

## AGENDA

---

**Meeting:** Licensing Committee  
**Place:** Council Chamber, Monkton Park, Chippenham  
**Date:** Wednesday 7 September 2011  
**Time:** 10.30 am

---

Please direct any enquiries on this Agenda to Lisa Pullin, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713015 or email [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

---

### Membership:

Cllr Desna Allen	Cllr George Jeans
Cllr Richard Beattie	Cllr Jacqui Lay
Cllr Peggy Dow	Cllr Bill Moss
Cllr Rod Eaton	Cllr Nina Phillips
Cllr Jose Green	Cllr Bill Roberts
Cllr Malcolm Hewson	Cllr Jonathon Seed

---

### Substitutes:

Cllr Liz Bryant	Cllr Bill Douglas
Cllr Allison Bucknell	Cllr Jon Hubbard
Cllr Trevor Carbin	Cllr Pip Ridout

---

***PLEASE NOTE A TRAINING SESSION FOR COMMITTEE MEMBERS WILL BE HELD FOLLOWING THIS MEETING AT APPROXIMATELY 12.00PM OR ON THE RISING OF THE COMMITTEE. LUNCH WILL BE PROVIDED.***

## **AGENDA**

1. **Apologies for Absence and Changes to Committee Membership**

To receive any apologies and to note the changes to the membership of the Committee.

2. **Minutes of the Last Meeting** (*Pages 1 - 8*)

To confirm the minutes of the meeting held on 5 April 2011 (copy attached).

3. **Chairman's Announcements**

4. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests or dispensations granted by the Standards Committee.

5. **Public Participation**

The Council welcomes contributions from members of the public.

### Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named above for any further clarification.

### Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named above (acting on behalf of the Director of Resources) no later than 5pm on Wednesday 31 August 2011. Please contact the officer named on the first page of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6. **Minutes of the Licensing Sub Committees**

To receive the minutes of the following Licensing Sub Committees:

**Eastern Area**

6.1. **23.03.11**

6.2. **15.06.11**

**Northern Area**

6.3. **07.04.11**

6.4. **18.04.11**

6.5. **09.08.11**

6.6. **11.08.11**

**Southern Area**

6.7. **16.05.11**

**Western Area**

6.8. **25.05.11**

6.9. **28.06.11**

6.10. **18.07.11**

7. **Single Council-Wide Consent Street Trading Scheme** *(Pages 65 - 90)*

The report of Kate Golledge (Public Protection Manager Safer Communities and Licensing Team (North and West)) informs the Committee of the progress on the introduction of a single, council-wide consent street trading scheme and seeks commendation of the scheme to Council.

8. **Selling Alcohol Responsibly - Age Verification Schemes** *(Pages 91 - 96)*

This report of Mandy Bradley (Service Director, Public Protection) provides background and context to the age verification requirement under the Licensing Act in terms of the sale and supply of alcohol and considers the implications of adopting any single age verification system.

9. **Proposed Amendments to Hackney Carriage and Private Hire Vehicle Guidelines** *(Pages 97 - 106)*

The report of Jo Quartley, Public Protection Officer (Licensing) asks the Committee to consider whether amendments should be made to the existing guidelines for hackney carriage/private hire vehicles.

10. **Dates of Future Committee Meetings**

Members are asked to note the future meetings of the Licensing Committee, all to commence at 10.30am with venues to be confirmed:

**Monday 6 February 2012**

**Monday 8 May 2012**

**Monday 12 November 2012.**

11. **Urgent Items**

Any other items of business, which in the opinion of the Chairman, should be taken as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

## LICENSING COMMITTEE

---

### **DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 5 APRIL 2011 AT COMMITTEE ROOM III - COUNTY HALL, TROWBRIDGE.**

#### **Present:**

Cllr Desna Allen, Cllr Richard Beattie, Cllr Trevor Carbin (Substitute), Cllr Bill Douglas (Substitute), Cllr Jose Green, Cllr George Jeans, Cllr Pip Ridout (Substitute), Cllr Bill Roberts and Cllr Jonathon Seed

#### **Also Present:**

Sgt Allan George (Wiltshire Police), Rob Draper (Licensing Manager East and South), John Carter (Head of Environmental Protection and Licensing), Kate Golledge (Licensing Manager North and West), Alissa Davies (Wiltshire Council National Management Trainee, Licensing), Anna Thurman (Democratic Services Officer and Chris Marsh (Democratic Services Officer)

---

#### 9. **Apologies**

Apologies were received from Cllr Peggy Dow, substituted by Cllr Bill Douglas; Cllr Jon Hubbard, substituted by Cllr Trevor Carbin; Cllr Rod Eaton, substituted by Cllr Pip Ridout; Cllr Bill Moss; Cllr Nina Phillips and Cllr Mark Griffiths.

In the absence of the Chairman and Vice-Chairman of the Committee, the Democratic Services Officer sought nominations for a temporary Chairman for the duration of the meeting.

It was,

#### **Resolved:**

**To elect Councillor Jonathon Seed as Chairman for this meeting only.**

Cllr Jonathon Seed in the Chair.

#### 10. **Minutes**

The minutes of the Licensing Committee meeting held 17 January 2011 were presented and it was,

**Resolved:**

**To approve and sign the minutes as a correct record.**

11. **Chairman's Announcements**

There were no Chairman's announcements.

12. **Declarations of Interest**

The following Members declared personal interests in Item 8 of the agenda (Consultation Responses to Proposed Street Trading Scheme) owing to their collective and various involvements in local trusts across Wiltshire that may be affected by the implementation of the Scheme in question:

Cllr Jonathon Seed, Cllr Bill Roberts, Cllr Jose Green, Cllr Richard Beattie, Cllr Trevor Carbin, Cllr Pip Ridout, Cllr George Jeans, Cllr Desna Allen and Cllr Bill Douglas.

It was deemed that these personal interests would not also constitute prejudicial interests and that the item would proceed as usual.

13. **Public Participation**

The Chairman briefed members of the Committee and public present on the rules on public participation.

14. **Minutes of the Licensing Sub Committees**

The minutes of the Western Area Licensing Sub Committee held 6 January 2011 and 24 February 2011 were presented and it was,

**Resolved:**

**To approve and sign the minutes as a correct record.**

The minutes of the Southern Area Licensing Sub Committee held 6 January 2011 and 1 February 2011 were presented and it was,

**Resolved:**

**To approve and sign the minutes as a correct record.**

15. **Improving Communications Between Town Centre Licensed Premises**

The Committee received a presentation from Sgt Allan George of Wiltshire Police regarding the purchase and implementation of ICOM radio systems for premises door staff in Chippenham.

The benefits of the scheme were identified as follows:

- Outright purchase of radios, with licence warranty but no maintenance contract cost, with scheme funded through Performance Award Grant paid to Wiltshire Police;
- System enables immediate real-time communications between door staff in Chippenham;
- System is linked in to CCTV operatives and Wiltshire Police, enabling them to track and provide backup for incidents respectively;
- Provision of reserve radios for occasional high-profile events hosted by premises beyond the 'core' group with own radios;
- Radios can be used to full capacity during seasonal periods of known peaks in disruptive behaviour;
- Links between short-term monitoring and wider PubWatch scheme;
- Shortcomings in transmission range (usually <2 miles) of radios backed up by existing Tetra radios with national range used by Police; and
- System offers a preventative, cost-effective and proactive rather than reactive tool in combating public disorder in Chippenham.

Members asked questions of Sgt George and relayed their support for the scheme.

16. **Consultation Responses to Proposed Street Trading Scheme**

The Committee received an introduction to the report from Alissa Davies, Wiltshire Council National Management Trainee, Licensing, outlining the main issues raised by public consultation on a proposed council-wide Street Trading Scheme.

Having received a high level of response to the public consultation, the key issues raised were as follows:

- The scope of the scheme's application, including the type of trading and the inclusion of private land;

- Perceived bureaucracy and length of time it would take to determine applications; and
- Levels of fees for prospective Street Trading Consent holders.

Additional issues were identified as follows:

- Overlap with the functions of the Department for Neighbourhood and Planning – for example Highways and Planning and
- The council's position on competition between street traders and fixed business premises.

The Committee considered and discussed the report in detail, and it was,

**Resolved:**

**To accept the proposed measures to overcome the issues raised by public consultation, subject to the following amendments prior to a second, shorter public consultation on the revised street trading scheme:**

- (i) **Options at paragraph 6.2 of the report to be accepted with the following amendments:**
  - **Pt 1 to read '*... within 10 metres of any road, car park or industrial estate with the word 'street' removed from the sentence***
  - **Pt 3 to read '*non-commercial, community or charitable events where the profits are wholly passed to a charity or political/educational organisation or otherwise not for private gain.***
  - **Pt 5 to read '*goods from working farms or smallholdings sold at the premises...***
- (ii) **Paragraph 7.7 of the report to be accepted pending amendment to read '*The Council should not have a role in controlling competition between street traders and fixed business premises if street traders are paying street trading fees to the council.*' Amendment of Appendix 1 (page 62) to remove the criteria '*Needs of the area...*'**
- (iii) **To retain the exemptions listed in paragraph 3.3 of the report, pending amendment of pt 3 to read '*...within 200m of a school or college*'. Amendment of Appendix 2, pt 10 of the report to read '*No Street Trading Consents will be granted for trading at locations within a 200 metre walk using the public highway of a school or***



*sixth form college, unless otherwise agreed in writing by Wiltshire Council.'*

- (iv) **Appendix 1, paragraph 4, pt 1 of the draft scheme to be amended to read '*... except where those premises are occupied by the person holding the Street Trading Consent, unless otherwise agreed in writing by Wiltshire Council.'***
- (v) **Proposed fee structure to be accepted, with 'Town Centre' areas to be defined as those within the boundaries of Town Councils, and those areas to be subject to the higher rate of fees. The lower fee rate will therefore apply to all areas outside Town Council boundaries, unless agreed otherwise in writing by Wiltshire Council. Officers to prepare a list of Town Councils to be considered at the next meeting of the Licensing Committee.**
- (vi) **Town and Parish Council markets to be exempt from the Street Trading Scheme, although they may choose to follow the Wiltshire Council fee structure.**
- (vii) **Appendix 2 of the draft scheme (page 78) to be amended so that '*Daily Street Trading Consent – Sunday to Friday*' represents a fee of £30 a day for Town Centre Traders and '*Daily Street Trading Consent*' represents a fee of £15 a day for All Other Traders, and that '*Town Centre Traders*' be amended to read '*Town Traders*' in line with point (v) above.**
- (viii) **That the timescales for processing applications be set at 60 days from start to finish, with a 30-day public consultation. This will sit broadly in line with the processing targets for planning applications.**
- (ix) **To accept paragraph 6.4 of the report pending amendment to read '*to revise the scheme to reduce the number of Standard Conditions for all street traders to avoid duplication of existing legislation*'**
- (x) **To accept paragraph 6.6, pending amendment to read '*to replace detailed references to additional legal requirements with a sentence reminding traders that all other legal requirements must be met. Applications for other legal requirements may incur an additional cost to the street trader.*'**
- (xi) **To accept paragraph 6.10 of the report, pending amendment to read: '*to allow street traders to pay fees in instalments and issue a refund of part or all of the street trading fee where a trader has paid business rates. The refund will be based on the amount of business rates paid, not the rateable value of the business.*'**

Subject to the recommendations above, it was,

**Resolved:**

**To consider details of the revised Street Trading Scheme and results of the second public consultation before recommending the Scheme for adoption by full Council on 8 November 2011.**

17. **Urgent Items**

The Chairman agreed that the Committee consider the following items.

(i) Touch2id

The Chairman introduced a request from Cllr Mark Griffiths to consider the implementation of the Touch2id proof-of-age identification system in licensed premises across Wiltshire. The Committee considered the request and it was,

**Resolved:**

**To consider the matter at the next meeting of the Licensing Committee.**

(ii) Consideration of Final Street Trading Scheme

The Chairman outlined the need to schedule a meeting of the Licensing Committee following the amendments to and final consultation on the proposed street trading scheme considered at item 8. As the meeting must take place prior to the Autumn meeting of full Council, at which the final scheme should be formally adopted, it was,

**Resolved:**

**To schedule a meeting of the Licensing Committee for Wednesday 7 September 2011 to consider the final proposed Street Trading Scheme.**

(iii) Licensing Sub-Committee Site Visits

Cllr Allen raised a point regarding a request received from an interested party at a recent Licensing Sub-Committee that the panel members undertake a site visit in order to fully understand the implications of the application. Upon discussion by the Committee, it was,

**Resolved:**

**To delegate to licensing officers to investigate the issue and report back to the next meeting of the Licensing Committee on the potential to implement suitable guidelines on this issue.**

(Duration of meeting: 10.30 am - 12.40 pm)

The Officer who has produced these minutes is Chris Marsh, of Democratic & Members' Services, direct line 01225 713058, e-mail [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

This page is intentionally left blank

## EASTERN AREA LICENSING SUB COMMITTEE

---

**DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 23 MARCH 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE BY BARGE INN COMMUNITY PROJECT (GRAHAM MACVOY) IN RESPECT OF THE BARGE INN, HONEYSTREET, PEWSEY, WILTSHIRE – “HONEYFEST”.**

**Present:**

Cllr Desna Allen, Cllr Peggy Dow and Cllr Jacqui Lay

**Also Present:**

Lisa Pullin, Democratic Services Officer; Robert Draper, Licensing Manager, East and South; Lisa Grant, Licensing Officer; Paul Taylor, Senior Solicitor and Helen Pinchen, Environmental Health Officer

---

1. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

**Resolved:**

**To elect Councillor Desna Allen as Chairman for this meeting only.**

2. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 1 – 7 of the Agenda refers).

3. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency and the location of the toilets.

The Chairman confirmed the withdrawal of the representation made in respect of the application by Mr and Mrs Venner (contained on page 91 of the Agenda papers) and that therefore this would not be considered in the hearing.

The Chairman confirmed that there was a supplement to the Agenda issued on 16 March 2011 providing additional information on the operational plan for the proposed event.

The Chairman granted to members of the press present permission to film the proceedings whilst the Sub-Committee was in open session, except where individual Interested Parties had indicated that they did not wish to be filmed whilst making their representations.

4. **Declarations of Interest**

There were no interests declared.

5. **Licensing Application**

**Application by Barge Inn Community Project (Graham MacVoy) for a Premises Licence at The Barge Inn, Honeystreet, Pewsey, Wiltshire SN8 5PS – “Honeyfest”**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by Graham MacVoy on behalf of the Applicant, Barge Inn Community Project, were:

- Scope of the application in terms of licensable activities and hours applied;
- Proposed strategy for managing on-site security and safety;
- Proposed traffic management strategy surrounding the site;
- Arrangements with emergency response units including on-site ambulance, police and tow truck on call, noise complaints number;
- Consultation undertaken with Parish Council in organising event;
- Plans for access passes to be issued to local residents, alongside crew, artists, etc, to minimise disruption for local vehicles;
- Management of delivery and tour vehicles in accessing the site;
- Appointment of Designated Premises Supervisor to manage bars at event;
- Training and briefings for staff, including communications, emergency, security and safety strategies to be implemented;
- Sound management strategy to be implemented on-site;
- Stewarded routes into the village, ensuring Honeyfest traffic is diverted away from residential area;
- 250 tickets sold through local vendors, suggesting broad local support for event; and that
- Event is intended to be a one-off, family-friendly, daytime affair.

During the course of asking questions of the applicant, Mr John Dunford, a local businessman, produced late material in a surveyors' plan of Honeystreet, with the intention of using this to illustrate public and private rights of way to the Sub-Committee. The material was accepted by the applicant and added to the material for consideration by the Sub-Committee.

Key points raised by the Responsible Authority, Helen Pinchen, Wiltshire Council Environmental Health Officer, were:

- Noise levels had been negotiated between the organisers and the Responsible Authority and that these were to be included as a condition to the licence in order to satisfy Wiltshire Council's Public Protection Team.

