' representations**

Bijou Dunn, objector, introduced herself and explained she was representing the views of residents living nearby and said she was a resident herself. She said there had been increased footfall in the area and schoolchildren would walk past the premises, although she accepted this was not something the Panel could take into consideration. However she explained this was indicative of the changes to the locality of the area and stated her belief that objections to the premises had not been raised in the past as it was considered to be in keeping with the locality, and this was now no longer the case due to number of new residential units that had been built.

Bijou Dunn drew the Panel's attention to Section 149 of the Equality Act, relating to the Public Sector Equality Duty. She stated that as the premises was a Sexual Entertainment Venue there was a possibility that women were being undermined. She also drew Members' attention to the closure of a branch of Spearmint Rhino in Sheffield as an example of changing localities around the UK, and how Sexual Entertainment Venues could be bad for other businesses in certain locations. Bijou Dunn stated residents disagreed that the character of the area had not changed, and it was planned for new restaurants and bars to open in the new Waterside

Quarter. She said this had been marketed as a desirable location, which therefore made certain other premises no longer appropriate for the locality.

### **Member questions to other persons**

Cllr Brar said she knew the area as a resident and said she did not feel the character of the locality had changed recently. Bijou Dunn said residents did not agree with this and said some buildings in the vicinity of the premises had been demolished as part of the regeneration of the area.

Cllr Cannon asked if anything had changed to the premises themselves that meant it was no longer appropriate for the locality. Bijou Dunn said the premises had not changed its way of operation or the way it regulated itself. She reiterated the objections from residents related to its inappropriateness to the changing character of the area. She said it was possible for the locality to change further during the lifespan of the one year of the licence, if it were to be granted. Rachel Lucas, legal advisor, stated that the Panel had to have regard for the locality at the present time and they could not take into account speculative changes to the character of the area.

### **Applicant's questions to other persons**

Sarah Taylor said she did not have any questions.

### **Any further questions or anything any party wishes to add**

Bijou Dunn asked if gender equality issues were something the Panel could take into account. Cllr Cannon said he believed this was potentially a moral objection, and restated the grounds that the Panel could take into account if they were minded to refuse the application. Rachel Lucas advised the Panel needed to have regard for the Public Sector Equality Duty, and whether granting a Sexual Entertainment Venue licence would unlawfully discriminate against someone of a protected characteristic; in this case, women. Bijou Dunn stated the example of Spearmint Rhino in Sheffield had been referred to Judicial Review, and it had not been demonstrated that gender equality issues had been taken into account by the licensing body. Cllr Cannon said this would be taken into consideration during the Panel's deliberations and Members would be advised by the legal officer.

### **Applicant's summary**

Sarah Taylor said the regeneration of the area was a large project that could take many years, and it was for the Panel to make a decision based on the character of the locality as it stood now. She stated there had been no significant material changes to the locality since the last licence renewal. The premises had been in situ for 21 years and it was for new residents to do their own due diligence on the area before moving there. Sarah Taylor said her client had not had cause to have regular meetings with residents, as may be the case with other premises, as no complaints had been raised. She said her client was a responsible operator and no issues had been raised with the police. Sarah Taylor submitted there was nothing that had been put forward that would justify the refusal of the licence renewal.

### **Officer Reporting's summary**

Craig Hawkings restated the options open to the Members of the Sub Committee. He added there was a potential financial implication in the event of the Panel voting to refuse to renew the licence, in that the applicant had recourse to appeal the decision to the magistrates court and this could incur additional costs.

### **Decision**

After careful consideration of all the evidence, the Panel unanimously voted in favour of renewing the Sexual Entertainment Venue licence, subject to the 14 pre-existing conditions continuing to be met.

The Panel took into account Paragraph 12 of Schedule 3 of the Act and were satisfied that the applicant was a suitable person to hold a licence, and that the licence would not be transferred to any unsuitable person. It was also considered that the number of sex establishments in the locality did not exceed the number that the local authority considered to be appropriate; therefore they were of the view the only possible reason not to allow renewal would be based on the character of the locality. The Panel were unanimous in their view that although the wider area was in the process of being redeveloped, this was ongoing and not anticipated to be completed for some years. They felt the concerns were speculative, and this was therefore not something that could be taken into consideration as a possible reason for refusal. It was also noted there was no history of disorder at the venue. The Panel agreed there was nothing in the relevant Schedule that would provide an adequate reason for refusing the renewal of the licence.

The Panel were advised that they had to have regard to the Public Sector Equality Duty. This needed to be considered when making any decision on behalf of the authority, having regard to the three elements of Section 149 of the Equality Act 2010. The Panel understood that gender was a protected characteristic, and the fact that the dancers were female was relevant to this.

The Panel considered it must be right that the approval of any venue of this nature could not automatically be in contravention of the duty set out in Section 149, by virtue of the fact that Parliament allowed such venues to operate.

Exploring the case referred to by Bijou Dunn, Rachel Lucas advised that it appeared that the case, relating to Sheffield City Council and Spearmint Rhino, was not actually binding authority. It appeared not to be reported and was in fact relating to permission for Judicial Review. Sheffield City Council settled before the case came to Judicial Review, and as such, the legal argument was never tested.

On balance, the Panel considered that granting the application, as sought, would not contravene the Public Sector Equality Duty.

The meeting, which began at 2.30 pm, finished at 4.14 pm

CHAIRMAN.....

DATE.....

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## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

MONDAY, 14 JUNE 2021

PRESENT: Councillors Jon Davey, Phil Haseler (Chairman) and Sayonara Luxton

Also in attendance: Mr Will Calvert (Applicant), Mr Miles Slade (DPS of premises) and Mr David McMahon (Objector)

Officers: Craig Hawkings, Rachel Lucas and Shilpa Manek

### APPOINTMENT OF CHAIRMAN

**RESOLVED UNANIMOUSLY: That Councillor Haseler be Chairman. This was proposed by Councillor Davey and seconded by Councillor Luxton.**

### APOLOGIES FOR ABSENCE

No apologies for absence received.

### DECLARATIONS OF INTEREST

Councillor Davey declared a personal interest in that he had known the applicant for many years but was attending the Panel with an open mind.

### PROCEDURES FOR SUB COMMITTEE

The Chairman read out the procedures to all present at the Sub Committee.

### 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 Will Calvert and the DPS was Mr Miles Slade for the premises Windsor and Eton Brewery, Units 1-4 Vanstittart Estate, Duke Street, Windsor, SL4 1SE. Mr Calvert had applied, under the Licensing Act 2003, for a new premises licence to be granted.

The application was to Licence the premises to now include the fourth unit in the building that the brewery operates, the brewery previously occupied the other 3 units. The brewery took over the unit in January 2021 and now has responsibility for all four units and the entire building. The unit will allow customers to try and sample all beers produced on site in a unique, well managed and comfortable environment. Brewery tours will also start and finish in the tap room with the tap room also becoming the brewery shop. The new tap room we will only trade until 10pm to showcase the bar as well managed. The purpose of licensing our entire demise is to no longer have to use TEN's when the brewery holds beer festivals which are held throughout the premises periodically.

A summary of the application is as follows:

Live music (Indoors):

- 12:00 hrs. until 23:00 hrs. – Monday – Sunday

Recorded Music (Indoors):

- 11:00 hrs. until – 23:00 hrs. – Monday – Sunday

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

- 09:00 hrs. until 23:00 hrs. - Monday to Sunday

The standard opening hours of the premises:

- 09:00 hrs. until 22:00 hrs. - Monday to Sunday

Designated Premises Supervisor (DPS): Mr. Miles Slade

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, Environmental Health, Thames Valley Police and RBWM Licensing. There had been two individual representations from residents that were relevant to the application 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 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 are attached to a licence then reasons for those conditions must be given.

The Sub-Committee are 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 Haseler asked how long the brewery had been at its current location and if there had been any issues to date. The Reporting Officer confirmed that the brewery had been at the same location for many years and there had been no issues.

Councillor Luxton asked if the music would be played in one specific room or all over the venue. The Reporting Officer reported that the music activity would be in all spaces and the music could be played wherever the applicant wanted to play.

### **Applicants Case**

Mr Will Calvert informed the Sub-Committee that they wanted to take on Unit 4 and create a tap room. This was the room most away from the neighbours. They had done all they could to prevent the licensing objective 'prevention of public nuisance' by ensuring the location was furthest away from the residents, the physical investment by making the room sound proof and there was a noise management plan in place.

The venue was not a music venue, there would be some live music events but mainly background music and this would not be every day.

### **Questions to the Applicant by Members**

Councillor Davey asked what measures could be taken to reassure the residents about the venue, not being a public nuisance. Mr Calvert responded that anyone in the premises would be managed and the management would do all they could for other public nuisance issues around the venue. There was CCTV installed outside the building.

Councillor Luxton asked if the taxi marshalling system would be used and it was confirmed that it would be.

Councillor Luxton asked how long CCTV footage was kept. The Reporting Officer advised the Sub-Committee that the Thames Valley Police guidance was 28 days.

Councillor Haseler asked if there would be outside seating and Mr Calvert confirmed that the pavement was licensed at the front of the premises. In the daytime, this was used but the sides of the premises were not used at present.

Councillor Haseler asked if there was parking in front and on the sides of the premises for visitors and Mr Calvert responded that there was minimum parking spaces and cycle spaces too.

Councillor Luxton Asked if any door staff were required at the venue. It was confirmed that door staff were not needed or required. Customers attended the venue to try beers and it was planned that food would be introduced soon. The venue worked closely with the council and Thames Valley Police.

**Questions to the Applicant by the Reporting Officer**

None

**Questions to the Applicant by the Legal Officer**

None

**Questions to the Applicant by the Objector**

None

**Objectors Case**

The objector, Mr David McMahon, had been a customer of the brewery for over ten years. Mr McMahon commented that the brewery and all the staff were fantastic. The only issue that the objector had was the noise levels. The brewery was not at the location when the objector had moved into his property. Mr McMahon had no issues if it was only relocation of the tap room but the application stated that there was to be a bar, café and restaurant operating seven days a week. There would be additional collection of refuse and recycling and the doors were left open which caused noise pollution. The noise issues had been outside office hours, for example, the collection of glass recycling was collected at 4am.

Mr McMahon suggested some conditions which included placing a noise limiting device at the rear of the houses, only licensing until 10pm and to not open on Sunday's.

A short discussion was had about sub-letting the venue which the applicant confirmed was not the case and the venue was not going to be sub-let to anyone.

**All parties summed up.**

The Reporting Officer summed up and commented that there was always a process of review in place if the licence was granted and if a nuisance was 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 correct advertising.

**Decision**

After careful consideration of all the evidence, the Sub-Committee decided to allow the application as applied for. The venue had already been in the same location for many years and had no complaints or issues reported to the police.

The Sub-Committee considered the written submissions provided by the applicant, officers of the council and the objectors. The Sub-Committee also heard oral evidence by the following:

- Craig Hawkings – Reporting Officer
- Mr Will Calvert – Applicant
- Mr Miles Slade – DPS
- Mr David McMahon – Objector

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

The meeting, which began at 2.00 pm, finished at 3.10 pm

CHAIRMAN.....  
DATE.....



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LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

TUESDAY, 20 APRIL 2021

PRESENT: Councillors John Bowden, Jon Davey and David Hilton (Chairman)

Also in attendance: Lisa Joanne Gilligan (legal representative of the Applicant), Jack Forrester (Operations Director, Applicant) and Pat Morrish (Objector, resident)

Officers: Craig Hawkings, Fatima Rehman, Shilpa Manek and Rachel Lucas

APPOINTMENT OF CHAIRMAN

**RESOLVED UNANIMOUSLY: That Councillor Hilton be Chairman. This was proposed by Councillor Davey and seconded by Councillor Bowden.**

APOLOGIES FOR ABSENCE

None.

DECLARATIONS OF INTEREST

Although no formal declarations of interest were declared, it was noted that Councillor Davey worked for Tesco and had objected to the planning application for ALDI. Councillors Davey and Bowden had spoken to the objector prior to the meeting, and Councillors Bowden and Hilton were Members of the Royal Borough Development Management Panel at the time of the approval of ALDI's planning application. All Members came to the Sub Committee with an open mind.

PROCEDURES FOR SUB COMMITTEE

The Clerk went through the procedures for the Sub Committee.

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

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

The 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 Lisa Joanne Gilligan, of Dedworth Road, Windsor, SL4 4LH.

The application was to:

1. To Licence a supermarket selling food, alcohol, toiletries, clothing, hardware and electrical items. The premises dedicated car parking.

A summary of the application is as follows:

The standard opening hours of the premises:

- 06:00 until Midnight - Monday to Sunday

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

- 06:00 until Midnight - Monday to Sunday

The Designated Premises Supervisor (DPS) would be Lisa Joanne Gilligan.

The application did not receive representations from the responsible authorities, including Environmental Health, Royal Borough Fire and Rescue Service, Planning Officer, Local Safeguarding Children's Board, Public Health, Trading Standard, Thames Valley Police and RBWM Licensing. Extra conditions had been proposed by Trading Standards and Thames Valley Police 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 7 individual representations from other persons that were relevant as they related to one or more of the four licensing objectives.

The Licensing Panel Sub Committee was obliged to determine this 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, take such step or steps as it considers appropriate for the promotion of the licensing objectives. The steps 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 are 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**



The Chairman asked what the licensing hours were of the nearby Tesco, and Craig Hawkings said the timings were as follows:

The standard opening hours of the premises:

- 08:00 until 23:00 - Monday to Saturday
- 10:00 until 21:30 - Sunday

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

- 09:00 until 20:00 - Monday to Friday
- 09:00 until 21:00 - Saturday
- 10:00 until 16:00 - Sunday

The Chairman addressed the concerns raised in the letters of objections within the report regarding differing licensing hours and opening hours and asked for clarification. The Reporting Officer said it was not uncommon to have differing hours, as it was a means to future-proof the license, should there be a relaxation. However, the restrictions placed by planning hours and Sunday trading hours were still to be abided by. The guidance issued under section 182 of the Licensing Act stated that the hours were not required to be duplicated that were already in other legislations.

Councillor Davey asked why the opening hours for ALDI on Sunday were 7 hours, when the Sunday trading law restricted this to 6 hours. The Reporting Officer said this was to future-proof the license in case there was a relaxation in legislation, which would avert the cost of applying for a variation in the license.

### **Applicants Case**

Lisa Gilligan, legal representative for ALDI, addressed Councillor Davey's query and said ALDI had no intentions to trade outside the permitted hours in relation to Sunday trading, licensing, or planning hours. Whichever of the three had the shortest hours would prevail. Each legislation had their own enforcement policy, and therefore there was not a need to mirror the timings.

Lisa Gilligan said ALDI had been operating in the UK since 1990, with standard hours of 08:00 until 23:00; however, this was for future-proofing measures, and stores did not open at 08:00. Ten years ago, applications were made for 07:00 until 23:00, regardless of Sunday trading and planning hours to future-proof the business. A standard nationwide licensing application was made, without consideration of the planning application hours because the hours did not need to match.

In January 2021, a central decision was made to extend outstanding application hours to 06:00 until midnight, and currently, ALDI stores did not remain open till midnight. Since 2021, the applications that were submitted with the new timings were either granted or in consultation, and none were refused due to lack of alignment with licensing or Sunday trading hours. The prompt for extending the trading hours was due to COVID-19, where the business understood the commercial and public need to be as flexible as possible. ALDI extended its hours during Christmas and for key workers, which the business was able to implement immediately at some stores and had proven popular with customers. The longer trading hours allowed maximum future flexibility, was not uncommon, and other supermarkets had 24-hour applications for future proofing.

Lisa Gilligan said the nearby Tesco's licencing activity hours fell outside of the framework hours, which was not unusual, and the licensing application had no

reflection on the planning application. The boroughs licensing policy indicated that the Thames Valley Police (TVP) was the main source of advice for crime and disorder, and neither planning nor TVP objected to the application.

Many of the objectors reasonings detailed in the report were regarding the misalignment of the planning and licensing hours; however, the borough's policy, guidance under the Licensing Act 2003 stated it was lawful for the hours to differ.

It was requested to look at the licensing application on its merits and in alignment with the licensing objectives. ALDI was a responsible operator, with over 900 stores nationwide, almost 40% of those had longer licensing hours permitted on their premise's licenses than their planning permission permit. ALDI had never been prosecuted for breaching planning permission hours, or any offence under the Licensing Act 2003.

Lisa Gilligan highlighted that she was the temporary DBS for ease before a Store Manager was appointed prior to the opening of the store.

### **Questions to the Applicant by Members**

Councillor Davey said Challenge 25 was an initiative to prevent youths from purchasing alcoholic beverages, and asked how ALDI applied Challenge 25, and the repercussions if it was not complied to. Jack Forrester said ALDI took Challenge 25 seriously with monthly internal audits and quarterly external audits to ensure Challenge 25 was being adhered to. Disciplinary actions were taken if Challenge 25 was not abided to, though not every incidence led to repercussions.

Councillor Davey asked for residents to be given the reassurance that individuals would not be drinking alcohol on the streets, and Jack Forrester said staff were incentivised to be conservative when following the Challenge 25 principles, to ensure they were not selling alcohol to underage customers.

