

AGENDA

Meeting: Licensing Committee
Place: Council Chamber, Bradley Road, Trowbridge
Date: Monday 6 February 2012
Time: 10.30 am

Please direct any enquiries on this Agenda to Anna Thurman, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718379 or email anna.thurman@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

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 (Chairman)

Substitutes:

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

AGENDA

1. **Apologies**

2. **Minutes** (*Pages 1 - 10*)

To confirm the minutes of the meeting held (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 no later than 5pm on Monday 30 January 2012.

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. **15.11.11 - Application for a Premises Licence - Chicoland, 3 Sidmouth Street, Devizes**

Northern Area

- 6.2. **27.09.11 - Application for a Premises Licence - 18 High Street, Wootton Bassett**
- 6.3. **25.10.11 - Application for Temporary Events Notices - Jax Landing, 1 Bath Road, Chippenham**
- 6.4. **03.11.11 - Application for a Premises Licence - 9 The Bridge, Chippenham**
- 6.5. **13.12.11 - Variation to a Premises Licence - Rudloe Hall Hotel, Rudloe, Corsham**
- 6.6. **05.01.12 - Review of a Premises Licence - The Borough Arms, 7 Oxford Street, Malmesbury**
- 6.7. **06.01.12 - Review of Premises Licence - The Guildhall Bar, 9 Oxford Street, Malmesbury**

Southern Area

Western Area

- 6.8. **14.11.11 - Application for a Premises Licence - The Glove Factory Café, Glove Factory Studios, Brook Lane, Holt, Trowbridge**
- 6.9. **21.11.11 - Review of a Premises Licence - The Courthouse, 2 Castle Street, Trowbridge**
- 6.10. **15.12.11 - Review of a Premises Licence - Feta Feast, 82 Market Place, Warminster**
- 6.11. **22.12.11 - Application for a Variation of a Premises Licence - Galaxy Cafe, 28 Roundstone Street, Trowbridge**

7. Sexual Entertainment Venues (Pages 97 - 122)

This report by Jo Lloyd (Public Protection Officer – Licensing North) is to update Members on new regulations in relation to sexual entertainment venues.

It recommends that the Licensing Committee agrees to the adoption and implementation of the Sex Establishment Licensing Policy, Standard Conditions for Sexual Entertainment Venues and Sex Cinemas and Standard Conditions for Sex Shops.

8. Harmonised Wiltshire Council Street Collection Policy (Pages 123 - 140)

This report by Jo Lloyd (Public Protection Officer – Licensing North) is to seek approval for Regulations and a harmonised Policy in relation to Street Collections.

9. **Review of Skin Piercing Bylaws** (*Pages 141 - 150*)

This report by Carla Adkins (Public Protection Officer – Licensing) details that Wiltshire Council as a unitary authority has not yet adopted the legislation set in Part VIII of the Local Government (Miscellaneous Provisions) Act 1982, which allows the Council to regulate persons carrying on acupuncture, tattooing, and skin piercing. The Council must adopt this primary legislation before it can make any associated byelaws.

10. **Hypnotism Policy** (*Pages 151 - 158*)

This report by Jo Lloyd (Public Protection Officer – Licensing North) details that Wiltshire Council (as the Licensing Authority) must authorise any public performance of a hypnotist carried out in the Wiltshire Council area.

11. **Dates of Future Committee Meetings**

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

Tuesday 8 May 2012 – Council Chamber, Browfort, Bath Road, Devizes

Monday 12 November 2012 – Council Chamber, Monkton Park, Chippenham.

12. **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 7 SEPTEMBER 2011 AT COUNCIL CHAMBER, MONKTON PARK, CHIPPENHAM.

Present:

Cllr Desna Allen, Cllr Richard Beattie, Cllr Allison Bucknell (Substitute), Cllr Peggy Dow, Cllr Rod Eaton, Cllr Jose Green, Cllr Malcolm Hewson, Cllr Jacqui Lay, Cllr Bill Moss, Cllr Nina Phillips (Vice Chairman) and Cllr Jonathon Seed (Chairman)

Also Present:

Mandy Bradley (Service Director, Public Protection), Cllr Trevor Carbin, John Carter (Head of Public Protection – Food and Environment), Steve Clover (Head of Public Protection – Commercial and Communities), Kate Golledge (Public Protection Manager, North and West, Safer Communities and Licensing), Lisa Pullin (Democratic Services Officer) and Paul Taylor (Senior Solicitor)

18. Apologies for Absence and Changes to Committee Membership

Apologies were received from Cllr Mark Griffiths, Cllr George Jeans and from Cllr Bill Roberts who was substituted by Cllr Allison Bucknell.

There had been some changes to the membership of the Committee since Annual Council on 17 May 2011. Cllr Malcom Hewson is a new member, Cllr Jacqui Lay is now a full member, Cllr Jon Hubbard is now a substitute member and Cllr Liz Bryant is a new substitute member.

19. Minutes of the Last Meeting

The minutes of the Licensing Committee meeting held 5 April 2011 were presented and it was,

Resolved:

To approve and sign the minutes of the meeting held on 5 April 2011 as a correct record.

20. **Chairman's Announcements**

The Chairman made the following announcements:

1. **Additional Minutes of Licensing Sub Committees for signing**

Three additional sets of Licensing Sub Committee minutes that were not available at the time of Agenda dispatch are presented for confirmation; these are Northern Area Licensing Sub Committee 21 March 2011 and 11 May 2011 (2 day hearing) and 21 June 2011 and Western Area 1 August 2011.

2. **Licensing Sub Committee Visits**

This subject was raised at the last meeting of the Committee. It is the Officer's view that site visits should be considered on an application by application basis.

For existing licences, the location would usually be known by one or all of the Members. For new applications and one off events an informal site visit could be arranged prior to the hearing if Members consider this to be necessary. The initiative for this clearly lies with Members.

3. **Protocol for informing the local member on Licensing Act applications**

The following protocol will be operated for informing the local member when a Licensing application is received:

When an application is received by the Licensing Department or a Counter Notice is issued in respect of a TENS application then this notification will be added to the Wiltshire Council website and each week in the Elected Wire is a link to all Licensing applications that have been received. The local Councillor whose division it affects will then be personally notified either by telephone or email by the Licensing Team and advised of how they may make a relevant representation.

A Councillor can become an interested party by making a relevant representation within the statutory time limits and then can speak at any subsequent Licensing Sub Committee hearing. Also a Councillor could be requested to be the spokesperson on behalf of another person/s that has made a relevant representation and speak at a Sub Committee hearing to express the views of that person.

4. **Legislation Changes – Tobacco Vending Machines**

From 1st October 2011, the law will change to make it illegal to sell tobacco products directly to the public from vending machines in England. Guidance has been prepared on ending tobacco sales from vending machines in England

for businesses with vending machines on site and was circulated as a handout at the meeting.

5. Update on Organisational Changes

There have been a number of changes to the structure of the Public Protection Service and Mandy Bradley, Service Director gave an update to the Committee on those.

Mandy circulated to the Committee a revised structure chart and contact details for those Officers involved in Licensing in each of the areas. The structure had been reshaped so that there were now two Heads of Service. John Carter had moved across to Food and Environment and Steve Clover (introduced at the meeting) managed Commercial and Communities which Licensing now comes under.

Kate Golledge (Public Protection Manager, North and West, Safer Communities and Licensing) was to be the first point of contact for Licensing.

The Chairman wished to record a vote of thanks to John Carter who had led the Licensing team since April 2009.

Members of the Committee requested a briefing of how the new roles would work in practice and requested that the intranet contact directory be populated with information on each officer's area of responsibility.

21. Declarations of Interest

There were no declarations of interest made.

22. Public Participation

There were no members of the public present at the meeting.

23. Minutes of the Licensing Sub Committees

The Minutes of the Eastern Area Licensing Sub Committees held on 23 March 2011 and 15 June 2011 were presented and it was,

Resolved:

To approve and sign the minutes as a correct record.

The Minutes of the Northern Area Licensing Sub Committees held on 21 March 2011/11 May 2011 (2 day hearing), 7 April 2011, 18 April 2011, 21 June 2011, 9 August 2011 and 11 August 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 on 16 May 2011 were presented and it was,

Resolved:

To approve and sign the minutes as a correct record.