The Sub-Committee then adjourned for a short break at 12.35pm. Upon reconvening at 1.05pm, the Sub-Committee heard oral representations from the interested parties:

Key points raised by the Interested Parties Mr Hepworth from Alton Parish Council, Mr Fletcher, Mrs Fletcher, Mr Collinson, Mr Dunford, Mr Lewis, Ms Fielden and Mr Reiss were:

- Limited consultation with local people, and concerns raised not addressed in plans;
- Ticket sales exceed the Parish Council's recommendation of no more than 1000 persons on site;
- Traffic pressures on local roads to be expected with number of visitors, and potential pedestrian dangers associated with this;
- Disruption to local traffic movement due to increased traffic;
- Increased traffic anticipated to be present over several days, including the movements of large good vehicles and the suitability of local roads for these;
- Impact on local businesses, such as the sawmill, of increased traffic and partial closure of routes into Honeystreet;
- Perceived denigration of Licensing Committee powers by the selling of all tickets in advance of the licensing hearing;
- Concerns regarding the safety of the site; including proximity to canal, evacuation plans and number of ticketholders in relation to site size;
- Noise disruption caused locally by event sound systems, including the travel of sound into neighbouring villages, depending on wind direction and strength;
- Prospect of ticketless visitors descending on site surroundings on foot or by car, and the additional disruption and risks this could engender;
- Exacerbation of overcrowding issues caused by regular recreational visitors such as walkers, canoeists, etc;
- Risk of stress to horses and foals in neighbouring stables;
- Previous poorly-managed events on the site and problems endemic of these;

- Event could set precedent for larger, and more disruptive, events;
- Lack of wider community benefit enabled by this 'community pub' event;
- Vulnerability of the site to extremes of weather, for instance heavy rain, high winds, extreme heat, etc;
- Unknown quantity of BBC staff and event crew in attendance, likewise for number and size of vehicles;
- 250 'local' tickets cover entire Pewsey Vale division, therefore not accounting for the views of those most directly affected by event; and the
- General lack of realism in the risk assessment and emergency strategy contained in operational plan.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers. A debate ensued in which the Sub-Committee discussed the impact of the event on:

- Traffic movements locally, including volume of traffic, road safety and the suitability of local roads for large good vehicles;
- Noise disruption caused locally by the sound systems at the event;
- Site safety, emergency strategy and evacuation procedure;
- Number of people attending the event, including artists, crew and press, in addition to the usual volume of visitors and any ticketless visitors to the event; and
- Management strategies and operational plan employed to manage and mitigate negative impacts of the event.

At their request, the sub-Committee were provided with an extract from the Definitive Rights of Way Map, showing the location of rights of way in the vicinity of the site.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 2.10pm.

The Hearing reconvened at 3.50pm.

Following the deliberations of the Sub-Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

1. The Authority's legal obligations in respect of the provision of information to interested parties in relation to the licensing hearing; namely to notify interested parties of the date, time and location of the hearing; and



2. Clarification on the grounds for refusal or conditional granting of the licence under the Licensing Act 2003, should the Sub-Committee be minded to determine the application as such.

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

**Resolved:**

**That the Application for a Premises Licence at the Barge Inn, Honeystreet, Pewsey, Wiltshire SN8 5PS (Honeyfest) be granted as detailed below:**

<b>Plays</b>	<b>12.30 to 20.00</b>
<b>Live Music</b>	<b>12.30 to 20.00</b>
<b>Recorded Music</b>	<b>12.30 to 20.00</b>
<b>Performance of Dance</b>	<b>12.30 to 20.00</b>
<b>Provision of facilities for making music</b>	<b>12.30 to 20.00</b>
<b>Provision of facilities for dancing</b>	<b>12.30 to 20.00</b>
<b>Supply of Alcohol</b>	<b>12.30 to 19.30</b>

**And subject to the following conditions:**

- 1) **That the maximum noise levels do not exceed those set out by the Wiltshire Council Environmental Protection Officer (on page 107 of the agenda) as follows:**

Front of House	110dB LAeq 15 min
Stanton St. Bernhard (next village)	55dB LAeq 15 min
End Cottage (end of lane on other side of canal)	65dB LAeq 15 min
Honeystreet House (end of lane next to pub)	65dB LAeq 15 min

- 2) **All signage to be removed as soon as possible after the event and in any case no later than 5 working days.**

**Reasons:**

In reaching its decision, the Sub-Committee took into account the views of the Responsible Authority (Helen Pinchen, Environmental Protection Team, Wiltshire Council), all of the written relevant representations contained within the Agenda papers, the oral representations received at the hearing from Mr Hepworth from Alton Parish Council, Mr Fletcher, Mrs Fletcher, Mr Collinson, Mr Dunford, Mr Lewis, Ms Fielden and Mr Reiss and the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.

The Sub-Committee acknowledged that the number of people and vehicles expected to attend this event was significant, in relation to the size of

Honeystreet and that there would be some disruption to local residents on the day of the event. However, they felt that the applicant had made all reasonable arrangements to address these matters, particularly in relation to traffic management.

The Sub-Committee did not feel that there was a significant risk of people without tickets attending the venue and trying to gain access to the site. They considered that the fencing and security arrangements would be adequate. The Sub-Committee considered that the evacuation and other emergency safety procedures proposed by the applicant were reasonable and appropriate for the proposed event.

The Sub-Committee acknowledged the concerns raised by residents in their oral and written representations regarding these and other aspects of public safety, the prevention of public nuisance and crime and disorder. However the Sub-Committee felt that these issues had been appropriately addressed by the applicant in their operational plan and arrangements for the event and that they had also been discussed with relevant agencies during the planning of the event. The Sub-Committee also noted in particular that there had been no representations or objections from the Responsible Authorities other than the comments from Environmental Protection regarding noise levels which are addressed by the additional condition proposed. They felt that this condition and the arrangements in the operational plan adequately address the concerns raised by the residents about nuisance and public safety.

It was considered appropriate to add a condition requiring removal of signage, as the Sub-Committee was aware that this was not always done promptly after such events and that this could cause a nuisance to local residents and road users.

Whilst it is the Council's normal practice to include all the application documents with the Agenda the Hearing's Regulations only require us to give notification to those who have made representations of the date and place of the hearing. In addition, during the 28 day consultation period, notices are displayed at the premises and in the local press giving information of how those interested may view the application and its related papers, at the relevant Council office.

The Sub-Committee noted the request for the site visit, but felt that as one member of the panel is familiar with the area this was unnecessary.

(Duration of meeting: 10.30 am - 4.00 pm)

The Officer who has produced these minutes is Chris Marsh, of Democratic Services, direct line (01225) 713058, e-mail [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

## EASTERN AREA LICENSING SUB COMMITTEE

---

**DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 15 JUNE 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, BROWFORT, DEVIZES IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE (NO ALCOHOL) AT TIDWORTH DEVELOPMENT CENTRE, ST ANDREW'S HALL, BULFORD ROAD, TIDWORTH, WILTSHIRE SP9 7RZ.**

**Present:**

Cllr Peggy Dow, Cllr Nina Phillips and Cllr Jacqui Lay

**Also Present:**

Chris Marsh, Democratic Services Officer; Lisa Grant, Licensing Officer; and Paul Taylor, Senior Solicitor

---

6. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was,

**Resolved:**

**To elect Councillor Peggy Dow as Chairman for this meeting only.**

7. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 7 of the Agenda refers).

8. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

9. **Declarations of Interest**

There were no interests declared.

## 10. Licensing Application

### **Application by Wiltshire Council for a Premises Licence at Tidwork Development Centre, St Andrew's Hall, Bulford Road, Tidworth, Wiltshire SP9 7RZ.**

The Chairman drew attendees' attention to an additional floorplan of the premises, submitted by the applicant in support of the application. The interested party accepted the information and this was included for consideration.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub Committee.

Key points raised by Wendy Higginson on behalf of the applicant, Wiltshire Council were:

- Licence is sought in order to hold monthly disco events for young people without the need for a Temporary Event Notice, which has previously been exercised;
- Discos have been held jointly between Wiltshire Council Integrated Youth Services and Wiltshire Constabulary, including the organisation and operation of events, since 2006;
- Free transport via minibus is provided to and from the events where required by Wiltshire Constabulary and Wellington Academy;
- Events operate on a non-profit basis, with £2 entry fee and tuck shop on the premises. No alcohol is available or allowed on the premises during this time;
- Premises can accommodate up to 120 attendees, usually supervised by between 6 and 8 staff including warranted officers, PCSOs and Wiltshire Council staff;
- No readmission is allowed and egress from the premises is supervised responsibly by staff to ensure the safety of leavers and the prevention of nuisance to others;
- Inappropriate behaviour by attendees is challenged and on one occasion this has resulted in the cancellation of an event, but this is the only occasion on which such a problem has occurred;
- PCSO Maria Downing has previously met with the interested party to monitor and arrange mitigation of nuisance caused by the events; and
- Premises is the only suitable venue in the local area and performs a highly beneficial function for young people.

Key points raised by the Interested Party, Mr and Mrs Green, were:

- That no objection is raised in respect of the operation of the premises as a youth centre so far as usual activities are concerned;
- Disco nights incur significant nuisance in terms of noise disturbance, which is particularly apparent in the party's front room, which directly adjoins the premises;
- Previous incidents include antisocial behaviour by those leaving the premises, resulting in damage to property later replaced by the Council;
- Events in the past have caused the access road to be blocked by related vehicles, as well as noise disturbance from car horns, engines, etc;
- Noise from drum kit used in premises during similar hours has caused disturbance, albeit on a less continuous basis;
- Those leaving have not always been properly supervised, posing a danger to themselves and a potential nuisance to others;
- Discussion with the visiting PCSO has failed to realise any improvement, despite agreement that noise was audible in the interested party's home;
- Have received support for objection from the Town Council; and
- Premises is essentially an unsuitable venue for the events for which the licence in question is primarily sought.

The parties were given the opportunity to ask questions of the Applicant, Interested Parties and Wiltshire Council Officers. A debate ensued in which the Sub Committee discussed:

- The current and potential noise disturbance to neighbouring properties from the premises' use for discos;
- The safety implications for users of the premises during and after events;
- The fall-back position of activities continuing to be held under Temporary Event Notices;
- The average and maximum turnout for events, and ratio to supervisors;
- Measures possible on the part of the interested party to minimise disturbance from occasional events;
- Measures available and utilised for dealing with inappropriate behaviour, monitoring capacity, etc;
- The actual licence requirements of the applicant in terms of the operation of the premises for licensable activities; and
- The scope of the decision-making body in terms of material considerations and licensable activities on the premises.

The Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub Committee then retired to consider the application at 3.30 pm.

The Hearing reconvened at 4.05 pm.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council, and it was,

**Resolved:**

**That the Application for a Premises Licence at Tidworth Development Centre, St Andrew's Hall, Bulford Road, Tidworth be granted as detailed below:**

**Provision of regulated entertainment**

Live Music (Indoors)	19:00 – 21:00	Monday – Sunday
Recorded Music (Indoors)	19:00 – 21:00	Monday – Sunday
Performance of Dance (Indoors)	19:00 – 21:00	Monday – Sunday
Anything of a Similar Description (Indoors)	19:00 – 21:00	Monday – Sunday

**Provision of entertainment facilities**

Making Music (Indoors)	19:00 – 21:00	Monday – Sunday
Dancing (Indoors)	19:00 – 21:00	Monday – Sunday
Entertainment of a Similar Description (Indoors)	19:00 – 21:00	Monday – Sunday

**And subject to the following conditions:**

- 1) Not more than 11 events per year may be held under this licence, and not more than one per calendar month
- 2) During the provision of regulated entertainment all windows and doors will be kept closed except for access and egress

**Reasons:**

The Sub-Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.

The Sub-Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing, noting in particular the specific concerns of Mr and Mrs Green relating to noise disturbance consequential of the Centre's proximity to their home.

The Sub-Committee considered that the amended hours and conditions imposed will address the legitimate concerns of the interested parties, including the lateness and duration of noise, and are necessary to meet the Licensing

Objectives in particular the prevention of public nuisance and protection of children from harm.

(Duration of meeting: 2.40 - 4.10 pm)

The Officer who has produced these minutes is Chris Marsh, of Democratic & Members' Services, direct line 01225 713058, e-mail [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

This page is intentionally left blank



## **NORTHERN AREA LICENSING SUB COMMITTEE**

---

**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 7 APRIL 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE AT DOMINO'S PIZZA, 16-17 NEW ROAD, CHIPPENHAM, WILTSHIRE SN15 1HJ.**

**Present:**

Cllr Desna Allen, Cllr Mark Griffiths and Cllr Jon Hubbard

**Also Present:**

Cllr Chris Caswill, Linda Holland (Licensing Officer), Paul Taylor (Solicitor) and Chris Marsh (Democratic Services Officer)

---

7. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

**Resolved:**

**To elect Councillor Jon Hubbard as Chairman for this meeting only.**

8. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

9. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

10. **Declarations of Interest**

There were no interests declared.

## 11. Licensing Application

### **Application by MSG Sandhurst Ltd for a Variation of a Premises Licence at Domino's Pizza, 16-17 New Road, Chippenham, Wiltshire SN15 1HJ.**

The Senior Licensing Officer, Linda Holland, introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by Jonathan Smith, Solicitor acting on behalf of the Applicant were:

- Scope and reasoning of the variation as applied for;
- Conditions proposed by the Applicant, and withdrawal of the objection raised by Wiltshire Police subject to these;
- Consultation with Police and Wiltshire Council officers to mitigate impacts of application if granted;
- No objections to application received from Environmental Health team;
- Layout and facilities of the premises, with a substantial car park to the rear of the premises to support delivery service;
- Delivery service-led nature of the business, accounting for 65%, with relatively limited evening visits to the takeaway itself by customers;
- Property to the rear of premises is also owned by Applicant, limiting public disturbance resultant of the premises' operation;
- Proposed condition to limit pizza delivery to home or business addresses only, to limit customer footfall around premises late at night;
- Business has comprehensive safety and security standards, as detailed in the Applicant's submission;
- Business performs well in national branded litter survey, and staff perform litter sweeps around the premises; and
- Price of average product distinguishes business' function from other late night takeaway services in Chippenham, with later license having potential wider impact on local uptake of fast food that has caused licensing problems in Chippenham in the past.

The Interested Party, Cllr Chris Caswill, was given the opportunity to ask questions of the Applicant and Wiltshire Council Officers. An objection was raised in regard to the Applicant's reference to supporting material submitted late, on 4 April 2011, in respect of the application.

In light of the comments made, the Chairman adjourned the meeting at 2.05pm for a fifteen-minute recess in which the Sub-Committee would seek advice from the Solicitor for Wiltshire Council and consider how to proceed with the meeting.

The Sub-Committee reconvened at 2.20 pm.

The Solicitor for the Council provided a summary of the material legal advice provided to the Sub-Committee and presented the following three options as to how the Sub-Committee could proceed:

- To continue with the meeting with all available information;
- To exclude the information submitted late by the Applicant; or
- To adjourn the hearing so that the Interested Party should have sufficient time in which to consider the information.

The Chairman canvassed the views of the Applicant and Interested Party in respect of the above three options. The Applicant offered to withdraw their late information, with the exception of that which they could refer to as material fact, and proceed with either the first or second option. The Interested Party spoke to defer the conclusion of the meeting as per the third option, in order that the late material could be considered fully by all parties.

A debate ensued in which the Sub Committee discussed the representations made and the options available to it. After receiving further legal advice from the Solicitor for the Council, it was,

**Resolved:**

**That the meeting of the Northern Area Licensing Sub-Committee be adjourned to enable all parties to consider fully the late material submitted by the Applicant, in the interests of fairness.**

**That the meeting reconvenes on Monday 18 April 2011 to determine the application; with the same parties present and the same material available for consideration, including the late information submitted by the Applicant on 4 April 2011.**

(Duration of meeting: 1.30 - 2.40 pm)

The Officer who has produced these minutes is Chris Marsh, of Democratic Services, direct line 01225 713 597, e-mail [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

This page is intentionally left blank

## **NORTHERN AREA LICENSING SUB COMMITTEE**

---

**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 18 APRIL 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE AT DOMINO'S PIZZA, 16-17 NEW ROAD, CHIPPENHAM, WILTSHIRE SN15 1HJ.**

**Present:**

Cllr Desna Allen, Cllr Mark Griffiths and Cllr Jon Hubbard

**Also Present:**

Maggie Jones (Licensing Officer), Cllr Chris Caswill (Ward Member), Paul Taylor (Solicitor) and Chris Marsh (Democratic Services Officer)

---

The agenda and minutes of the adjourned meeting held 7 April 2011 can be found at:

<http://cms.wiltshire.gov.uk/ieListDocuments.aspx?CId=206&MIId=5790&Ver=4> .

At this reconvened meeting, Maggie Jones attended in place of Linda Holland as Licensing Officer.

12. **Election of Chairman**

As this meeting had been reconvened, Cllr Jon Hubbard remained in the Chair for this meeting.

13. **Procedure for the Meeting**

The Chairman summarised the progress made in determining the application prior to the adjournment of the meeting held 7 April 2011 and the point from which the procedure would proceed, referring parties to the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the original Agenda refers).

14. **Chairman's Announcements**

The Chairman informed attendees that Maggie Jones, Licensing Officer, would be substituting for Linda Holland, Senior Licensing Officer, at the meeting.