The Chairman asked if ALDI had prosecutions of selling alcohol to underage customers or had failed to follow Challenge 25, and Lisa Gilligan said that ALDI had no convictions in relation to underage sales of alcohol. The Chairman asked if ALDI was prosecuted but not convicted, and Lisa Gilligan said there was one prosecution in Wales in 2008 when electronic till prompts were not implemented; however, all stores now had till prompts as a further precaution for till staff.

Councillor Bowden asked if CCTV inside the store and use of security officers would be implemented to watch individuals in the store. Lisa Gilligan said CCTV would be implemented, and Jack Forrester said it was not ascertained at this stage if security would be required, as this was for staff protection purposes, but it was not uncommon to have security. The Chairman asked if CCTV was focussed on prevention of theft or sale of alcohol, and Lisa Gilligan said CCTV was implemented for the safety of public and staff, theft and covered the entire store. Whilst CCTV was a key preventor of crime and disorder, its purpose was not limited to theft.

Pat Morrish asked why 40% of ALDI stores did not have licensing hours outside of their opening hours, and Lisa Gilligan clarified that 40% of the stores planning and licensing hours did not align because planning permissions were not reviewed when submitting a licensing application. Licensing applications were made in uniformity

nationally and conditions were then tailored to the responsible authorities' requirements.

Pat Morrish asked if ALDI in Dedworth had applied for longer licensing hours as they were going to apply for longer opening hours as a routine. Lisa Gilligan said she was unaware of any intention to do so, and if ALDI were to apply for longer opening hours, the decision would go under planning's scrutiny, as they were two distinct regimes.

Pat Morrish asked why all ALDI stores had not applied for longer hours, and Lisa Gilligan said ALDI was now applying for longer hours, regardless of planning. 06:00 until midnight was now ALDI's standard position, with up to 14 other applications that had been applied for since 2021 with the same timings.

The Chairman asked the success rate of ALDI gaining licensing hours from 06:00 until midnight, and Lisa Gilligan said there have been no objections to any other applications.

### **Objectors Cases**

Pat Morrish said seven other residents and associations put forward their objections on similar grounds regarding the opening hours of the premises of 06:00 until midnight. This was not standard opening hours, which was 08:00 until midnight Monday to Saturday and 10:00 until 17:00 on Sunday; an hour over legal Sunday trading hours.

Pat Morrish considered ALDI as an off license, with off license hours being 09:00 until 23:00. She had not seen a response from ALDI for intention to extend the opening hours once the store was open, and the opening hours were already excessive and more than the local Tesco's opening hours. If excess licencing hours were granted, a precedent would be created, and it would be likely that the local Tesco would apply for similar hours.

Pat Morrish said there had been no attempt to provide a security fence between her property and ALDI, therefore anyone could easily get from ALDI's car park and onto her property, with a possibility of bringing alcohol on her property. One of the licensing objectives was the protection of vulnerable children, and she felt patients on a detox programme at the Cardinal Clinic were vulnerable and would have greater access to alcohol, as Tesco was at a further distance and had less trading hours.

Pat Morrish said the sale of alcohol could be considered as anti-social and additional licensing hours. Crime statistics from TVP should from 2020 showed that anti-social behaviour (ASB) represented 16% of crime in West Windsor, with violent crime representing 33% of recorded crimes. The availability of low-priced liquor from 06:00 until midnight could fuel those with alcohol and substance challenges and could lead to increased crime and ASB in the residential area. It would reinforce the problems associated with late-night drinking and impact the spread of domestic abuse. Pat Morrish proposed a modification to the conditions of the license or hours.

### **Questions to the Objector by Members**

Pat Morrish and the Chairman asked Craig Hawkings the cost of applying for a license extension, and the Reporting Officer said a cost of approximately £315 would be issued, depending on the rate value. This would be subject to a 28-day consultation

and then the hearing process would be triggered. The Chairman said the cost of preparing, attending, and having solicitors would be greater than the application for the license extension.

Councillor Davey said he understood the Objectors unique position of being a neighbour and clinic that dealt with people who experienced patients overcoming alcohol misuse; however, there were no extreme negative situations present. ALDI was doing what it could to manage concerns by installing CCTV and applying Challenge 25. He asked if ALDI could apply good practice from the Cardinal Clinic and Pat Morrish said a lot could be learnt from her establishment and would be happy if contact was made by ALDI.

Pat Morrish said there were no means to identify a clinic patient and was concerned about the security of ALDI's premise, as patients or passers-by may get into the store after hours and cause damage. There was not a security fence other than a four-metre-tall acoustic fence and welcomed ALDI to be in touch regarding this. Pat Morrish asked if ALDI planned to lock the car park at night, and the Chairman said the car park was not part of the licencing review. The Chairman suggested ALDI to liaise with Pat Morrish regarding these concerns. Jack Forrester said he was happy to get in touch with Pat Morrish offline and help the Cardinal Clinic.

The Chairman said ALDI wished to be good neighbours and the commitment made by Jack Forrester was helpful.

### **Questions to the Objectors by Applicants**

Lisa Gilligan asked if discussions with the licensing team regarding the procedure in licensing were had, and Pat Morrish confirmed she had not.

The Chairman said in the event of activities which were deemed to be associated with alcohol sold at ALDI store did occur, objections could be made, and a hearing would be arranged on the continuation of the license. The decision made was not irrevocable.

Lisa Gilligan summarised that the opening hours of the premises was restricted by planning and Sunday trading hours, whichever was the shorter operating hours. The application was to allow maximum operational flexibility in case of the relaxation of Sunday trading and planning. There were no objections received from TVP in relation to crime and disorder. A review was at resident's disposal if they felt licensing conditions were breached, though ALDI was committed to being a good neighbour and had experience of operating in challenging locations. She asked the Sub Committee to grant the license, as other legislations restricted opening hours and the conditions in the report ensured responsible promotion of the licensing objectives. Craig Hawkings restated the options open to the Members of the Sub Committee.

The Chairman said the Sub Committee would retire to make a decision, and an email would be sent to the applicant in 5 working days. The Objector would also be notified of the decision. The Chairman thanked all attendees of the meeting.

### **Decision**

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 at the Royal Borough of Windsor & Maidenhead)
- Lisa Gilligan (Applicant)
- Pat Morrish (Objector)

After careful consideration of all the evidence, the Sub-Committee unanimously agreed to allow the application as sought.

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives; the prevention of crime and disorder, public safety, the prevention of public nuisance, and the protection of children from harm.

The Sub Committee were mindful of the concerns raised by the objectors, both by way of written submissions and that which was raised at the meeting.

In particular, the Sub Committee noted objectors' concerns of the hours sought exceeding that of the framework hours laid out within the statement of Licensing Policy, and further that the hours sought exceeded the proposed opening hours.

However, the Sub Committee took regard to the guidance issued under Section 182 of the Licensing Act 2003, paragraphs 1.16 and 10.15. The Sub Committee also took into account your reasoning to apply for extended hours for future flexibility in case of relaxation of legislation and noted that you had no intentions of trading outside the permitted hours as prescribed by both the planning conditions and Sunday Trading legislation.

The Sub Committee was understanding towards the concerns raised by Ms Morrish for her patients; however, they were also mindful that such concerns were not, in isolation, matters which would offend the licensing objectives. The Sub Committee were also satisfied with your agreement to be good neighbours and work with the Cardinal Clinic, which was welcomed by the Objector.

The Sub Committee also took into consideration the absence of objections from Environmental Health, Royal Borough Fire and Rescue Service, Planning Officer, Local Safeguarding Children's Board, Public Health, Trading Standard, Thames Valley Police and RBWM Licensing.

Therefore, the Sub Committee were of the view that there was no evidence to raise concern of any negative impact on the licensing objectives.

The meeting, which began at 10.00 am, finished at 11.15 am

CHAIRMAN.....

DATE.....

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## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

WEDNESDAY, 21 JULY 2021

PRESENT: Councillors David Cannon (Chairman), Geoff Hill and Sayonara Luxton

Also in attendance: Councillor John Bowden, Councillor Samantha Rayner, Gary Grant (Barrister), Anthony Gorbett (Operations Director), Alex O'Reilly (Regional Director), Stephen Fleury (General Manager), Rio Kader (General Manager and DPS), Professor Martyn McLachlan, Ms Penny Banham and Ms Jessica Ainley (Objectors)

Officers: Mark Beeley, Greg Nelson, Anthony Lenaghan and Shilpa Manek

### APPOINTMENT OF CHAIRMAN

Councillor Luxton proposed Councillor Cannon be Chairman for the meeting, this was seconded by Councillor Hill.

**RESOLVED UNANIMOUSLY: That Councillor Cannon was elected Chairman for the meeting.**

### APOLOGIES FOR ABSENCE

There were no apologies for absence received.

### DECLARATIONS OF INTEREST

Councillor Luxton declared an interest as she had considered a previous application for a license at the same venue.

### PROCEDURES FOR SUB COMMITTEE

The clerk informed all present of the procedures for the Sub Committee.

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

#### **The Reporting Officer to outline the application and the decision to be taken**

Greg Nelson, Trading Standards and Licensing Manager, set out the application. 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 the Licensing Act 2003, when relevant representations were made against an application, a hearing had to be held to consider them. A relevant representation made against an application for a new premises licence had to relate to at least one of the four licensing objectives set out in the Licensing Act 2003. These were; '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 CC Stim UK Tradeco 3 Limited and the DPS was Mr Rio Kader for the premises ATIK, 19 William Street, Windsor, SL4 1BB. CC Stim UK Tradeco 3 Limited had applied, under the Licensing Act 2003, for a new premises licence to be granted.

The application was to licence a town centre nightclub comprising one trading floor with a balcony area. The previous Premises Licence had lapsed and the applicants had applied for identical Licensable hours and conditions to the previous Licence held. A summary of the application was as follows:

#### Main Room

- The standard opening hours of the premises: Monday to Sunday 11:00 – 03:30
- Films Indoors Monday to Sunday 11:00 – 03:00
- Indoor sporting events Monday to Sunday 11:00 – 03:00
- Boxing or wrestling entertainments Indoors Monday to Sunday 11:00 – 03:00
- Live Music Indoor Monday to Sunday 11:00 – 03:00
- Recorded Music Indoors Monday to Sunday 11:00 – 03:00
- Performance of dance Indoors Monday to Sunday 11:00 – 03:00
- Late night refreshment Indoors Monday to Sunday 23:00 – 03:00
- Supply of alcohol on the premises Monday to Sunday 11:00 – 03:00

#### Small Room

- The standard opening hours of the premises: Monday to Sunday 11:00 – 03:15
- Licensable activities as above Monday to Sunday 11:00 – 02:45
- Seasonal Variation: An additional hour to the standard and non-standard timings on the day when British Summertime commences New Year's Eve and Halloween permitting licensable activities until 03:30, closing at 04:00.

The Designated Premises Supervisor (DPS) was Mr Rio Kader.

This application had originally received one representation from Thames Valley Police, but this was withdrawn after a meeting was held with the applicants. There were no other representations from the responsible authorities which included; Royal Borough Fire and Rescue Service, Planning, Local Safeguarding Children's Board, Public Health, Trading Standards, Environmental Health and RBWM Licensing. There had been nine individual representations from residents that were relevant to the application 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 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 had to 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 could 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 from Members**

The applicants representative expressed concern that due to the timings of the meeting, a determination from the Panel may not be reached today. He asked for consideration to be given to the premises and the staff that were employed there. It was asked if the decision could be communicated to the applicant well in advance of the five working day deadline.

The Chairman could give no guarantees but said that the decision would be communicated to the applicant as soon as possible and within five working days.

Councillor Luxton asked why the representation from Thames Valley Police had been withdrawn.

Greg Nelson explained that discussions had been held between the applicant and Thames Valley Police, with an agreement being reached.

Councillor Hill noted that the previous business at the same premises had closed. He asked if there was any difference with the previous license to the one being presented.

Greg Nelson said it was almost identical, the original company had gone into administration. After discussions with the police, the license being proposed had been altered slightly. The original application was for alcohol to be sold until 3.15am, with the venue to close at 3.45am. This had been brought forward 15 minutes by the applicant.

The applicants representative explained that there was more restraint on the license being proposed. The first license was to close at 3.45am, the license being proposed today would have the small room cease sale of alcohol at 2.45am and close at 3.15am, while the main room would cease serving alcohol at 3am and would close at 3.30am. This was 15 minutes earlier than the previous license that had been granted. The police had wanted there to be an

orderly dispersal policy included which was condition number 26. A residents contact number would also be publicly displayed so that any issues could be directed straight to the management and a residents meeting could be organised every three months. The applicant had removed the flexibility to extend the opening hours for international sporting events.

Councillor Hill asked if there were any changes on the seasonal opening hours.

The applicants representative confirmed that there was no change to this part of the license.

The Chairman asked if it was the same company applying for the new license as had applied for the old license.

Greg Nelson confirmed that it was a different company.

Councillor Luxton asked for clarification on what decision the Sub Committee could make.

Greg Nelson explained that the Sub Committee needed to be clear in the decision that they made and ensure that reasons were given to justify the decision. If this was not done, the decision could be appealed by any of the parties present.

### **Questions to the Reporting Officer from the applicant**

The applicant had no further questions for the Reporting Officer.

### **Applicants Case**

The applicants representative said that the company was the same management team under a different name. The Delta group were one of the largest UK operators in the night time industry, until they went into administration in December 2020. The new company had bought the majority of the clubs that were in the UK. There had been some issues with the landlord at ATIK's premises in Windsor, but had the license been transferred over in the correct way, this Sub Committee would not be taking place. The company was aiming to reinstate the license which had been previously granted at the premises.

Clubbing was a hugely important part of socialising for young people and ATIK was the centre of that clubbing experience in Windsor. Nightclubs were not for everyone but for a significant number of the 75,000 annual customers that visited ATIK it was their primary form of entertainment. The applicants representative used an example of an article in The Times newspaper, where a comparison was made between clubs and church and how much it could mean to young people. The applicant was aiming to reinstate the license with the conditions which had been listed in the report. Some residents had made objections, but all the licensing authorities were happy with the license that was being applied for.

The applicants representative explained that the premises had been a late night venue for over 60 years, with Tom Jones having performed previously. The building was not suited to any other function and would be a vacant shell if it was not a club. Addressing residents who pointed out that young people should go to other larger places like Reading, where the night time economy was significantly larger, would not stop young people in Windsor travelling and causing noise late into the night. There had been a rise in the number of illegal raves during lockdown, but these did not have the same controls and safety as a venue like ATIK. The applicants representative asked the Sub Committee if they wanted Windsor to be attractive to young people. Nightclubs were an anchor for the night time economy and they could often improve other local businesses too, as clubbers would spend money before the night out and potentially staying overnight in the town too.

The applicants representative admitted that ATIK could have an impact on local residents. However, it was important that this was balanced and things could work, the management

team at ATIK could mitigate the impact of the club well and this was why none of the licensing authorities had objected to the license application. The premises last had an operational review in early 2019, with Thames Valley Police commenting that ATIK had done well, with all mitigations being taken.

If the license was granted but with conditions that meant the opening hours were shortened to a 2am close, this would not be viable. There were already venues open later in Windsor and ATIK was the only dedicated club. A £10 entry fee was often charged for nights at ATIK, which allowed the premises to cover some of the cost and also meant customers were not encouraged to drink as much alcohol. If there was a 2am close, customers would leave the club and look to go to other venues. This would cause a significant migration of people moving along the surrounding streets in the early hours of the morning, potentially worsening the noise situation. ATIK had good dispersal controls, which saw staff assisting customers as they left the premises. Some were placed outside the premises and all worn bodycams. Very few customers came by car, most walked home or got taxis. There had been no representations from residents on Victoria Street, which was where customers were directed to in order to find a taxi. Using the Windsor town centre radio system, staff remained outside the premises until Thames Valley Police informed staff that they could leave. Lollipops were also given to customers as they left the premises to discourage customers from shouting or being loud. ATIK had a 'we care' policy to safeguarding which made sure that customers felt safe and were looked after. Management had recently received training from Debbie at Thames Valley Police on safeguarding and vulnerability. ATIK had its own medical room which could be used for a number of different purposes to help.

The applicants representative moved on to discuss and address some of the concerns which had been made by residents in representations made in objection to the license. Management at ATIK wanted to engage with residents and ensure that any concerns they had were addressed. Windsor had a population of around 37,000 and the license had received 9 representations. Therefore, it was a significantly small number of people in Windsor who had objected to the application. The applicants representative said that the 'silent majority' needed to be considered, those residents that were either neutral or were supportive. Bad behaviour in the area had always been blamed on ATIK but for the last year the majority of the night time economy had been shut. Residents had got used to the town centre being quiet during lockdown, but young people did not want to live in a ghost town. On 13<sup>th</sup> June 2021, management at ATIK had taken pictures of the area around the premises, where it was clear there were empty beer bottles, other litter and evidence of urination. However, due to lockdown restrictions ATIK had not been open and therefore none of the litter had been caused by its customers. Customers from other local bars often used the kebab shop and walked past ATIK, again this meant that not all of the noise produced was by customers of ATIK. At the conclusion of club nights, staff took part in a litter pick of the surrounding area, but most of this was not from ATIK. A phone number was provided to all residents which allowed them to make direct contact if there were any issues that needed to be sorted but no calls had been received. ATIK had a neighbours charter, which set out how management would respond to any reported issues and ensured that complaints were dealt with.

