

Public Document Pack

Notice of Meeting

Licensing & Public Space Protection Order (PSPO) Sub Committee
Councillors Mandy Brar, Genevieve Gosling and Neil Knowles

Thursday 9 May 2024 2.00 pm
Grey Room - York House - Windsor & on [RBWM YouTube](#)

www.rbwm.gov.uk



Agenda

Item	Description	Page
1	Appointment of Chair The Sub Committee are asked to appoint a Chair for the duration of the hearing.	-
2	Apologies for Absence The Sub Committee shall receive any apologies for absence .	-
3	Declarations of Interest The Sub Committee are asked to declare any interests that they may have.	3 - 4
4	Procedures of the Sub Committee All attendees at the hearing are to note the procedures of the Sub Committee.	5 - 6
5	Consideration of an objection to a temporary event notice under the Licensing Act 2003 The Sub Committee are to consider an objection to a temporary event notice under the Licensing Act 2003 for the premises, Fego Caffè, 1 The Hermitage, High Street, Ascot, SL5 7HD.	7 - 20

By attending this meeting, participants are consenting to the audio & visual recording being permitted and acknowledge that this shall remain accessible in the public domain permanently.

Please contact Oran Norris-Browne, Oran.Norris-Browne@RBWM.gov.uk, with any special requests that you may have when attending this meeting.

Published: Tuesday 30 April 2024



This page is intentionally left blank

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:

- a) any unpaid directorships
 - b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority
 - c) any body
 - (i) exercising functions of a public nature
 - (ii) directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
- of which you are a member or in a position of general control or management

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, or a body included under Other Registerable Interests in Table 2 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 financial interest or well-being of a body included under Other Registerable Interests as set out in Table 2 (as set out above and in 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 (referred to in the paragraph above) **affects** the 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.

LICENSING SUB-COMMITTEE

PROCEDURES

The Licensing Sub-Committee are to elect a Chair. The Chair will welcome all parties to the meeting, introduce the Sub-Committee Members and officers present.

The hearing will then proceed as follows;

- a) The Reporting Officer (as the licensing authority) shall outline the application and the decision to be taken
- b) Sub-Committee Members to ask questions of the Reporting Officer
- c) Applicant to ask questions of the Reporting Officer
- d) The Applicant to put their case to the Sub-Committee
- e) Sub-Committee Members to ask questions of the Applicant
- f) If applicable, any other persons to make their representations
- g) If applicable, Sub-Committee Members to ask questions of other persons
- h) If applicable, Applicant to ask questions of other persons
- l) Chair to ask if any parties have any further questions or anything they wish to add
- j) Applicant to briefly summarise their position & confirm that they have had every chance to say what they have wished too.
- k) Reporting Officer to sum up and restate the options for the Members of the Sub Committee
- l) Sub-Committee to retire and communicate their decision within 5 working days

This page is intentionally left blank

REPORT TO LICENSING PANEL SUB COMMITTEE

CONSIDERATION OF AN OBJECTION TO A TEMPORARY EVENT NOTICE UNDER THE LICENSING ACT 2003

LICENSING PANEL SUB COMMITTEE: Cllr Brar, Cllr Gosling, Cllr Knowles.

OFFICER REPORTING: Craig Hawkings

1) The Application – (Appendix A)

Applicant: Simon James Newhouse

Premises: Fego Caffè, 1 The Hermitage, High Street, Ascot, SL5 7HD.

Ward: Ascot and Sunninghill

A map of the area surrounding the premises is at **(Appendix B)**.

The application is to: Submission of a Temporary Event Notice

A summary of the notice is as follows;

The notice is for the following licensable activities:

- | | |
|--|---------------|
| • The sale by retail of alcohol | 08:00 – 23:00 |
| • Provision of regulated entertainment | 08:00 – 23:00 |

Event Date: 18 – 22 June 2024

2) Relevant Representations Received

Where, as here, relevant representations have 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 can take steps as are appropriate for the promotion of the Licensing Objectives as relevant.