The Chairman confirmed that additional late information had been submitted by the Applicant in support of their application subsequent to the adjournment of the meeting held 7 April 2011. Having considered the material, the timing of its provision and the resolution of the meeting held 7 April 2011, it was,

**Resolved:**

**Not to consider the additional information submitted since the adjournment on 7 April.**

15. **Declarations of Interest**

There were no interests declared.

16. **Licensing Application**

**Application by MSG Sandhurst Ltd for a Variation of a Premises Licence at Domino's Pizza, 16-17 New Road, Chippenham, Wiltshire SN15 1HJ.**

The Chairman invited the Solicitor to the Applicant to summarise the points made prior to the adjournment of the meeting held 7 April 2011, before hearing the views of the Interested Party.

In summarising, Jonathan Smith, solicitor on behalf of the Applicant, referred to:

- The summary of the scope of the application;
- Proposed conditions, as agreed with Wiltshire Police;
- The nature of the business and its customers;
- Domino's' corporate policy, as represented in the Operational Plan, Safety and Security Strategy, etc;
- Premises' layout, access, operation and previous lack of complaints on operation to date;
- Context of the local area in terms of provision of late night refreshment;
- Results of recent survey on customer service and business footfall; and
- Expectation that proposed restriction on use of delivery mopeds would not include electric mopeds that may be used in future.

Key points raised by the Interested Party, Cllr Chris Caswill, the Local Member, were:

- Emphasis on decision-making in Licensing procedures based on local knowledge, as referred to in the Thwaite's appeal case;
- Proximity of premises to domestic dwellings, of which there are 23 close by and nearby guest house;
- Access issues presented by the one-way system in operation on New Road, and the potential implications of this for emergency vehicles;

- Distinction between 'town centre' area and location of premises, marked by the railway arches;
- Substantial change in hours of operation applied for, if granted enabling business to trade for 22 hours per day, all week;
- Acceptance of proposed exception to condition regarding mopeds would depend on the noise created by electric mopeds in operation;
- That the requested counter service until 2.00 am is at odds with the evidence on footfall provided by the applicant;
- Hours as applied for would attract customers who had been drinking in the town centre or at the Little George pub further up the hill;
- Drinking culture and associated problems in town centre is exacerbated by late night takeaways, already putting severe demand on police time;
- Preparation time of food served could be problematic in containing drunk customers for several minutes;
- Concerned over decisions based on 'unevidenced forecasting', as referred to in the Thwaite's appeal case; and that
- Local knowledge should be used in determining the application, irrespective of acceptance by Wiltshire Police, on account of unique local circumstances warranting consideration.

The parties were given the opportunity to ask questions of the Applicant, Interested Party and Wiltshire Council Officers. A debate ensued in which the Sub Committee discussed:

- The scope of licensable hours of service and decision to be made;
- The type of delivery vehicles considered acceptable by all parties;
- Existing problems in Chippenham town centre, and the potential impacts of the application, if granted, in respect of these;
- Views of Wiltshire Police in respect of this application, subject to conditions;
- Domino's' existing relationship with the pub trade and its customers;
- The provision of CCTV on the premises and the availability of footage;
- Local circumstances around the additional hours applied for in general; and
- The necessity and proportionality of measures potentially taken to ensure that the Licensing Objectives are met.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 7.00 pm

The Hearing reconvened at 7.30 pm





Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council. The Sub-Committee also noted that the Police raised no objection to the application, subject to the agreed conditions.

### **Reasons**

The Sub-Committee considered the evidence given at the hearing by Mr Jonathan Smith and Cllr Chris Caswill. The evidence presented indicated to the satisfaction of the Sub-Committee that the applicant has considered the implications of a varied licence and offered robust strategies to manage these.

The Sub-Committee noted the concerns of Cllr Caswill with regard to delivery vehicles and amended the condition accordingly and also amended the condition with regard to CCTV to ensure that there is evidence captured of any anti-social behaviour by customers.

The Sub-Committee considered that the conditions offered by the applicant together with the additional conditions imposed will address the legitimate concerns of the interested parties and will meet the Licensing Objectives in particular the prevention of public nuisance and prevention of crime and disorder.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of this decision. A Responsible Authority or interested party has the right to request the Local Authority to review the licence. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review, and a review will not normally be held within the first twelve months of a licence, save for the most compelling reasons.

### **Informative**

The licence-holder is responsible for ensuring that the operation of the premises complies with all other legal requirements.

(Duration of meeting: 6.00 - 7.35 pm)

The Officer who has produced these minutes is Chris Marsh, of Democratic Services, direct line 01225 713 597, e-mail [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

This page is intentionally left blank

## **NORTHERN AREA LICENSING SUB COMMITTEE**

---

**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 9 AUGUST 2011 AT COUNCIL CHAMBER, MONKTON PARK COUNCIL OFFICES, CHIPPENHAM IN RESPECT OF AN APPLICATION FOR A REVIEW OF THE PREMISES LICENCE FOR THE PHOENEX BAR, HIGH STREET, WOOTTON BASSETT.**

**Present:**

Cllr Trevor Carbin, Cllr Jon Hubbard and Cllr Bill Roberts

**Also Present:**

Kate Golledge (Public Protection Manager), Liam Paul (Democratic Services Officer) and Paul Taylor (Solicitor)

---

28. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

**Resolved:**

**To elect Councillor Jon Hubbard as Chairman for this meeting only.**

29. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 8 of the Agenda refers).

30. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

31. **Declarations of Interest**

There were no interests declared.

## 32. Licensing Application

To determine an application for a Review of a Premises License in respect of the Phoenix Bar, 4 High Street, Wootton Bassett, Wiltshire, SN4 7BS by Ms P Evans and Ms L Sefton, local residents living in the vicinity of the premises.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

These were:

- The key licensing objectives and possible steps as listed in the Wiltshire Council Licensing policy.
- That Mr and Mrs Kerr had taken ownership of the building in 2007 and had carried out major renovations as well as applying for, and obtaining a full Premises License to run alongside the existing Club Premises Certificate.
- Since 2008 the Licensing and Public Protection teams had been aware of complaints regarding noise from within the building and from its patrons upon leaving, as well as anti-social behaviour by patrons and complaints of littering.
- The main grounds for review raised by local residents were a) Noise Nuisance caused by entertainment held at the premises, and b) Antisocial behaviour by patrons of the premises.
- There were 7 relevant representations from residents living nearby during the consultation period and 1 from the local divisional member.
- The representations raised a variety of concerns including that of signage, and suggestions for improvement. Mr Kerr, the License Holder had also submitted a representation advising of the steps he planned to take to address the concerns of the residents.

Questions were received from the Sub Committee and the Licensing officer clarified that whilst the License holders had taken measures asked of them to try to address the problem, these solutions had only been temporarily success, with complaint usually re-surfacing after a period of time.

The Sub Committee then took the opportunity to receive the expert view of the Council's Senior Public Protection Officer, on the acoustics of the building and to receive a summary of his involvement with the building.

His main points were as follows:

- First complaints were received in November 2010 – with a letter sent to the premises informing the License holder of local concerns and offering to monitor the premises thereafter.
- Some further complaints were also received in 2011 so far, although there has been no opportunity to establish if the noise constitutes a statutory nuisance.

- The officer had visited the premises and suggested improvements such as adding a front porch with self-closing doors. It was confirmed this had been done.
- At that time there was no evidence of unreasonable activities but he expected that proposed Drum n' Bass nights would be likely to struggle to meet guidelines on what constitutes acceptable noise levels.

In accordance with the procedure detailed in the agenda, the review applicant, the Interested Parties and the License Holder were given the opportunity to address the Sub Committee.

Key points raised by Mr Evans on behalf of the applicants for a review were:

- Wiltshire Council was obliged by law to promote the four licensing objectives outlined in its Licensing Policy and in reaching a decision the Sub Committee should have regard to policies in effect.
- A duty to uphold the state of any conservation area is included in the Licensing guidelines – fly-posting and illegal advertising by the Licence Holder contravened this policy.
- Pointing to the representation by Councillor Peter Doyle he suggested that further actions to comply with existing guidelines and a restriction on loudspeaker volumes were necessary.
- A further concern that the residents shared was anti-social behaviour, including loud and swearing behaviour.
- Residents should be able to sleep between 23:00 and 07:00 without being prevented from doing so by loud noise and should generally be able to enjoy their property at any time.
- He mentioned that the previous Friday evening's noise levels were horrendous and that
- His worry was that the Licence holder was simply spending money to attempt to make a venue suitable for his vision, on a building which was fundamentally unsuitable for the sort of premises and entertainment planned.

The Chairman then invited questions from the License Holder to the review applicant's representative.

Mr Kerr, License Holder expressed that it was not his intention to upset or aggravate his neighbours – he wished at all times to have good relations with his neighbours.

Key points raised by the Interested Parties present – Mr B Foster on behalf of Miss V Munnely & Mr A Foster were:

- Certainty that the noise levels from the Phoenix bar were high enough to cause sleep disturbance.
- Questions relating to the Council's acceptable level of noise.
- A belief that suggested noise volume limits, as defined by the Institute of Acoustics, were being exceeded

The Licence Holder made a number of points in the following areas:

- *Incidents at the Premises* - He accepted that there have in the past been problems at his premises, but that he was in the process of smoothing these out.
- The Licence Holder accepted that on the Friday previous to the meeting, (as mentioned by the review applicants), the windows had been left open – causing a problem.
- He disputed the assertion that events continue until 3am or later, and maintained that the Bar remained open until 1am only, with around 20 people in the premises on average.
- *Behaviour and Culture of drinkers in Wootton Bassett* - Younger customers now come to the premises in addition to former customers. All staff are highly trained and refuse drinks to those who are too drunk. When ejected by staff these customers can become confrontational and also can make noise. A blacklist of barred people has been established.
- Patrons come down the street to the premises, but have no sensitivity to the noise they make in the high street. He has witnessed incidents of urination in the street and damage to flower borders.
- There was a culture in Wootton Bassett of not dispersing following a music event or closing time.
- *Outfit and staffing of premises* - The Licence holders had spent considerable funds to install air-conditioning and noise insulation so the premises are capable of withholding noise. The front porch had originally been removed in accordance with fire safety regulations and the new porch had been introduced at the Council officer's request.
- A member of staff will be stationed on the front door when there is live music. He hopes this will solve the problem. Customers are told upon exiting to be quiet and there were many signs to be quiet and reminding customers not to smoke
- *Advertising* – The Licence holder emphasised that as a relatively new entrant to a competitive market, advertisement was necessary to attract and retain custom. He apologised for past mistakes which had been addressed in talks with Wootton Bassett town council and stated that he now advertises through local magazines and other avenues.
- *Working together to find a solution* – The Licence holder emphasised that he wanted to work together with the community and offered to provide to officers a list of dates when live music would be playing. He would like to engage with residents and hold meetings. He stressed he maintained good working relationships with the School and Church who were the building's immediate neighbours and that he and his wife try as much as possible to keep the area around the bar as clean as possible.

The parties were then given the opportunity to ask questions of the Licence Holder. A debate ensued in which the Sub Committee discussed the following:

- The Licence Holder added that a member of staff patrols the smoking area to keep the back door shut, and confirmed that doorstaff stationed at the front of the building were normal staff and not SIA-accredited.
- It was confirmed all staff were permanent and had been in Mr Kerr's employ for 2/3 years
- The Chairman reminded the Licence holder that it was his responsibility to ensure that windows etc were not left open and causing unacceptable noise. The Licence Holder assured the Sub Committee that he would lock the windows in the future
- Questioned about actions to make the situation more sustainable the Licence Holder added that he did not believe the problem as severe as previously, and that he was amenable to a sound limiter being installed.
- The DPS was confirmed as Mrs Margaret Kerr, with Mrs Morris also holding a personal license.
- In response to a question from Mr Foster the Licence Holder commented that he did not see a need for SIA-accredited doorstaff, and that he hoped to handle containment himself.
- The Licence holder disputed the assertion that there were bottles thrown about every weekend.

The Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub Committee then retired to consider the application at 12.05

The Hearing reconvened at 14.05

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

There were no specific issues upon which the solicitor offered advice other than to remind the Sub Committee of the options available to them and the relevant criteria to be taken into account when considering their decision.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

**Resolved:**

**That the premises license be amended by the addition of several conditions, as detailed below:**

<b>DECISION NOTICE</b>
------------------------

## Northern Area Licensing Sub-Committee

**Meeting held 09 August 2011, to consider an application for a review of the premises license in respect of the Phoenix Bar, 4 High Street, Wootton Bassett, Wiltshire, SN4 7BS**

### Decision

The sub-committee has resolved to vary the premises licence, by the addition of the following conditions:

**1) That within 3 months, there be a minimum of 1 suitably qualified doorstaff (SIA-accredited) at the premises to monitor patrons leaving the premises and where necessary remind them of the need to disperse quietly. The above mentioned doorstaff to be employed on Fridays and Saturdays and additionally whenever there is regulated entertainment. The doorstaff to be present between 9pm until at least 15 minutes after the premises has closed.**

Reason: For the prevention of public nuisance, prevention of crime and disorder and in the interests of public safety.

**2) The premises may not open after 11pm for 3months, or until such time as additional condition 1 above, is fulfilled (if this is sooner than 3 months).**

Reason: For the prevention of public nuisance, prevention of crime and disorder and in the interests of public safety.

**3) A Noise Limiting device shall be fitted to the premises in an appropriate location to be installed within 3 months, and all live or recorded music shall be played through this device. The Noise limiter shall be connected to the main supply and prior to any live or recorded music being provided the limiter shall be set to a level agreed with the Environmental Protections Officers of Wiltshire Council. This level shall not be altered. Once agreed access to the limiter shall be restricted to senior members of staff only for resetting purposes.**

Reason: For the prevention of public nuisance.

**4) The applicant shall submit a noise management plan to the Licensing Authority within 3 months. The plan shall include a suitable monitoring regime when live music or recorded music is being provided; including exact locations, frequency and documentary evidence that monitoring is being undertaken. The plan shall be agreed by the Council's Environmental Protection Department of Wiltshire Council in writing before any regulated entertainment takes place at the premises. Any minor alterations to the noise management plan shall be submitted to and agreed in writing, by the Council.**



Reason: For the prevention of public nuisance.

**5) No live or recorded music to be permitted after 11pm, for the next 3 months, or until such time as a limiter is fitted and a noise management plan agreed with the licensing authority, if this is sooner.**

Reason: For the prevention of public nuisance.

Informative:

The licensing sub-committee were mindful of the representation regard fly-posting and advertisements, but noted the license holder's promise to cease this activity and would like to remind the license holder that such activity may constitute an offense under planning legislation.

**Reasons**

The Sub-Committee noted that there were three main grounds on which this review had been sought. These were:-

1. Noise emitted from the premises during music events
2. Noise and anti-social behaviour caused by patrons of the premises, especially when leaving the premises late in the evening
3. Fly-posting and other unlawful advertising of events at the premises

In relation to problems caused by noise emanating from the premises during music events, the Sub-Committee took note of the comments of the local residents who had made representations that, during these music events, they found it difficult to sleep as the music was too loud, particularly when doors or windows of the premises were open. The Sub-Committee also took into account the comments of the Environmental Protection Officer that, given the structure and layout of the building, with the installation of a double-door system at the front of the premises, there was no reason why there should be a noise nuisance caused to local residents during most music events, provided these events were properly managed. The Sub-Committee therefore considered that the implementation of a suitable noise management plan would address this issue.

In relation to noise and anti-social behaviour caused by patrons of the premises, the Sub-Committee accepted that this was a problem and that steps taken by the Licence holder to address this problem had not been sufficient. They considered, however, that the use of suitable qualified door-staff would help to reduce this problem in the immediate vicinity of the premises as well as helping to ensure that the doors to the premises were kept shut during music events.

The Sub-Committee did not consider that any unlawful fly-posting was such as to require any additional licensing conditions to be imposed. If there were problems of this nature in the future, they would be better addressed through planning legislation

The sub-committee was therefore satisfied that the existing licence conditions, together with the additional conditions proposed, would satisfy the licensing objectives.

In reaching their decision the Sub-Committee took into account the relevant provisions of the Licensing Act 2003, in particular sections 4 and 52, the Government's statutory guidance issued under s.182 of the Act and the council's own Licensing Policy, in particular paragraphs 3.8 and 3.18, to which they had been referred during the hearing

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of notification of this decision. The above additional conditions will not come into effect until the time for lodging an appeal has passed or, where an appeal is made, until that appeal has been finally disposed of.