The Minutes of the Western Area Licensing Sub Committees held on 25 May 2011, 28 June 2011, 18 July 2011 and 1 August 2011 were presented and it was,

Resolved:

To approve and sign the minutes as a correct record.

24. **Single Council-Wide Consent Street Trading Scheme**

The Committee received an overview of the report from Kate Golledge (Public Protection Manager North and West) and were informed of the results of the second two week public consultation carried out on a revised single council wide street trading consent scheme.

Kate highlighted the following:

- That there was a stepped legal process to follow to introduce a street trading consent scheme to Wiltshire; and that additional recommendations would be put forward to enable this process to commence;
- The Committee would need to recommend to Council that they adopt powers under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to apply to the Wiltshire Council area. The Council would then need to state their intention to designate all streets in the Wiltshire Council area as consent streets;
- That a second two week public consultation took place between 26 July and 12 August 2011 and that the revised scheme incorporated the changes requested by the Committee at their meeting on 5 April 2011;
- A meeting took place between the Licensing Manager and representatives of the Neighbourhood Service Team to ensure that any

changes to the scheme did not duplicate any existing powers available to Wiltshire Council Highways Officers to control trading on the highway;

- It was likely that the scheme would not be in place until 1 April 2012 following completion of all the relevant steps;

The Committee then considered the revised draft of the Harmonised Street Trading Scheme (Appendix 1 to the report) in detail, and it was,

Resolved:

1. To make the following amendments to the revised draft of the Harmonised Street Trading Scheme:

- (i) **Glossary – page 1. Definition of ‘street’ to be changed to the statutory definition ‘includes any road, footway or other area to which the public have access with or without payment’. Also change Consent street to read ‘*Consent street. A street in which street trading is prohibited without the consent of the Council.*’**
- (ii) **Page 3 – add the text marked in italics:**

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 (*vehicular or pedestrian*) or within 10 metres of any road, road lay-by, car-park or industrial estate with public access (*vehicular or pedestrian*)**
 - **trading in a market run by Wiltshire Council (*for current information on Council run markets please visit www.wiltshire.gov.uk/communityandliving/markets*)**
- (iii) **Page 5 – Add a footnote which gives details of Section 7 of the Local Government (Miscellaneous Provisions) Act 1976 as referred to in the text.**
 - (iv) **Page 6 – Under bullet point entitled Daily Street Trading Consent remove the following text ‘The Council charges a higher fee for consent to trade on Saturdays.’**
 - (v) **Page 7 – Under Consultation on applications replace ‘Ward Councillors’ with ‘Divisional Councillors’ and replace ‘Members of the public’ with ‘Placing the information in the public domain via the Wiltshire Council website – www.wiltshire.gov.uk’**

- (vi) **Page 7 – Amend the text in bold under consultations on applications to read ‘Full consultation will not take place on applications for Block Street Trading Consents for community events, although if necessary the Authorised officer may informally approach any of the consultees.’**
- (vii) **Page 8 – Under bullet point entitled ‘Avoidance of nuisance’ add ‘litter’ to the list. Under bullet point entitled ‘Planning Permission’ add clarification that planning permission relates to a change of use application. Add a new bullet point entitled ‘Existing consents’ – The location of any existing consents will be taken into account when considering applications. Also remove last sentence on page 8 ‘Equal weight will be applied to all criteria’.**
- (viii) **Page 14 – Add a footnote to give details of the legislation referred to in relation to offences.**
- (ix) **In Appendix 2 (pages 17/18) which relates to the Street Trading fees the tables be amended to read as follows –**

Town traders

Type of Street Trading Consent	Fee
Annual Street Trading Consent – all days of the year, including all bank holidays.	£ 2800
Daily Street Trading Consent	£ 35 per day
Block Street Trading Consent	£ 40 per day

All other traders

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

- (x) **That wording be added to the scheme in an appropriate place to give information on the legislation on the sale of vehicle on the highway.**

- (xi) That wording be added to the scheme in an appropriate place to give information on the reasons why an application may be declined.
- (xii) That any relevant provisions be added to the Guidelines to comply with the Council's Equality Act duties.
- 2. That the Licensing Committee 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.

That the Licensing Committee recommend to Council on 8 November 2011:

- 3. That they adopt Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to apply to the Wiltshire Council area.
- 4. That they adopt the revised Consent Street Trading Scheme as presented.
- 5. That they state their intention to designate all streets in the Wiltshire Council area as consent streets.

25. **Selling Alcohol Responsibly - Age Verification Schemes**

The Committee received an introduction to the report from Mandy Bradley, (Service Director, Public Protection) which provided a background and context to the age verification requirement under the Licensing Act in terms of the sale and supply of alcohol.

Mandy suggested some revised wording for the revised guidance on age verification (appendix 1 to the report) as suggested by Cllr Mark Griffiths (who was not able to be present at the meeting) and Committee members. These changes were agreed by the Committee and it was,

Resolved:

- 1. That the Committee note the report.
- 2. Agree to the amended revised guidance on age verification that will be given to Licensees to read as follows:

'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) acceptable age verification bearing their photograph, date of birth, and a holographic mark.

Examples of acceptable age verification include:

- A form of age verification 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 an acceptable form of age verification.'

26. **Proposed Amendments to Hackney Carriage and Private Hire Vehicle Guidelines**

The Committee noted the report from Jo Quartley (Public Protection Officer – Licensing) which suggested amendments to existing guidelines for hackney carriage/private hire vehicles in response to concerns expressed by the trade.

Resolved:

1. That the Committee agree to the proposed amendments to existing guidelines (as detailed in the report) for hackney carriage/private hire vehicles with immediate effect.
2. That 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.

27. **Dates of Future Committee Meetings**

The dates of the future meetings were confirmed as:

Monday 6 February 2012
Tuesday 8 May 2012
Monday 12 November 2012.

Meetings would commence at 10.30am with venues to be advised.

28. **Urgent Items**

There were no urgent items for consideration.

(Duration of meeting: 10.30am – 12.00pm)

The Officer who has produced these minutes is Lisa Pullin, of Democratic & Members' Services, direct line 01225 713015, e-mail lisa.pullin@wiltshire.gov.uk

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EASTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 15 NOVEMBER 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, BROWFORT, DEVIZES IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE AT CHICOLAND, 3 SIDMOUTH STREET, DEVIZES SN10 1DL.

Present:

Cllr Liz Bryant, Cllr Rod Eaton and Cllr Jose Green

Also Present:

Jane Cowley (Licensing Officer), Marie Gondlach (Democratic Services Officer), Sharon Smith (Democratic Services Officer), Paul Taylor (Senior Solicitor), Jacqui Gallimore (Police Licensing Officer) Mrs Eren (Applicant), Mr P. Greenfield (Applicant's Representative) and Mr Patrick Stevens and Mr Robin Smart (Interested Parties).

11. Election of Chairman

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

Resolved:

To elect Councillor Jose Green 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 – 7 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 Mrs S Eren for a Premises Licence at Chicoland, 3 Sidmouth Street, Devizes SN10 1DL

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.

The Police Licensing Officer sought permission to introduce evidence of incidents of crime and disorder in the Devizes town centre area. This information had been provided to the Licensing Authority on the Friday before the hearing, but had not been given to the Applicant before the hearing. The Applicant's Representative objected to this information being presented to the hearing. As the information was being presented on the day of the hearing and consent of all the parties to the hearing had not been given, the Chairman confirmed that this information could not be submitted.

Key points raised by Mrs Eren and Mr P. Greenfield on behalf of the Applicant were:

- The License was sought to enable the premises to remain open between the hours of 11pm and 3am on a Thursday, Friday and Saturday. This was a slight amendment to the original application which had initially requested extended opening to 3:45am
- The premises has CCTV which runs 24 hours a day. The recordings are kept for one month thereafter.
- A large litter bin is held within the premises for customer use.
- A notice advising customers to leave quietly is clearly displayed within the premises.
- The extended opening would be in line with that already granted to the marketplace Fish and Chip shop and Kebab shop.
- Mr and Mrs Eren made every effort to clear any rubbish deposited outside the shop.
- Any disturbances reported after 11pm could not be attributed to the premises since it currently closed at 11pm.
- Employees of the premises had reported two separate incidents within the premises to the police in the past 18 months, neither of which had resulted in arrest.