The applicants representative summarised by pointing out that the premises license was not permanent, it was conditional depending on the operation of the venue when compared to the four licensing objectives. This application was simply reinstating a license that was already there and the applicants representative asked that the applicant was given a chance to succeed.

### **Questions to the applicant from Members**

Councillor Luxton asked what search policy was in place for searching female customers.

The applicant explained that female security staff would search female customers. This would take the form of a pat search along with airport style metal detectors.

Councillor Luxton asked what Covid safety measures ATIK had in place.

She was informed that all legal guidance would be followed as set out by the government. The ventilation at the premises was particularly good, with all air being recirculated every five minutes which would help to slow the spread of the virus.

Councillor Luxton asked how management and staff dealt with any incidents that occurred on the premises.

The applicant explained that any incidents were recorded in the incident log book and were also marked on the electronic system. Management met with Thames Valley Police regularly, it was important that the venue had a good relationship with the police.

Councillor Luxton asked how people banned from the venue were prevented from entering and things like fake IDs were spotted and dealt with.

The applicant said that there was a scanning system in place where IDs were checked to see if they were fake. Bans could be imposed on individuals and this would be flagged up on the system. If the incident was serious, the Pub Watch scheme could be informed in which case a blanket ban from all venues in the area could be enforced on an individual.

The Chairman asked what the search procedure was for drugs. He asked for clarification as the applicants representative had said that all the licensing authorities had 'supported' the application.

The applicant said that a pat search was performed, which was usually fairly effective. The licensing authorities were under a duty to object to any applications which they felt did not promote the four licensing objectives. Thames Valley Police had put in a representation which was then withdrawn, which suggested that the police were happy with the license.

The Chairman commented on the commercial liability of closing at 3am and whether customers would still move on to other venues once ATIK had closed.

The applicant said that there would be little time for customers to migrate to other bars and venues, therefore there would not be an issue.

The Chairman noted that 2am was the recommended closing time according to the RBWM framework hours. He asked what the applicants rationale was for staying open later.

The applicants representative explained that it was the economic impact that closing at 2am would have on the business. The framework hours were a guide and RBWM was not bound by that policy. If the correct online form had been filled in, this Sub Committee would not have needed to take place.

The Chairman asked if the online form had been filled in correctly, would there not have been an opportunity for residents to make representations.

The applicants representative said that the license had been considered in 2019. Soon after, the premises had received praise from the police before the premises was closed due to lockdown.

Councillor Luxton commented on the representations made by residents in Mulberry House. She asked if the applicant had considered having security outside this area.

The applicants representative said that ATIK had a good dispersal policy in place, which meant that security staff were in the vicinity all the way along William Street. The premises had been closed since March 2020, litter and disturbances along the street since then were

caused by customers from other venues. The applicants representative said that they were happy to add the area around Mulberry House to their dispersal policy.

Councillor Luxton asked about the balcony which was used as a smoking area.

The applicants representative clarified that there was a large balcony which was covered in netting. The area would have a reduced capacity and alcohol was not permitted in the balcony area.

The Chairman said that security staff did not have any power in terms of physical force which they could use.

The applicants representative said that security staff could use reasonable force to make an arrest, where it was justified.

The Chairman asked what ATIK's policy was when dealing with anti-social behaviour.

The applicants representative said that it was not a 'hands on' approach. Staff were polite and helped to guide people on their way home. Escalation was dealt with in an orderly fashion.

### **Objectors Case**

Martyn McLachlan explained that his main concern with the license being granted was crime and disorder. The dispersal policy was good but there were problems in the vicinity of the premises which usually drew significant police attention. It was unfair to blame ATIK for all the litter in the surrounding streets but loud noise was still caused by customers. ATIK had been promoting events such as a 'straight out of lockdown' party which Martyn McLachlan felt was irresponsible given the rising Covid rates. The applicants representative had mentioned the number of jobs that were provided to local people, but it was not clear how many were actually based in Windsor. Martyn McLachlan felt that the committee report which had been included in the report pack by the applicant was inappropriate as it was funded by the night time industry. He welcomed a residents meeting with the management team at ATIK. He asked what plans the management team had to speak to residents in advance of events this coming weekend.

The applicants representative said that the management team would be happy to arrange a meeting with residents before the premises opened. Thames Valley Police had withdrawn their representation, which showed that they had no objection to the application for the license.

Councillor Hill asked Martyn McLachlan how long he had lived in the vicinity of ATIK.

Martyn McLachlan explained that he had lived in the area since early 2019. The dispersal policy funnelled customers into the side streets which is where the issues occurred.

The meeting was adjourned at 12.20pm and resumed at 13.30pm.

Penny Banham said that she had been impacted by the crime and disorder which had been linked to ATIK. Customers often used Victoria Street car park to 'pre load' before heading to the club. Between 3-4am, Penny Banham was often woken up by loud noises which were caused by customers from ATIK. She had spent £15,000 on double glazing but this did still not prevent all the noise that was caused. The police had been called on numerous occasions to deal with incidents at the club, with a rape incident linked back to customers who had attended ATIK. There had also been a reported stabbing in the area linked to the club. Penny Banham believed that ATIK was a crime generator for Windsor, it had been lovely over the past year to not have any issues due to the club being shut. ATIK had in the past done advertising

campaigns like '£1 a shot', which encouraged people to drink excessively. ATIK had a duty of care which they were not abiding by.

Penny Banham continued by explaining that the club was close to residential areas and woke residents up who needed to get up early. It was not acceptable and Penny Banham was against ATIK being allowed longer opening hours for special events. She believed the phone number given out by the management was a false sense of security and that many of the incidents that occurred were police matters. Considering the safeguarding aspect, she asked if the Sub Committee had seen the strategy which underpinned the poster. Penny Banham concluded by saying that ATIK was of no benefit to Windsor and drained local resources every weekend. It was unacceptable to local residents that it was allowed to continue.

Councillor Hill asked how close Penny Banham lived to ATIK.

Penny Banham said that she had lived on Russell Street for around 5 years.

Councillor Luxton asked about the previous historical incidents and whether they could be considered by the Sub Committee.

Anthony Lenaghan, legal advisor, said that the police had not raised any objections to the application.

Penny Banham said that it was a different business but run by the same people, so she did not think anything would change and therefore felt that historical incidents were relevant.

The Chairman commented that Penny Banham had lived in the area for less time than ATIK had been open.

Penny Banham said that she did not expect to be woken by the clubs activities every weekend.

The applicants representative clarified that management had removed the £1 shot promotions, the structure had been changed and improved. Regarding the sexual assault incident, ATIK sent door staff to the scene where they assisted police. There was no knowledge of any stabbing in the area being connected to the club. There was a strategy underpinning the safeguarding poster and staff had recently received safeguarding training from Thames Valley Police.

Councillor Luxton asked Penny Banham if customers from ATIK went down her road after they had left the premises.

Penny Banham said that customers often parked and pre loaded in the area, there was a correlation with the opening and closing time of ATIK.

The meeting was adjourned at 13.55pm and resumed at 14.30pm.

Jessica Ainley asked for her house number to be removed from the document pack, along with reference to her living at the same address as another individual, James Ainley, who had also made a representation. She wanted both representations to be considered individually.

Jessica Ainley said that she had lived in the area for six years and had regularly seen fighting and other anti-social behaviour. Revving cars, external music and silver cannisters were often common and it was having a detrimental impact on her life at the weekend. Jessica Ainley asked that the Sub Committee applied common sense, every Friday and Saturday there was an offer of a reduced entry fee which meant a significant number pre loaded in the local area before heading to the venue. The noise and other issues then reoccurred at 3am when the venue shut. Jessica Ainley did not believe that customers coming from other businesses would make as much noise because since lockdown, residents had no issues at all. It had

been a worrying time for residents as now that restrictions were relaxed, ATIK would be opening and the same issues were likely to happen. She believed that ATIK was no longer for local people as many customers travelled from outside the town. The club had changed and Jessica Ainley did not feel that it fitted in with the other establishments in the town.

Jessica Ainley continued that it was a new application, owned by a multinational business, implying that it was not a local business. Individuals did not reflect the company, therefore if the management team left the reputation could change. It had been requested in the past that management held meetings with residents. Jessica Ainley urged the Sub Committee to consider not granting the license.

Councillor Luxton asked about the timings of incidents.

Jessica Ainley confirmed that there was a link to events being held at ATIK and incidents occurring outside the premises.

Councillor Hill asked where Jessica Ainley lived, she confirmed that she lived in Russell Street.

Councillor Luxton noted that Jessica Ainley had requested that customers from ATIK were prevented from coming down Russell Street. She asked what Jessica Ainley would like to see instead and how this would work.

Jessica Ainley said that the club being closed would sort any issues, so that would be her preference.

The Chairman clarified that Jessica Ainley was asking for no license to be granted for ATIK.

Jessica Ainley confirmed that she would like to see no license granted. However, if a license was granted by the Sub Committee, it was preferable to be woken up earlier in the night so she would like to see ATIK have an earlier closing time than had been requested.

### **Summary from the Reporting Officer**

Greg Nelson said that the management team was largely the same, if the correct form had been submitted in time there would have been no need to apply for a new license. The written submissions should be taken into account by the Sub Committee as should the oral representations which had been made. Greg Nelson restated the options available to the Sub Committee and that they had five working days to submit their decision to the applicants and all interested parties.

### **Summary from applicant**

The applicants representative said that the hours that ATIK were applying for were not unique to Windsor. Some incidents which had been referenced in representations were made by customers but not granting a license would not change other anti-social behaviour. The RBWM framework hours were a guide and did not apply in this exceptional case. The management team had been with the company for a long time and had been improving the reputation of the club, it was important to note that a lot of representations made focused on incidents that happened pre-2019 when the club was under different management. A 2am condition being placed on the license would not be financially viable and Windsor would likely lose its only dedicated nightclub. Thousands of young people in Windsor would then lose out. None of the licensing authorities had objected to the application, it was only a small minority of local residents.

The applicant was happy to extend the dispersal policy to include the Russell Street junction, to help stop some of the issues which had happened in this area. The management team were also happy to have a residents meeting before opening and wanted to ensure that when issues arose, they would be dealt with. ATIK was important for Windsor's recovery after the pandemic and often bars and venues relied on the club to bring in additional late-night trade. The applicants representative asked that the Sub Committee granted the license with the original opening hours that had been applied for.

## **Decision**

After careful consideration of all the evidence, the Sub-Committee decided to allow the application as applied for, subject to the undertaking that was freely given by the applicant in regard to dispersal on Russell Street.

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:

- Greg Nelson (Reporting Officer at the Royal Borough of Windsor & Maidenhead)
- Gary Grant (Barrister), Anthony Gorbett (Operations Director), Alex O'Reilly (Regional Director), Stephen Fleury (General Manager) and Rio Kader (General Manager and DPS)
- Professor Martyn McLachlan, Ms Penny Banham and Ms Jessica Ainley (Objectors)

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives.

The meeting, which began at 10.15 am, finished at 3.15 pm

CHAIRMAN.....

DATE.....



## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

TUESDAY, 24 AUGUST 2021

PRESENT: Councillors John Bowden (Chairman), David Cannon and Geoff Hill

Also in attendance: Councillor Maureen Hunt

Officers: Joseph Cannon, Mark Beeley and Craig Hawkings

### APPOINTMENT OF CHAIRMAN

Councillor Cannon proposed Councillor Bowden as Chairman, this was seconded by Councillor Hill.

**RESOLVED UNANIMOUSLY: That Councillor Bowden was elected Chairman for the meeting.**

### APOLOGIES FOR ABSENCE

There were no apologies for absence received.

### DECLARATIONS OF INTEREST

In the interests of transparency, Josef Cannon, Legal Advisor, confirmed that he was not related to Councillor Cannon.

### PROCEDURES FOR SUB COMMITTEE

The Chairman set out and explained the procedures that the Sub Committee would follow.

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

#### **The Reporting Officer to outline the application and the decision to be taken**

Craig Hawkings, Licensing Team Leader, set out the application. 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 the Licensing Act 2003, when relevant representations were made against an application, a hearing had to be held to consider them. A relevant representation made against an application for a new premises licence had to relate to at least one of the four licensing objectives set out in the Licensing Act 2003. These were; '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 Mode De Vi Carbon Limited and the DPS was Mr Mathew Valentine for the premises Black Boys Inn and land to the rear of Black Boys Inn, Henley Road Hurley, Maidenhead, SL6 5NQ. Mode De Vi Carbon Limited had applied, under the Licensing Act 2003, for a new premises licence to be granted.

The application was to licence the Black Boys Inn Public House and surrounding land for pop up installation for outdoor events. A summary of the application was as follows:

- Exhibition of Films (Both):  
Mon – Sat 09:00 – 00:00 Sun 09:00 – 23:00
- Screening of Indoor Sporting Events:  
Mon – Sun 09:00 – 00:00
- Provision of live music (Both):  
Mon – Sat 09:00 – 00:00 Sun 09:00 – 23:00
- Recorded Music (Both):  
Mon – Sat 09:00 – 00:00 Sun 09:00 – 23:00
- Late night refreshment (Both):  
Mon – Sat 23:00 – 00:00
- Sale and Supply of Alcohol (On & Off):  
Mon – Sat 09:00 – 00:00 Sun 09:00 – 23:00
- Hours open to the Public:  
Mon - Sun 09:00 – 00:00
- Seasonal Variation:  
Camping 24 Hours in summer season May 1st to September 30th.

The Designated Premises Supervisor (DPS) was Mr Mathew Valentine.

This application had received no representations from the responsible authorities which included; Environmental Health, Royal Borough Fire and Rescue Service, Planning, Local Safeguarding Children's Board, Public Health, Trading Standards, Thames Valley Police and RBWM Licensing. There had been 84 individual representations from residents that were relevant to the application as they related to one or more of the four licensing objectives. There had been one representation in support of 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 had to 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 had to be given.

The Sub-Committee were reminded that any party to the hearing could 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 from Members**

Councillor Cannon asked if it was a new license being applied for.

Craig Hawkings confirmed that it was a new license application, there was no license currently at the site.

Councillor Hill commented on the door supervisors at the entrance of the premises and asked why they would only be there from 12pm.

Craig Hawkings said that this was a business decision from the applicant, there had been no objection to this from Thames Valley Police.

Councillor Hill asked if a capacity limit had been agreed.

Craig Hawkings said that it should be as it was required as part of the fire risk assessment, there had also been no objections from the fire service.

Councillor Hill commented on large sections of the application form which had not been filled in.

Craig Hawkings said that this question should be addressed to the applicant.

Mr Jon Payne, representing a number of objectors, was granted permission to pose some questions to the Reporting Officer through the Sub Committee.

Mr Payne commented on the dialogue from some licensing authorities which had been included as part of the agenda pack and whether these were relevant representations on the application.

Craig Hawkings explained that the licensing authorities had come to an agreement with the applicant when the application was submitted, otherwise those licensing authorities would have raised an objection.

Mr Payne believed that Thames Valley Police had objected to the application, there was nothing in the paperwork to suggest that they did not object.

Craig Hawkings confirmed that all conditions had been agreed by the applicant.

Mr Payne picked out an email on p.196 of the agenda pack, which was a representation in support of the application. Mr Payne asked if the representation referred to the four licensing

objectives, as he felt that there had been a number of other representations from objectors which had been excluded for not meeting the licensing objectives.

Josef Cannon, Legal Advisor, said that the email had been included as the Licensing team felt that it did correspond to the licensing objectives. The Sub Committee would be making a decision based on the four licensing objectives.

Mr Payne picked out some issues with the blue notice which had been submitted and questioned its validity. The notice did not state that the application could be viewed on the council's website and that there was no mention of a penalty for misinformation. The blue notice seemed to initially suggest that the pub would be licensed, but then goes on to mention land to the rear of the property also being part of the application. Mr Payne said that the blue notice was required for an application but the council website was not mentioned on the notice, therefore he argued that it was not valid.

Josef Cannon summarised that Mr Payne believed the blue notice was not valid and that the application should therefore be resubmitted. Josef Cannon said that while the notice did not comply in full, it did not mean that the application should be automatically rejected. The notice not including the council's website would not have caused any prejudice as residents knew where and how they could access the councils website. There had been 84 representations received for this application, therefore it was unlikely any points or arguments would have been missed when considering this application. It was unlikely that this application would be rejected in court.

### **Questions to the Reporting Officer from the applicant**

Mr Matthew Valentine explained that he had corrected the errors in the application when he had been informed. The council had confirmed that the application was still able to be processed and considered by the Sub Committee.

The Chairman agreed that the hearing should go ahead.