(Duration of meeting: 10.35 am - 2.05 pm)

The Officer who has produced these minutes is Liam Paul, of Democratic Services, direct line 01225 718376, e-mail [liam.paul@wiltshire.gov.uk](mailto:liam.paul@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

## NORTHERN AREA LICENSING SUB COMMITTEE

---

**DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 11 AUGUST 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, IN RESPECT OF AN APPLICATION FOR A REVIEW OF THE PREMISES LICENCE AT THE BLACK HORSE PUBLIC HOUSE, 62 NEW ROAD, CHIPPENHAM.**

**Present:**

Cllr Desna Allen, Cllr Trevor Carbin and Cllr Bill Douglas

**Also Present:**

Linda Holland (Licensing Officer), Paul Taylor (Solicitor) and Chris Marsh (Democratic Services Officer)

---

33. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

**Resolved:**

**To elect Councillor Desna Allen as Chairman for this meeting only.**

34. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 8 of the Agenda refers).

35. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

36. **Declarations of Interest**

There were no interests declared.

37. **Licensing Application - Review of a Premises Licence in respect of The Black Horse Public House, 62 New Road, Chippenham**

**Application for a review of a Premises Licence at The Black Horse Pub, 62 New Road, Chippenham.**

The Sub-Committee noted that neither the person who had applied for the review, nor any other persons who had made representations in respect of the review, were present and that, in accordance with regulation 20 of the Licensing Act (Hearings) Regulations 2005, the hearing would proceed in their absence.

The Chairman confirmed with the Premises Licence holder that he had seen the additional comments from Cllr. Caswill that had been circulated.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Licence Holder was given the opportunity to address the Sub Committee.

Key points raised by Mr Jeffery John Olsen, the licence holder, were:

- That complaints had only been received over the weekend of the last Chippenham Folk Festival, and only in relation to late night music;
- That the premises had compromised on live music hours on 2 of 3 nights, finishing by 11:30 pm rather than the permitted 12.30 am, to reduce nuisance to neighbours;
- Chippenham Folk Festival weekend is integral to the viability of the pub as a business;
- A marquee is erected in the pub car park over the festival weekend for music events, the costs of which are split equally between the festival organisers and the pub;
- Licence holder works closely with organisers of Chippenham Folk Festival when staging live music over the weekend;
- Has not received any other complaints in 21 years as a licence holder and is well regarded as such by Wiltshire Police, and therefore,
- Requested that the Sub-Committee consider their decision in the context of the above evidence and do not in their decision increase pressure on the premises' viability.

The licence holder was given the opportunity to ask questions of Wiltshire Council Officers. A debate ensued in which the Sub Committee discussed:

- The nature of the complaints against The Black Horse Pub;
- The frequency of nuisance caused by the premises' operation;
- The licence holder's co-operation with the licensing authority, police and local residents to date;

- Measures available to reduce the nuisance caused by outside music at the premises, including stage orientation, marquee enclosure, amplification, etc;
- The licence holder's plan to host only 2 nights of music over the Folk Festival weekend in 2012; and
- The degree of compromise within which the business would remain viable.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub Committee then retired to consider the application at 10.55 am.

The Hearing reconvened at 11.40 am.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

That the Sub-Committee should base their decision on the evidence presented to them in the written submissions and at the hearing , and that any measures taken in respect of the licence in question must be necessary and proportionate to meet the licensing objectives.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

**Resolved:**

**To vary the premises licence of the Black Horse Pub by the addition of the following condition:**

- 1) That a noise management plan is submitted to, and agreed in writing by, the licensing authority's Environmental Protection Team prior to any outdoor music event being held on the premises, and that once approved this plan is adhered to by the premises licence holder.

The Sub Committee also advised the Premises Licence holder, by way of an informative, of their expectation that he continues to work closely with the licensing authority to ensure that responsible management of the premises in terms of noise control is maintained.

**Reasons:**

The Sub-Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing. In reaching their decision, the Sub-Committee considered:

- That there were no substantiated complaints of noise nuisance caused by the premises outside the weekend of the Chippenham Folk Festival;
- That the premises licence holder has actively attempted to negotiate with residents to mitigate nuisance and had discussed the issues with the Environmental Protection Team;
- That any potential noise problems that might arise from the external music events at the premises could be adequately addressed by a noise management plan, approved by the Environmental Protection Team

**Right of Appeal**

The Chairman advised that all parties have the right to appeal to the Magistrates Court within 21 days of this decision. Any additional conditions imposed on the licence will not come into effect until this period has expired, or until any appeal, if made, has been finally disposed of.

(Duration of meeting: 10.30 - 11.40 am)

The Officer who has produced these minutes is Chris Marsh, of Democratic Services, direct line 01225 713 597, e-mail [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

## **SOUTHERN AREA LICENSING SUB COMMITTEE**

---

**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 16 MAY 2011 AT THE MEETING ROOM - CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE BY GREENE KING RETAILING LIMITED IN RESPECT OF KINGS ARMS AND CHAPTER HOUSE, 9 – 13 ST JOHN STREET, SALISBURY**

**Present:**

Cllr Trevor Carbin, Cllr Jose Green and Cllr George Jeans

**Also Present:**

Liam Paul, Debbie Mulvey and Paul Taylor

---

11. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

**Resolved:**

**To elect Councillor Trevor Carbin as Chairman for this meeting only.**

**Cllr Carbin in the Chair**

12. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

13. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

14. **Declarations of Interest**

There were no interests declared.

15. **Licensing Application**

**Application for a Variation of a Premises Licence by Greene King Retailing Limited in respect of Kings Arms and Chapter House, 9 – 13 St John Street, Salisbury**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by Nick Walton of solicitors Poppleston Allen on behalf of the Applicant, Greene King Retailing Limited were:

- The premises are undergoing a £1million pound refurbishment, to form the second in a chain of New York Steakhouse themed restaurants, to be called the Lazy Cow.
- The main focus of the offering was high-quality food, and a number (17) of themed hotel rooms in which guests could rent accommodation.
- The premises would also host themed evenings; for example 'Jazz' or 'Dixie', with appropriate live (unamplified) music.
- There would not be discotheques, nor similar events, as the music, whether background recorded music or live artists, would be aimed at providing atmosphere and entertainment for those eating and staying at the premises and would be complementary to these aims, not intrusive.
- The existing Function Room would be retained and adapted to allow for corporate use; for conferences and meetings.
- The application is to permit live music 6 days a week, in order to give the flexibility of use that would allow bands and artists to be booked at late notice, without temporary event notices (TENs) becoming necessary.
- It is envisaged that live music would take place on average 2/3 times a week.
- A full programme of staff training, due diligence and incident reporting is in place in existing premises and will also be used at the premises under consideration.
- The proposals offered a dynamic, high reputation offering, which would benefit the area.
- There were no concerns raised by the police, and the applicants were willing to include the condition suggested by the Environmental Health officer in any license.
- The applicant reminded the hearing panel of the case of Daniel Thwaites plc v Wirral Borough Magistrates Court, and the need for real evidence to ground any assertions that the proposals would generate problems.

Key points raised by the Interested Parties (Mrs Samantha Mellow and Mr AJG Cochran, of solicitors Woolley+Wallis, on behalf of Mrs J Coates) were:



- The house lived in by Mrs J Coates was connected structurally to the function room and bordered the proposed smoking area. On the ground level it was a bridal shop.
- The kitchen and main bedroom of Mrs Coates directly overlooked the proposed smoking area, and there was concern that the smell of smoke would be present in these areas of her house, as well as affect the ability of the ground floor bridal shop to open its windows.
- A main concern is the possibility of public nuisance and Mrs Mellow noted that the license is desired for Greene King limited, rather than the current operator, which could change, and have negative effects on the way the business is run.
- Another issue was the noise of patrons exiting the building onto St Johns Street at the proposed extended opening hours, which would be very close to the neighbour's bedroom.
- The changes proposed were not slight – they represented a change to a previously quiet pub and restaurant, and could allow significant intensification in future.
- The representatives of the objector made the following suggestions
  1. That live music be limited to three nights a week, of which two were Friday and Saturday, and music should cease at 10:30pm
  2. That late openings at weekends be by application.
  3. That there should be no extension to the existing opening hours in the weekdays.
  4. That the smoking area be limited to the back of the yard area bordering 7 St Johns.

The parties were then given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers.

Questions clarified the following matters:

- The premises historically had operated a number of rooms to let; the entirety of these seventeen rooms would be retained and were a part of the refurbishment process.
- No dancing area was planning – the purpose of the license for dancing was to allow patrons to dance spontaneously if they so wished in and around the tables.
- Air conditioning would be in place in the first floor hotel rooms, and air cooling in the restaurant / bar area.
- Noise levels outside were proposed by the applicant to be monitored by trained staff.

A debate ensued during which the Sub-Committee discussed the location of the function room, the indicative nature of the plans before them, and the limits of the external smoking area that was to be established.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 11.15

The Hearing reconvened at 12.40

Following the deliberations of the Sub-Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

He had given no advice on specific issues other than to clarify the nature of the licensing rules surrounding background music and explaining that it is not a licensable activity. He then reminded the committee of the options open to them and the relevant licensing objectives that they should consider when determining the application.

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council and it was

**Resolved:**

**That the application for a variation of a premises license by Greene King Limited in respect of Kings Arms and Chapter House, Salisbury, as applied for, with the addition of the following conditions:**

- 1) Windows and doors shall be kept closed while regulated entertainment is taking place except for access and egress.**

**Reason: For the prevention of public nuisance.**

- 2) That the proposed external smoking area will be limited to that part of the courtyard which does not directly adjoin 7 St.Johns Street, i.e. the smoking area will be limited to the north of the entrance to the function room.**

**Reason: For the prevention of public nuisance.**

**Informative:**

**It is the license holder's obligation to fulfil any other statutory requirement.**

(Duration of meeting: 10.00 am - 12.45 pm)

The Officer who has produced these minutes is Liam Paul, of Democratic Services,  
direct line 01225 8718376, e-mail [liam.paul@wiltshire.gov.uk](mailto:liam.paul@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

This page is intentionally left blank

## WESTERN AREA LICENSING SUB COMMITTEE

---

**DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 25 MAY 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE BY TROWBRIDGE TOWN COUNCIL FOR THE CIVIC HALL, ST STEPHEN'S PLACE, TROWBRIDGE, BA14 8AH**

**Present:**

Cllr Desna Allen, Cllr Jose Green and Cllr Jonathon Seed

**Also Present:**

Maggie Jones, Licensing Officer  
Liam Paul, Democratic Services Officer  
Paul Taylor, Solicitor to the Panel

---

6. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

**Resolved:**

**To elect Councillor Desna Allen, as Chairman for this meeting only.**

7. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

8. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

9. **Declarations of Interest**

There were no interests declared.

## 10. Licensing Application

### **Application by Trowbridge Town Council, for a Premises Licence at Civic Centre, St Stephen's Place, Trowbridge, BA14 8AH**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by Lance Allen, Trowbridge Town Clerk, in support of the application were:

- The application before the sub-committee remained as applied for: the request for a premises license follows a history of successful operation of previous premises on the site, and will allow Trowbridge Town Council to deliver its services from one purpose-built site.
- No complaints had been made when the premises were previously operated by the same Designated Premises Manager (DPM) and additionally the Council had a track record of success when working in partnership with other organisations to provide events and entertainment in the park.
- The applicant believed that the new license was the best way to meet licensing objectives
- The parties involved had met earlier in the day [25.05.11] and he believed that their objections had been overcome

Cllr Allen, the Chairman, and the rest of the panel asked a number of questions on the application. It was confirmed that:

- The new Civic Hall would provide a venue for conferencing facilities, stage productions inc. Musicals, and a number of side rooms for meetings and functions.
- An increase in Weddings and wedding receptions was predicted
- Around 1 outside event per month was envisaged in the summer months – these would include travelling markets with local and foreign produce and the Lions Street fair in local streets, Armed forces and veterans' events in the park itself, and the Christmas light switch-on in December.
- There was no intention to significantly increase the number of outside events from when the Civic Hall site was previously in operation.
- CCTV would be installed, and form part of the Town Council's network of cameras, operated in partnership with the Police and the Shires Shopping centre.
- SIA-certified door staff and other controls would regulate the exit of patrons and reduce the opportunity for nuisance.

The Interested Parties were represented primarily by Mr Peter Wilson, who spoke on behalf of residents of Knight stone Court. Key points were as follows:

- It was confirmed that following the meeting held earlier in the day, the residents of Knight stone Court did not object to the proposal before the licensing sub-committee in principle.
- The main point of concern was the potential nuisance that could be generated by the proposal and the compound effect of this with existing problems at St. Stephen's place car park.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers.

A debate ensued in which the Sub Committee discussed with the objectors the precise nature of their concerns, and also queried the operators of the site on the impact that use of the Civic Centre for licensable activities would have upon anti-social behaviour at St. Stephen's place car park.

The applicants stated that they believed that disturbances at the car park had increased since the Civic Hall site closed for redevelopment and would decrease once it was in operation, as passing traffic and surveillance in the area would increase when it re-opens. It was confirmed that measures were planned to control the exit of patrons from the Civic Hall itself, in order to avoid any nuisance for those living nearby.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 2.40

The Hearing reconvened at 3.00

The Chairman thanked all parties present for attending and reiterated that Wiltshire Council, Trowbridge Town Council, and the Police would maintain their efforts to address the problems of anti-social behaviour at the St Stephen's place car park which affected the area, noting the nearby residents' frustration at the situation and previous efforts to resolve it.

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council and it was

**Resolved:**

**That the Application for a premises license by Trowbridge Town Council in respect of the Civic Centre, St Stephen's Place, as applied for, with the addition of the following condition:**

- 1) A CCTV system with recording or monitoring capability shall be installed to cover all floors of the premises used under the terms of the license and shall also cover all entrances. The image quality shall be sufficient to be able to identify individuals. Recordings will be kept for 30 days and be made readily available to any authorised officer of the council or police officer on duty.**

**Reason: For the prevention of public nuisance and the prevention of crime and disorder.**

**Informative:**

**It is the license holder's obligation to fulfil any other statutory requirement.**

**Reason for Decision**

The sub-committee was satisfied that the conditions set out in the operating schedule, together with the additional agreed conditions 1) and 2), would satisfy the licensing objectives.

(Duration of meeting: 2.05 - 3.05 pm)

The Officer who has produced these minutes is Liam Paul, of Democratic Services, direct line 01225 718376, e-mail [liam.paul@wiltshire.gov.uk](mailto:liam.paul@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115



## **WESTERN AREA LICENSING SUB COMMITTEE**

---

**DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 28 JUNE 2011 AT THE MAIN HALL, WARMINSTER TOWN COUNCIL, DEWEY HOUSE, NORTH ROAD, WARMINSTER, IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE FOR THE OLD FIRE STATION, WARMINSTER**

**Present:**

Cllr Desna Allen, Cllr Trevor Carbin and Cllr George Jeans

**Also Present:**

Maggie Jones (Licensing Officer), Graham Steady (Public Protection Officer) Paul Taylor (Solicitor), and Anna Thurman (Democratic Services Officer)

---

11. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

**Resolved:**

**To elect Councillor Trevor Carbin as Chairman for this meeting only.**

12. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

13. **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

14. **Declarations of Interest**

There were no interests declared.

## 15. Licensing Application

### **Application by James Beanland for a Premises Licence at The Old Fire Station, Warminster.**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and the Interested Parties were given the opportunity to address the Sub-Committee.

Key points raised by James Beanland the Applicant:

- He wanted to create a modern contemporary wine bar with a relaxed atmosphere for which he believed there was a market for in the town.
- Music would be played at a controlled level.
- Smoking would not be permitted on the street outside the premises, a designated area would be allocated at the rear of the building enclosed by a 2.1m wall.
- No open containers would be allowed to leave the premises therefore there would not be an issue with bottles or glasses being broken in the street.

Key points raised by the Responsible Authority, Graham Steady of Public Protection, Wiltshire Council were:

- The applicant is proposing the playing of amplified music and to date a report which would demonstrate its use without causing undue loss of amenity to the neighbours has not been seen. In the absence of this and the lack of confidence in the acoustics of the building making it likely that noise nuisance would be caused by noise breakout to the dwellings in close proximity of The Old Fire Station, his advice would be to exclude the provision of regulated music with in the license if approved.

Interested Parties were primarily represented by Major J McKay. Others who also spoke were Mrs B Glasson, Mrs B Cole, Mr A Duff, Mrs V Allen, Mrs D Beagles, Mrs B Owens, Mrs I Fretwell, Mrs M Batchelor, Mr T Gilvray, Mrs M Brannigan, Mr M Brassington and Mrs S Jones. Key points raised were:

- Opening hours of the proposed venue would conflict have an impact on children of local residents being disadvantaged by noise.
- The local crèche, already have to pick up glasses and bottles from a nearby club and often residents have to remove urine and vomit from walls and pavements.
- Noise nuisance would be caused by amplified music including karaoke, people outside smoking, deliveries occurring before 7am, commercial

waste collection and additional vehicles such as taxis picking up revellers up from premises late at night.