- The extended hours would enable the applicants to extend the home delivery service which they anticipated as the main business requirement within the license period requested.

Key points raised by Jacqui Gallimore, Police Licensing Officer, were:

- The concerns of the police authority included noise disturbance, additional litter and potential destruction of property.
- That since January 2010 the PCC system had shown that Chicoland had requested police attendance on 3 separate occasions for disorder.
- The vast majority of incidents did not result in arrest and took place after 9pm.
- 14 incidents had been recorded at the kebab premises in Northgate Street, 11 of which had been reported after 11pm which indicated an increase in anti social behaviour.

Key points raised by the Interested Parties, Mr Patrick Stevens and Mr Robin Smart, were:

- That residents of Sidmouth Street were concerned with the increase in noise and anti social behaviour that could occur if a license was granted.

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 license requirements of the applicant in terms of the operation of the premises during the extended hours.
- The impact of late night opening in Sidmouth Street.
- There had been no licensing reviews for the other establishments in Devizes that had licenses in place to stay open until 3am.

The Sub Committee members sought clarification on some points before retiring to consider the application. The Sub-Committee, accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer, retired to consider the application at 3:00pm

The Hearing reconvened at 4:00pm

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 Licence at Chicoland, 3 Sidmouth Street, Devizes be granted as detailed below:

Provision of late night refreshment between 23:00 - 03:00 on Thursday, Friday and Saturday nights.

And subject to the following conditions:

1. CCTV shall be installed, operated and maintained in agreement with the Police and Licensing Authority. The system will enable frontal identification of every person entering the premises. The system shall record in real time and operate whilst the premises are open for licensable activities. The recordings shall be kept for a minimum of 31 days. Recording shall be made available to an Authorised Officer or a Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request.
2. An incident book shall be used to record all instances of public disorder and be made available for inspection by the Police and Licensing Authority.
3. Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly and not loiter close to the entrance.
4. The shop frontage to be kept clear of litter during operating hours and the internal bin to be regularly emptied and maintained at all times.

Reasons:

The Sub-Committee noted the concerns of the police and the Interested Parties that the presence of a late night refreshment venue operating until 3:00am in this location would lead to an increase in crime, disorder and anti-social behaviour. However, the Sub-Committee considered that there was insufficient evidence that there would be such an increase to not grant the application as applied for and amended to 23:00-3:00.

The Sub-Committee considered that the conditions to be attached to the licence addressed the concerns that had been raised by the Interested Parties and are necessary to meet the licensing objectives.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days.

An interested party or responsible authority may apply to the Licensing Authority for a review of a premises license, whether or not a review hearing takes place

is in the discretion of the Licensing Authority but will not normally be granted within the first 12 months except for the most compelling circumstances.

Informative:

The licence-holder is responsible for ensuring that the operation of the premises complies with all other legal requirements. In particular the applicant's attention is drawn to the current restrictions on opening times imposed by the existing planning conditions within the planning permission.

(Duration of meeting: 2.00 - 4.10 pm)

The Officer who has produced these minutes is Sharon Smith, Democratic Services Officer, 01225 718378, e-mail sharonl.smith@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 27 SEPTEMBER 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE BY MR KRISHNAMOORTHY FOR 18 HIGH STREET, WOOTTON BASSETT.

Present:

Cllr Desna Allen, Cllr Trevor Carbin and Cllr Bill Roberts

Also Present:

Linda Holland (Senior Licensing Officer), Lisa Pullin (Democratic Services Officer) and Paul Taylor (Senior Solicitor)

32. **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.

33. **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).

34. **Chairman's Announcements**

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

35. **Declarations of Interest**

There were no interests declared.

36. **Licensing Application**

Application by Mr Krishnamoorthy for a Premises Licence in respect of 18 High Street, Wootton Bassett

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

The key issues for consideration were:

- That six relevant representations had been received from Interested Parties;
- In summary the relevant representations raised issues relating to anti social behaviour, the possibility of under aged sales and lighting issues;
- No representations had been received from any Responsible Authorities, but Wiltshire Police had met with the Applicant to suggest two conditions be added to any Premises Licence that was granted in relation to CCTV and the 'Challenge 25' Policy. These were accepted by the Applicant and the Interested Parties had been made aware of this acceptance; and
- Mrs Bucknell was willing to withdraw her representation if the conditions as suggested by Wiltshire Police were included with any Premises Licence granted.

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

Key points raised by Manoharan on behalf of the Applicant were:

- In an effort to minimise any crime and disorder, the Applicant would be installing a CCTV system to the premises;
- The Applicant would implement a 'Challenge 25' Policy and all customers who appeared to be under the age of 25 would be requested to provide proof of their age in the form of a passport, photo card driving licence or approved proof of age card;
- All staff would be fully trained and made aware of the licensing objectives;
- A refusal book would be maintained (to all customers to whom service is refused) and be available for inspection by the Police or Local Authority Officers;
- No alcohol would be consumed ON the premises;

- The Applicant would join the local Pubwatch Scheme;
- A minimum of 2 staff would be on duty during peak hours of business;
- The Applicant wished to establish good communications with local residents in order to alleviate any problems that may arise; and
- That the Applicant was willing to shorten the opening hours to 22.00 instead of 23.00 in order to respect the neighbours and cause minimal disturbance.

Sub Committee members clarified with the Applicant that he wished to amend his application for the sale of alcohol off the premises to 22.00 from 23.00 and he confirmed that he was happy to agree this amendment.

Mr Wilks (Interested Party) wished for clarity on the displaying of the notice of application. The Senior Solicitor clarified that there was no reason why this application could not be considered by the Sub committee as the notice had been displayed correctly.

The Interested Parties were given the opportunity to ask questions of the Applicant and the following questions were raised:

- Where would the consumption of the alcohol purchased at the premises take place?

The Applicant's representative responded that this would be off the premises and in their own homes. *The Chairman reminded the hearing that it was not the responsibility of the Applicant to control where customers consumed their alcohol.*

Key points raised by Mr Wilks (Interested Party) were:

- How was a civilian Police Officer based in Trowbridge able to comment on what was happening in Wootton Bassett and how could she be aware of the problems Wootton Bassett was currently experiencing?

The Council's Licensing Officer responded that the Police Licensing Officer would use the Police intelligence available to her to base the Police's response to the application.

- Mr Wilks reported that there were major problems in Wootton Bassett caused by those under the influence of alcohol and that nothing was being done about this and this proposed off licence with add to the existing problems.

The Council's Solicitor gave details to the Panel of what the Council's Licensing Policy says about the cumulative impact of a new licence adding

to existing problems in an area and highlighted that the onus is on any persons making relevant representations to prove the assertion that the addition of the premises concerned would cause the cumulative impact claimed.

- Mr Wilks suggested that the premises should close at 18.00 instead of the 22.00 proposed so that neighbours would not be affected.

Mr Manoharan made the following points as his closing submission on behalf of the Applicant:

- That the Applicant would fully comply with the conditions suggested by Wiltshire Police, namely the installation of a CCTV system and the introduction of the 'Challenge 25' Policy;
- A refusal book for the sale of alcohol would be maintained;
- The Applicant would join the local Pubwatch Scheme;
- Tobacco and spirits would be kept behind the counter at the premises; and
- The Applicant would ensure that he and his staff are fully aware of their responsibilities in relation to the promotion of the licensing objectives and would receive the appropriate training.

Mr Wilks (Interested Party) made the following point as his closing submission:

- That the opening of the proposed off licence would exacerbate existing problems as he felt the area was already over populated with alcohol establishments.

The Sub Committee retired to consider the application at 11.20am and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 1.00pm.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council reported that no material legal advice had been given in closed session, other than to draw members' attention to the Council's policy on the cumulative impact of licensed premises and the related provisions in the statutory guidance.

The Chairman then read out the decision to the hearing:

Resolved:

The Northern Area Licensing Sub Committee has resolved to grant the application for a Premises Licence for 18 High Street, Wootton Bassett for:

The supply of alcohol off the premises:

Monday to Saturday	10.00 to 22.00
Sunday	10.30 to 22.00

Hours open to the public

Monday to Saturday	10.00 to 22.00
Sunday	10.30 to 22.00

And subject to the following additional conditions:

1. A CCTV system will be installed at the premises to cover the licensed area and the rear door. The system will be operational and maintained at all times; the system will retain images for a period of not less than 28 days. CCTV images will be produced to a Police Officer or a Council Licensing Officer on request
2. The premises will operate a 'Think 25' Policy and will display signage promoting this policy.
3. The Applicant become a member of and actively participate in the Wootton Bassett Pubwatch Scheme.