### **Applicants Case**

Mr Valentine said that the premises currently had a temporary license and they had been cooperating with the police to ensure that there were no issues. He had also worked extensively with the Environmental Health team, but due to a new officer recently coming in there had been a bit of confusion. Originally, the application was going to have a late closing time but Mr Valentine was advised to use more standard opening hours. The first application was published by accident and had seemed to have created a significant amount of anger and ill-feeling from local residents. A number of the activities listed on the form were not planned to be part of the business at Black Boys Inn. For example, if Mr Valentine wanted to show films or indoor sporting events, he needed to make sure it was listed in the license in the unlikely chance that this might be used.

Black Boys Inn had been a previously licensed premises but had struggled to remain sustainable. The extensive space that the site provided allowed it to be a suitable music venue. The pub was also listed as a community asset. The garden would host live music events, along with other things like weddings and corporate events. A number of noise nuisance incidents had been logged against Black Boys Inn, the surrounding area was remote and therefore it was possible for neighbours to hear music being played. A noise management plan was currently being worked on and this would be ready soon.

Mr Valentine concluded by pointing out that there had been no objections from any of the licensing authorities. Officers had visited the site and where happy, Mr Valentine just wanted to run a local pub and ensure the business was profitable.

## **Questions to the applicant from Members**

Councillor Cannon suggested that the application was not as extensive as the application form had initially sounded. He asked for clarification on what the application was that the Sub Committee were considering.

Mr Valentine said that the form was effectively asking the applicant to confirm that if the listed activities were undertaken, would the licensing objectives be abided by. This was why the activities had been included, to show that if Mr Valentine was to use them, he would ensure that they would be within the regulations.

Councillor Cannon said that the Sub Committee could therefore impose restrictions on some of these events.

Mr Valentine said that he would be happy for the Sub Committee to place restrictions on the license for most of the activities which had been listed and were not relevant to the application. Mr Valentine suggested that he would still like the option of being able to show indoor sporting events.

Josef Cannon explained that the scope of the application set out what had been applied for. Mr Valentine was not intending to go beyond this scope, subject to any conditions that the Sub Committee chose to implement, should they grant a new license.

Craig Hawkings confirmed that any large events over a certain capacity were required to go through the Safety Advisory Group. This group involved a significant number of teams and departments.

Councillor Hill asked about the door supervisors and why they were only planned to be present at the premises after 12pm.

Mr Valentine said that they only opened on Saturdays and Sundays at 12pm, if the premises were to open earlier than this it was likely that it would be for family orientated events. If an event was likely to be loud and involve young people, then door supervisors would be present. The temporary license which had been granted did not require Black Boys Inn to have door supervisors, but this had been balanced with when Mr Valentine felt it was needed.

Councillor Hill asked about the capacity limit of Black Boys Inn.

Mr Valentine said that the temporary license had a maximum capacity of 499, there had been no issues with this from the fire authority. The maximum number of customers Black Boys Inn had received so far was around 120.

Councillor Hill asked if the fire risk assessment had been completed.

Mr Valentine said that an independent report had been put together by an external company to ensure that everything was compliant. There were 5 guest rooms at the premises, but most of the activity would be outside.

Councillor Hill was surprised that the emergency lighting only lasted 15 minutes, this did not seem like a significant amount of time.

Mr Valentine explained that there was a significant amount of solar lighting around the site, which would usually stay on for around 3 hours.

Councillor Hill expressed his concern about the lack of emergency lighting. He asked about the electrical safety certificate and the use of sports entertainment indoors.

Mr Valentine confirmed that this was up to date. The sports entertainment part of the application would allow the premises to show sporting events, there was no intention to hold its own sporting events at the premises.

Councillor Hill asked about noise and insulation at the site, he had noted that there was no noise management plan submitted as part of the application.

Mr Valentine explained that he had been working with the Environmental Health team, with Black Boys Inn having their own consultant. The music being played on the premises was not of an offensive nature, most of the events that had been held had finished by 10pm, with one going on until midnight.

Councillor Hill mentioned the noise specific report which had been produced and distributed to the Sub Committee in advance of the hearing as a supplement.

Mr Valentine believed that some of the information in the report was incorrect or wrong. It was not an unbiased report and had differing arguments. There were currently no conditions on the license as part of the temporary license.

The Chairman asked for clarification on the Environmental Health officer who had been involved.

Mr Valentine explained that the officer had gone on annual leave over the summer but the communications and work done with Black Boys Inn had not been passed on to the covering officer, which had caused some confusion.

Councillor Hill asked about the parking available at the site.

Mr Valentine said that decking had been built on the original car park but there was a field next to the premises which had space for around 40 cars.

Councillor Hill mentioned first aid and how this was dealt with.

Mr Valentine confirmed that staff were trained in first aid and there was a first aid box at the site.

Councillor Hill expressed concerns about the light pollution that the site would cause for residents nearby.

Mr Valentine said that there had been one DJ set so far, which had a light which was shown up into the trees. Some of the bamboo bushes around the site were lit up by uplighters but these were not shining at anyone.

Councillor Hill asked if there were enough sanitary facilities at the site.

Mr Valentine replied by saying that a temporary toilet block was used which was connected to a septic tank.

The Chairman asked if Mr Valentine was planning to use large outdoor screens to show big sporting events like the Euros or Olympics.

Mr Valentine said the plan was to show things like football on moderately sized screens, these would mostly be for regular customers rather than big events that attracted customers specifically for the sporting event that was being shown.

The Chairman commented on litter restrictions and that a radius of 5m could be included as part of the license to ensure that no litter was discarded in the surrounding area.

Mr Valentine said that he was not aware of any issues of littering but staff did check and collect any litter that had been left.

The Chairman asked if searches took place on customers at the entrance of the premises to ensure that alcohol was not being brought onto the premises. He asked how many security staff would usually be present for events.

Mr Valentine said that for larger events door supervisors were present and could deter customers from bringing in their own alcohol. For every 80 people, there would be 2 door staff. For a big event, Mr Valentine would usually employ 8 door staff.

Councillor Hill asked how Mr Valentine would control the camping aspect of the application.

Mr Valentine explained that the camping was an idea to expand the accommodation available on site. It would be used for specific events like weddings.

Mr Payne had a number of questions for Mr Valentine, he was granted permission from the Chairman to pose these questions through the Sub Committee.

Mr Payne said that he was concerned about the scope of the application, it would allow bands to play in the stage area which had been set up and it would look and feel like a festival. Mr Payne commented on the operating schedule and asked if all the options which had been ticked by the applicant were conditions on the license.

Mr Valentine said that it was up to the authority to determine the application and to decide if there should be requirements for security at certain times or on certain events.

Craig Hawkings clarified that any conditions needed to be proportionate, there was no need to duplicate statutory obligations.

Mr Payne asked which conditions would apply for Black Boys Inn.

The Chairman said that any individual conditions would be set by the Sub Committee, if they believed it was needed.

Mr Payne commented on the Safety Advisory Group being required to give approval for any large events. He asked what was considered a large event.

Mr Valentine said that he had asked the police for confirmation, the site was very large and had seating for up to 150 people. The local authority would be able to confirm what was considered as a large event.

Mr Payne asked if the applicant would abide by any recommendations made by the Safety Advisory Group.

Mr Valentine confirmed that he would abide by the rules and advice of any licensing authority.

Mr Payne recommended to the Sub Committee that they should include a condition on the license that the DPS was required to advise the Safety Advisory Group of any large events in advance. He asked if a noise management plan was in progress and if the pub had double glazed windows.

Mr Valentine confirmed that it was still in progress, the premises did not have double glazing but the windows were rarely used.

Mr Payne asked if the outside area of the premises would be used permanently.

Mr Valentine said that the outdoor area was being used at the moment but the indoor space could be used in future.

Mr Payne asked what noise level had been agreed with regards to noise amplifiers. He asked if noise limiters had been in place at events held so far.

Mr Valentine said that the local authority would be clarifying the level that the sound amplifiers should be. Noise limiters had been used, which had been undertaken by an external company.

Mr Payne asked if the applicant would be happy to have noise limiters, Mr Valentine confirmed that he was.

Mr Payne asked if there were signs on display at the exit of the premises. He noted that there were no signs asking customers 'to leave quietly and respect any neighbours'.

Mr Valentine said that signs still needed to be put up at the premises, it was obvious to customers where the exit was.

Mr Payne asked if Mr Valentine was happy to revise the performing times so that they fell within the opening hours. Mr Valentine confirmed that he was happy to revise to the opening times.

Mr Payne mentioned the agreement with Environmental Health, he asked if the team had monitored recent events at Black Boys Inn.

Mr Valentine said that the Environmental Health team had been informed of events but had not heard anything back.

The meeting was adjourned at 11.05am for a short break, the meeting resumed at 11.20am.

## **Objectors Case**

Councillor Hunt explained that she had been a councillor for a while and so therefore knew the peace and tranquillity of the area. There had been a number of representations and concerns from local residents about this application and Councillor Hunt felt that it would have a huge effect, all year round. The performers from Black Boys Inn would face the direction of Frogmill and the sound would travel across the fields, there were no natural barriers to stop it. While the applicant said that there had not been 499 people on the site, Councillor Hunt believed that there was the capacity and ability to host this many people, which would cause chaos in the local area. A highways report showed that Black Boys Lane was a no through road. She asked if the additional parking which had been mentioned adhered to the highway and parking strategy and had adequate space provided for each parking bay.

Josef Cannon intervened and explained that objectors were required to give relevant representations, Councillor Hunt had been discussing highway issues which were not one of the four licensing objectives. Parking could come under public nuisance but none of the licensing authorities had objected to the application on these grounds.

Councillor Hunt argued that the parking situation could become a huge nuisance issue for local residents.

The Chairman said that the 499 figure was unlikely at the site.

Josef Cannon said that there was no limit of 499, this was the general limit which was granted as part of the temporary license. The premises specific limit would be set by the fire authority.



Councillor Hunt continued all arguing that the drum and bass music being played by the venue did not fit in with the surrounding local area and the local characteristics. It was important not to outweigh what was important to the local community and it did not matter how much control the Sub Committee tried to place on the applicant, it was impossible to control everything. The licensing legislation supported protecting the public, this was not a town centre and was an inappropriate location. Councillor Hunt called for greater community involvement for licensing restrictions, she concluded by saying that the license being granted would ruin the peace and enjoyment of the area for local residents.

Councillor Cannon had noted that a number of Councillor Hunt's comments were around the festival aspect of the application and a lack of control. He asked her where she got that view from.

Councillor Hunt said that the application could infringe on a public right of way, this sort of application could be difficult to control.

Councillor Cannon clarified that the application was not for a capacity of 499.

Josef Cannon said that the capacity limit was a fire safety issue, the applicant would need to liaise with the fire service to set a safe capacity limit. It was not for the licensing authority to set the capacity limit, therefore capacity should not be a condition that was imposed as part of the license.

The Chairman added that any large event would need to have fire authority and the Safety Advisory Group approval before it could take place.

Mr Valentine asked where Councillor Hunt had seen a stage.

Councillor Hunt said that she had looked into the premises from the gate at the bottom and saw a stage in the outside area.

Mr Valentine confirmed that there were chairs on the decking area and a DJ booth which could be used if required.

Councillor Hunt said that she had visited the site and had heard the thumping of the base, which was clearly audible outside the venue.

Mr Valentine noted that Councillor Hunt had not mentioned the acoustic guitars which were played most of the time the venue was open. He asked if Councillor Hunt had made efforts to retract some of the comments made about the original application, which had been made in error.

Councillor Hunt said that all residents were aware that the current application was not asking for a 3am closing time, as was first stated in the original application.

Mr Valentine said that the local development neighbourhood plan pointed out that Black Boys Inn should be given support as a community asset.

Councillor Hunt said that she wanted to help support local businesses but there was a fine line. This application totally outweighed the enjoyment of local residents and others of the surrounding countryside.

Geoff Priest, on behalf of Hurley Parish Council, explained that the letter which was included in the agenda set out most of the concerns. He asked why the application was not properly presented. He believed that Black Boys Inn should be given appropriate support within the context of the building, Geoff Priest did not believe the application was in keeping with the nature of the premises.

Chris Hurst gave a presentation on the sound levels which had been recorded outside Black Boys Inn in recent weeks. He explained that there was no noise management plan in place and that he had recorded the noise level outside the premises at a few of the different events which had been hosted at Black Boys Inn. The audio clips of these recordings were played to the Sub Committee.

Josef Cannon said that while it was a legitimate line of submission, there were no limits applied to the temporary license which Black Boys Inn had been granted.

Mr Valentine noted that Chris Hurst's readings were taken outside. He asked if any were taken inside local residents' homes, for comparison.

Chris Hurst said the readings were taken from around 350m away and were representative of the community impact from the venue.

Mr Valentine believed that the acoustics report was different to the one which Chris Hurst had produced.

Chris Hurst said the background noise did not correlate.

Mr Valentine said that the speakers were pointed in the opposite direction to Frogmill.

Councillor Hill asked if a measurement had been taken inside a property, what the likely reduction in decibels would be.

Chris Hurst said that there could be a 10-15 decibel reduction from a partially open window. Closing windows could increase low frequency noise.

Mr Valentine asked if the data shown was a model and therefore only a prediction.

Chris Hurst said that the graph was generic, as he did not know what sound system Mr Valentine was using. The modelling took into account local terrain and natural features.

Craig Hawkings asked when the data was collected.

Chris Hurst said it was on the 14<sup>th</sup> and 15<sup>th</sup> August.

Mr Payne said that the Sub Committee only had to look at past events to see the issues Black Boys Inn had already caused. He had asked Environmental Health for the number of complaints which had been lodged against the premises, with a total of 35 complaints being registered in the last two months.

Josef Cannon explained that this was disclosable information and any party was entitled to know that complaints had been made.

Mr Payne said that there was therefore evidence that problems would reoccur, he read out a number of the complaints which had been submitted. There was repeated evidence that neighbours could clearly hear the music being played from the pub. The application was to erect a large screen and stage area for the hours listed in the report. Live sporting events would presumably be screened and there would be the playing of live music, both indoors and outdoors. Live bands would play on a stage which was 1.5m high and these could be bands of any type and genre, as the application was very broad. Late night refreshment and a food truck would be provided, Mr Payne felt that there were clear parallels with a music festival. Commenting on the opening hours, the camping element was 24 hours during the summer season. It was not clear from the application that this was just a 'pub with a pub garden' and Mr Payne argued that it was more than that.

Mr Payne made comments on the capacity limit, but the fire safety team had not made any representations. He speculated on whether the fire authority was aware of the 499 limit, with the responsibility primarily lying with the applicant.

The Chairman commented on Mr Payne's arguments and said that they were speculation rather than representation.

Mr Payne explained that he was exploring the potential perils of the license without any restrictions. Residents were against the license being granted and the Environmental Health team did not give residents protection. The Safety Advisory Group could also not offer the same functions as licensing, the Sub Committee needed to be aware that the application was promoting public nuisance.

The meeting was adjourned for lunch at 1pm, the meeting resumed at 2pm.

Mr Payne focused his argument on what could happen in the future, if the license was granted. He believed that there were substantial reasons why the license should not be granted. If the license was granted but there were no conditions attached, then the Sub Committee would not be abiding by the four licensing objectives, in Mr Payne's view. The four licensing objectives were key to the application, which had been advertised as a festival. There had been no evidence of traffic or noise management plans being produced. Compliance was another issue that was raised, there had been no engagement with local residents on the plans, they had not been approached by the applicant to try and resolve the issues. Mr Payne argued that the temporary license circumvented the framework and the licensing objectives. It had caused significant disturbance to local residents and Mr Payne felt that the Sub Committee could not grant the license given the evidence which had been submitted. Approving the license with very strict conditions would be acceptable, but it had to have regard for the disturbance caused. He appealed to the Sub Committee to not grant the license.

Councillor Cannon asked how many residents Mr Payne was representing. He questioned the relevance of the compliance argument and the points made on the temporary license.

Mr Payne explained that a list of names had been provided to the Sub Committee. He admitted that there was no enforceable breach from the temporary license, but it was evidence that showed that agreements were not complied with.

Josef Cannon clarified that the arguments were potentially relevant, if the temporary license had conditions attached then the argument would carry more weight. The Licensing Act 2003 deregulated the playing of recorded music, therefore any license that was granted would automatically allow recorded and live music to be played.

Councillor Hill asked if a condition could be placed on the volume that music was played.

Josef Cannon said that the law would disapply for music being played between the hours listed in the application. However, this did not mean that music could be played at any volume.

Councillor Cannon asked for clarification that the Sub Committee was unable to impose conditions on the playing of music if it was before 11pm. Joseph Cannon confirmed that this was correct. There was no power for the Sub Committee to regulate music where the license had been granted.

Mr Payne added that if the license was refused, no music could be played. The Noise Act could imply penalties, if required. Mr Payne stated that the license should not be granted.

Councillor Hill asked if the license was granted but the applicant caused issues with local residents, the Sub Committee could review the license and revoke it, if necessary.

Josef Cannon said that at a review of the license, conditions could be imposed that were noise related.

Mr Payne argued that it would be at least two months before a review could be held. Residents would therefore be disturbed for a significant period of time. Mr Payne advised the Sub Committee to grant a license that would not need to be reviewed in the imminent future.