To be “relevant”, the representation has to relate to the likely effect to allow the event to proceed, 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 the representations received from the responsible authorities are as follows;

- | | |
|-----------------------------|-----------|
| a. Environmental Protection | Objection |
| b. Thames Valley Police | None |

Copy of the representation is at **(Appendix C)**

3) Background

3.1 The TEN was received electronically on 28 March 2024 for an event to be held on 18-22 June 2024 . It was automatically electronically served by the Licensing Authority at the same time on the Police and Environmental Health.

3.2 The event is described as: Ascot week in the application form. The licensable activity stated on the form is for the sale by retail of alcohol for on premises only. The notice giver has advised that the retail sale of alcohol and the provision of regulated entertainment that will take place between 08.00 and 23.00. The maximum number of people at any one time they intend to allow to be present at the premises during the times they intend to carry on licensable activities is 180 including staff and customers.

3.3 The Premises does have a Premises Licence PL060106 that covers the inside of the premises. The Premise licence has a condition, Condition 16 There is no music or entertainment of any kind in the outside area.

4) Temporary Event Notices

4.1 The system of permitted temporary activities is a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice of the event (a “temporary event notice” or “TEN”).

4.2 An individual (known as the “premises user”) may give notice of a proposal to use premises for a temporary event, engaging in one or more licensable activities for a period of no more than 168 consecutive hours. The Licensing Sub-Committee is required to consider any objection notice received and must give the premises user a counter-notice under section 105 of the Licensing Act 2003 if it considers it appropriate

for the promotion of a licensing objective to do so. The temporary event may not proceed if a counter-notice has been issued.

4.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and local authority exercising environmental health functions at least ten working days before the event (although a premises user may give a limited number of TENs to the licensing authority less than 10 days before the event to which they relate).

4.4 The police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on a temporary event notice. When giving a temporary event notice, consideration should be given to the four licensing objectives. The licensing authority only otherwise intervenes if the statutory permitted limits on temporary event notices would be exceeded.

4.5 TENs are served under section 100 of the Licensing Act 2003.

5) Objections from ‘relevant persons’

5.1 Objections have been received from ‘relevant persons,’ Environmental Protection, who believe the application undermines the licensing objectives.

5.2 The TEN was objected to by Environmental Protection on 29 March 2024.

The Sub-Committee must have regard to the Council’s Statement of Licensing Policy 2021- 2026.

6) Police and Environmental Health intervention

6.1 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.

6.2 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and Revised Guidance issued under section 182 of the Licensing Act 2003 I 53 the licensing authority an objection notice.

The objection notice must be given within the period of three working days following the day on which they received the TEN.

6.3 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings (or appeals) in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid, and the event will not go ahead.

6.4 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.

7) Hearings

7.1 In determining the notice with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives
- the representations (including supporting information) presented by all the parties
- this Guidance
- its own statement of licensing policy

8) Conclusion / Summary

The Licensing Panel Sub Committee is 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 is also obliged to have regard to national guidance and the Council's own Licensing Policy. The Committee must have regard to all of the representations made and the evidence that it hears.

The Sub-Committee must, having had regard to the objection, and in order to promote any of the four licensing objectives, the Sub-Committee may in respect of the event to be held on 18-22 June from 08.00-23.00.

- Serve a counter notice, or
- Not serve a counter notice.

In making their decision the Sub-Committee is reminded that they have a duty to behave impartially and that their decision must be based on the evidence that has been presented to them.

The Sub-Committee are asked to determine the Temporary Event Notice.

Financial implications: None

Environmental/Sustainability Implications: Any authorisation under the Licensing Act 2003 may give rise to environmental implications both positive and negative depending upon the application and any measures proposed to take control adverse environmental factors.

Legal implications: As outlined in the report.

Equality Implications: None.

Risk Implications: None.

Community Safety Implications: As outlined in the report.

Background papers:

Licensing Act 2003

Licensing Act 2003 Section 182 Statutory Guidance

Royal Borough of Windsor and Maidenhead Council Licensing Policy

Enclosures/Appendices:

Appendix A – Temporary Event Notice

Appendix B – Map of the area

Appendix C – Environmental Protection Objection.