Reasons:

The Sub Committee considered that the reduction in the closing time to 22.00, the requirement to install CCTV and the requirement to participate in the local Pubwatch scheme would sufficiently address the concerns relating to public nuisance.

The requirement for a 'Think 25 Policy' was needed to address the objective on protecting children from harm.

Evidence:

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.

The Sub Committee have also considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from Mr Manoharan (On behalf of the Applicant), and Mr Wilks, (Interested Party).

The Sub Committee considered the statements made regarding the cumulative impact of this application but felt that there was insufficient evidence to support

the contention that the granting of this application would make a material difference.

The Sub Committee welcomes the Applicant's offer to engage with the local residents regarding any concerns they might have.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any Responsible Authority or Interested Party has the right to request a Review of the Licence. A review would not normally be considered unless a reasonable period has elapsed since the grant of the licence.

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services,
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NORTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 25 OCTOBER 2011 AT COMMITTEE ROOMS B, C + D, MONKTON PARK, CHIPPENHAM IN RESPECT OF A HEARING OF AN OBJECTION NOTICE FROM WILTSHIRE POLICE TO TEMPORARY EVENTS NOTICES FOR JAX LANDING, 1 BATH ROAD, CHIPPENHAM

Present:

Cllr Desna Allen, Cllr Trevor Carbin and Cllr Bill Douglas

Also Present:

David Bennett (Divisional Licensing Manager, Wiltshire Police), Sukdave Ghuman (Senior Solicitor), (Rudi Lee (Premises User), Debbie Mulvey (Senior Licensing Officer), and Lisa Pullin (Democratic Services Officer)

37. 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.

38. 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).

39. Chairman's Announcements

Apologies were received from Cllr Jon Hubbard and Cllr Bill Douglas was substituting for Cllr Hubbard.

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

40. **Declarations of Interest**

There were no interests declared.

41. **Licensing Application**

Hearing in respect of an Objection Notice from Wiltshire Police to Temporary Event Notices for Jax Landing, 1 Bath Road, Chippenham

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 Police representative and the Premises User were given the opportunity to address the Sub Committee.

Key points raised by David Bennett on behalf of Wiltshire Police were:

- That there had been incidences of crime and disorder relating to the premises going on for some time;
- There was a history of poor compliance of the conditions on the licence;
- There had been difficulties in retrieving CCTV images requested for criminal investigations and on a number of occasions these had not been provided for a number of reasons;
- If the premises were to operate as a night club on a Temporary Events Notice, no conditions to manage the events could be imposed and enforced;
- The Police had no reason to believe that the basic requirements with regard to record keeping and management systems that were raised in their letter to the premises in June 2011 had been improved and/or implemented; and
- That the Police was uncertain of the status of the management structure of the premises and who was in charge.

Members of the Sub Committee then asked questions of Mr David Bennett, the Police representative;

Q Would the Premises User have to comply with reasonable conditions required by the Police under a Temporary Events Notice?

A We could ask the Premises User to comply but the Police would be unable to enforce any conditions.

Q There are a number of incidents relating to the premises detailed in the Police evidence, but 10 of these are listed as occurring outside of the premises – how do you know if they relate to Jax Landing?

A We know that these incidents are linked to the premises via Police investigations carried out and statements received.

Members of the Sub Committee then asked questions of the Premises User:

Q What is your involvement with Jax Landing?

A He had been the Day Manager of the premises running the Café for 9 months.

Q What were the plans for the temporary events proposed?

A The plans were to hold a fancy dress Halloween party and have the monthly band/open mike night on the Sunday.

Key points raised by Mr Rudi Lee, Premises User were:

- That they wanted to hold these licensable events to try and save Jax and to create an income stream.

The Police representative and the Sub Committee members were then given an opportunity to ask questions of the Premises User;

Q How can we be satisfied that you can run these events?

A There have been no incidents of crime and disorder in the day when Mr Lee had been in charge and all requirements to ensure the smooth running of the events would be in place.

Q What steps have you taken?

A None as yet as the approvals had not been granted, but they would be in place for the events.

Q Who are you employed by?

A I am employee of Howling Wolves Ltd as of 1 July 2011; I have been working at Jax since 14 February 2011. Pizzazz Leisure and David Poole are no longer involved.

Q How will you manage the events?

A For the Halloween party there will be 3 door staff, 3 bar staff a glass collector and myself. All drinks will be served in plastic glasses; all

bottled drinks will be decanted. New door staff from APS Security will be controlling entry and exit to the premises. We will apply a limit of 250 entrants. The current DJ, Steven McLoughlin has applied for a Personal Licence and we will apply for Temporary Events Notices until a full Premises Licence is in place.

Q What ID checks will you be carrying out?

A All door staff and bar will carry out checks and request ID of those who appear to be under age.

Q What is your experience in running a nightclub?

A I have worked and run a number of bars in the Bath area.

David Bennett on behalf of Wiltshire Police made the following points as his closing submission:

- The premises are routinely subject to incidences of crime and disorder; and
- The risks cannot be conditioned and therefore controlled through a TENS and this would therefore compromise the crime and disorder licensing objective.

The Premises User, Rudi Lee made the following point as his closing submission:

- The events if granted would be professionally run and he would ensure that he would enforce all relevant measures as necessary.

The Sub Committee then retired to consider the application at 11.00 and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 12.30.

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 determine the facts of the case based on the evidence received and the oral submission of the parties. The Panel through the application of the Sub Committee procedure had been reminded of their obligation to adhere to the Sub Committee procedure ensuring that the rules of natural justice had been complied with. With both parties having been given a fair opportunity to present their cases, the issues are to be determined on the facts as have been presented, taking into account the appropriate weighting

given by the Sub Committee and the legislative framework governing applications of this kind.

Decision:

The Northern Area Licensing Sub Committee has considered the Objection Notice and has determined to allow the request for two Temporary Events Notices to take place as follows

28 & 29 October 2011	11.00 to 02.00
30 October 2011	19.00 to 23.30
4 & 5 November 2011	19.00 to 02.00

Reasons:

The Sub Committee considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 105); the guidance issued under Section 182 of the Act, in particular part 7, paragraph 7.23, and the licensing policy of Wiltshire Council.

The Sub Committee reached their decision after consideration of the written evidence presented together with the oral evidence given by the parties to the hearing.

The evidence presented to the Sub Committee by the Police of incidents of disorder in or around the premises was noted.

The Sub Committee also noted the evidence from Mr Lee that due diligence measures would be undertaken, such as proof of age ID checks, appropriate staffing levels, plastic glasses, all bottles to be decanted, a limitation of 250 entrants and with 3 newly appointed door staff. All bar staff would also carry out proof of age ID checks.

The Sub Committee were assured by Mr Lee's previous experience of managing similar establishments together with his intention to introduce a management plan to cover both events.

Right of Appeal

The Premises User or the Chief Officer of Police may appeal against the Sub Committee's decision to the Magistrate's Court. Any appeal must be lodged within 21 days beginning with the day on which the appellant was notified of the decision. No appeal may be brought later than five working days before the day of the proposed temporary events.

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services,
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NORTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 3 NOVEMBER 2011 AT COUNCIL CHAMBER, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN PREMISES LICENCE APPLICATION - 9 THE BRIDGE, CHIPPENHAM

Present:

Cllr Trevor Carbin, Cllr George Jeans and Cllr Peggy Dow

Also Present:

Anna Thurman – Democratic Services Officer
Paul Taylor – Senior Solicitor
Jo Lloyd – Licensing Officer
Jacqui Gallimore – Police Licensing Officer
Sergeant George – Police
Mrs Yuk Ling Lee – Applicant
Mr Patterson – Acting for Applicant
Mr Crook – Interested Party

42. 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.

43. 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 – ?? of the Agenda refers).

44. Chairman's Announcements

The Chairman gave apologies from Cllr Chris Caswill, Ward Member and from Cllr Desna Allen.