Mr Valentine asked if Mr Payne did not think it was reasonable to allow the business the chance to prove that it could abide by the licensing objectives.

Mr Payne said on reasonable grounds it should be given a chance, but evidence had shown that the license should not be granted.

Mr Valentine said that no conditions of the temporary license had been breached, therefore there was no valid argument on previous evidence. The decking was going through the planning process currently. Mr Valentine asked Mr Payne if he knew all the residents which had made objections to the application.

Mr Payne said that he only knew the residents which had been in contact with him directly.

Mr Valentine believed that future developments were irrelevant to the hearing.

Mr Payne claimed that he had highlighted to the Sub Committee evidence of where problems had occurred and where they would be likely to occur in future.

Mr Valentine commented on Mr Payne saying that 'all residents were opposed to the license being granted'. He had noted from the paperwork that Mr Payne had been appointed by residents in May 2021, this was before any music at Black Boys Inn had been played.

Mr Payne said that the residents were entitled to speak to and appoint a lawyer, the applicant could also have sought legal representation if he had wished.

Debbie Keenan said that she had lived in Frogmill Court for a number of years and the area was traditionally very quiet. She was alarmed and concerned about the application which had been submitted for Black Boys Inn. It was totally inappropriate in all aspects. Noise travelled easily at night, Debbie Keenan referenced music festivals in Henley which were easily heard by residents despite the distance being much greater. For the events which had taken place so far, Debbie Keenan had experienced what they sounded like from the homes of residents living in Frogmill. There was a significant amount of noise and a number of complaints were submitted, with some being from other villages in the area. Debbie Keenan was fearing the events which were scheduled over the Bank Holiday weekend. The problems had a detrimental effect on her mental health, there had been large numbers of people walking past her home at night and there was the potential for a significant number of cars to travel down the narrow country lanes in the area. This traffic could also impede the work of the emergency services. Debbie Keenan believed that there was a significant lack of security on the events which had been hosted so far. She appealed to the Sub Committee to reject the application, or to impose conditions to ensure that things did not get worse.

Councillor Cannon asked how long Debbie Keenan had lived in the area.

Debbie Keenan said that she had lived in the area for over 20 years. Black Boys Inn had always been there and was a licensed premise. However, everything previously had been inside and there was never any outside music.

Charles Brooks said that he had objected to the application on the grounds of the impact on wellbeing, mental health and the negative impact it had on the surrounding area. Frogmill Spinney was a nearby residential home, with 55 residents who had an average age in the 70s. One of the rules at the site was that musical instruments or other music could not be played

overnight that would disturb neighbours. There had been a number of loud events at Black Boys Inn, with the recent 'Ibiza' themed event being a particular problem. The council had sent a representative who deemed that the volume was too loud. The event had caused significant disruption to residents and ruined their enjoyment of the evening. It was totally unacceptable and Charles Brooks advised the Sub Committee that these issues would continue to happen if a license was granted. Charles Brooks was surprised that Thames Valley Police did not have an issue with the lack of an inside venue and there being no license to serve alcohol unless there was a pop up event at the premises.

Mr Valentine asked when the council representative had attended.

Charles Brooks said it was on 14<sup>th</sup> August, during the Ibiza event.

Stuart Cripps said that the application had not taken into account the surrounding area. He was speaking on behalf of residents and read out some comments from local residents who had contacted him regarding the issues around Black Boys Inn. While the impact of the noise where Stuart Cripps lived was not as bad as Frogmill, it was still having an impact.

Mr Valentine asked if Stuart Cripps had heard the noise from events at Black Boys Inn himself.

Stuart Cripps confirmed that he had not, as he had been away.

Other registered speakers Neil Ketley and Nikki Stanton-Ketley were not present at the meeting and so did not make verbal representations to the Sub Committee.

Mr Payne summarised the objectors arguments. He suggested that the Sub Committee should not approve the application. Residents were objecting to the license, 84 representations had been received and there were probably many more residents who also objected. He concluded by restating that the license for Black Boys Inn should not be granted.

### **Summary from applicant**

Mr Valentine said that the application was not for a festival, as had been suggested by some objectors. It was a marketing campaign that was designed to show the pop-up events as something that would be attractive to young people. Rowdy customers who were walking home would be an issue with any pub or bar and there was no guarantee that the people residents had referenced had been to Black Boys Inn. There had been no issues with traffic or parking for any of the events held so far. Mr Valentine admitted that he could have engaged with residents at the start, he invited any residents who had concerns to have lunch at the Black Boys Inn and talk through any issues that they had. He had only received calls from two residents about the noise, while one objector who had made verbal representations at the hearing had not even heard the noise from Black Boys Inn. Pubs like Black Boys Inn were constantly under threat, it was a busy location but the pub needed something to attract people. 10 people were employed at the pub and if this venture failed, there would be no future as the pub would not survive. Mr Valentine reaffirmed his commitment to working with residents and to find a compromise that everyone was happy with. Mr Valentine informed the Sub Committee that he was happy to accept any conditions that were imposed on the license, should it be granted.

### **Summary from the Reporting Officer**

Craig Hawkings explained that the 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 had to regard all of the representations made and the evidence that it heard. The Sub-Committee had to, 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 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 had to be given. The Sub-Committee were reminded that any party to the hearing could appeal against the decision of the Sub-Committee to the Magistrates' Court within 21 days of the notification of the determination.

The Sub-Committee were asked to determine the application.

## **Decision**

After careful consideration of all the evidence, the Sub-Committee decided to allow the application, modified as set out below, and subject to the conditions set out in the Appendix:

### Hours

- Films: 0900-2330 Mon-Sat, 0900-2300 Sun
- Indoor sporting events: 0900-2330 Mon-Sun
- Live Music: 0900-2330 Mon-Sat, 0900-2300 Sun
- Recorded Music: 0900-0000 Mon-Sat, 0900-2300 Sun (no change)
- Late Night refreshment: 2300-2345 Mon-Sat
- Supply of alcohol: 0900-2330 Mon-Sat, 0900-2300 Sun
- Hours premises open to the public: 0900-0000 Mon-Sun (no change); any patrons camping on the premises are excluded from the requirement to be off the premises by closing time.

### Conditions:

1. There shall be no more than 12 ticketed events involving live music and/or DJs in any calendar year. Any such event shall last no longer than three consecutive days.
2. The Premises Licence Holder shall produce a Noise Management Plan in conjunction with a suitably qualified and experienced noise control consultant (e.g. a member of the Institute of Acoustics, or other such person agreed with the Licensing Authority), which shall address the necessary measures for noise control and preventing public nuisance from noise, including (where appropriate) arrangements as to noise limiting devices, speaker specification and orientation, monitoring and measuring arrangements, and mitigation measures. The Noise Management Plan shall be completed and submitted to – and agreed by - the Licensing Authority in advance of the first licensable activities permitted by this premises licence.
3. The premises shall operate in accordance with the provisions of the Noise Management Plan at all times.
4. Clearly legible and suitable notices shall be displayed at all exits requesting that customers respect the needs of local residents and leave the premises and area quietly.
5. No later than 6 weeks prior to any ticketed event held under this licence, a suitably qualified and experienced noise control consultant (e.g. a member of the Institute of Acoustics, or other such person agreed with the Licensing Authority), shall be appointed to liaise with all parties including the Premises Licence Holder, sound system supplier (where appropriate), sound engineer(s) and the Licensing Authority in respect of all matters relating to noise control prior to and during the event.
6. The noise consultant referred to in condition 5 shall carry out a survey to determine the background noise levels (as defined by the Code of Practice on Environmental Noise Control at Concerts) at the site boundary of the licensed premises and those of nearby noise-sensitive residential properties. The information obtained shall be made available to the Licensing Authority no later than 3 weeks prior to the event.
7. The premises licence holder shall ensure that the sound system supplier and all individual sound engineers are informed of the sound control limits and that any instructions from the noise control consultant regarding noise levels shall be implemented. The noise from the event should not be such as to cause a nuisance.
8. During the ticketed event, the noise control consultant (or a suitably trained person) shall continually monitor noise levels at the sound mixer position and advise the sound engineer accordingly to ensure that noise limits are not exceeded. The Licensing Authority shall have access to the results of noise monitoring at any time.
9. During the ticketed event, the premises licence holder, event organiser or other competent person shall carry out observations in the immediate area around the event, to assess the level of noise. Should such observations confirm that noise is disturbing to the occupiers of premises in the vicinity, appropriate steps shall be taken to control noise levels in order to prevent disturbance to local residents.
10. Any local residents likely to be potentially affected by noise from a ticketed event shall be informed in writing in advance of the event as to:
  - a. The exact times of all performances and sound checks; and

- b. A contact name and telephone number should they wish to make a complaint relating to noise.
11. Where outside lighting (including stage lights, lasers and pyrotechnics) is intended to be used at a ticketed event, the premises licence holder shall submit details of the proposed lighting to the Licensing Authority in advance of any such event for approval; the approved scheme shall be maintained with any updates submitted for further approval depending on the type of event held. Any such lighting should not cause a statutory nuisance.
  12. Where a Large Event is planned (defined for these purposes as one at which more than 499 persons are expected to attend, and which is ticketed), the Premises Licence Holder must give notice of its intention to hold such an event to the Thames Valley Police, and to the Safety Advisory Group (“SAG”) at least three months prior to the date on which that event is to be held; and shall produce a bespoke Event Management Plan for the event no less than two months prior to the date of the event.
  13. Where a ticketed event is held, all bars will be run by professional bar staff and at least one personal licence holder will be on site at all times licensable activities are carried out.
  14. Where a ticketed event is held, appropriate measures shall be in place to ensure that no alcoholic drinks are brought into or taken out of the event.
  15. The premises shall operate a Challenge 25 policy for alcohol sales, where any person who looks under 25 years of age shall be asked to prove their age when attempting to purchase age-restricted goods; and appropriate signage of the adopted policy shall be displayed within the premises. All staff authorised to sell alcohol shall be trained in operating the policy, and in the issue of proxy sales of alcohol, and appropriate records of such training to be kept at the premises.
  16. Acceptable ID for the Challenge 25 policy shall be limited to photographic identification documents, including passport, photocard, driving licence or proof of age card bearing the PASS hologram, or any identification recognised or approved by the Licensing Authority or Thames Valley Police.
  17. A refusals book/log shall be kept at the premises to record all incidents of possible underage/proxy sales of alcohol; and shall be kept up to date; it shall be made available for inspection on request by any Responsible Authority.
  18. There shall be a CCTV system installed, covering the internal and external areas of the licence. CCTV recordings will be kept for a minimum of 28 days.
  19. The DPS (or a nominated person) must be trained on how to work the CCTV system to the standard that the person is able, upon request, to download any potential evidence required by Thames Valley Police, or its employees, and any Authorised Persons (as defined by the Licensing Act 2003).
  20. The person or persons trained in accordance with condition 19 above shall be responsible for supplying the media (disc, data stick) containing any downloaded content.
  21. Where marshals, stewards or security staff are deployed they should be trained in and vigilant to child safety and the safety of vulnerable persons.



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 at the Royal Borough of Windsor & Maidenhead)
- Matthew Valentine (Applicant)
- Councillor Maureen Hunt (Objector)
- Parish Councillor Geoff Priest (Objector)
- Jon Payne (representing a number of Objectors)
- Chris Hurst (called by Mr Payne)
- Debbie Keenan (Objector)
- Charles Brooks (Objector)
- Stuart Cripps (Objector, on behalf of Mr Burfitt)

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives.

The meeting, which began at 9.10 am, finished at 3.15 pm

CHAIRMAN.....

DATE.....

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## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

FRIDAY, 24 SEPTEMBER 2021

PRESENT: Councillors John Baldwin, Gurpreet Bhangra and Phil Haseler

Also in attendance: Councillor Helen Taylor

Officers: Andy Carswell, Jane Cryer and Craig Hawkings

### APPOINTMENT OF CHAIRMAN

Councillor Bhangra proposed a motion to appoint Councillor Haseler as Chairman. The motion was seconded by Councillor Baldwin.

**RESOLVED: That Councillor Haseler be appointed Chairman.**

### APOLOGIES FOR ABSENCE

Apologies were received from Councillor Hill. Councillor Baldwin was attending as a substitute.

### DECLARATIONS OF INTEREST

None.

### PROCEDURES FOR SUB COMMITTEE

Members noted the procedure for the Sub Committee.

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

Craig Hawkings, Licensing Team Leader, introduced the item and outlined the application and the issues for the Sub Committee members to consider. He stated the application was to licence a leisure centre and outlined the facilities that were included within the leisure centre. He summarised the various aspects of the application and the timings each point was applicable for. He stated that activities did not fall outside of framework hours and therefore considered acceptable. Craig Hawkings confirmed that the application had been advertised in the correct manner by local newspaper and by notification notices being placed in the locality. He stated that there had initially not been enough notices put up but following engagement with the applicant more had been provided. Members were told that the application had to have regard for the four licensing objectives: public safety, prevention of public nuisance, prevention of crime and disorder, and protection of children from harm.

Craig Hawkings told Members that the application had come to the Sub Committee for determination as three objections had been received. One of these, at page 46 of the agenda, had been withdrawn since publication and Craig Hawkings stated that its contents should be disregarded. The other two objections remained relevant. Members were informed that a number of conditions that would help promote the four licensing objectives had been agreed between the applicant, Trading Standards and Thames Valley Police, and these were included in Appendix D of the report pack. It was noted that no objections had been received from any of the responsible authorities. Craig Hawkings reminded Members of the options open to them

in relation to the application, which were to reject it; refuse to specify a person in the licence as the premises' supervisor; grant the application but modify the activities and/or hours and/or the licence conditions; or grant the application in full.

Councillors Baldwin asked if the objections that had been raised by residents should be read into the record. Members were told there was no capacity to do this, and in any event the objections were available publicly on the Council website and had been so for some time. The Sub Committee members and applicant indicated they had no further questions for the Reporting Officer.

Mark Camp-Overy, on behalf of the applicant, stated that the terms of the application were the same as those currently in place at the Magnet Leisure Centre. He said the conditions had been agreed with the authorities and would be adhered to. He said the applicant had met with those residents who had made objections. From this it had been agreed to install additional signage to remind centre users to be respectful to neighbours when leaving the site, and a staff member had been nominated as a single point of contact for residents wishing to raise concerns.

Councillor Haseler asked how frequent events such as live music and plays would take place. Mark Camp-Overy said it would be on a regular basis and the terms of the licence simply allowed the venue flexibility to arrange events as and when required. He gave examples of events to include school events and choirs, faith events and exhibitions, and a roller disco which would be transferring over from the Magnet Leisure Centre.

Councillor Baldwin asked what risk assessments would be carried out with regards to the planned boxing events. Mark Camp-Overy said the applicant had liaised with Thames Valley Police over this, and this included how the event would be delivered in terms of logistics and security. Additionally a separate medical risk assessment had been conducted. Councillor Baldwin asked about noise control measures. Mark Camp-Overy said decibel readings were routinely taken around the perimeter of the venue site and this formed part of the risk assessment. He confirmed this information had been shared with residents who had raised concerns. Following a question from Councillor Haseler, Mark Camp-Overy confirmed that the conditions raised by Thames Valley Police and Trading Standards had been considered and accepted by the applicant. There were no further questions for the applicant.

Craig Hawkings reminded the Sub Committee members that they had to have regard for the promotion of the four licensing objectives, and reminded members of the options open to them. He added that if additional conditions were to be imposed then reasons for these would need to be given in writing. Craig Hawkings also drew members' attention to the background papers that should be taken into consideration by the Sub Committee when reaching a decision. All parties left the meeting in order the Sub Committee to deliberate and reach a decision on the application.

In their deliberations, members confirmed they were satisfied the promotion of the licensing objectives had been met and highlighted the fact that the applicant had confirmed the conditions proposed by Trading Standards and Thames Valley Police had been accepted. Additionally they noted they had engaged with residents and were of the view that this dialogue would continue following the appointment of the single point of contact. The Sub Committee also noted that other leisure facilities, including the rugby club and a restaurant, were in close proximity to the application site. The Sub Committee confirmed in their deliberations they had had regard for the submissions made by all parties and relevant legislation.

**RESOLVED UNANIMOUSLY: That the application be granted in full, subject to the agreed conditions listed in Appendix D of the report being met.**

The meeting, which began at 11.15 am, finished at 11.51 am

CHAIRMAN.....

DATE.....

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## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

FRIDAY, 27 AUGUST 2021

PRESENT: Councillors Mandy Brar, Phil Haseler and David Hilton

Officers: Craig Hawkings, Anthony Lenaghan and David Cook.

### APPOINTMENT OF CHAIRMAN

Resolved unanimously: that Cllr Hasler be appointed as Chairman.

### APOLOGIES FOR ABSENCE

None received.

### DECLARATIONS OF INTEREST

Cllr Brar declared that she was a licensee in the borough and Cllr Hilton informed that the premises were in his ward and he had eaten there.

### PROCEDURES FOR SUB COMMITTEE

The Chairman went through the procedures for the sub-committee.