Contact details: Craig Hawkings - Licensing Team Leader

Craig.Hawkings@RBWM.gov.uk

Mobile: 07833047887

APPENDIX A

From: noreply@rbwm.gov.uk <noreply@rbwm.gov.uk>
Sent: Thursday, March 28, 2024 12:34 AM
To: Licensing <Licensing@RBWM.gov.uk>; Environmental Protection <Environmental.Protection@RBWM.gov.uk>; licensing@thamesvalley.police.uk
Subject: New Temporary Event Form case created Case 24200-470412

CAUTION: This email originated from outside the council. Do not click any links or open attachments in this email unless you recognise the sender and are sure that the content is safe.

A new case has been created - Case 24200-470412

Subject: Temporary Event form - Environmental services

Brief enquiry details:

Temporary Event Form

Access the case <https://my.rbwm.gov.uk/case-24200-470412>

Submitted details:

Customer id: Anonymous

Channel: website

Call id: 0

Title: Mr

First name: [REDACTED]

Last name: [REDACTED]

Ward: E05012494

Parish: E04001223

Uprn: 010012318727

Email: [REDACTED]

Payment indicator: SUCCESS

Fund code: 54

I confirm that i have read the guidance notes: Yes

Your date of birth: [REDACTED]

Your place of birth: [REDACTED]

National insurance number: [REDACTED]

Would you like correspondence sent to this address: Yes

Property address: Fego Caffe, 1 The Hermitage, High Street, Ascot, UK

Name of licensed premises if applicable: Fego Caffe Ascot Ltd

If address was not found please enter it here: Fego Caffe, 1 The Hermitage, High Street, Ascot, SL5 7HD UK

Does a premises licence or club premises: Yes

Premises licence certificate number: PL060106

Please describe the nature of the premises below please read note 4: Licenced Restaurant

Please describe the nature of the event below please read note 5: Ascot Week

Please state the licensable activities that you intend to carry on at the premises please read note 6: The sale by retail of alcohol

Are you giving a late temporary event notice please read note 8: No

Please state the start date on which you intend to use these premises for licensable activities: 18/06/24

Please state the end date: 2024-06-22

Please state the maximum number of people at anyone time: 180

F the licensable activities will include the supply: Both

Please state if the licensable activities will include: Not applicable

Please state from what time you propose to carry on licensable activities please read note 10: 08:00:00

Please state till what time you propose to carry on licensable activities please read note 10: 23:00:00

Do you currently hold a valid personal license: Yes

Issuing licencing authority: Royal Borough of Windsor and Maidenhead

Licence number: [REDACTED]

Date of issue: 2022-03-29

Date of expiry: 2022-03-29

Any further relevant details: There is no Date of issue found on the personal Licence

Have you previously given a temporary event notice: No

Have you already given a temporary event notice : No

Has any associate of yours already given a temporary event: No

Has any person with whom you are in business carrying: No

Please state the total number of temporary event notices:

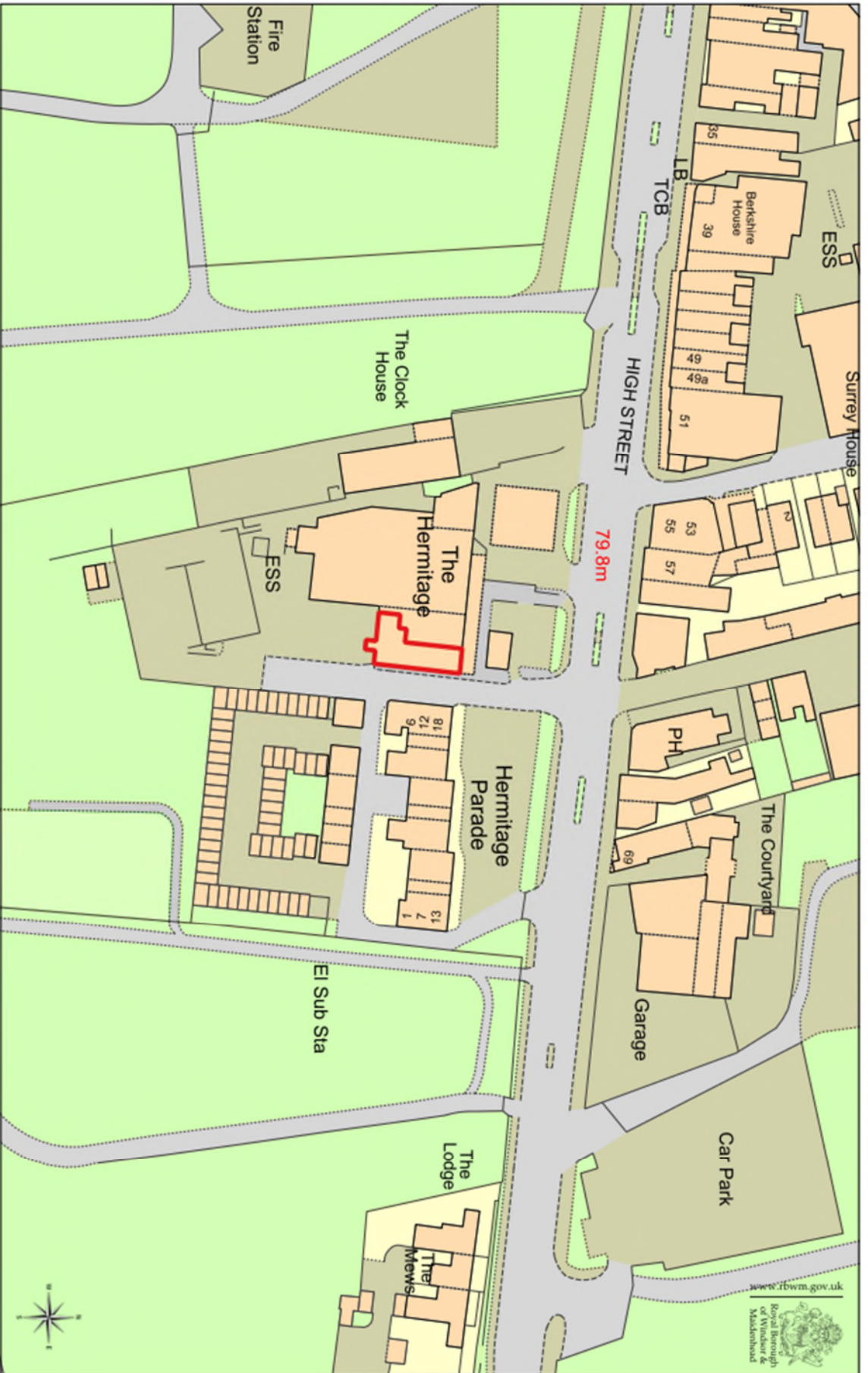
Has any person with whom you are in business: No

Declarations please read note 19: Yes

Date submitted: 2024-03-28
Name of person completing this form: Jyoti Harsh
Amount to pay: 21
Please state the number of temporary event notices:
Has any associate of yours already given: No
Has any person with whom you: No
Business event notices: Not Known
Address: Fego Caffe 1 The Hermitage High Street Ascot SL5 7HD
Payment reference: 036620

APPENDIX B

Fego Cafe, 1 The Hermitage, High Street, Ascot, SL5 7HD



© Crown copyright and database right 2024. Ordnance Survey 100018817
April 2024



APPENDIX C

The Environmental Protection team object to this TEN under the grounds of the Prevention of Public Nuisance.

The premises are surrounded by residential premises (mainly in flats above the commercial units). We historically have numerous complaints, particularly during Ascot week, about loud music. Last year, Environmental Protection Officers visited the High Street and were of the opinion that statutory nuisance was likely to be occurring and affecting the enjoyment of local residents' properties. It is very unlikely that we will be happy to accept a similar application in Ascot.

We are very happy to attend a hearing if it is necessary.

Best wishes

www.rbwm.gov.uk



Carl Griffin

Environmental Protection Team Leader
Housing, Environmental Health & Trading Standards
Place
Royal Borough of Windsor & Maidenhead
Town Hall, St Ives Road, MAIDENHEAD, SL6 1RF

Tel: 07866127204

Website: www.rbwm.gov.uk

Follow us on Twitter: [@RBWM](https://twitter.com/RBWM)

Like us on [Facebook](https://www.facebook.com/RBWM)