45. **Declarations of Interest**

There were no interests declared.

46. **Licensing Application**

Application by Mrs Yuk Ling Lee for a Premises Licence at 9 The Bridge, Chippenham (Fortune Fish and Chips).

The Chairman asked the Licensing Officer to deliver her report to the Committee. She detailed following points for consideration:

- The application was for a premises licence for the provision of late night refreshment on Sunday – Thursday from 11pm – 2am and Friday and Saturday 11pm - 4am.
- The premises had been previously licensed for late night refreshment as a fish and chip venue for Sunday - Thursday 11pm – 1am and Friday and Saturday 11pm – 1.30am. The licence was not transferred and no interim authority notice was served.
- Representations have been received from the Police (Relevant Authority), a local businessman (Mr Crook) and the Ward Member (Cllr Caswill), (Interested Parties).

There were no questions for the Licensing Officer.

Mr Patterson, spoke of behalf of Mrs Lee (Applicant). The key points made were;

- The Applicant has an extensive background spanning 25 years with various premises in Melksham, Chippenham including the Fortune Inn, situated on the outskirts of the Town and in Sussex.
- The Applicant is a current and active member of Pub Watch.
- The Applicant has agreed, in conjunction with the Police, not to utilise 'the hatch' to serve take away food within the licensable hours and to install CCTV to the standard required.
- The Applicant would not be prepared to employ door staff at present as she has not experienced problems with crime and disorder and it would not prove to be financially viable.
- It was explained that although an application until 4am was being applied for, it was not the intention to use this all the time, as it may not be financially viable, but it was felt that the Applicant should be able to

compete with other late night establishments who were able to sell take away food until 4am.

The Chairman invited questions to the Applicant. The Licensing Officer on behalf of the Police (Jacqui Gallimore) asked whether the Applicant had a late night licence on any of her other premises. She replied that she did not. Members of the Sub Committee sought clarification on a number of points including:

- Had a risk assessment been carried out in relation to 9 The Bridge? The Applicant replied that she had not done so.
- Did the Applicant have experience of working in the late night economy? The Applicant explained that she did not have experience of working at the prescribed hours of the licence, however she was member of Pub Watch and ran a licensed premises in the town and had many years experience as proprietor of take-away food establishment within the County.
- Would the Applicant use an operating policy? She would rely on common sense and her extensive background in take-away food retail.

The Chairman invited the Responsible Authority, the Police, to present their case. The Police Licensing Officer explained that this was not a heavily contested Licence, and that there had been a very successful meeting with Mrs Lee to discuss a number of concerns. However, she informed the Sub Committee that the Bridge has been identified as hot spot by Police analysts. She introduced the Chippenham NPT Sergeant to detail the issues surrounding the geography of the area. He explained that this was a busy area due to the late night licensed activity and there was also a taxi rank, and that due to these factors, people massed in the area. Thirty five of the 163 incidents reported between July 2010 and July 2011 had occurred in vicinity of Fortune Fish and Chips (9 The Bridge) and that peak times were between 01.00 hours and 02.30 hours Sunday.

The Chairman invited questions from the applicant and the Sub Committee. The representative for the Applicant reminded the Sub Committee that her application for a licence was for the provision of food and not alcohol. He asked whether evidence suggested that another late night establishment permitting the sale of hot refreshment would change the dynamic of the area explaining that another establishment would alleviate the congested area. The Sergeant explained that he was unable to answer that question.

The Chairman invited Mr Crook (Interested Party) to address the Sub Committee, he made the following points;

- As a franchisee owner of Subway he works the majority of the late night openings.
- A risk assessment was undertaken to assess the clientele base, level of business and develop an operating policy.

- Door staff are used, when appropriate, based on 'what's on' in the Town Centre.
- Door staff monitor the flow of customers in and out of Subway and prevent queue jumping.
- He was not averse to the application but requested that there was a level of responsibility associated with the opening a late night refreshment establishment within this area.

The Chairman invited questions. Mr Patterson asked for clarity on the employment of door staff, Mr Crook confirmed that it was not a condition of the licence. The Police Licensing Officer informed the Sub Committee that Subway worked well in partnership with the Police to ensure the safety and security of the public.

The Chairman invited the Applicant and Interested Parties to sum up their cases.

Mr Patterson reminded the Sub Committee that the application was for the provision of late night provision of fish and chips and that the applicant had agreed to implement CCTV and not to use 'the hatch' for the serving of food. No other late night refreshment establishment has a condition on its licence to stipulate the use of SIA door staff and the proposition by the Police that another late night establishment selling food would increase crime and disorder is supposition and not supported.

The Police Licensing Officer asked the Sub-Committee to consider whether the application supported the licensing objectives emphasising that Mrs Lee had no experience of operating within the late night economy. She stated that the Police did not believe that there would be any differentiation by members of the public between a fish and chip shop and other late night refreshment establishments.

Mr Crook stated that the majority of his concerns had been addressed and that he would welcome a risk assessment to be undertaken into the viability of using door staff at busy times.

The Sub Committee then retired to consider the application at 12.50pm

The Hearing reconvened at 1.30pm

Following the deliberations of the Sub Committee Members, the Solicitor for the Council reported that no material legal advice had been given in closed session, other than to draw members' attention to the Council's policy on the cumulative impact of licensed premises and the related provisions in the statutory guidance.

The Chairman read out the decision of the Sub-committee, as follows:-

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 9 The Bridge, Chippenham be granted as detailed below for,

The Provision of Late Night Refreshment:

Sunday to Thursday	23.00 to 02.00
Friday and Saturday	23.00 to 04.00

And subject to the following additional conditions:

- 1) CCTV to be installed to cover the internal area and all exits and entrances, CCTV to be of sufficient quality as to enable identification. Images to be securely stored for a period of not less than 28 days and produced to a police officer or council licensing officers on request.
- 2) A risk assessment to be prepared, maintained and adhered to, to address the Crime and Disorder Objective to the satisfaction of the Licensing Authority.
- 3) The sale of hot refreshment after 23.00 and before 04.00 hours be restricted to shop area only, the use of the 'hatch' is not permitted during licensable hours.
- 4) Regular attendance by the Licence Holder or their representative at Pub Watch meetings.

Reasons:

The Sub Committee considered the evidence of crime and disorder in the general area as submitted by the Police, in the light of which the Sub Committee imposed the conditions as detailed above. The Sub Committee considered the request of the police that there be a condition requiring door staff to be provided. However the Sub Committee considered that this condition would be excessively onerous in view of the fact that it is not a requirement at other late night refreshment premises in the vicinity.

Evidence:

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.

The Sub Committee have also considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from Mr Patterson (On behalf of the Applicant), and Mr Crook, (Interested Party) and the Police.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any Responsible Authority or Interested Party has the right to request a Review of the Licence. A review would not normally be considered unless a reasonable period has elapsed since the grant of the licence.

(Duration of meeting: 10.30 am - 1.30 pm)

The Officer who has produced these minutes is , of Democratic Services, direct line ,
e-mail

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 13 DECEMBER 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN VARIATION OF THE PREMISES LICENCE AT RUDLOE HALL HOTEL

Present:

Cllr Desna Allen, Cllr Liz Bryant and Cllr Jacqui Lay

Also Present:

Jo Lloyd (Public Protection Officer – Licensing), Lisa Pullin (Democratic Services Officer) and Paul Taylor (Senior Solicitor)

47. 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.

48. 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).

49. Chairman's Announcements

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

50. Declarations of Interest

There were no interests declared.

51. Licensing Application

Application by West Register (Hotels No.3) Limited for a variation of a Premises Licence in respect of Rudloe Hall Hotel, Leafy Lane, Rudloe, Corsham

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

The key issues for consideration were:

- That currently a Premises Licence was held for the supply of alcohol only at Rudloe Hall Hotel;
- That up until the point of applying for a variation to the licence, to accommodate weddings and parties the Applicant had applied for Temporary Event Notices (TENS) to allow for regulated entertainment. In 2010 four TENS were applied for and in 2011 eight TENS were applied for;
- That one relevant representation had been received from Interested Parties and related to concerns of loud music from previous functions; and
- No representations had been received from any Responsible Authorities.