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

Craig Hawkings, Licensing Team Leader, introduced the item and outlined the application and the issues for the Sub Committee members to consider. He stated the application was for a new premises licence under the Licensing Act 2003 for the Carpenters Arm, 78 Upper Village Road, Sunninghill, SL5 7AQ.

He summarised the various aspects of the application and the timings each point was applicable for. He stated that activities did not fall outside of framework hours and therefore considered acceptable. Craig Hawkings confirmed that the application had been advertised in the correct manner by local newspaper and by notification notices being placed in the locality. Members were told that the application had to have regard for the four licensing objectives: public safety, prevention of public nuisance, prevention of crime and disorder, and protection of children from harm.

Craig Hawkings told Members that the application had come to the Sub Committee for determination as objections had been received and were available in the agenda pack. It was noted that no objections had been received from any of the responsible authorities. Craig Hawkings reminded Members of the options open to them in relation to the application, which were to reject it; refuse to specify a person in the licence as the premises' supervisor; grant the application but modify the activities and/or hours and/or the licence conditions; or grant the application in full.

In response to questions Members were informed that there had been no objections from responsible officers, that there had been no reported incidents from TVP and from the Council regarding nuisance. Reference was made to the Dog and Partridge application from 2005, but Members were informed that each application should be

taken on their own merits. It was noted that the application for extended hours was not to attract new customers but for the benefit of existing clientele.

The applicant informed Members that this was a gastro pub within close walking distance to the highstreet. When they took over the establishment a lot of work was done to improve its condition and place within the community. The clientele had changed due to the improvements made.

They had also done a lot of work promoting the licensing objectives, they were an active member of pub watch, introduced the challenge 25 policy, CCTV was installed, all windows had been replaced with double glazing and additional work had been done to decrease noise.

The additional hours were required to help support the business and without them it would struggle. Instead of customers having to rush their meals at the end of the evening they would be allowed to enjoy their meal and leave in a more orderly fashion. The establishment had a policy of retaining customers within the building until taxis arrived to minimise noise, this was difficult with the current hours especially if the taxi did not arrive. The request for additional hours at New Years was to allow existing activities to continue without having to apply for temporary notices.

The applicant addressed the objectors comments contained within the agenda. This included that the pub had existed for 100 years so residents moving to the area new it was there, this was not to attract new late night drinkers, parking was not a licensing objective and there was no evidence that additional parking on the street was from customers, noise from people in the street could have come from customers from other establishments and as mentioned they encouraged customers to stay within the building when waiting for a taxi. She also informed Members that there had been no complaints made to the Council and they had received no complaints regarding noise. With regards to litter in a garden there was no evidence that this related to the pub and could have been members of the public. If any of the neighbouring properties had concerns they were always happy to discuss the issue with them, for example when there was an issue with staff living in the flat making noise at the end of the evening this was addressed. Other examples of how they had tried to accommodate any concerns raised by neighbouring properties were given. It was noted that other local establishments did not finish earlier.

Cllr Hilton mentioned that the pub was very supportive of local charities. He asked why the extra hours were required for the business and was informed that they employed 25 members of staff and it was difficult to retain staff in the area so there were a lot of overheads. Their main income came from serving food and the extra hours would make it easier for customers to enjoy their meal when ordering say after a day of golf and the end of the evening would not be rushed. They also informed that they had tried to talk to the objectors.

Cllr Brar mentioned that the business was doing everything right to be a responsible neighbour, she asked why they felt there were so many complaints. She was informed that when speaking to officers it seemed that there was an increased trend of people complaining more to applications. They had never required to have door staff and were always happy to talk about any concerns.

In response to questions from the Chairman the applicant informed that they had been running pubs since 1997 and had opened about 30 sites with never having any



problems. When they took over the Carpenters Arms it was a failed establishment that had lost its lease. The pub only had had a small bar and was not attractive to younger customers.

Mrs Thompson, objector, said she would like a good relationship with the pub and they had dealt with issues in the past straight away. It was a well run establishment and valued in the area. As per her written evidence her main concern was noise coming from the garden, especially as her bedroom window was so close and longer hours would impact on sleep. In response to questions from Member she informed that there was no issues regarding anti social behaviour, music had only been an issue when they opened after lockdown and this had been addressed, there was no issue regarding noise when people were leaving and the main problem was customer noise from the garden.

The applicant said they would look at possible solutions regarding noise from the garden.

Mr Hayward, objector, informed that he lived behind the pub and agreed with all the positive comments mentioned. They had never objected to any noise coming from the pub. His main objective was staff noise at the end of the night, if extending the times this noise would come later. As most people order around 8.30pm that should be sufficient time to enjoy your meal within the current hours.

The applicant informed that they get a lot of customers who play golf and often ordered their meals after 9pm and like to stay to 12pm. In response to questions she informed that the staff had been told not use the flat roof after work. It was suggested that a condition could be put in place so that the garden was not used after 11pm, the applicant said that this would be acceptable.

The applicant and the reporting officer summed up before Members retired to make their decision.

Decision:

After careful consideration of all the evidence, the Sub-Committee decided to grant the application, modified as set out below (in addition to the mandatory conditions which apply):

1. To extend the terminal hour for the sale of alcohol to 00:00, Monday to Sunday.
2. To extend the opening hours to allow the premises to close at 00:30 hours Monday to Sunday.
3. To add the provision of late night refreshment from 23:00 hours until 00:00 hours, Monday to Sunday.
4. To remove the existing non-standard timings for Good Friday and Christmas Day.
5. To add non-standard timings for live music, recorded music and late night refreshment on New Year's Eve until 01:00 hours.
6. To remove all conditions in Annex 2 of the premises licence, and replace them with the operating schedule detailed in the application.
7. That the rear garden is closed from 23:00 hours.

The meeting, which began at 11.30 am, finished at 1.30 pm

CHAIRMAN.....

DATE.....

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

WEDNESDAY, 28 JULY 2021

PRESENT: Councillors John Baldwin, Phil Haseler and Sayonara Luxton

Also in attendance:

Officers: Sarah Conquest, Roxana Khakinia and Shilpa Manek

APPOINTMENT OF CHAIRMAN

RESOLVED UNANIMOUSLY: that the Chairman for the Sub-Committee be Councillor Haseler.

APOLOGIES FOR ABSENCE

No apologies for absence had been received.

DECLARATIONS OF INTEREST

No declarations of interest were received.

PROCEDURES FOR SUB COMMITTEE

The Chairman went through the procedures for the Sub-Committee to follow. These were noted by all.

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

The Reporting Officer presented the application.

The application was to:

1. To Licence a Private Limited Company based inside unit 3 of Windsor & Eton Brewery. Located within a locked room with no public access and no boundaries to building extremities. The room would be locked when not in use.
2. Online only alcohol business, there would be no alcohol consumption on or near the premises relating to The Drink Creators.

A summary of the application is as follows:

- Supply of alcohol OFF the premises Monday to Sunday 06:00 – 22:00

The Designated Premises Supervisor (DPS) would be Mr Robert Morrison.

Where, as Here, Relevant representations had been made, the licensing authority must hold a hearing to consider them, unless agreed by the parties.

The licensing sub-committee could take steps as were appropriate for the promotion of the Licensing Objectives as relevant.

To be “relevant”, the representation had to relate to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives which were set out in the Licensing Act 2003.

The four licensing objectives are;

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

In this case no representations were received from the responsible authorities; Environmental Health, RBFRS, Planning Officer, Local Safeguarding Children's Board (LSCB), Public Health, Trading Standards, Thames Valley Police and RBWM Licensing.

Representations were received from one other persons, a resident (Appendix C).

The Reporting Officer informed the Sub-Committee of their options.

No questions were asked to the Reporting Officer.

Applicants Case:

The applicant informed the Sub-Committee that the business was only online, it would cause minimal traffic or disruption and would not change anything or effect anyone in the area.

The applicant was working with DHL couriers and was meeting all other regulations in the industrial estate.

No questions were asked to the Applicant.

The Reporting Officer reminded the Sub-Committee that it 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 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 are 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.

Decision:

After careful consideration of all the evidence, the Sub-Committee decided to allow the application as applied for.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council and objectors. The Sub-Committee also heard oral evidence provided from Greg Nelson, the Reporting Officer at RBWM and Mr Toby Morrison, Director of Drink Creators.

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives.

The meeting, which began at 2.00 pm, finished at 2.45 pm

CHAIRMAN.....

DATE.....

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## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

WEDNESDAY, 29 SEPTEMBER 2021

PRESENT: Councillors John Baldwin, Gurpreet Bhangra and David Cannon

Also in attendance:

Officers: Craig Hawkings, Roxana Khakinia and Oran Norris-Browne

### APPOINTMENT OF CHAIRMAN

Councillor Baldwin proposed that Councillor Cannon be Chairman of the Sub-Committee. This was seconded by Councillor Bhangra.

RESOLVED UNANIMOUSLY: that Councillor Cannon be Chairman of the Sub-Committee

### APOLOGIES FOR ABSENCE

No apologies for absence had been received.

### DECLARATIONS OF INTEREST

Councillor Cannon declared that he was the ward Councillor for the area that the application was in.

### PROCEDURES FOR SUB COMMITTEE

The Clerk went through the procedures that the Sub-Committee would follow. These were noted by all present.

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

The Reporting Officer presented the application. The application was to:

1. To Licence an historical landmark premises and grounds operated as a meeting / conferencing and events venue. Set in a prime location surrounded by a centuries old moat and situated within beautiful manicured just off the M4 and 10 Minutes from Heathrow Airport. There were 15 function rooms which could accommodate up to 330 delegates, a permanent marquee was also available, which had a capacity of 1050.
2. The premises had the benefit of an existing premises licence which also covered the botanica offices of CBRE – PL060139. This licence will be a stand-alone licence for White Rabbit Events Limited

A summary of the application is as follows:

- Performance of Plays (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Showing of Films (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Live Music (E) (Indoor and Outdoor): Monday – Sunday 10am – 1am

- Recorded Music (F) (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Performances of Dance (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Anything of a similar description to that falling within e,f or g. Race Nights and Similar (Indoor and outdoor): Monday – Sunday 10am – 1am
- Late Night Refreshments (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Supply of Alcohol (On and Off the premises): Monday – Sunday 10am – 1am

The designated premises supervisor (DPS) is stated as being Julia Chapman.

Where, as here, relevant representations had been made, the licensing authority must hold a hearing to consider them, unless agreed by the parties.

The Licensing and Public Space Protection Order Sub-Committee could take steps as were appropriate for the promotion of the Licensing Objectives as relevant.

To be “relevant”, the representation had to relate to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives which are set out in the Licensing Act 2003.

The four licensing objectives are:

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

In this case no representations had been received from the responsible authorities; Environmental Health, RBFRS, Planning Officer, Local Safeguarding Children's Board (LSCB), Public Health, Trading Standards, Thames Valley Police and RBWM Licensing.

Two representations had been received from other persons which were in Appendix C.

The Reporting Officer went through the options that the Sub-Committee had.

Questions to the Reporting Officer from Members:

The Chairman asked if there were any differences between this information and the information from the previous application, apart from the DPS and company name.

Craig Hawkings confirmed this to be correct.

Councillor Baldwin asked if the name on page 53 should read White Rabbit instead of Ditton Manor.

Craig Hawkings confirmed this.

Questions to the Reporting Officer from Applicants:

Sally Hills, Applicant's representative, stated that the representation from Mr Gomersal is for this application solely.

Questions to the Applicant from Members:

Councillor Baldwin asked with reference to page 49, if the applicants are obliged to give notice to Mr Gomersal regarding firework displays.



Sally Hills confirmed that they were not obliged, however out of courtesy they inform local residents through methods such as notices through letterboxes.

Councillor Bhangra asked Julia Chapman if they had held a premises license before and if Julia Chapman had been a DPS before and if so for how long.

Julia Chapman confirmed both and noted that she had been a DPS for 2-3 years.

Objectors Case:

The objectors were not present. The written submissions were considered by the Sub-Committee.

Questions to the Applicant from the Reporting Officer:

No questions were asked.

Summary from the Applicant:

The Applicants representative had said all that needed to be considered.

Summary from the Reporting Officer

The Reporting Officer reminded the Sub-Committee that it was obliged to determine this 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. Of course, the Committee must have regard to all 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 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.

The Chairman thanked applicants, officers, and the panel and informed that a decision would be delivered in writing within 5 working days.

Decision:

After careful consideration of all the evidence, the Sub-Committee decided to allow the application as applied for, subject to the updated conditions by Thames Valley Police, Trading Standards and Environmental Health.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council, and objectors. The Sub-Committee also heard oral evidence provided from Craig Hawking's, the Reporting Officer at RBWM, Sally Hills, Applicant's representative, Robert Lees, DPS and Julia Chapman, White Rabbit Events Limited.

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives.

The meeting, which began at 2.00 pm, finished at 2.20 pm

CHAIRMAN.....

DATE.....

## LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

WEDNESDAY, 29 SEPTEMBER 2021

PRESENT: Councillors John Baldwin, Gurpreet Bhangra and David Cannon

Also in attendance:

Officers: Craig Hawkings, Roxana Khakinia and Shilpa Manek

### APPOINTMENT OF CHAIRMAN

Councillor Baldwin proposed that Councillor Cannon be Chairman of the Sub-Committee. This was seconded by Councillor Bhangra.

RESOLVED UNANIMOUSLY: that Councillor Cannon be Chairman of the Sub-Committee

### APOLOGIES FOR ABSENCE

No apologies for absence had been received.

### DECLARATIONS OF INTEREST

Councillor Cannon declared that he was the ward Councillor for the area that the application was in.

### PROCEDURES FOR SUB COMMITTEE

The Clerk went through the procedures that the Sub-Committee would follow. These were noted by all present.

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

The Reporting Officer presented the application. The application was to:

1. To Licence an historical landmark premises and grounds operated as a meeting / conferencing and events venue. Set in a prime location surrounded by a centuries old moat and situated within beautiful manicured just off the M4 and 10 Minutes from Heathrow Airport. There were 15 function rooms which could accommodate up to 330 delegates, a permanent marquee was also available which had a capacity of 1050.
2. The premises had the benefit of an existing premises licence which also covered the botanica offices of CBRE – PL060139. This licence will be a stand-alone licence for Active Hospitality Limited.

A summary of the application is as follows:

- Performance of Plays (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Showing of Films (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Live Music (E) (Indoor and Outdoor): Monday – Sunday 10am – 1am

- Recorded Music (F) (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Performances of Dance (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Anything of a similar description to that falling within e,f or g. Race Nights and Similar (Indoor and outdoor): Monday – Sunday 10am – 1am
- Late Night Refreshments (Indoor and Outdoor): Monday – Sunday 10am – 1am
- Supply of Alcohol (On and Off the premises): Monday – Sunday 10am – 1am

The Designated Premises Supervisor (DPS) was Mr. Robert Lees.

Where, as here, relevant representations had been made, the licensing authority must hold a hearing to consider them, unless agreed by the parties. The Licensing and Public Space Protection Order Sub-Committee could take steps as were appropriate for the promotion of the Licensing Objectives as relevant.

To be “relevant”, the representation had to relate to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives which are set out in the Licensing Act 2003.

The four licensing objectives are.

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

In this case no representations had been received from the responsible authorities; Environmental Health, RBFRS, Planning Officer, Local Safeguarding Children's Board (LSCB), Public Health, Trading Standards, Thames Valley Police and RBWM Licensing.

Three representations had been received from other persons which were in Appendix C.

The Reporting Officer went through the options that the Sub-Committee had.

Questions to the Reporting Officer from Members:

Councillor Baldwin asked about the reference to firework displays and that there could only be ten every year. Was this a RBWM policy or was this agreed at the stage the initial application was granted. The Reporting Officer informed the Sub-Committee that this was a legacy number and not a Borough policy nor was it in the Licensing Act.

Councillor Cannon asked how long the current licence had been in act. The Reporting Officer could not confirm an exact date. However, the licence had never been under review since it had been granted.

Councillor Cannon asked if this was a mirror application of the last one. The Reporting Officer responded that it was identical, the only changes were amendments to the conditions by Thames Valley Police, Trading Standards and Environmental Health.

Councillor Bhangra asked if there had been any issues with the existing licence and was informed that there had been none.

Questions to the Reporting Officer from Applicants

No questions were asked.

Applicants Case:

Sally Hills, Applicant's representative, informed the Sub-Committee that the changes to the licence were only operational and had come about after discussions with Thames Valley Police, who had advised that it would be better to have three separate licences to cover the venue rather than one.

The three separate licences would cover the botanic, Active Hospitality Limited and White Rabbit Events Limited.

The conditions had been slightly amended by Thames Valley Police, Trading Standards and Environmental Health and these had been agreed by the applicant.

There had been three objections and the Applicants representative had responded to the objectors advising them that a licence had already been in place and that it was only operational. The objectors had asked further questions which had also been answered by Ms Sally Hills. The issues that had been raised had been related to a private property on the grounds.

Questions to the Applicant from Members:

Councillor Baldwin commented that there seemed to be inconsistencies in the schedules such as for indoor and outdoor events. Sally Hills explained that some events could be totally outside, not in the marquee, so the schedules were correct and there were no inconsistencies.