- Commercial waste collections will cause additional pressure for residents as pavements are narrow and elderly residents will have to walk in the road.
- Extra lighting will spill into local housing.
- Closing times with another local bar will correlate and there will be potential to cause crime and disorder.
- Parking for local residents is already cramped and additional premises where there is no available parking will exacerbate the parking situation.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers.

The Sub-Committee members sought clarification on some points before retiring to consider the application. Points raised in clarification were:

- Bottles being thrown away will cause additional noise especially at night, Mr Beanland informed the committee that it was his intention to use a glass crusher, and that bottles would not be disposed of until during the day.
- It was noted that door staff would be employed at weekends, concern was raised what would happen on weekday nights. Mr Beanland intended to undergo the door staff training himself, so that there would always be a qualified doorman on the premises.
- The committee asked whether Mr Beanland had been in discussions with the Environmental Protection Team regarding insulation of the premises regarding noise. Mr Steady replied that Mr Beanland had been in consultation with a colleague.

The Sub-Committee then retired to consider the application at 3.10pm

The Hearing reconvened at 4.30pm

Following the deliberations of the Sub-Committee Members, the Solicitor for the Council stated that he had given no specific material legal advice in the closed session.

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

The Western Area Licensing Sub Committee has

**Resolved:**

**to refuse the application in respect of a Premises Licence at The Old Fire Station, Warminster.**

**Reasons:**

The Sub-Committee considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from James Beanland (Applicant), Major J McKay, Mrs B Glasson, Mrs B Cole, Mr A Duff, Mrs V Allen, Mrs Beagles, Mrs B Owens, Mrs Fretwell, Mrs M Batchelor, Mr T Gilvray, Mrs M Brannigan, Mr M Brassington, Mrs S Jones (Interested Parties) and Mr G Steady (Public Protection Officer).

The Sub-Committee noted that, although noise assessments had been carried out on behalf of the applicant, the results of these assessments were not yet available and had not been considered by the Environmental Protection Team. As a result, the Environmental Protection Team were not satisfied that amplified music could be played without causing a nuisance and that their view was that, if the application were to be approved, the provision of regulated entertainment should be excluded from the licence.

The Sub-Committee considered the evidence from the applicant as to how he proposed to operate the premises to limit any problems that might be caused to neighbouring residents. They also considered the evidence from the interested parties that, due to the proximity of the premises to their homes, they would suffer unacceptable levels of noise and other nuisance from the premises,

The Sub-Committee carefully considered whether the application could be made acceptable by the removal of licensable activities, as recommended by the Environmental Protection Team, or by the imposition of appropriate conditions.

However, given the proximity of the premises to residential properties, the sub-committee did not consider that any mitigating conditions would satisfactorily address the licensing objectives, in particular the prevention of public nuisance.

In reaching its decision the Sub-Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.

(Duration of meeting: 2.00pm – 4.30pm)

The Officer who has produced these minutes is Anna Thurman, of Democratic Services, direct line 01225 718379, e-mail [marie.gondlach@wiltshire.gov.uk](mailto:marie.gondlach@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

This page is intentionally left blank

## **WESTERN AREA LICENSING SUB COMMITTEE**

---

**DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 18 JULY 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE IN RESPECT OF AN APPLICATION FOR A REVIEW OF THE PREMISES LICENCE AT FAVOURITE CHICKEN AND RIBS, 3 MARKET STREET, TROWBRIDGE BA14 8EY.**

**Present:**

Cllr Rod Eaton, Cllr Nina Phillips and Cllr Jonathon Seed

**Also Present:**

Maggie Jones (Licensing Officer), Chris Marsh (Democratic Services Officer and Paul Taylor (Solicitor)

---

16. **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

**Resolved:**

**To elect Councillor Jonathon Seed as Chairman for this meeting only.**

17. **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

18. **Chairman's Announcements**

The Chairman noted that the licence holder was absent from the hearing at the scheduled start time for the hearing. It was agreed to delay the start of the hearing to allow time for him to arrive.

Having waited 20 minutes, the Licensing Officer confirmed that the Mr. Olmez, the premises licence holder, had received a copy of the agenda and that she had spoken to him by phone on Friday 15 July, when he had confirmed his intention to attend the hearing. It was also confirmed that officers had

unsuccessfully attempted to contact Mr. Olmez by both mobile and landline phone at 9.37 am on 18 July.

Members were therefore satisfied that every effort had been made to ensure the licence holder's attendance. It was therefore agreed to proceed with the hearing in the absence of Mr. Olmez.

The Chairman gave details of the exits to be used in the event of an emergency.

19. **Declarations of Interest**

There were no interests declared.

20. **Licensing Application**

**Application for the review of a Premises Licence by Wiltshire Police in respect of Favourite Chicken & Ribs, 3 Market Street, Trowbridge, Wiltshire BA14 8EY.**

The Licensing Officer introduced the purpose and scope of the review, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Responsible Authority was given the opportunity to address the Sub-Committee.

Key points raised by Jacqui Gallimore on behalf of the Responsible Authority were:

- That police are concerned at the volume and frequency of incidents within and immediately outside the premises since the variation of the premises licence in August 2009;
- There have been 55 definitively linked incidents in this time, of which 30 related to violent disorder;
- That the overwhelming majority of incidents have occurred between the hours of 0300 and the terminal hour of the licence;
- That by comparison with other similar businesses, the premises has an anomalously high rate of police call-outs;
- Officers have witnessed the premises operating beyond 0500, in contravention of the condition of the current premises licence to close by 0500;
- Difficulties had been experienced in obtaining suitable CCTV footage on request from the premises, although this is stipulated in the conditions of the existing licence, to aid investigations. However, following a recent inspection this issue appeared to have been adequately addressed by the licence holder ; and
- That realistic expectations of the night time economy are held, but that the premises puts a disproportionate demand upon police resource.



Mr. Olmez, the premises licence holder, arrived at 11.20 am, after the end of the representations by the police. Mr. Olmez confirmed that he had received a copy of the police's representations as set out in the agenda and that he had no questions on those representations.

Key points raised by the licence holder, Mr K. Olmez, were:

- That the proposal of the responsible authority to require the employment of door staff could be applicable on a Saturday, but would not be necessary on any other day due to low footfall;
- That difficulties in obtaining CCTV footage experienced by the police previously had been due to technical faults, and that the police are now satisfied that the system is fully operational;
- That the premises staff or any door staff are unable to police the street outside, so to attribute incidents in the street to the premises is unfair;
- That a reduction of operational hours over the weekend would have a detrimental impact upon the financial viability of the business; and
- That discretion has always been applied to the time of closing the premises, and at times getting customers to leave has been problematic.

The parties were given the opportunity to ask questions of the Applicant, Responsible Authority, Interested Parties and Wiltshire Council Officers. A debate ensued in which the Sub Committee discussed the following:

- Incidents requiring police attendance linked to the premises since the extension of its licence in 2009;
- Proportion of incidents that have occurred within the extended hours;
- Potential for displacement of this effect if the premises were not in operation;
- Reported breaches of the current premises licence in respect of closing times;
- The prospect that door staff are employed in the early hours of Saturday and Sunday mornings;
- Previous difficulties in obtaining CCTV footage, and the prospect of reliably doing so in future; and
- The realistic expectations of the night time economy, and the demands placed upon police resource.

The Sub-Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub-Committee then retired to consider the application at 12.00 noon.

The Hearing reconvened at 1.00 pm.

Following the deliberations of the Sub-Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

That the Sub-Committee should act on the evidence provided on the day alone, and that any measures taken in respect of the licence in question must be necessary and proportionate to meet the licensing objectives.

The Sub-Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

**Resolved:**

**To vary the premises licence, by adding or amending the licence conditions as follows:**

1) Provision of late night refreshment:

Sunday – Wednesday:	2300 hours to 0400 hours the following day
Thursday – Saturday:	2300 hours to 0300 hours the following day

2) That the premises doors shall be closed and locked at the terminal hour of the licence on the relevant day

3) The licence holder is to employ two SIA registered staff from midnight to the terminal hour of the licence on Thursday, Friday and Saturday nights

4) CCTV will operate during licensable hours and record both internally and at the front of the premises, externally. Recordings will be kept for a minimum of 30 days and will be made available, upon request, to the police, licensing officers and any authorised officer by staff suitably trained and competent in providing such information

The existing conditions relating to staffing and litter as detailed in the current premises licence remain effective

**Reasons**

The Sub-Committee accepted the police evidence of the recorded incidents of violence and disorder that were linked to the premises. Although the Licence holder was not present at the hearing when those details were presented, they were set out in the agenda papers which he had previously received and he did not challenge them when asked about them. The Sub-Committee accepted that these incidents had occurred and that they were linked with the operation of the Favourite Chicken premises.

The Sub-Committee accepted the analysis of the recorded incidents of violence and disorder. These showed that the vast majority occurred on Friday and Saturday nights, with about 45% of them occurring between 4.00 and 5.00 a.m. and about 20% between 3.00 and 4.00 a.m.

The Sub-Committee noted that the number of recorded incidents of violence and disorder associated with the other two late night refreshment premises in Trowbridge Town Centre was considerable lower than those for Favourite Chicken.

In the view of the Sub-committee, given the problems of disorder associated with the premises, it was necessary and proportionate to limit the hours of operation on Friday and Saturday nights and also to require qualified door supervisors to be present on Thursday, Friday and Saturday nights in order to promote the licensing objectives of preventing crime and disorder and preventing public nuisance.

The Sub-Committee also heard evidence of a number of incidents when the premises had remained open after the time when it should have been closed, in accordance with the conditions on the licence.

The Sub-Committee heard that availability of CCTV footage had been limited in the past, but noted that the premise's CCTV system had recently been inspected and found to be in working order a matter of weeks ago. The Sub - committee found no reason to suggest that footage should not be available on request to relevant authorities in future. They were concerned, however, that Mr. Olmez appeared to be the only member of staff who know how to operate the CCTV system, although Mr. Olmez had stated that he was usually present at the premises. The Sub-committee considered it necessary to amend the condition regarding CCTV, to ensure that reasonable access to recordings could be obtained.

The Sub-Committee also considered Mr Olmez's justifiable assertion that neither he nor any door staff employed could control incidents that occur on the street in the vicinity of the premises. However, the Sub-Committee were satisfied that the incidents outside the premises, as reported by Wiltshire Police, had been due in part, if not wholly, to the operation of the premises at the hours in question.

In reaching their decision, the Sub-Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.

The Sub-Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing.

The Sub-Committee took into account the evidence presented by Wiltshire Police and Mr. Olmez pursuant to the following licensing objectives:

- The prevention of crime and disorder
- Prevention of public nuisance
- Public safety

### **Right of Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of written notification of this decision. A Responsible Authority or interested party has the right to request the Local Authority to review the licence. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review, and a review will not normally be held within the first twelve months of a licence, save for the most compelling reasons.

(Duration of meeting: 9.50 am - 1.05 pm)

The Officer who has produced these minutes is Chris Marsh, of Democratic Services, direct line 01225 713 597, e-mail [marie.gondlach@wiltshire.gov.uk](mailto:marie.gondlach@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

WILTSHIRE COUNCIL

LICENSING COMMITTEE

7 SEPTEMBER 2011

---

## **PROPOSED WILTSHIRE COUNCIL STREET TRADING CONSENT SCHEME**

### **Executive Summary**

This report informs the Committee of progress on the introduction of a single, council-wide consent street trading scheme and seeks the commendation of the scheme to Council.

### **Recommendations**

**It is recommended that the Licensing Committee:**

- i) Consider, and comment on the revised single, council-wide consent street trading scheme in light of the results of the second public consultation.
- ii) Support the changes proposed by the licensing team and neighbourhood services to produce an integrated and co-ordinated response to the issues raised by the public consultation.
- iii) Recommend the revised scheme for adoption by Council on the 8<sup>th</sup> November 2011.

### **Reason for Proposal**

To provide a consistent approach to street trading in the Wiltshire Council area.

Author: Kate Golledge, Public Protection Manager Safer Communities and Licensing Team (North and West)

Corporate Director: Maggie Rae, Public Health and Wellbeing

Contact Details: [kate.golledge@wiltshire.gov.uk](mailto:kate.golledge@wiltshire.gov.uk)

## **1. Purpose of Report**

- 1.1 To inform Members of the results of the second two week public consultation on a revised single, council-wide street trading consent scheme.
- 1.2 To give Members the opportunity to comment on the revised consent street trade scheme, which was originally considered by the Committee on 5 April 2011.
- 1.3 To recommend that Members support the revisions proposed by the licensing team and neighbourhood services to produce an integrated and co-ordinated response to the issues raised by public consultation.
- 1.4 To recommend that the revised street trading scheme be commended for adoption by Council at its meeting on the 8<sup>th</sup> November 2011.

## **2. Background**

- 2.1 There is no harmonised street trading policy for Wiltshire because the former district councils chose to control street trading in different ways:
  - In the north and west there are two different consent street trading schemes
  - In the east there is a prohibited (street) trading scheme for a small number of streets in town centres
  - In the south there is no street trading scheme because Salisbury District Council did not adopt powers under Part III, Schedule 4 of the 1982 Local Government (Miscellaneous Provisions) Act (the 1982 Act)
  - Lay-bys are not regulated anywhere in the Wiltshire Council area, except food hygiene controls for food traders.
- 2.2 A report on the public consultation carried out between January 2011 and the end of March 2011 was presented to the Licensing Committee on the 5<sup>th</sup> April 2011 where further changes were agreed to address the concerns raised by the public consultation and members.
- 2.3 The Licensing team were tasked with making further changes to the scheme following a second two week consultation.
- 2.4 A second two week public consultation took place between the 26<sup>th</sup> July 2011 and the 12<sup>th</sup> August 2011.
- 2.5 A meeting took place between the licensing manager and representatives of the neighbourhood services team to ensure that any changes made to the scheme did not duplicate any existing powers available to Wiltshire Council highways officers to control trading on the highway.

### **3. Changes made to the Draft Street Trading Scheme further to consultation**

- 3.1 It was proposed to designate all streets in Wiltshire as consent streets, with the exception of a number of highway lay-bys which would be designated as prohibited streets, where street trading would not be permitted. During the meeting with highways representatives it became clear that for the purposes of the street trade consent scheme it would not be possible to accurately demark the lay-bys to the degree necessary to legally prohibit them. This was partly due to inaccuracies in the location data held and the fact that third parties held other access rights over the land in some lay-by areas. In the revised scheme lay-bys will be consent streets.
- 3.2 It was agreed to designate all streets in Wiltshire as consent streets with the proviso that the highways officers as part of the neighbourhoods' team would maintain mapping data on Wiltshire Council lay-bys where applications for street trade consent would not be granted due to highway safety or access issues.
- 3.3 To aid applicants it was agreed that the neighbourhoods' team would also maintain a list of highway lay-bys where street trading was deemed to be suitable and appropriate.
- 3.4 The street trading scheme incorporates the legal definitions of 'street trading' and a 'street' from the 1982 Act. Street trading was defined as selling, exposing or offering articles for sale in a street. A street was defined as any area which the public can access without payment, including private land.
- 3.5 To avoid duplication with existing powers available to other teams within Wiltshire Council the consent scheme will not cover bridleways, walkways or subways. It is also proposed that the scheme will not cover the sale of cars on the highway.
- 3.6 It is considered that street trading consents should be determined by appropriately authorised officers rather than just the licensing manager to build resilience in to the scheme.
- 3.7 The revised street trade consent scheme is attached as Appendix 1.

### **4. Public Consultation**

- 4.1 Public consultation on the redrafted street trading scheme opened on 26<sup>th</sup> July 2011 and closed on 12<sup>th</sup> August 2011.
- 4.2 The redrafted street trading scheme was made available on the Wiltshire Council website.
- 4.3 Notice of the consultation was sent to:
- Area boards
  - Town and parish councils
  - All Wiltshire Council councillors

- Wiltshire Police
- Wiltshire Fire and Rescue
- Wiltshire Farmers Markets Association
- The Highways Agency
- The Freight Transport Association
- The Road Haulers Association
- The Wiltshire and Swindon Freight Quality Partnership

4.4 There was a low rate of response to the public consultation; we received response from four town/parish councils and three members of the public.

## **5. Issues Raised by Public Consultation**

5.1 The only remaining concern from the public was the length of the document and the perception of the bureaucracy involved when applying for consent. It is proposed to produce a simplified guide to aid our customers through the application process.