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

Key points raised by Sarah La Fevre on behalf of the Applicant were:

- That the current owners were carrying out an extensive refurbishment and investment in the premises which was planned to be completed by Easter 2012;
- No complaints had been received by the Applicant from the occupants of their nearest neighbour at The Coach House;
- The Applicant was seeking to vary the licence to extend the sale of alcohol hours and to include provisions for regulated entertainment, entertainment facilities and late night refreshment;
- The Applicant was seeking the variation to allow for flexibility of services it could offer to its clients for their use of the premises;
- Until now a series of Temporary Events Notices had been applied for to host different events, but permanency was now sought to be able to offer the different entertainment provisions;

- No complaints had been received by the Applicant following any of the temporary events and there had been no issues raised by any Responsible Authorities to the TENS and to this application for variation;
- A plan of the premises edged in red was circulated to all those present which indicated the areas in which the proposed outside functions would take place;
- Because of the nature of the premises, the outdoor entertainment proposed would probably consist of chamber music, classical quartets, singers and plays; and
- In relation to the points raised by the Interested Party (Ms Macbeth) she had expressed concerns about previous late night events. The Applicant wished to clarify that none of their previous temporary events had continued past 23.30 and they were aware of other events in the locality that had taken place past this time which may have caused Ms Macbeth's concerns. As Ms Macbeth was not able to be present at the hearing they were unable to clarify this with her.

The Sub Committee members sought clarification on some points made by the Applicant as detailed below:

- You refer to appropriate noise monitoring in your application – what is your current practice?

A Noise Policy is currently in place which includes regular monitoring every 60/90 minutes by trained staff when events are taking place. If there are any concerns with the noise levels these are reported to senior management to address.

- You are applying for entertainment provisions 7 days a week – Are you planning to hold events every day?

We would like the ability to offer entertainment provisions 7 days a week to accommodate the requests of our clients, but it would be unlikely that we would hold more than 2 events per day due to demands on space and catering.

- The concerns raised by Ms Macbeth appear to be a fear of what might be if events were held every day, late and night and outside – what are your views on this?

The variation of the application is sought so that a Temporary Events Notice is not required for each event and that flexibility can be offered to clients. The Applicant recognised the concerns of the Interested Party and confirmed that events would not always be held outside and outside entertainment would be selected as appropriate for the venue and timings

considered. They were very conscious of working with their neighbours to maintain good relationships.

- Would the Applicant be prepared to open a dialogue with the Interested Party in an attempt to address her concerns?

The Applicant confirmed that attempts had been made to contact Ms Macbeth prior to today, but had not been successful, but they would be more than willing to contact her and offer contact numbers to her and another neighbours to use if there were any concerns to raise when events were taking place.

- Why have you requested recorded music from 6.30am?

This is for the provision of quiet background music to be played at breakfast time in the hotel.

The Interested Party, Ms Macbeth was not present at the meeting.

The Sub Committee then retired to consider the application at 11.05am and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 12.15pm.

Resolved:

That the Northern Area Licensing Sub Committee has resolved to grant the application for a variation of the Premises Licence for Rudloe Hall Hotel, Leafy Lane, Rudloe, Corsham, to include the areas shown within the red line on the attached plan dated 13 December 2011 and for the provisions detailed below:

Regulated Entertainment

Plays

Monday to Sunday 10.00 to 00.00

Live Music

Monday to Thursday 10.00 to 00.00

Friday and Saturday 10.00 to 01.00

Sunday 10.00 to 23.30

Recorded Music

Monday to Thursday 06.30 to 00.00

Friday and Saturday 06.30 to 01.00

Sunday 06.30 to 00.00

Performance of Dance

Monday to Thursday	10.00 to 00.00
Friday and Saturday	10.00 to 01.00
Sunday	10.00 to 00.00

Entertainment facilities

Dancing

Monday to Thursday	10.00 to 00.00
Friday and Saturday	10.00 to 01.00
Sunday	10.00 to 00.00

Provision of late night refreshment

Monday to Sunday	23.00 to 23.30
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Sale by retail of alcohol (on site and off site)

Monday to Thursday	10.00 to 00.00
Friday and Saturday	10.00 to 01.00
Sunday	10.00 to 23.30

And subject to the following additional conditions:

1. Contact numbers of the appropriate person responsible for the event to be made available to residents in the vicinity, during any events involving regulated entertainment.
2. The Premises Licence holder shall prepare and maintain a written policy on Noise Monitoring, to be approved by the Licensing Authority, to include regular monitoring of noise at the boundary of the premises during events involving regulated entertainment and the completion of noise monitoring sheets. These monitoring sheets shall be retained for at least six months and shall be made available for inspection by the Licensing Authority on reasonable request. The Policy shall also require the keeping of records of any noise complaints received.

Reasons:

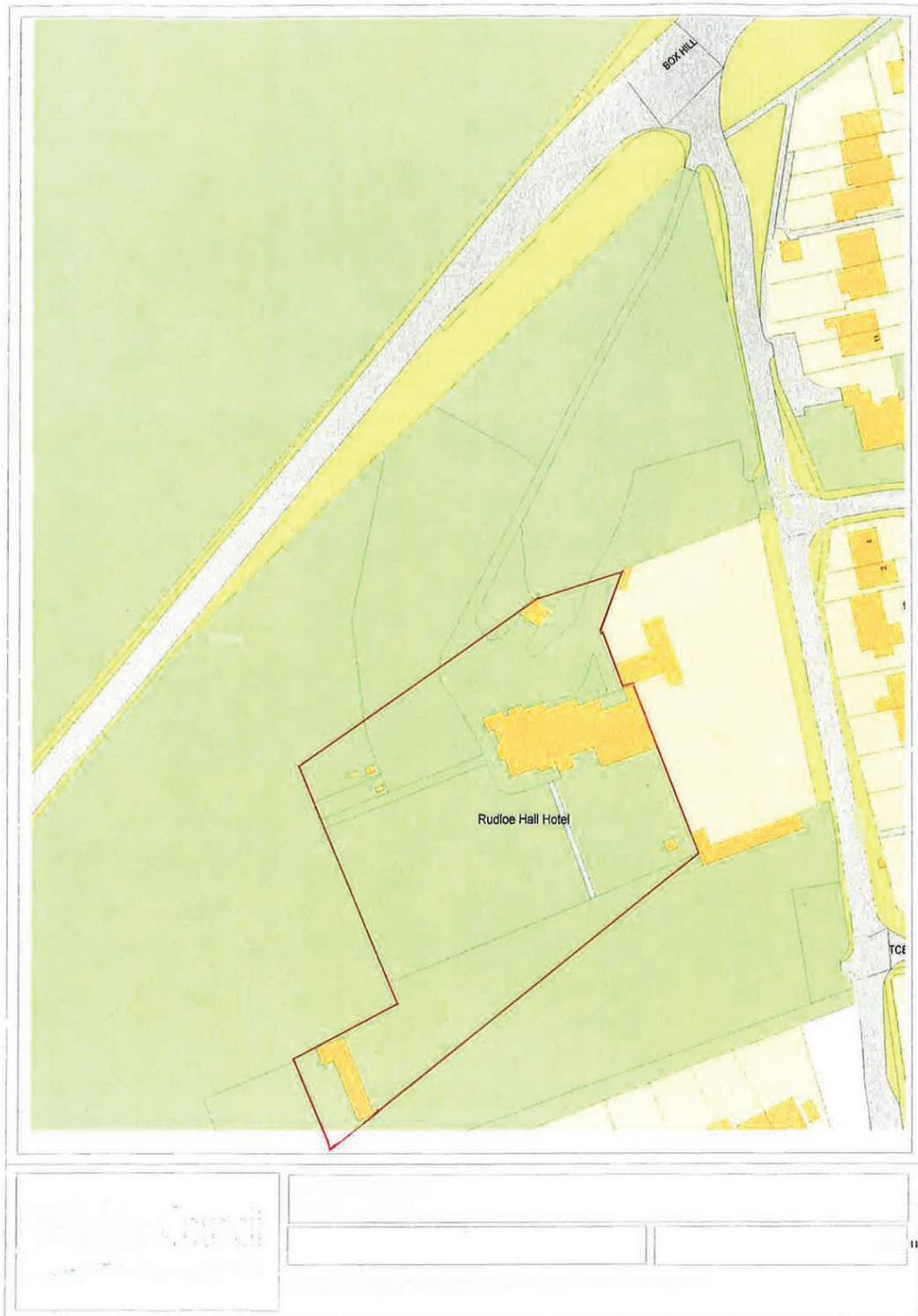
The Sub Committee considered the written representation from Ms. Macbeth presented in the agenda, together with the oral representations given at the hearing on behalf of the Applicant.