Councillor Baldwin asked what the policy was on drugs. The DPS, Mr Robert Lees, informed the Sub-Committee that there were security staff present on the site and if drugs were caught, they were confiscated and the police were contacted. The drugs were put into the safe and the police would advise on what to do with the people involved, either they would be held or contact details taken and then taken off premises.

Councillor Cannon asked if the objectors were from the estate and Sally Hills confirmed they the objectors were not from the estate but from nearby Slough. The gates of the estate were closed and locked after events.

Councillor Bhangra asked about what the policy was for when people left the premises after events. Sally Hills commented that people were asked to leave quickly and quietly. There were security at the gates. No-one was permitted to leave the site on foot, only by car, taxi or bus. The security officers were there until everyone left the site. There was 24-hour CCTV so the total site was secure.

Objectors Case:

The objectors were not present. The written submissions were considered by the Sub-Committee.

Questions to the Applicant from the Reporting Officer:

No questions were asked.

Summary from the Applicant:

The Applicants representative had said all that needed to be considered.

Summary from the Reporting Officer:

The Reporting Officer reminded the Sub-Committee that it was obliged to determine this 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. Of course, the 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 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.

**Decision:**

After careful consideration of all the evidence, the Sub-Committee decided to allow the application as applied for, subject to the updated conditions by Thames Valley Police, Trading Standards and Environmental Health.

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council, and objectors.

The Sub-Committee also heard oral evidence provided from Craig Hawking's, the Reporting Officer at RBWM, Sally Hills, Applicant's representative, Robert Lees, DPS and Julia Chapman, White Rabbit Events Limited.

In making their decision, the Sub-Committee had regard to its duty to promote the four licensing objectives.

The meeting, which began at 11.00 am, finished at 11.40 am

CHAIRMAN.....

DATE.....

# Agenda Item 5

Report Title:	Gambling Act 2005 Statement of Principles – Three Year Review
Contains Confidential or Exempt Information?	No – Part 1
Member reporting:	Councillor D Cannon, Cabinet Member for Public Protection and Parking
Meeting and Date:	Licensing Panel 12 October 2021
Responsible Officer(s):	Hilary Hall, Executive Director of Adults, Health and Housing Tracy Hendren, Head of Housing, Environmental Health and Trading Standards
Wards affected:	All

www.rbwm.gov.uk



## REPORT SUMMARY

RBWM is a licensing authority under the Gambling Act 2005.

This Act requires that, every three 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 Gambling Act 2005 Statement of Principles 2022 - 2025 and the Panel's recommendation to Full Council that this new policy be adopted.

## DETAILS OF RECOMMENDATIONS

**RECOMMENDATIONS: That the Licensing Panel notes the report and:**

- 1. Recommends to Full Council that the RBWM Gambling Act 2005 Statement of Principles 2022 - 2025 be adopted**
- 2. REASONS FOR RECOMMENDATIONS AND OPTIONS CONSIDERED**

Option	Comments
The Licensing Panel recommends to Full Council that the RBWM Gambling Act 2005 Statement of Principles 2022 - 2025 be adopted <b>This is the recommended option</b>	RBWM would comply with its statutory requirements
The Licensing Panel does not recommend to Full Council that the RBWM Gambling Act 2005 Statement of Principles 2022 - 2025 be adopted	RBWM would not comply with its statutory requirements and would have no framework under which to carry out the licensing of gambling activity

- 2.1 Section 349 of the Gambling Act 2005 requires that, every three years, licensing authorities prepare and publish the principles that they propose to apply in exercising their functions under this Act. This only applies to gambling premises and not to on-line gambling which is regulated by the Gambling Commission.

- 2.2 The RBWM Gambling Act 2005 Statement of Principles 2019 - 2022 can be found at [https://www.rbwm.gov.uk/sites/default/files/2020-04/licensing\\_statement\\_of\\_principles\\_gambling\\_act\\_2005.pdf](https://www.rbwm.gov.uk/sites/default/files/2020-04/licensing_statement_of_principles_gambling_act_2005.pdf)
- 2.3 A consultation has been carried out with statutory consultees and other stakeholders to ask if the Statement of Principles 2019 – 2022 provides a clear, robust and appropriate local policy on gambling premises in RBWM from their point of view. Full details of the consultation are in paragraph 8, below.
- 2.4 The main response to the consultation was that there was a need to strengthen the provisions of the statement covering vulnerable adults.
- 2.5 The changes that have been made are;
  - 2.5.1.1 some paragraphs have been re-ordered to make the document easier to follow
  - 2.5.1.2 an area profile has been included to provide operators of gambling premises with information about the areas in which they are, or may choose, to operate, specifically in relation to areas of deprivation and ethnic minority populations as those groups are disproportionately more likely to suffer harm from gambling
  - 2.5.1.3 reference to RBWM’s obligations under the Equality Act 2010 has been included
  - 2.5.1.4 the provisions of the statement covering vulnerable persons, in particular vulnerable adults, has been strengthened
  - 2.5.1.5 a list of consultees has been included
- 2.6 The new RBWM Gambling Act 2005 Statement of Principles 2022 - 2025 is set out in the Appendix and the Licensing Panel is asked to recommend to Full Council that this be adopted for implementation on 31 January 2022

**3. KEY IMPLICATIONS**

3.1

<b>Outcome</b>	<b>Unmet</b>	<b>Met</b>	<b>Exceeded</b>	<b>Significantly Exceeded</b>	<b>Date of delivery</b>
<b>RBWM will comply with statutory requirements, and provide guidance to service users</b>	<b>Prior to date of adoption of this Policy</b>	<b>From date of adoption of this Policy</b>	n/a	n/a	<b>Date of Full Council 23/11/21</b>

**4. FINANCIAL DETAILS / VALUE FOR MONEY**

4.1 There are no direct financial implications arising from this report.

**5. LEGAL IMPLICATIONS**

5.1 Section 349 of the Gambling Act 2005 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 two risks identified if the new Statement of Principles is not adopted and brought into force by the required date. These are set out in Table 2

**Table 2: Impact of risk and mitigation**

<b>Risk</b>	<b>Level of uncontrolled risk</b>	<b>Controls</b>	<b>Level of controlled risk</b>
<b>Censure of RBWM and reputational damage for failure to comply with statutory obligation</b>	<b>High</b>	<b>Clear policy in place</b>	<b>Low</b>
<b>Lack of information and guidance for those subject to the Gambling Act 2005</b>	<b>High</b>	<b>Clear policy in place</b>	<b>Low</b>

## 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/2021-09/2021-egia-the-rbwm-gambling-act-2005-statement-of-principle-2022-2025-published-9-sept-2021.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 changes proposed 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 S.349(3) of the Gambling Act 2005 requires licensing authorities to consult with the following on their policy statement or any subsequent revision:
- in England and Wales, the chief officer of police for the authority's area
  - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
  - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act
- 8.2 The following bodies and individuals were therefore consulted. They were asked if they thought the current policy provided a clear and robust local policy on gambling premises in RBWM sufficient to deal with any problems that they may have identified, and whether they had any supporting evidence that should be taken into account in reviewing this statement of principles;
- Thames Valley Police
  - RBWM Child Safeguarding Executive Steering Group

- RBWM Adult Safeguarding Executive Steering Group
- RBWM Environmental Protection
- RBWM Planning
- Public Health
- The Gambling Commission
- HM Revenue and Customs
- Royal Berkshire Fire & Rescue
- Gamcare (the leading UK provider of free information, advice and support for anyone harmed by gambling)
- The Trade (Betfred and Coral Head Offices)
- RBWM Members (via e-newsletter)
- Town Centre Management
- Residents (via e-newsletter and directly to those in the immediate vicinity of gambling premises)
- Local Businesses in the immediate vicinity of gambling premises

8.3 The consultation was also publicised on the RBWM consultation webpage.

8.4 The organisations who responded were;

- Thames Valley Police
- RBWM Child Safeguarding Executive Steering Group
- RBWM Adult Safeguarding Executive Steering Group
- RBWM Environmental Protection
- RBWM Planning
- Public Health
- The Gambling Commission
- Town Centre Management
- Royal Berkshire Fire & Rescue

8.5 Responses from the Adult Safeguarding Executive Steering Group and Public Health set out the need to strengthen the safeguards for vulnerable adults in the Vulnerable Persons section of the statement. This has been addressed in paragraph 2.13.6 of the updated statement.

8.6 Public Health England have plans to publish an evidence review on gambling harms on the prevalence of gambling and associated health harms and their social and economic burden. This work has been put on hold due to COVID-19 but when this work is completed it will be incorporated in future statements as appropriate.

8.7 The other organisations who responded had no comments to make.

8.8 There were three responses from individuals. One of these provided statistical information which informed the Local Area Profile. Another suggested a strengthening of the requirements around policies and procedures in place to protect vulnerable persons, which, as stated in 8.5, above, has been incorporated into the policy. A third was of the view that, if possible, gambling should be banned altogether but if this was not possible then the most stringent of regulations should be put in place.

## 9. TIMETABLE FOR IMPLEMENTATION

9.1 If the Licensing Panel agrees to recommend the RBWM Gambling Act 2005 Statement of Principles 2022 - 2025 to Full Council it will be taken to Full Council on 23 November 2021.

9.2 The new policy is required to be published on 03 January 2022 and to come into force on 31 January 2022

## 10. APPENDICES

10.1 This report is supported by 1 appendix;

- Appendix – The RBWM Gambling Act 2005 Statement of Principles 2022 - 2025

## 11. BACKGROUND DOCUMENTS

11.1 None

## 12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Commented & returned
Cllr Cannon	Cabinet Member for Public Protection and Parking	12/09/21	15/09/2021
Cllr Bhangra	Chair of the Licensing Panel	12/09/21	18/09/2021
Hilary Hall	Executive Director of Adults, Health and Housing	12/09/21	14/09/2021
Tracy Hendren	Head of Housing, Environmental Health and Trading Standards	12/09/21	20/09/2021

### REPORT HISTORY

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

## Appendix RBWM Gambling Act 2005 Statement of Principles 2022 – 2025 (Attached)

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**The Royal Borough of Windsor & Maidenhead  
Gambling Act 2005  
Statement of Principles  
2022 – 2025**

www.rbwm.gov.uk



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## 1 General

### 1.1 Introduction

1.1.1. The Royal Borough of Windsor & Maidenhead (RBWM) is a licensing authority for the purposes of s2 of the Gambling Act 2005.

1.1.2. Under s349 of the Act licensing authorities are required to publish a statement of the principles which they propose to apply when exercising their functions.

1.1.3. The statement must be published at least every three years and this statement will come into effect on 31 January 2022 and continue until 30 January 2025. The statement may also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published before any revision is given effect.

### 1.2. The Borough of Windsor and Maidenhead

1.2.1. The Royal Borough of Windsor and Maidenhead is a unitary authority to the west of London covering 76 square miles. It is home to Windsor Castle, Eton College, LEGOLAND Windsor and Windsor and Ascot Racecourses. Its population is approximately 151 500.

1.2.2. The current number of licences issued in the Borough to types of gambling premises is 75. The breakdown is as follows:

Type of Licence/Permit	Total number per category
Adult Gaming Centre Premises Licence	1
Betting Premises Licence (track)	2
Betting Premises Licence (No track)	14
Club Machine Permit	8
Family Entertainment Centre Gaming Machine Permit	4
Licensed Premises Gaming Machine Permit	10
Notification of Gaming Machines	36
Total	75

### 1.3 General Principles

1.3.1. This “Statement of Principles” set out the principles that the licensing authority will apply when making decisions upon applications or notifications made under the Gambling Act 2005.

1.3.2. In exercising its functions under the Act this authority shall aim to permit the use of premises for gambling in so far as the authority think it;

- in accordance with any relevant code of practice issued under s24 of the Act,
- in accordance with any relevant guidance issued by the Gambling Commission under s25,
- reasonably consistent with the licensing objectives, and
- in accordance with this statement of principles

1.3.3. In determining whether to grant a premises licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.

1.3.4. It should be noted that, as per the Gambling Commission's Guidance to Licensing Authorities, "moral objections to gambling are not a valid reason to reject applications for premises licences".

1.3.5. Nothing in this Statement of Principles will;

- undermine the rights of any person to apply under the Gambling Act 2005 for a variety of permissions and have the application considered on its individual merits; or
- override the right of any person to make a representation on any application or seek a review of a licence or permit where they are permitted to do so under the Gambling Act 2005

1.3.6. Each application will be treated on its own merit.

#### **1.4. Declaration**

1.4.1. In preparing this Statement of Principles this licensing authority has:

- had regard to the licensing objectives of the Gambling Act 2005,
- adhered to regulations issued by the Secretary of State under s349(4) of the Act,
- had regard to guidance issued to local authorities by the Gambling Commission s25(2) of the Act,
- had regard to the responses from those consulted on this statement of principles, and
- recognised the need to be consistent with the licensing objectives where applicable

1.4.2 The licensing authority will continue to work with legislation concerning immediate issues such as the coronavirus pandemic as it effects gambling premises.

#### **1.5 Equalities**

1.5.1 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.

#### **1.6 Consultation**

1.6.1 Licensing authorities are required by regulations made under the Gambling Act 2005 to list the persons whom the authority has consulted in preparing their statement of principles. The following were consulted in preparing the RBWM Gambling Act 2005 Statement of Principles 2022 – 2025;

- Thames Valley Police
- RBWM Child Safeguarding Executive Steering Group
- RBWM Adult Safeguarding Executive Steering Group



- RBWM Environmental Protection
- RBWM Planning
- Public Health
- The Gambling Commission
- HMRC
- Royal Berkshire Fire & Rescue
- Gamcare
- The Trade
- RBWM Members
- Town Centre Management
- Residents
- Local Businesses

## **1.7 The Licensing Objectives**

1.7.1. In exercising their functions under the Gambling Act 2005 licensing authorities must have regard to the licensing objectives as set out in s1 of the Act.

1.7.2. The licensing objectives are:

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**
- **Ensuring that gambling is conducted in a fair and open way**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

1.7.3. It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

1.7.4. More detail on the licensing authority’s approach to the licensing objectives is set out in section 2.13, below.

## **1.8. Responsible Authorities**

1.8.1. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Sector 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are;

- the need for the body to be responsible for an area covering the whole of the licensing authority’s area and;
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group

1.8.2. In accordance with the guidance in the Gambling Commission’s Guidance to Licensing Authorities this authority designates the RBWM Child Safeguarding Executive Steering Group, the statutory overseer of children’s safeguarding arrangements for RBWM, as competent to advise the authority about the protection of children from harm in relation to gambling and the Gambling Act 2005.

1.8.3. Under s157 of the Act, the following are responsible authorities in relation to premises:

- The licensing authority
- The Gambling Commission
- Thames Valley Police
- Royal Berkshire Fire and Rescue Service
- The Planning Authority (RBWM)
- Environmental Protection (RBWM)
- RBWM Child Safeguarding Executive Steering Group
- HM Revenue and Customs
- Public Health

## **1.9 Interested parties**

1.9.1. Interested parties can make representations about licence applications or apply for a review of an existing licence. These parties are defined in Section 158 of the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person:

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

1.9.2. The licensing authority is required by regulations made under the Gambling Act 2005 to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are;

1.9.2.1. This authority will apply the considerations provided in the Gambling Commission’s Guidance to Licensing Authorities at paragraphs 8.9 to 8.17. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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

1.9.3. If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Panel dealing with the licence application. If there are any doubts then please contact the licensing team, Town Hall, St Ives Road, Maidenhead, SL6 1RF or by email: [licensing@rbwm.gov.uk](mailto:licensing@rbwm.gov.uk)

## **1.10 Exchange of Information**

1.10.1. Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under s29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under s350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

1.10.2. The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information and ensure that GDPR and data protection provisions will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

1.10.3. Full details of those persons making representations will be made available to applicants in the event of a public hearing being held and will form part of a public document that will be published on the RBWM website. Anyone making representations or applying for a review of a premises licence will be informed that their full details will be disclosed.

## **1.11 Enforcement**

1.11.1. The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.

1.11.2. The Gambling Commission is the enforcement body for operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

1.11.3. Licensing authorities are required by regulations made under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under s346 of the Act to institute criminal proceedings in respect of the offences specified.

1.11.4. This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and the Regulators Code 2014 and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem and minimise any side effects.

1.11.5 The Licencing Authority will seek to work actively with the Gambling Commission and the Thames Valley Police in enforcing licensing legislation.

1.11.6. Where the licensing authority seeks to bring a prosecution, it will have regard to the RBWM Enforcement & Prosecution Policy which can be found at <https://www.rbwm.gov.uk/home/council-and-democracy/strategies-and-policies/enforcement-and-prosecution-policy>

## **1.12 Licensing Authority Functions**

1.12.1. Licensing authorities are required under the Act to:

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

1.12.2. It should be noted that licensing authorities are not involved in licensing remote (ie on-line) gambling. This is regulated by the Gambling Commission via operating licences.