5.2 The responses from the town/parish councils were all positive in nature and confirmed that the changes made to the draft scheme further to the first public consultation and the Licensing Committee on the 5<sup>th</sup> of April 2011 had addressed their original concerns.

## **6. Further Issues**

### Overlap with the department of neighbourhoods and planning

6.1 The licensing team have collaborated with neighbourhood services to produce an integrated and co-ordinated street trading scheme.

6.2 There is considerable overlap between the street trading scheme and other activities controlled by the department of neighbourhoods and planning as the highways authority, such as cars for sale on the street, and the placing of tables and chairs on the highway. These activities have been removed from the redrafted scheme to remove the duplication.

6.3 There are detailed issues which need to be resolved, for example parking waivers for burger vans which hold Street Trading Consents for trading in pedestrianised streets. An agreement with parking services will be made prior to the implementation of the scheme to address this issue.

## **7. Environmental Impact**

7.1 By consenting street trading and implementing standard conditions the areas located around such traders will be maintained in a clean and litter free condition and provide control of the numbers of traders in any one area.

7.2 Refusing to consent highway lay-bys which are inappropriate for street trading would have a positive environmental impact.



## **8. Equality and Diversity**

- 8.1 The public consultation was fully compliant with the principles for consultation outlined in the Wiltshire Compact.

## **9. Risk Assessment**

- 9.1 Failure to introduce a single consistent scheme across Wiltshire will result in the continuation of different schemes dependant on which former district council area traders are operating, which represents a reputational risk to the council, and may present an opportunity for challenge to the authority.

## **10. Financial Implications**

- 10.1 The fee levels set will ensure that the street trade consent scheme is a cost neutral service.

## **11. Legal Implications**

- 11.1 The proposed additional exemptions may mean the council is favouring one type of street trading at the expense of another.
- 11.2 Although street trading fees can be calculated to take market forces into account, legal judgements have shown that a council cannot use a street trading scheme to generate income but only to cover the reasonable costs of operating the scheme.

## **12. Next Steps**

- 12.1 Following the Licensing Committee's consideration of the revised street trading scheme and results of the second public consultation the scheme needs approval by council at its meeting of the 8<sup>th</sup> November 2011.

## **13. Conclusion**

- 13.1 The recent two week consultation exercise has prompted positive response from both the town and parish council's. The revised scheme has addressed all the major concerns raised by the first public consultation and the licensing committee. The revised scheme addresses areas of duplication and cross over with other teams within Wiltshire Council.

---

## **Background Papers**

Part III, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982

## **Appendices**

Appendix 1: The Final draft street trading consent scheme

This page is intentionally left blank

## **REVISED DRAFT Harmonised Street Trading Scheme**

---

### **Controlling the sale of goods in the Wiltshire Council area.**

**All streets in Wiltshire have been designated as consent streets. It is illegal to trade in a consent street without first obtaining a Street Trading Consent from the council.**

## **Guidelines**

### **How to apply for a Street Trading Consent**

## Contents

## Glossary

**The council.** Means Wiltshire Council.

**The applicant.** The trader who has submitted an application for a Street Trading Consent.

**Consent Holder.** An individual that holds a Street Trading Consent.

**Trading area.** All street traders in town centres should trade in an area not exceeding 4 metres by 3 metres. This is known as the trading area. The pitch size for traders outside of town centres will be decided on a case by case basis at the discretion of the Authorised officer.

**Street trading.** The selling, exposing or offering of articles for sale in a street, excluding the exemptions listed in the legislation and on pages 5 to 6 of this policy.

**A Street.** Any area which the public can access without payment, including private land. This does not include privately run shopping centres.

**Consent street.** It is illegal to trade without first obtaining a Street Trading Consent from the council.

**Street Trading Consent.** A permission to trade, which is granted by a council subject to conditions and the payment of a fee.

**Block Street Trading Consent.** One Street Trading Consent issued to an individual who organises a street trading event with five or more traders. The holder of a Block Street Trading Consent is responsible for all individual trading activities.

**A roundsman.** An individual who visits a 'round' of customers and delivers the orders of those customers, for example a milkman. Ice-cream vans are not classed as roundsmen.

**A pedlar.** To operate legally as a pedlar you must

- keep moving, stopping only to serve customers at their request
- move from place to place and not circulate within the same area
- carry all goods for sale and not use a trolley or stall
- hold a valid pedlar's certificate, issued by a Chief Constable of Police.

**Authorised officer.** An officer employed by Wiltshire Council and authorised by the council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

**Licensing Sub-Committee.** Elected Wiltshire councillors who have received special training on licensing matters. The Licensing Sub-Committee is supported by a clerk and a solicitor and meets on a regular basis. Sub-Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature. The role of the Licensing Sub-Committee is to consider any appeals against decisions by Authorised officers.

**The Sub-Committee.** The Licensing Sub-Committee.

**A town.** A location that has a town council as opposed to a parish council.

**Town trader.** A street trader within the boundaries of a town council area.

### **Purpose**

Wiltshire Council's street trading policy aims to:

- create a street trading environment that complements premises based trading
- promote fairness and consistency across the county
- improve the local environment
- be sensitive to the needs and concerns of residents
- involve local communities in street trading decisions
- control street trading through a fair and proportionate enforcement procedure

### **What is street trading?**

Street trading is selling, exposing or offering articles for sale in a street.

This includes:

- trading from mobile and static structures, including kiosks
- the sale of food and drink
- ice-cream vans
- mobile artists and musicians who sell their work on the street
- the sale of Christmas trees and other festive items

This does not include:

- the contractual sign up of gas, electricity of other domestic services
- subscriptions to motor breakdown organizations
- handing out promotional literature for goods, services or venues.

### **Exempted street trading activities**

Some types of street trading are legally exempt from the need to obtain a Street Trading Consent.

A Street Trading Consent is **not required** if you are:

- a pedlar with a valid pedlar's certificate issued by a chief constable of police
- trading in a charter market or a statutory market
- trading in a trunk road picnic area under the Highways Act 1980
- trading as a newsvendor within a maximum area of 0.25 square metres and only sell newspapers and periodicals
- trading as a roundsman
- undertaking a permitted street collection (A separate Street collection permit will be needed from Wiltshire Council for this activity)
- trading on premises used as a petrol station or on the street adjoining premises used as a petrol station and you own the shop or petrol station
- trading in a kiosk placed on a highway under the Highways Act 1980
- operating refreshment facilities under the Highways Act 1980.

As a matter of Council policy a Street Trading Consent will **not** be required for the following activities:

- trading on private land (including land owned, leased or maintained by a town/parish council) where this is **not** a road, road lay-by, car-park or industrial estate with public access or within 10 metres of any road, road lay-by, car-park or industrial estate with public access
- trading in a market run by Wiltshire Council
- trading in a market run by a town/parish council
- trading from a motorised ice-cream van that keeps moving from street to street not stopping in one place for longer than fifteen minutes
- fetes, carnivals or similar community based and run events, for example Christmas lights switch-on events
- non-commercial, community or charitable events where the profits are not used for private gain or are wholly passed to a charity or political/ educational organisation or otherwise not for private gain.

- sales of articles by householders on land within the curtilage of their property, for example garage sales
- goods from working farms or smallholdings sold at the premises where they were produced
- trading in privately run shopping centres or *covered mall walkways, for example Emery Gate and Borough Parade in Chippenham and the Martingate centre in Corsham*
- *trading as part of a travelling fair where permission for the event has already been granted by the Wiltshire Council*
- *pavement cafes where payment takes place outside (a Highway Amenity Licence will be required for this activity)*
- *farmers markets organised by the Wiltshire Farmers Market Association.*

### **What is a street?**

A street is any area which the public can access without payment, including private land. This does not include privately run shopping centres.

**This street trading policy covers all streets in Wiltshire. All streets in Wiltshire have been designated as consent streets.**

A Street Trading Consent is required to trade in the following locations:

- roads and walkways
- lay-bys and verges
- footpaths
- car-parks
- residential streets
- industrial estates
- any other publically controlled highway or land owned, leased or maintained by Wiltshire Council
- unenclosed land within 10 metres of any of the above.

### **What is a Street Trading Consent?**

A Street Trading Consent is a permission to trade. It is granted by Wiltshire Council subject to conditions and usually involves the payment of a fee.

It can be withdrawn at any time or not renewed if conditions are not complied with or the required fee is not paid.

A Street Trading Consent is specific to the person it is issued to and is non-transferable.

## **Who can apply for a Street Trading Consent?**

To apply for a Street Trading Consent **you must be:**

- over the age of 17
- a named individual (two people can apply jointly on the same consent). A company or body corporate can apply for a Street Trading Consent, but it must be issued to a named individual.
- legally entitled to live and work in the UK.

A Street Trading Consent **cannot be issued:**

- to trade on a highway controlled by the Highways Agency (at present the M4, A419, A36 and A303) without the permission of the Highways Agency
- for any trading in a highway to which a control order under section 7 of the Local Government (Miscellaneous Provisions) Act 1976 is in force, other than trading to which the control order does not apply.

## **Prohibited goods**

A Street Trading Consent will **not** normally be granted for the sale of the following items:

- Alcohol except:
  - sales of mulled wine and similar at street fairs or community events. No sale will be permitted to anyone under the age of 18.
  - for consumption with a sit down meal at the premises.

Note that any sale of alcohol will require a separate permission under the Licensing Act 2003.

- Firearms and replica firearms
- Knives
- Offensive weapons and replica weapons
- Tobacco products
- Fireworks
- Articles that would typically be sold in sex shops
- Animals



## **Types of Street Trading Consents**

Wiltshire Council will accept applications for the following types of street trading consents:

- **Annual Street Trading Consent.** Consent to trade on all days of the year.
- **Daily Street Trading Consent.** Consent to trade for single days, a number of days or a specific day for the year, including bank holidays where these fall on the days included in the consent. For example trading for a full week once a year, on all Mondays for one month, or all Saturdays throughout the year. The council charges a higher fee for consent to trade on Saturdays.
- **Block Street Trading Consent.** Consent for organisers of street trading events with five or more traders. The event organiser in receipt of a Block Street Trading Consent is responsible for all individual trading activities and must ensure that street traders at their event comply with the Standard Conditions and any Additional Conditions. A copy of the Standard Conditions is available at Appendix 1. Regular event organisers can apply Block Street Trading Consents on an annual basis for up to ten events per year.

The size of the trading area will be decided on an individual basis at the discretion of council officers. The size of the trading area will be specified on the Street Trading Consent.

## **Procedure for determining applications for Street Trading Consents**

### **How to submit the application**

An application for a Street Trading Consent must be made to Wiltshire Council **in writing**.

To apply for a Street Trading Consent you need to submit the following:

- A completed and signed Street Trading Application Form
- A non-refundable deposit of 10% of the full fee
- 3 copies of a map of at least 1:1250 scale. This should clearly identify the proposed site position by marking the site boundary with a red line.
- Written permission from the land-owner if you wish to trade on private land.

- If you intend to sell food, you must demonstrate that you are registered with the Wiltshire Council Food Safety Team, or another local authority. If you are already registered with another local authority then you will not need to register with Wiltshire Council, but you will need to provide proof of this registration. If you are not currently registered, you should complete a separate Application to Register a Food Business Establishment Form **at least 28 days before you apply for a street trading consent.**

First time applications for Annual and Daily Street Trading Consents will take a **maximum of 60 days** to be determined.

### **Consultation on applications**

Officers will carry out a consultation process with all interested persons and groups before a street trading application is considered.

This will include:

- Wiltshire Council environmental protection, food and health and safety team, planning department, neighbourhood services (including the parking operations manager and highway enforcement officers) and trading standards
- The appropriate town or parish council
- Wiltshire Police
- Wiltshire Fire and Rescue Service
- Ward Councillors
- Members of the public
- The land owner if you are applying to trade on private land
- The local Chamber of Commerce
- Local businesses

Written observations and recommendations will be taken into consideration when the application is determined.

**Full consultation will not take place on applications for Block Street Trading Consents, although if necessary the Authorised officer may informally approach any of the consultees.**

### **Criteria for determining applications**

The Authorised officer will assess applications for Street Trading Consents against the following criteria:

- **Site safety.** The location should not present a substantial risk to the public in terms of road safety, obstruction or fire hazard. Observations from council officers will be taken into consideration.
- **Public order.** The street trading activity should not present a risk to public order in the locality in which it is situated. Observations from Wiltshire police and council officers will be taken into consideration.
- **Avoidance of nuisance.** The street trading activity should not present a substantial risk of nuisance from noise, smells, fumes or the discharge of fluids to households or businesses in the vicinity of the proposed street trading site. Observations from council officers, residents and businesses will be taken into consideration.
- **Consultees' observations.** Consideration will be given to written objections from consultees. Objections and recommendations will be assessed by the Authorised officer for reasonableness and appropriateness before they are taken into consideration.
- **Permitted trading hours.** In town centres street trading hours will normally mirror those of shops in the immediate vicinity. However, the council will consider each application on its merits before agreeing permitted trading times. The council retains the right to specify permitted trading hours that are less than those applied for. Any trading involving hot food between 11pm and 5 am will also require a separate application under the Licensing Act 2003.
- **Planning Permission.** A Street Trading Consent will only be issued if planning permission has been granted or the council is satisfied that planning permission is not required. Observations from Wiltshire Council planning officers will be taken into consideration
- **Suitability of the applicant.** The council may take relevant unspent convictions, complaints received about the applicant's previous street trading activity and any previous revocation or surrender of a Street Trading Consent into account.
- **Proximity to schools and colleges.** No Street Trading Consents will be granted for trading at locations within a 200 metre walk using the public highway of a school or sixth form college, unless otherwise agreed in writing by Wiltshire Council.

Equal weight will be applied to all criteria.

## **Objections**

The consultees listed will be asked to respond in writing **within 30 days**.

Officers will assess the reasonableness and appropriateness of all objections before they are taken into consideration.

## **How applications will be determined**

All applications will be determined by the Authorised officer acting on delegated authority.

Officers will evaluate applications against the criteria and then consider all reasonable and appropriate objections. Reasonable and appropriate objections are those that relate to the criteria and aims of this street trading policy.

The officer will approve the application if it:

- meets the criteria and
- there are no reasonable and appropriate objections.

If the application:

- does not meet the criteria, or
- there are reasonable and appropriate objections

the officer may contact the applicant and objectors to attempt to resolve the potential reasons for refusal.

The officer, applicant and objectors may discuss:

- changes that could be made to the proposed location, goods or trading hours and
- additional conditions that could be introduced.

If the applicant refuses the offer of a meeting the officer will either introduce additional conditions or refuse the application.

If the objections and failure to meet scheme criteria **can** be resolved by changing the application and/or introducing additional conditions the officer will **approve the application**.

If the objections and failure to meet scheme criteria **cannot** be resolved by making changes to the application or introducing additional conditions the officer will **refuse** the application.

## **Approval of applications**

The applicant will be advised by letter that their application has been successful and they **need to accept the offer of a Street Trading Consent and make a payment within 21 days**. The payment for an annual consent can be given in a maximum of four equal instalments.

After that time a letter will be sent to the applicant reminding them of the need to make a payment.

If the fee is still not received within five working days the offer will lapse and the applicant will need to make a new application to the council and pay another ten percent deposit.

**A Street Trading Consent will not be issued until the street trading fee has been paid in full.**

Applications may be approved subject to additional conditions. **These additional conditions form part of the Street Trading Consent and must be complied with at all times.**

## **Refusal of applications**

Where the council refuses an application the applicant will be informed **in writing** of the reasons for not granting the application.

**The ten percent deposit is non-refundable and will not be refunded to the applicant if their application is refused.**

A waiting list will be kept in cases where an application has been refused where another trader is already trading in the location applied for.

Applicants who feel aggrieved by the officer's decision to refuse an application or to introduce additional conditions may appeal to the Licensing Sub-Committee. Please see '**Appeal to the Licensing Sub-Committee**' for more details.

**Note that trading will not be permitted during the appeal period when an application has been refused and can only take place within the conditions of any street trading consent that has already been granted where the appeal relates to conditions that have been imposed.**

**There is no right of appeal to the Magistrates Court in any circumstances.**

A person aggrieved by a decision of the Licensing Sub-Committee may make an application to the high court for judicial review of the decision. For further information on potential grounds for judicial review applicants should seek advice from an independent solicitor as soon as they receive notice of the decision.

## **Issue of Street Trading Consents**

Where approved, before the Street Trading Consent is issued the applicant will need to provide:

- An original copy of a certificate of insurance covering the street trading activity for third party and public liability risks up to £5 million
- Two passport photos- one for their Street Trader Identity Badge and one for the council's street trading records.