The Sub Committee noted the concerns raised by Ms Macbeth concerning noise but considered that the additional conditions imposed would adequately address those concerns and were necessary to promote the licensing objective of preventing public nuisance.

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 35); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any Responsible Authority or Interested Party has the right to request a Review of the Licence.



(Duration of meeting: 10.30am – 12.20pm)

The Officer who has produced these minutes is Lisa Pullin (Democratic Services Officer) direct line 01225 713015 or email: lisa.pullin@wiltshire.gov.uk

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NORTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 5 JANUARY 2012 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN REVIEW OF LICENCE - THE BOROUGH ARMS

Present:

Cllr Desna Allen, Cllr Liz Bryant and Cllr Rod Eaton

Also Present:

Anna Thurman, Democratic Services Officer
Paul Taylor, Senior Solicitor
Jo Lloyd, Public Protection Officer
Jacqui Gallimore, Licensing Officer Wiltshire Police
Sgt Alvis, Wiltshire Police
Ms Penfold, Applicant
Mr Mills, Resident
Mrs Riggs, Licence Holder Borough Arms
Lee Newman, Designated Premises Supervisor
Cllr Simon Killane, Divisional Member
Mr Rutter, Local Residents Association
Mrs Sykes, Local Resident
Mr Cox, Mayor of Malmesbury

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 – 8 of the Agenda refers).

3. **Chairman's Announcements**

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

4. **Declarations of Interest**

There were no interests declared.

5. **Licensing Application**

Application by Ms L Penfold for a Review of a Premises Licence; Borough Arms, 7 Oxford Street, Malmesbury, Wiltshire, SN16 9AX.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. The background history of the premises is outlined within the report (page 9 and 10 of the agenda refer). The review of the licence has been requested on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objectives. The grounds stated were:

- Prevention of Crime and Disorder: The patrons of the premises behave in an antisocial manner in the street outside the premises.
- Public Safety: Patrons of the premises stand in the street and present a danger to the traffic.
- Prevention of Public Nuisance: Noise levels from the premises and patrons are very high.

Several of the parties who had made representation had suggested actions the Licence holder could take to address their concerns, these included:

- Hours of opening are restricted to closure at 11pm on all nights of the week.
- Licensee formally warned that disturbances of any kind will result in immediate withdrawal of the licence.
- Restriction on opening hours.
- Revocation of the Licence.
- Licensee to engage constructively with local police to address issues mentioned in representations.

In accordance with the procedure detailed in the agenda, the Applicant, Ms Penfold, the Responsible Authority, Wiltshire Police represented by Ms Gallimore and Sgt Alvis and the Interested Parties, Mrs Sykes, resident representing a number of local residents, Mr Rutter, representing the Residents Association, Mr Cox, Mayor of Malmesbury, Divisional member Cllr Simon Killane were given the opportunity to address the Sub Committee.

Key points raised by the Applicant, Ms Penfold were:

- Malmesbury is a very small town, Oxford Street has very few residents but has two pubs with opening hours that allow them to open later than other premises in the town – attracting drinkers from other pubs who have shut earlier. As a result, in the small hours of Saturday and Sunday morning the street is often full of people on the pavements and in the road; these people are always drinking, shouting and swearing. Fights occasionally break out and damage has been caused to neighbouring properties. This can sometimes occur until 2.00am and beyond.
- Cars will sometimes pick up people from pub and the drivers will stop outside and sound their horn irrespective of the lateness of the hour. People spill out onto the street, which makes it dangerous for drivers. Often visitors to our house are intimidated when leaving at a late hour.
- It is not unusual on a Saturday and Sunday morning to find beer glasses in the street along with broken glass and rubbish. There has also been evidence of vomit and blood.

There were no questions for Ms Penfold.

Ms Gallimore representing Wiltshire Police (Responsible Authority) made the following key points:

- This is a challenging position for Wiltshire Police and that she would concentrate on issues relating to the Borough Arms only. She went on to explain that Section 182 Guidance is at times at odds with the role of the Neighbourhood Policing Teams (NPT) role. Licensing legislation confines the police to deal with evidence surrounding the crime and disorder licensing objective, however the NPT role includes that of problem solving around Anti Social Behaviour (ASB) issues and proposals.
- She explained the use of Command and Control logs that would support her oral evidence. These are known as STORM logs detailing a unique reference number, time, location, identity and activity that is ongoing. For the purposes of this hearing the logs are split into two categories, those which relate specifically to the Borough Arms and those in the vicinity of Oxford Street. STORM logs of note were;
 - **11/11/11 21:06hrs** – Manager of the pub is smashing up the pub...he is very intoxicated. Words of advice given. No complaint made. No further action.
 - **5/11/11 01:28hrs** – A number of people are outside the pub, in the street, causing a lot of noise and keeping residents awake. When police arrive the people have dispersed.
 - **29/10/11 01:20hrs** – A large group of people are outside the pub causing a disturbance. Quiet upon arrival, persons leaving the area.
 - **29/8/11 00:32hrs** – Caller says she has been punched, she believes that she was knocked out.
 - **6/8/11 00:40hrs** – Large group about 30 persons outside the pub, very noisy in the street. Officers keeping an eye on the crowd. 01:26hrs crowd dispersing.

- **14/5/11 02:01hrs** – Caller reporting that the pub opposite her house still has music blaring out and the doors and windows are open. There is a large group of youths outside smashing bottles etc. 03:01hrs crowd dispersing. No offences but contact will be made with licensees.
- **26/1/11 22:37hrs** – Caller being threatened by male. Caller intoxicated and has been ejected from the premises.

Ms Gallimore asked Sgt Alvis NPT Sergeant for Malmesbury, to expand on his written statement. Sgt Alvis explained that ;

- He had been a Police Officer for 24 years of which 17 were involved in policing Malmesbury.
- Oxford Street is a narrow, single laned, one way street enclosed either side by terraced buildings.
- He described his working relationship with the premises as good.
- He explained that Mr Newman had withdrawn from Pubwatch scheme after an altercation with another Landlord and was subsequently banned from Pubwatch, but when the ban was finished had not engaged with Pubwatch again.
- Issues surrounding the premises happened after 22:00hrs on a Friday and Saturday.
- There was no control of entry into and out of the premises. Also there were issues surrounding the smoking and drinking that takes place outside of the premises.

The Chairman asked for confirmation whether alcohol was permitted to be taken from the premises in open containers. It was confirmed that no alcohol should be permitted to be taken from the premises in unsealed or open containers and this was a condition of the licence.

- The road was often congested outside the premises, where friends came to pick other friends up and also taxis dropping and picking up customers from the premises. Often the crowds outside the premises can become intimidating to motorists due to intoxication.
- It is difficult to differentiate incidents that take place between the two licensed premises as they are in close proximity.

The Chairman asked Sgt Alvis what his expectations were for customers leaving the premises. He explained that the DPS should be managing the entry and exit of customers from the premises. No one should be taking drinks outside and the DPS should be monitoring those who are smoking outside, allowing a certain number at a time.

Sgt Alvis explained that a lot of incidents go unreported. Many people don't want to give evidence as this is a small town and there may be repercussions.

Cllr Bryant sought clarity on when incidents took place, Sgt Alvis confirmed that incidents took place on Friday and Saturday.

Cllr Killane asked whether there was any information regarding the brick that had recently been thrown through Ms Penfold's window. Sgt Alvis explained that Ms Penfold was the only reported victim of crime that night and he believed had been singled out.

Cllr Eaton asked whether there were now door staff, as in the evidence supplied Mr Newman stated that the premises could not support the employment of door staff. The costs of the door staff were shared with the premises next door. Ms Penfold explained how pleased she had been to see the use of door staff and for 3 to 4 weeks there seemed to have been an improvement but now it seemed to have reverted back to how it had previously been. Cllr Killane asked why Mr Newman did not attend Pubwatch. He explained that the meetings took place in the afternoon and as his premises was opened all day this was often difficult for him. It was agreed that Mrs Riggs would attend the Pubwatch meetings in future.