## **2. Premises Licences**

### **2.1. The Premises Licence**

2.1.1. A premises licence can authorise the provision of facilities at the following:

- Casino premises
- Bingo premises
- Betting premises including on course track betting
- Adult gaming centres (AGC) premises (for category B3, B4, C and D machines)
- Family entertainment centres (FEC) premises (for category C and D machines)

2.1.2. Premises licences will be subjected to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. The Council can exclude default conditions and also attach others, where it is believed to be appropriate.

### **2.2 Meaning of “Premises”**

2.2.1. In the Act, "premises" is defined as including "any place". s152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, the Council will pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

2.2.2. The Gambling Commission states in paragraphs 7.6 and 7.7 of its Guidance to Licensing Authorities;

“In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority. The Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can

properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.”

2.2.3. This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the premises licence.

2.2.4. The Guidance also gives a list of factors which the licensing authority is aware of, which may include:

- Is a separate registration for business rates in place for the premises?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

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

2.2.6. This authority will take account of the Gambling Commission’s Guidance in Part 7 which details the relevant access provisions for each premises type. These include:

- a. Adult Gaming Centre
  - No customer must be able to access the premises directly from any other licensed gambling premises
- b. Betting Shops
  - Access must be from a street (as per para 7.21 Guidance to Licensing Authorities) or from another premises with a betting premises licence

- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises
- c. Tracks
- No customer should be able to access the premises directly from:
    - a casino
    - an adult gaming centre
- d. Bingo Premises
- No customer must be able to access the premise directly from:
    - a casino
    - an adult gaming centre
    - a betting premises, other than a track
- e. Family Entertainment Centre
- No customer must be able to access the premises directly from:
    - an adult gaming centre
    - a betting premises, other than a track

2.2.7 Casinos have been omitted from this list of premises types. This is because there are no casinos operating within the Royal Borough of Windsor and Maidenhead and new casinos are restricted under the Gambling Act 2005 to specified areas, which does not include this authority area.

2.2.8. Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision making

## **2.3 Application**

2.3.1. An application for premises licence can only be made by a person (which includes companies or partnership):

- who are aged 18 or over and
  - who have the right to occupy the premises and
  - who have an operating licence which allows them to carry out the proposed activity
- or
- who have applied for an operating licence to allow them to carry out the proposed activity. It is important noting that the premises licence cannot be determined until an operation licence has been issued.

2.3.2. The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they are merely providing space for other people betting (and where other persons hold a valid betting operating licence).

## **2.4 Plans of the Premises**

2.4.1. All new premises licence and variation applications must include a plan of the premises. The plan will become part of the premises licence and the authority expects the plans to be available for inspection by an authorised officers at the premises.

2.4.2. Under the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 (as amended) the plan of the premises must show:

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

2.4.3. If there are major changes to the layout of a premises a variation must be made and new plans submitted. If there are minor changes to the layout the licence holder should contact the licensing authority for advice.

2.4.4. It is important to note that there are a number of requirements for plans and these requirements depend on the type of licence or permit being applied for. Guidance on this is available at the Gambling Act 2005 section of the RBWM website.

## **2.5 Notice of the Application**

2.5.1. Under regulations made by the Secretary of State applicants are required to publish a notice of their application and to notify responsible authorities and other persons about the application. These also apply, with one or two modifications, in relation to applications for provisional statements and some ancillary applications that can be made in relation to a premises licence.

2.5.2. Notice must be given in three ways:

- a notice must be placed outside the premises for 28 days consecutively in a place where it can be read conveniently
- a notice must be placed in a newspaper of highest circulation within the Royal Borough of Windsor and Maidenhead on at least one occasion within 10 working days of the application being served
- notice must be given to all responsible authorities, which includes the Gambling Commission, within 7 days of the application being served



2.5.3. An officer will visit the premises to verify the notice. If the notice is not placed or the public notice is not published within the framework days then the licensing authority will reject the application.

## **2.6 Representation**

2.6.1. Licensing authorities are obliged to consider representations from two categories of person, referred to in the Gambling Act 2005 as “responsible authorities” and “interested parties”. Representation from other parties are inadmissible.

2.6.2. The licensing authority will consider the relevance of any representation received. It must be related to one or more of the Licensing Objectives or to issues raised under the Licensing Authority’s Statement of Principles or the Gambling Commission’s Guidance or Code of Practice.

2.6.3. Also, the licensing authority will need to consider if representations are “frivolous” or “vexatious”.

2.6.4. Anyone that wishes to make a representation to an application must do so in writing to The Royal Borough of Windsor and Maidenhead, Licensing Team, Town Hall, St Ives Road, Maidenhead, SL6 1RF or by email: [licensing@rbwm.gov.uk](mailto:licensing@rbwm.gov.uk).

## **2.7. Local Risk Assessment**

2.7.1. It is a requirement of the Gambling Commission’s Licence Conditions and Codes of Practice (LCCP) that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks.

2.7.2. In undertaking their risk assessments, they must take into account relevant matters identified in this statement of principles, in particular those set out in the Local Area Profile, below.

2.7.3. Licensees must undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- when applying for a variation of a premises licence
- to take account of significant changes in local circumstances
- when there are significant changes at a licensed premises that may affect their mitigation of local risks

2.7.4. This risk assessment must be shared with RBWM’s Licensing team when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of RBWM’s Licensing team.

## **2.8 Local Area Profile**

2.8.1. Licensees and licence applicants need to be aware of some local factors when completing their risk assessments as set out in section 2.7, above. This is because

of the effects of gambling in areas of deprivation or where there is a sizeable population of Black, Asian and other ethnic minority individuals.

2.8.2. Harm caused by gambling is disproportionately higher in areas of deprivation. RBWM is generally a prosperous area but there are pockets of relative deprivation, parts of Dedworth fall within the third most deprived decile in England and parts of Maidenhead fall within the fourth most deprived decile.

2.8.3. Harm caused by gambling is disproportionately higher amongst Black, Asian and other ethnic minority individuals. RBWM's population is predominantly white but Black, Asian, mixed and other ethnic minority groups make up approximately 14% of the Borough's population overall, and approximately 17% in Maidenhead.

2.8.4. These factors will be a consideration for local gambling regulation in RBWM in the context of s153 of the Act and so the licensing authority will expect to see them reflected in licensee and licence application risk assessments.

## **2.9 Premises “ready for gambling”**

2.9.1. The Gambling Commission's Guidance to Licensing Authorities states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

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

2.9.3. In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises this authority will determine applications on their merits, applying a two stage consideration process;

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

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

2.9.5. More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58 - 7.65 of the Guidance.

## **2.10 Location**

2.10.1. This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making.

2.10.2. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.

2.10.3. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

## **2.11 Planning**

2.11.1. In the Gambling Commission Guidance to Licensing Authorities it states in paragraph 7.58;

“In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.”

2.11.2. This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Gambling Guidance paragraph 7.65;

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

## **2.12 Duplication with other regulatory regimes**

2.12.1. This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

2.12.2. When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

### **2.13 Licensing objectives**

2.13.1. Premises licences granted must be consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

#### **2.13.2. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

- this licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.
- thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction

#### **2.13.3. Ensuring that gambling is conducted in a fair and open way**

This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. For local authorities with tracks: There is however, more of a role with regard to tracks which is explained in more detail in the 'Tracks' section, section 2.21, below.

#### **2.13.4. Protecting children and other vulnerable persons from being harmed or exploited by gambling**

This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances, machines, segregation of areas etc.

2.13.5. This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

### **2.13.6 Vulnerable Persons**

With regards to the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will be for regulatory purposes” to assume that this group includes:

- people who gamble more than they want to
- people who gamble beyond their means
- people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs, and
- people with a mental illness or with a learning difficulty.

2.13.7. This licensing authority will consider this licensing objective on a case by case basis but recognises that there is evidence which clearly highlights the issue of mental health and the link with problem gambling.

2.13.8. The licensing authority will also consider as vulnerable any person who is being coerced or exploited to gamble by others.

2.13.9. The licensing authority will expect that licensees and applicants will have policies and procedures in place to protect vulnerable persons. These should include;

- regular training for staff, using a programme that is regularly reviewed and updated to take into account the latest data and information, to enable them to identify persons who may be vulnerable, and, where appropriate, to take action to protect such vulnerable persons from being harmed or exploited by gambling or from being coerced or exploited to gamble by others.
- making information readily available to their customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling. The information should cover:
  - any measures provided by the licensee to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend
  - timers or other forms of reminders or ‘reality checks’ where available
  - self-exclusion options
  - information about the availability of further help or advice.
- directing this information to all customers whether or not licensees also make available material which is directed specifically at customers who may be ‘problem gamblers’.
- making this information available in all areas where gambling facilities are provided and adjacent to ATMs. Information must be displayed prominently using methods appropriate to the size and layout of the premises. These methods may include the use of posters, the provision of information on gambling products, or the use of screens or other facilities in the gambling premises.

- information must also be available in a form that may be taken away and may also be made available through the use of links to be accessed online or using smart technology. Licensees must take all reasonable steps to ensure that this information is also readily accessible in locations which enable the customer to obtain it discreetly

2.13.10. Authorised officers from the licensing authority may seek evidence as to the effectiveness of policies and procedures put in place to protect vulnerable persons

## **2.14 Conditions**

2.14.1. Any conditions attached to licences will be proportionate and will be:

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

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

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

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

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

2.14.5. These considerations will apply to premises including buildings where multiple premises licences are applicable.

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

2.14.7. It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

## **2.15 Door Supervisors**

2.15.1. The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons or vulnerable people) then it may require that the entrances to the premises are controlled by a door supervisor and is entitled to impose a premises licence to this effect.

2.15.2. The Gambling Commission advises in Part 33 of its Guidance to Licensing Authorities that where it is decided that supervision of entrances/machines is appropriate for particular cases the supervisor will be required to be Security Industry Authority (SIA) licenced unless the statutory requirements for the premises in question require otherwise.

## **2.16 Adult Gaming Centres**

2.16.1. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

2.16.2. This licensing authority may consider measures to meet the licensing objectives such as (this list is not mandatory nor exhaustive, it is merely indicative of example measures);

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry

- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.

## **2.17 (Licensed) Family Entertainment Centres**

2.17.1. This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

2.17.2. This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets/helpline numbers for organisations such as GamCare
- measures/training for staff on how to deal with suspected truant school children on the premises

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

2.17.4. This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published

## **2.18 Betting machines**

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



## **2.19 Bingo premises**

2.19.1. This licensing authority notes that the Gambling Commission's Guidance paragraph 18.5 states;

"Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises."

2.19.2. This authority also notes the Guidance at paragraph 18.5 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

2.19.3. This licensing authority notes that the Gambling Commission's Guidance paragraph 18.7 states;

"Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling."

## **2.20 Betting premises**

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

## **2.21 Tracks**

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

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

2.21.3. This licensing authority may consider measures to meet the licensing objectives such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as Gamcare

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

## **2.22 Gaming machines**

2.22.1. Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

## **2.23 Applications and Plans**

2.23.1. The Gambling Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, paragraph 20.43).

2.23.2. Plans for tracks do not need to be in a particular scale but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.44).

2.23.3. It is important to note that a plan has a number of requirements and these requirements depend on the type of licence or permit application. Guidance is available in the Gambling Act 2005 section of the RBWM website.

## **2.24 Travelling Fairs**

2.24.1. This licensing authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

2.24.2. The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

2.24.3. It is noted that the 27 days statutory maximum for the land being used as a fair applies on a per calendar year basis and not in any 12-month period, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded. (See Guidance to Licensing Authorities, paragraphs 30.1- 30.6).

## **2.25 Provisional Statements**

2.25.1. Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

2.25.2. S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered or
- expects to be acquired a right to occupy

2.25.3. The process for considering an application for a provisional statement is the same as that for a premises licence application other than for tracks. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

2.25.4. In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

2.25.5. The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that

follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

2.25.6. In addition, the authority may refuse the premises licence (or grant it on terms different to

those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision

## **2.26 Reviews**

2.26.1. Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with any relevant Code of Practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives; and
- in accordance with this Statement of Principles.

2.26.2. The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

2.26.3. The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

2.26.4. Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

2.26.5. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

2.26.6. The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

- add, remove or amend a licence condition imposed by the licensing authority;
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- suspend the premises licence for a period not exceeding three months; and
- revoke the premises licence.

2.26.7. In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in s153 of the Act, as well as any relevant representations.

2.26.8. In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

2.26.9. Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

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

### **3. Permits / Temporary & Occasional Use Notice**

#### **3.1. Unlicensed Family Entertainment Centre (uFEC) gaming machine permits**

3.1.1. Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (s238 of the Act).

3.1.2. The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a uFEC permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant codes of practice issued by the Commission under s24 of the Act. The Gambling Commission's Guidance to Licensing Authorities also states:

“In its statement of policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises is likely to appeal particularly to children and young persons, licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group. Licensing authorities are also encouraged to also specify in their statement of policy that a plan for the uFEC must be submitted.” (See Guidance to Licensing Authorities, paragraph 24.8)

3.1.3. The Guidance states in paragraph 24.9;

“An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.”

3.1.4. The Guidance also states in paragraph 24.9;

“The licensing authority may also consider asking applicants to demonstrate;

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that employees are trained to have a full understanding of the maximum stakes and prizes.”

3.1.5. It should be noted that a licensing authority cannot attach conditions to this type of permit.

## **3.2 Statement of Principles**

3.2.1. This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children and vulnerable adults from harm.

3.2.2. With respect to children, harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

3.2.3. With respect to vulnerable adults, this licensing authority will expect policies and procedures to include appropriate measures/training for staff as regards to how to identify persons who may be vulnerable, and where appropriate, to take action to protect such vulnerable persons from being harmed or exploited by gambling or from being coerced or exploited to gamble by others.

3.2.4. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); a scaled plan of the premises (See Guidance notes relating to arrangements for Premises under the Act – plan requirement for uFECs), original copy of Public Liability Insurance documentation and that staff are trained to have a full understanding of the maximum stakes and prizes.

### **3.3 (Alcohol) Licensed Premises Gaming Machine Permits - (Schedule 13 paragraph 4(1))**

#### **Automatic entitlement: 2 machines**

3.3.1. There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

3.3.2. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

#### **3.4 Permit: 3 or More Machines**

3.4.1. If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant.”

3.4.2. This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include Staff training and supervision of the machines. Notices and signage may also be helpful.

3.4.3. As regards the protection of vulnerable adults this licensing authority will expect policies and procedures to include appropriate measures/training for staff as

regards to how to identify persons using the machines who may be vulnerable, and where appropriate, to take action to protect such vulnerable persons from being harmed or exploited by gambling.

3.4.4. Information should be readily available to customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling. Licensees and applicants may wish to consider providing the contact details of GamCare on the machines.

3.4.5. It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for and dealt with as an Adult Gaming Centre premises licence.

3.4.6. It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

3.4.7. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **3.5 Prize Gaming Permits**

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

3.5.2. This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm.

3.5.3. In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

3.5.4. It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;



- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in
- regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other
- gambling.

### **3.6 Club Gaming and Club Machines Permits**

3.6.1. Members Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

3.6.2. Paragraph 25.4 of the Gambling Commission Guidance states;

" The Act states that members' clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is restricted to that of a prescribed kind (currently bridge and whist). Members' clubs must be permanent in nature but there is no need for a club to have an alcohol licence."

3.6.3. The Commission Guidance also notes in paragraph 25.38 that "licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- (b) the applicant's premises are used wholly or mainly by children and/or young persons
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

3.6.4. There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) the club is established primarily for gaming, other than gaming prescribed by regulation under s.266 of the Act;
- (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

3.6.5. There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### **3.7 Temporary Use Notices**

3.7.1. Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

3.7.2. The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

3.7.3. The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

3.7.4. There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

3.7.5. In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

3.7.6. This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### 3.8 Occasional Use Notices

3.8.1. The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

## 4. Further Information

### ANNEX A - TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

Matter to be Dealt With	Full Council	LPSPPO Sub-Committee	Licensing Officers
Three yearly review and adoption of Statement of Principles	All cases		
Policy not to permit casinos	All cases (if new casinos were permitted in RBWM, which, by regulation, is not currently the case)		
Fee setting – when appropriate		If delegated by Full Council	
Application for a premises licence		Where representations have been received and not withdrawn	Where no representations have been received or where they have been withdrawn
Application for a variation of a premises licence		Where representations have been received and not withdrawn	Where no representations have been received or where they have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations have been received from the Gambling Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received or where they have been withdrawn

Review of a premises licence		All cases	
Application for a club gaming / club machine permit		Where representations have been received and not withdrawn	Where no representations have been received or where they have been withdrawn
Cancellation of a club gaming / club machine permit		All cases	
Applications for licenced premises gaming machine permits		Over 3 machines	Up to 4 machines
Applications for other permits			All cases
Cancellation of licenced premises gaming machine permit			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	
Consideration of an occasional use notice			All cases
Prosecution of offences under the Gambling Act 2005			Trading Standards & Licensing Manager in conjunction with Head of Law
The appointment of authorised persons in accordance with s305 of the Gambling Act 2005			Head of Housing, Environmental Health and Trading Standards