The applicant will also need to read and sign a copy of the Street Trading Consent, including the Standard Conditions and any additional conditions.

The Street Trading Consent will specify the location, times and days for which it is valid and the type of goods to be sold. **Consent Holders must follow the terms of their Street Trading Consent. Failure to do so may result in the Street Trading Consent being revoked or not renewed, or in a prosecution.**

All Street Trading Consents are issued subject to a set of Standard Conditions. The council may attach additional conditions to the Standard Conditions. Any appeal against the additional conditions will be dealt with by the Licensing Sub-Committee. Please see '[\*\*Appeal to the Licensing Sub-Committee\*\*](#)' for more details.

All conditions attached to the Street Trading Consent **must be complied with at all times. Failure to comply with either Standard Conditions or additional conditions may lead to the consent being revoked or not renewed.** Consent Holders are requested to familiarise themselves and their employees with the conditions attached to their Street Trading Consent.

**The granting of a Street Trading Consent does not in any circumstances exempt the Consent Holder from the need to obtain any other licence or permission that may be required or from obligation to comply with all other general or local legislation. There may be additional costs involved in obtaining these additional licences or complying with other legal requirements.**

**It is the obligation of the Consent Holder to familiarise themselves and their employees with this legislation. The council may revoke a Street Trading Consent for any failure to comply with any other general or local legislation.**

A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent, but it may be surrendered to the council at any time.

**The council reserves the right to revoke a Street Trading Consent at any time without compensation, although some fees will be reimbursed.**

If the Consent Holder wishes to alter any of the terms of the Street Trading Consent, an Application to Alter Terms and Conditions must be submitted to the council in

writing. Any changes to the terms and conditions of a Street Trading Consent will be subject to the payment of an administration fee.

### **Reimbursement of fees**

Fees will be reimbursed to Consent Holders where they cease to trade and surrender their Street Trading Consent to the council or have their Street Trading Consent revoked by the council.

Any refunds will be made from the date that:

- the Street Trading Consent is surrendered to Wiltshire Council
- the Street Trading Consent is revoked by Wiltshire Council.

Refunds will be based on the number of complete months remaining minus the current administration fee.

### **Business rate payers**

Consent Holders who can demonstrate that they have paid business rates will be eligible for a refund of part of their street trading fees based on the amount of business rates paid, not the rateable value of the business. This refund will be calculated on the following formula:

The street trading fees paid by the Consent Holder minus the business rates paid by the Consent Holder **less** the current administration fee.

Where the Consent Holder has paid more in business rates than in street trading fees, the council will refund the whole of the street trading fees less the current administration fee.

### **Appeal to the Licensing Sub-Committee**

The role of the Licensing Sub-Committee (the Sub-Committee) is to consider any appeals against decisions by the officer.

The applicant can appeal to the Licensing Sub-Committee where the officer has decided to:

- refuse an application
- introduce additional conditions or
- revoke a Street Trading Consent.

**The right to appeal to the Licensing Sub-Committee does not apply if the Street Trading Consent has been revoked because the Consent Holder has not paid street trading fees.**

The Licensing Sub-Committee consists of elected Wiltshire councillors who have received special training in licensing issues. The Sub-Committee is supported by a clerk and a solicitor and meets on a regular basis. Committee meetings are normally held in public unless there are matters to be considered that are of a confidential nature.

Once arrangements have been made for the appeal to be heard by the Sub-Committee, the applicant will be informed in writing of the time, date and place where the appeal will be heard. The council will endeavour to hear all appeals as quickly as possible.

The applicant will be expected to attend the hearing and can be represented by a solicitor or supported by a friend or colleague. The Sub-Committee will follow a set procedure. The applicant will be notified of this procedure before the hearing, along with any officer reports that will be presented at the hearing.

In assessing the manager's decision the Sub-Committee will consider representations from the applicant and the officer. Both the applicant and the officer may call witnesses. Supporting documentation may be submitted to the Sub-Committee in advance of the hearing for consideration.

The Sub-Committee will consider all the evidence presented during the hearing and may ask questions of the applicant and manager.

After hearing the evidence presented to it the Sub-Committee will retire and come to a decision on the appeal. When a decision has been reached the Sub-Committee will inform the applicant of their decision and the reasons for reaching that decision.

The Sub-Committee's decision will be confirmed to the applicant **in writing** within 5 working days of the hearing.

The Licensing Sub-Committee will always strive to ensure that all persons get a proper and fair hearing by:

- considering each appeal on its merits
- using these guidelines to assess officer decisions to refuse the application or introduce additional conditions
- being impartial and balanced throughout the appeal
- ensuring that rules of natural justice are applied at all times
- giving the applicant and officer sufficient opportunity to present their case, ask questions of officers and members of the Sub-Committee and present information for consideration in support of their case.



## **Renewals**

All Street Trading Consents will be renewed automatically unless:

- there have been any complaints from members of the public, or
- concerns raised by consultees` or council officers, or
- consent conditions have been breached.

In these circumstances a full or revised application process may be used at the discretion of the officer.

If a renewal offer is not accepted or payment has not been made within 21 days, this offer will be withdrawn and the trader will need to make a new application. Priority will be given to the next relevant person on the waiting list.

## **Enforcement**

**The council may revoke a Street Trading Consent at any time and shall not be liable to pay compensation to the Consent Holder, although some fees will be reimbursed. Please see Issue of Street Trading Consents for more details on the reimbursement of fees.**

The following principles will be applied to all enforcement action:

- **Openness and transparency.** Council officers will discuss all problems, including failure to comply with conditions, clearly and in plain language. The council will be open about how it enforces street trading legislation and will inform interested parties of what they can expect from the enforcement procedure.
- **Consistency.** Council officers will seek to take a similar approach in similar circumstances and will carry out their duties in a fair and equitable manner.
- **Proportionality.** The council will ensure that the action taken is proportionate to the risks involved or the seriousness of the breach of conditions.
- **Helpfulness.** The council will provide advice on the relevant legislation and assist with compliance. Council officers will provide a courteous and efficient service.

The legislation in relation to offences is as follows:

'A person who engages in street trading in a consent street without being authorised to do so, or being authorised by a consent, trades in that street

- (i) from a van, cart, barrow or other vehicle, or

(ii) from a portable stall,

without first having been granted permission to do or so contravenes a condition imposed shall be guilty of an offence.

It shall be a defence for a person charged with such an offence to prove that he took all reasonable precautions and exercised due diligence to avoid commission of the offence.

Any person who in connection with an application for a consent makes a false statement which he knows to be false in any material respect, or which he does not have reason to believe to be true, shall be guilty of an offence.

A person guilty of an offence shall be liable on summary conviction to a fine. The maximum fine is level 3 on the standard scale, currently £1000.'

## **Appendices**

Appendix 1: Standard conditions for all Consent Holders

Appendix 2: Street trading fees

Appendix 3: List of Town councils

## **Appendix 1: Standard conditions for all Consent Holders**

### **General conditions for all traders**

1. The Street Trading Consent Plate shall be displayed at all times and must be clearly visible to customers. The Consent Holder shall wear the Street Trader Identity Badge during all trading hours.
2. Trading may only take place on the days and during the times specified on the Street Trading Consent, unless special authorisation has been given by Wiltshire Council in writing.
3. The Consent Holder shall pay all Street Trading Consent fees in advance.
4. The Consent Holder shall at all times maintain a valid insurance policy covering the street trading activity for third party and public liability risks up to £5 million. The Consent Holder must produce a valid certificate for this insurance at any time on the request of an authorised council officer.
5. Trading may only take place when the Consent Holder is at the trading area for the majority of the time on each trading day.

6. The Consent Holder must have written permission from the owner of the land to trade on private land which is not part of the public highway.
7. Consent Holders shall not trade outside of the designated trading area.
8. The trading area must be located:
  - In the general area specified in the street trading consent
  - At least 3 metres away from any ground floor window, door or other opening of any premises, except where those premises are occupied by the person holding the street trading consent unless agreed in writing by Wiltshire Council
  - At a place which does not obstruct access to any other premises by vehicles or pedestrians
  - At any exact location specified by an officer of the Licensing Authority.
9. The siting of the street trading vehicle or stall shall not impede the access of emergency vehicles. The street trading activity shall not obstruct any street furniture, signs or lighting.
10. All activities of storage and display and any temporary structure such as a stall or tables and chairs, must be contained within the trading area specified on the Street Trading Consent.
11. The Consent Holder must not cause or allow anyone to cause damage to the street surface, street furniture, lighting and landscaping within the trading area and will be responsible for making good any such damage.
12. The Consent Holder will vacate the pitch upon request ,and for as long as necessary, to enable highway inspections, repairs, street works and highway improvements to be undertaken, or if the pitch is required to facilitate temporary traffic and/ or pedestrian management arrangements. **No compensation will be paid to the Consent Holder for lost trading days as a result of the above or for any loss of business as a result of unforeseen occurrences on the highway network.**
13. A clear pedestrian route of at least 2 metres shall be maintained along the highway, adjacent to the building line. A minimum distance of 2 metres width should be kept between the edge of the trafficked route and the street trading unit boundary. The street trading activity shall not impede any existing driver or pedestrian sight lines.
14. The Consent Holder shall not do anything that is likely to cause danger, nuisance, annoyance, obstruction, damage or inconvenience to the council,

adjacent/ neighbouring premises, road users or members of the public. This includes noise, smoke, fume or odour.

15. A rubbish bin must be provided in the Trading Area where goods are sold that are for immediate use or consumption. Waste must not be placed in litter bins provided for public use. Any waste arising from the trading activity within 100m of the stall in any direction must be removed and properly disposed of at the end of each trading day.
16. Consent Holders and their employees should have access to suitable and sufficient sanitary accommodation at all trading times.
17. No live or recorded music shall be played at any time.
18. Advertisements or other notices must not be placed outside of the trading area.
19. The use of generators is not permitted, unless permission has been specifically granted by an authorised council officer.
20. Consent Holders and their employees shall not trade under the influence of any illegal or intoxicating substance.
21. **A Street Trading Consent does not relieve the Consent Holder, or any person employed to work on the stall, of any obligation to comply with all other general or local legislation, such as the Road Traffic Act, Highways Act 1980, the Food Safety Act 1990, the Town and County Planning Acts, the Control of Pollution Act 1974, the Environmental Protection Act 1990, the Licensing Act 2003. It is the obligation of the Consent Holder to familiarise themselves and their employees with this legislation. The Council may revoke a Street Trading Consent for any failure to comply with general or local legislation.**
22. **A Consent Holder shall not assign, underlet or part with his interest or possession of a Street Trading Consent.**

## **Appendix 2: Street trading fees**

### **Town traders**

<b>Type of Street Trading Consent</b>	<b>Fee</b>
<b>Annual Street Trading Consent</b> – all days of the year, including all bank holidays.	£ 2800
<b>Daily Street Trading Consent- Sunday to Friday</b> , including bank holidays where	£ 30 per day

these fall on the days included in the consent.	
<b>Daily Street Trading Consent-Saturday.</b>	£ 40 per day
<b>Block Street Trading Consent</b>	£ 40 per day

**All other traders**

<b>Type of Street Trading Consent</b>	<b>Fee</b>
<b>Annual Street Trading Consent</b> – all days of the year, including all bank holidays.	£1400
<b>Daily Street Trading Consent</b> - all week days including bank holidays	£15 per day
<b>Block Street Trading Consent</b>	£40 per day

Fees can be paid by cheque, debit or credit card:

- Online at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)
- By telephone on .....
- In person to the Licensing Team at your local Wiltshire Council office

**Appendix 3; list of Town Councils**

Amesbury Bradford on Avon Calne Chippenham Corsham Cricklade Devizes Durrington Ludgershall Malmesbury	Marlborough Melksham Salisbury City Tidworth Trowbridge Warminster Westbury Wilton Wootton Bassett
---	--



WILTSHIRE COUNCIL

LICENSING COMMITTEE

7 SEPTEMBER 2011

---

**LICENSING ACT 2003**  
**SELLING ALCOHOL RESPONSIBLY – AGE VERIFICATION SCHEMES**

**Executive Summary**

This report has been prepared in response to a request from Cllr Mark Griffiths at the Licensing Committee of 5<sup>th</sup> April 2011 to consider the implementation of the Touch2id proof-of-age identification scheme in licensed premises across Wiltshire.

The report provides background and context to the age verification requirement under the Licensing Act in terms of the sale and supply of alcohol and considers the implications of adopting any single age verification system.

**Recommendations**

**It is recommended:**

That the Licensing Committee note this report and agree to the amended advice to Licensees.

**Reason for Proposal**

To ensure that licensees are aware of their mandatory obligations for age verification and to advise them of the nature and types of compliant schemes there are available to adopt.

Author: Mandy Bradley: Service Director, Public Protection

Corporate Director: Maggie Rae, Director of Public Health and Public Protection

Contact Details: [mandy.bradley@wiltshire.gov.uk](mailto:mandy.bradley@wiltshire.gov.uk) 01225 718290

## 1. **Purpose of Report**

1.1 This report has been prepared in response to a request from Councillor Mark Griffiths at the 5<sup>th</sup> April 2011 Licensing Committee that the Committee considers the implementation of the Touch2id proof-of-age identification system in licensed premises across Wiltshire.

1.2 The report has also been prepared in response to a proposed notice of motion (subsequently withdrawn) also received from Cllr Griffiths to the 12<sup>th</sup> July Council meeting:

“That Wiltshire Council, specifically the Licensing Department, when in future writing to or having contact with licensed establishments use the term “preferred” when referring to Touch2id as a form of age identification”.

1.3 The purpose of the report is to provide background and context to the age verification requirement under the Licensing Act 2003 in terms of the sale and supply of alcohol and considers the implications of adopting any single (or ‘preferred’) age verification system.

## 2. **Background**

2.1 In October 2010 the Home Office introduced five new mandatory licensing conditions which relate to all premises licenses issued under the Licensing Act 2003. One of these mandatory conditions is that the licence holder must ensure that an ‘age verification’ policy applies to the premises in relation to the sale or supply of alcohol. The purpose of this condition is to tighten the law regarding underage sales and supply of alcohol. Prior to this change there had been no specific condition relating to proof of age.

2.2 The legislation and guidance requires that age verification policies must, as a minimum, require individuals who appear to the licensee to be under the age of 18 to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark. The choice of ID is one for the consumer not the retailer or local authority.

2.3 The requirement for age verification has come about in response to national concern regarding underage drinking and is enforced by both the police for on-sales and Wiltshire Council (Trading Standards) for off-sales. Both agencies take this matter seriously and regularly conduct test purchasing to ensure that licensees are complying with their obligations. For example, one such operation undertaken in November 2010 for off-sale activity by Trading Standard officers resulted in 1 underage sale from 15 premises tested. A further off-sale test purchasing operation carried out in July and August 2011 resulted in 2 sales from 11 premises tested. Results from joint police and council test purchasing activities for on-sale premises are illustrated later in this report. Such intelligence is fed into the Licensing Tasking group – a multiagency partnership group that meets monthly to consider and tackle issues arising from licensed premises.



### **3. Age verification schemes**

- 3.1 Currently there are a number of commercial schemes that satisfy the mandatory criteria for age verification. The Retail of Alcohol Standards Group (RASG) promotes the use of Proof of Age Standards Scheme (PASS) cards which carry a photograph, date of birth and a hologram. Commercially known brands used under this scheme include Validate and CitizenCard. Other compliant forms of identification listed by the Home Office include photo driving licences and passports.

### **4. Touch2id**

- 4.1 The Touch2id scheme uses biometric technology and whilst does not carry photographic ID, date of birth or a holographic mark has Home Office approval. Details of this scheme can be viewed on the following website: <http://www.touch2id.co.uk>. The scheme negates the need for identification cards although proof of age is required when young people initially sign up to the scheme. The use of cards is replaced by biometric reading devices located in licensed premises, which does mean a financial outlay for licensees.
- 4.2 The Wiltshire Community Safety Partnership with other partners working to deliver the Wiltshire Alcohol Strategy initially supported a pilot of the Touch2id system. The trial covered Trowbridge but was extended to Melksham in autumn 2010. The lead partner for the Touch2id trial is Wiltshire Police, with the Wiltshire Council Youth Service taking a lead role on behalf of the Council.
- 4.3 Touch2id is a commercial product which is freely available on the open market. It was installed in 17 licensed premises in Trowbridge during December 2009 as part of the pilot and more recently in 4 licensed premises in the Melksham area of Wiltshire. Some of the original reading devices were moved from licensed premises in Trowbridge and transferred to premises in Melksham. It is understood that the sign up process of young people in Melksham was part funded by the local Area Board.
- 4.4 There has been a mixed response to the system by the licensed trade and young people in Trowbridge and Melksham, and to date no formal evaluation of the pilot has been completed. In addition there has been no evaluation of this product comparing it with other age verification schemes.
- 4.5 Currently the only intelligence we have as to the effectiveness of the scheme is through the on-sale test purchasing activities led by the police in the Trowbridge area where a 50% failure rate (4 sales from 8 premises) was recorded. This was in premises both with and without the Touch2id system - an indication that any form of age verification system is only as effective as its use and management. In these cases the licensee was unable to explain why their age verification policy had failed.

### **5. The Use of the Term 'Preferred' Proof-of-age Scheme**

- 5.1 There has been a suggestion that Wiltshire Council promotes the use of Touch2id as its preferred scheme of age verification.

5.2 It is the officer's view that it is the responsibility of the licensed business to demonstrate they have a robust proof of age policy, and not the role of Wiltshire Council to recommend any particular scheme. As mentioned above there are a number of compliant schemes on the market and the use of the term 'preferred' raises a number of concerns which are outlined in the risk and legal implications below.

## **6. Risk Assessment**

6.1 One of the objectives of Wiltshire Council is to support the economy in a fair trading environment, one where consumers (licensees and customers) have freedom of choice in complying with the law. There is a risk that the endorsement of one product by Wiltshire Council over another will compromise this objective and give commercial advantage. In addition Touch2id requires some capital investment by the licensee that is not required for other schemes. Such a risk carries possible reputational and financial risks.

6.2 Other schemes are more flexible in their application. For example CitizenCard can be used for the sale of other age-restricted goods such as cigarettes, fireworks, knives, computer games, DVDs, videos etc all of which have varying age restrictions.

6.3. The scheme has yet to be evaluated and indications to date show both a limited take up and use. Whilst the effectiveness of the product is not doubted there is a reputational risk of adopting schemes that have not been properly and rigorously evaluated.

6.4. There is a risk that the promotion of one product over others fetters the discretion of the Licensing Authority in its enforcement activities which require proportionality and impartiality in application. Enforcement officers must work with businesses in a fair, clear, open and transparent way in accordance with the recently adopted Public Protection Enforcement policy and national enforcement concordat contained within it.

## **7. Legal Implications**

7.1 The advice received from Legal Services confirms the mandatory requirement for an age verification policy. The legislation does not define the scope of this requirement but the Home Office does offer examples of compliant methods by way of guidance. However there is no requirement that either the policy or the system used must be approved by the Local Authority. Such a move would compromise the impartiality of the Council and Licensing Authority. Similarly, if the Local Authority were to seek to impose further conditions specifying a particular type of age verification system this could lead to an appeal on the basis that this is not necessary to promote the licensing objectives. Such an appeal may prove hard to defend.

7.2 There are also dangers in recommending a particular system to applicants as the Council's preferred system over and above any others that also meet the condition requirements such as Validate and Citizencard. Such a practice may risk a claim from other providers that the Council is unfairly favouring one scheme over another, similarly compromising the impartiality of the Council.

## **8. Financial Implications**

8.1 There are no on-going financial implications. There are however financial implications in defending challenges and appeals as highlighted in the legal implications above.

## **9. Environmental Impact**

9.1 None.

## **10. Equality and Diversity**

10.1 None

## **11. Conclusion and Way Forward**

11.1 Since October 2010 there has been a mandatory requirement for licensees to have in place a robust age verification scheme for the sell and supply of alcohol to persons under the age of 18. There are a number of schemes on the market that are compliant with Home Office guidance including Touch2id.

11.2 The Licensing Service has taken legal advice regarding the promotion of a single commercial scheme across the authority area and has been informed that this carries a number of reputational and financial risks as outlined above.

11.3 The Licensing service takes a proactive role in advising licensees of the age verification requirements but accepts that it can always improve its service to customers. The service has therefore reviewed its guidance given to licensees making the requirements of these mandatory obligations clear but also advising of all possible compliant schemes. This includes the Touch2id scheme but does not advocate that this is a preferred scheme. Such advice will be included in any written guidance to licensees and in information on our website. This advice is given in Appendix 1.

11.4 The Licensing Committee are now asked to note this report and agree to the amended advice to licensees.

---

**Background Papers: None**

**Appendices: Appendix 1: Advice to Licensees**

## **Age verification**

The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

This must as a minimum require individuals who appear to the responsible person to be under the age of 18 years of age to produce on request (before being served alcohol) identification bearing their photograph, date of birth, and a holographic mark.

Examples of acceptable ID include:

- A form of ID which meet the criteria laid out above such as Touch2id
- Photo card driving licences
- Passports
- Proof of age cards bearing the PASS hologram (E.g. Validate or CitizenCard)

The premises licence holder or club premises certificate holder must ensure that staff (in particular staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy applied by the premises.

This condition does not exclude best practice schemes such as Challenge 21 or Challenge 25 which require individuals who appear to be under an age which is greater than 18 to provide ID.

WILTSHIRE COUNCIL

LICENSING COMMITTEE

7<sup>TH</sup> SEPTEMBER 2011

---

**PROPOSED AMENDMENTS TO HACKNEY CARRIAGE AND PRIVATE HIRE  
VEHICLE GUIDELINES**

**Executive Summary**

This report suggests amendments which should be made to the existing guidelines for hackney carriage/private hire vehicles in response to concerns expressed by the trade.

**Recommendations**

**It is recommended:**

- i. That the Licensing Committee agree to the proposed amendments to existing guidelines for hackney carriage/private hire vehicles with immediate effect.
- ii. Where minor amendments are necessary through legislative changes authority be given to the licensing manager to make those changes to the guidelines without recourse to the Licensing Committee.

**Reason for Proposal**

New guidelines for hackney carriage/private hire vehicles licensed by Wiltshire Council were agreed by the Licensing Committee at its meeting on 25<sup>th</sup> May 2010 and introduced from 1<sup>st</sup> October 2010. These guidelines are now nearly a year old and there has been some pressure from stakeholders to amend some of the existing guidelines.

Author: Jo Quartley, Public Protection Officer (Licensing), Public Protection.

Corporate Director: Maggie Rae, Director of Public Health and Public Protection.

Contact Details: jo.quartley@wiltshire.gov.uk tel: 01225 770271

## **1. Purpose of Report**

- 1.1 For the Licensing Committee to decide whether amendments should be made to the existing guidelines for hackney carriage/private hire vehicles.

## **2. Background**

- 2.1 Recent discussions have taken place between operators and internal stakeholders such as Passenger Transport Unit and Fleet Services, regarding the age limit of wheelchair accessible vehicles (WAV`s). Concerns have been expressed about the current age restriction of 5 years and it is proposed that the current age limit specified in the hackney carriage and private hire vehicle guidelines is amended from 5 to 7 years in respect of wheelchair accessible vehicles only.

The reasons for this are:

- Under the Disability Discrimination Act 1995, Wiltshire Council has a duty to promote the use of wheelchair accessible vehicles.
  - The cost of these specialist vehicles is significantly higher than non adapted vehicles.
  - Due to their specialist nature they tend to do less mileage than standard saloon vehicles.
- 2.2 It is also proposed that the current Private Hire Vehicle guidelines in relation to tinted windows are amended.

The guidelines currently state:

### **Windows**

Vehicles must meet the legal standards for light transmission through the front windscreen and front side windows. Rear windows and rear side windows must have a light transmission of at least 70%, irrespective of whether the vehicle was manufactured contrary to this standard. Documents must be provided for proof of light transmission when requested by the council. Limousines are excluded from the requirement relating to rear and rear side windows.

**(Note:** This standard is the same as the legal requirement for front side windows).

It is recommended that that wording is removed and replaced with the following:

- Tinted glass should conform to the legal requirements of the current Road Vehicle (Construction & Use) Regulations.

The same relaxation for tinted glass is not being considered for Hackney Carriages due to public safety issues because they are not pre booked and can be hailed in the street.

### **3. Consultation**

- 3.1 A letter was sent to all hackney carriage/private hire vehicle proprietors in Wiltshire as well as our internal stakeholders, Passenger Transport Unit and Fleet Services on 11<sup>th</sup> July 2011 regarding the proposal to amend the above guidelines and asking whether they agreed with these proposals .(Attached as appendix 1.)

In total 448 letters were sent, the Council received 65 responses. This represents approximately 15% response rate.

While the response rate is low it must be noted that the proposed changes only affect a minority of proprietors. Out of the 448 letters that were sent 65 of those were to proprietors who own wheelchair accessible vehicles and 125 were to proprietors who own private hire vehicles.

The responses were as follows:

Question 1 – Changing the age restriction on wheelchair accessible vehicles from less than 5 years of age to less than 7 years of age.

78% of respondents supported the proposed change.

Question 2 – Removing the existing guideline for private hire vehicles and replacing the wording in relation to tinted windows:

90% of respondents supported the proposed change.

- 3.2 Other minor general amendments to be made:

Inspection frequency and age policy

Due to duplication of vehicle inspections between licensing officers and fleet services officers we have been working together to come up with a solution that will benefit both the Council and vehicle proprietors by getting more effective inspections but not duplicating other officers work. It is proposed that vehicle inspections can be carried out by an authorised officer of the Council rather than solely licensing officers.

Wheelchair accessible vehicles

In the Anchorage section the proposed wording requires amending to read European Directive 76/115 EEC (as amended).

Written off vehicles

The wording in this guideline should be amended so as to allow the continued use of vehicles that have been written off in categories C & D which are legitimately and legally repairable.

Pre licensing guidelines for limousines

The documents required to be produced for licensing need to be updated from Single Vehicle Approval (SVA) certificate to Individual Vehicle Approval Scheme (IVA) certificate

This reflects a change in name of the certificate by VOSA.

The proposed amendments are summarised in appendix 2 which reflects the amended guidelines.

#### **4. Environmental Impact**

4.1 No significant impact.

#### **5. Equality and Diversity**

5.1 By extending the age at which a wheel chair accessible vehicle can be first licensed from 5 to 7 years it is hoped that proprietors will be encouraged to purchase and run such vehicles, thus increasing their availability to disabled users.

#### **6. Risk Assessment**

6.1 The proposed revisions will improve the general condition of the fleet, but a small number of proprietors may be disadvantaged by these amendments as they may have bought vehicles to comply with the old guidelines.

#### **7. Financial Implications**

7.1 None.

#### **8. Legal Implications**

8.1 The Local Government (Miscellaneous Provisions) Act 1976 requires the Council to be satisfied that a vehicle is: -

- Of a suitable type, size and design for use as a private hire vehicle;
- Not of such design and appearance as to make it likely to be confused with a hackney carriage;
- In suitable mechanical condition;
- Safe;
- Comfortable.

All of the above must be satisfied before a private hire/ hackney carriage vehicle licence may be granted. The main conditions will be enforceable by the Authorised Officer.



## **9. Conclusion**

9.1 It is recommended:

- That the Committee agree to the proposed amendments to existing guidelines for hackney carriage/private hire vehicles with immediate effect.
- Where minor amendments are necessary through legislative changes authority be given to the licensing manager to make those changes to the guidelines without recourse to the Licensing Committee.

## **Appendices**

1. Letter regarding proposed amendments sent to Stakeholders 11<sup>th</sup> July 2011- Form enclosed with letter for responses
2. Proposed amendments to existing guidelines.

## Appendix 1

### Proposal letter and form

11 July 2011

Licensing Team  
165 Bradley Road  
Trowbridge  
Wiltshire  
BA14 0RD

Our ref: jq9.6

Dear Proprietor

#### **Proposed changes to the Hackney Carriage/Private Hire Vehicle Guidelines**

Following recent discussions regarding the age limit of wheelchair accessible vehicles, it is being proposed that the current age limit specified in the hackney carriage and private hire vehicle guidelines is amended from 5 years to 7 years in respect of wheelchair accessible vehicles only.

The arguments for this are:

- Under the Disability Discrimination Act, Wiltshire Council has a duty to promote the use of wheelchair accessible vehicles.
- The cost of these specialist vehicles is significantly higher than normal vehicles.
- Due to their specialist nature they tend to do less mileage than normal vehicles.

It is also proposed that the Private Hire Vehicle guideline in relation to tinted windows (T12 – Windows) is removed and replaced with the following:

- Tinted glass should conform to the legal requirements of the current Road Vehicle (Construction & Use) regulations.

If you have a view on either of these proposals that you would like the Council to take in to consideration, please complete the attached form and return it to the office above within 21 days of the date of this letter.

All responses will be collated and put in to a committee report to be presented to the Licensing Committee in September 2011, where Councillors will be asked to make a decision on these proposals.

Yours sincerely



Jo Quartley  
Licensing Officer

Tel: 01225 776655  
Fax: 01225 770313  
E-mail: [licensingwest@wiltshire.gov.uk](mailto:licensingwest@wiltshire.gov.uk)

# Wiltshire Council

 Where everybody matters

## Proposed amendments to Hackney Carriage and Private Hire Vehicle Guidelines in the Wiltshire Council area

Your full name:- .....

Postal address:- .....

.....Postcode .....

Phone number .....Email address .....

### **Proposal 1 – Age limit for Wheelchair Accessible Vehicles**

1. It is proposed that the current age limit specified in the hackney carriage and private hire vehicle guidelines is amended from 5 years to 7 years in respect of wheelchair accessible vehicles only.

Do you agree with the proposal?

A. Yes	
B. No	

### **Proposal 2 – Remove Private Hire Vehicle Guideline T12**

2. It is also proposed that the Private Hire Vehicle guideline in relation to tinted windows (T12 – Windows) is removed and replaced with the following:

- Tinted glass should conform to the legal requirements of the current Road Vehicle (Construction & Use) regulations.

Do you agree with the proposal?

A. Yes	
B. No	

Please return this completed form to:-

Licensing Department  
Wiltshire Council  
165 Bradley Road  
Trowbridge  
Wiltshire  
BA14 0RD

## **Appendix 2**

### **Proposed Amendments to Existing Guidelines**

#### **Wheelchair accessible vehicles**

##### **Vehicle age**

On first application for a licence, only wheelchair accessible vehicles under seven years old from the date of first registration will be considered.

##### **Vehicle Type**

Prior to licensing, all new vehicles and equipment must undergo an initial inspection by a qualified and competent vehicle examiner nominated by the Council to ascertain the suitability of the vehicle, and to confirm the vehicle is fit for purpose. This will include the seating, the system and devices used to secure the wheelchair and occupant and the wheelchair access equipment. The applicant must provide the licensing authority with written confirmation from the examiner that the vehicle meets the required standard.

Following issue of the first licence your vehicle will be required to undergo a further inspection as above no later than six months in to your licence. This will then continue yearly whilst the vehicle is licensed.

A system for the effective anchoring and securing of wheelchairs shall be provided within the vehicle in all spaces designated as wheelchair spaces. The system and the devices used to secure a wheelchair to the vehicle shall comply with the relevant standards laid down in European Directive 76/115 EEC (as amended).

##### **P12 Windows**

Tinted glass shall conform to the legal requirements of the current Road Vehicle (Construction & Use) regulations.

##### **T3 & P3 Inspection frequency and age policy**

On first application for a licence, only vehicles under five years old from the date of first registration will be considered. Please see guideline T22 in relation to vehicle age for wheelchair accessible vehicles.

Prior to first application a conditions check will be carried out by a licensing officer before referral for a new MOT or compliance certificate, irrespective of the vehicles age.

From the date of the first licence being issued, an inspection will be carried out by an authorised officer of the Council, and an MOT or compliance certificate will be required on a six-monthly basis, irrespective of the vehicles age.

All existing licensed vehicles will be required to have a six-monthly inspection, carried out by an authorised officer of the Council and an MOT or compliance certificate, irrespective of the vehicles age.

## **T18 & P18 Written-off vehicles**

Vehicles that have been written off under Category A or B for insurance purposes will not be considered for licensing.

Vehicles written off under category C for insurance purposes will be considered on an individual basis by the licensing officer, subject to the following being carried out:

- Vehicle Identity Check (VIC) is carried out by VOSA and VIC Marker is removed from the DVLA vehicle record. Evidence of this will need to be provided.
- New MOT
- Vehicle inspection carried out by an authorised officer of the Council

Vehicles written off under category D for insurance purposes will be considered on an individual basis by the licensing officer, subject to the following being carried out:

- New MOT
- Vehicle inspection carried out by an authorised officer of the Council

Current licensed vehicles

Vehicles currently licensed when written off will be subject to the above provisions.

## **P33 Pre licensing guidelines for limousines**

The council will require the original documentation to be produced before an initial application for a vehicle licence can be considered:

---

Individual Vehicle Approval Scheme (IVA) certificate issued by VOSA.

This page is intentionally left blank