The Chairman asked for the Interested Parties to make their statements.

Cllr Killane stated that it was not for the Police to 'baby sit' these premises at the expense of the taxpayer. Residents from the town feel strongly about this issue. The community has come together to address this. He expressed his sincere regret that the Applicants had had to endure this prolonged upset.

Mrs Sykes explained that she was representing a number of residents who had made written representations. She praised the professional behaviour of the Local Authority and Police in their conduct. She explained that a Review that took place against the neighbouring premises in 2008 has had little effect, the situation has not changed. The residents endure a constant barrage of anti social behaviour, noise and crowds of up to 40 people in the Street. Residents take detours to get home rather than walk past the premises. There is vomit, urinating and obscene language. She explained that the residents have had enough and asked that the licence for the Borough Arms is revoked.

Mr Mills informed the panel that when he and his wife bought their house they were aware that there were public houses opposite. However every weekend is a street party. He feels extremely threatened. Clientele are never very anxious to disperse.

Mr Rutter, representing the residents association explained that the young people frequenting the establishment are rowdy and boisterous. This is an ongoing problem – 3 years ago the issues did subside for a while but it is now as bad as it was. He did not believe that closing the premises early would solve the issues.

Mr Cox explained that he had known Mr Newman for 20 years, but he did not believe in excessive rowdy behaviour, ASB and the acts of vandalism that have been associated with the premises of Oxford Street.

The Chairman asked for questions to the interested parties.

Cllr Killane asked how many other pubs opened until 01:00hrs? He was informed that the Kings Arms opened to this hour but it was a hotel.

Mr Newman (DPS Borough Arms) explained that both the Borough Arms and the Guildhall next door shut at 01:00hrs. Since EPS security have been employed issues have improved considerably. Smoking from his premises should take place within the smoking area. There are signs within the pub to advise of this area. He explained that on Friday and Saturday night there are a number of staff on duty which enable him to work the floor area. He believed that his premises was moving in the right direction. He confirmed that there were signs requesting that patrons did not take their glasses outside if they are caught doing this then they are not allowed back in the premises and a note is made. He is operating the 'Challenge 21' scheme and is considering operating the 'Challenge 25' scheme. He pointed out that he had called the police when anti-social behaviour was taking place and clears the street of glass etc.

He explained that the door staff had done an excellent job and that the cost was split with the Guildhall.

Cllr Bryant asked whether he worked closely with the Guildhall to address the issues that are being experienced. Mr Newman explained that the only link was the door staff.

Cllr Eaton asked whether the use of the door staff was a permanent commitment, this was confirmed.

Mrs Penfold explained that she did have high hopes for EPS, but was worried that staff shared between the two premises was ineffective. The trouble occurs outside the premises. She questioned the effective management of the premises and questioned how issues could be solved when both premises did not communicate with each other.

Mrs Sykes asked what would be different this time as opposed to in 2008. She explained that she had letters from the Local Authority. Ms Gallimore explained for clarity that problem solving action had been put in place in 2008 prior to the review. She clarified that Guildhall had been taken to review in 2008.

Mr Newman explained that the door staff had been a great help. All his staff had personal licences and were properly trained.

Paul Taylor (Solicitor) asked Mr Newman to confirm the hours when the door staff were in operation. Mr Newman informed the panel that door staff were on duty from 21:00hrs – 02:00hrs Friday and Saturday nights.

Mr Rutter asked how crowds were dispersed from the premises. It was explained that crowds were directed to turn left to the Market area.

The Chairman asked the Interested Parties, Relevant Authority, The Applicant, and the Premises License Holder to sum up.

Points made were;

- Generally accepted that a lot of work has been undertaken internally, but there are issues outside and it is difficult to appreciate how things can change when there is a lack of communication between the premises.
- EPS cannot be the conduit for communication between the two premises.
- These are the only two pubs causing issues in the town.
- The problems are confined to the immediate area surrounding the premises and drunkenness can be attributed to the premises. Police activity is disproportionate to any other premises in the town except for the premises under review on 6 Jan 2012.
- Noting the lateness of the incidents a reduction in the opening hours may help to mitigate the Anti Social Behaviour.
- Door staff may alleviate the issues but the Police cannot condone the use of shared door staff.
- The use of door staff does not seem to alleviate the issues significantly.

The Sub-Committee members retired at 12:15hrs to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 14:30hrs

Following the deliberations of the Sub Committee Members, the Solicitor for the Council reported that no material legal advice had been given in closed session, other than to draw members' attention to the Council's policy on the cumulative impact of licensed premises and the related provisions in the statutory guidance.

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

Decision:

The Northern Area Licensing Sub Committee has resolved to amend the Premises Licence for the Borough Arms, Malmesbury as follows:

The Provision of Licensable Activity:

Film

Friday to Saturday 10.00hrs to 00.00 hrs

Indoor Sporting Events

Friday to Saturday 10.00hrs to 00.00 hrs

Live Music

Friday to Saturday 10.00hrs to 00.00 hrs

Recorded Music

Friday to Saturday 10.00hrs to 00.00 hrs

Provision of Late Night Refreshment

Friday to Saturday 23.00hrs to 00.30 hrs

Supply of Alcohol – for consumption on the premises

Friday to Saturday 10.00hrs to 00.00 hrs

The opening hours of the premises

Friday to Saturday 10.00 hrs to 00.30 hrs

All remaining hours as the detailed in the existing licence.

And subject to the following additional conditions:

- 1) There shall be a minimum of two SIA registered door staff dedicated to the premises on duty Friday and Saturday nights from 21.30 – 01.00hrs.
- 2) The licence holder or designated representative shall attend Pubwatch on a regular basis.

Reasons

The Sub-Committee accepted the evidence from the Applicant, police and other Interested Parties that there was a significant problem of noise nuisance and anti-social behaviour outside, and associated with, the premises on Friday and Saturday nights. The Sub Committee considered that the provision of door staff and the reduction in hours for the sale of alcohol on those

evenings would reduce these problems and were necessary to meet the licensing objectives.

In reaching its decision the Sub Committee has 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 also considered the written evidence presented in the agenda and the supporting evidence provided orally.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. This decision does not come into effect until the appeal period has elapsed or, if an appeal is made, until that appeal has been finally disposed of.

(Duration of meeting: 10.30 am - 3.40 pm)

The Officer who has produced these minutes is Anna Thurman 01225 718379 or anna.thurman@wiltshire.gov.uk, of Democratic Services, direct line , e-mail

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NORTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 6 JANUARY 2012 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN REVIEW OF LICENSE - GUILDHALL BAR

Present:

Cllr Trevor Carbin, Cllr Nina Phillips and Cllr Ernie Clark

Also Present:

Paul Taylor, Wiltshire Council Senior Solicitor
Linda Holland, Public Protection Officer
Marie Gondlach, Democratic Services Officer
Ms Penfold, Applicant
Mr T Mills, Resident
Sgt Alvis, Wiltshire Police
Sgt Cooke, Wiltshire Police
Inspector C Martin, Wiltshire Police
Ms Gallimore, Licensing Officer Wiltshire Police
Mr and Mrs Sykes, Residents and representing the Local Residents Association
Mr M Rutter
Mr M Snell, Malmesbury Old Corporation
Mr Lawford, Designated Premises Supervisor
Mr C Pike, Licence Holder

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 – 7 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 Ms L Penfold for a Review of a Premises Licence; the Guildhall Bar, 9 Oxford Street, Malmesbury, Wiltshire.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. The background of the history of the premises was outlined within the report (page 9 to 12 of the agenda refer). The review of the licence had been requested on the grounds that the premises had been conducted in such a manner as to prejudice the licensing objectives. The grounds stated were:

- Prevention of Crime and Disorder: the patrons of the premises stand and drink on the street, fight, break windows and behave in a threatening manner
- Public Safety: the patrons of the premises stand in the street and present a danger to late night traffic.
- Prevention of Public Nuisance: the noise levels from the premises and its patrons are very high.

Several of the parties who had made representation had also suggested actions the Licence holder could take to address their concerns, these included:

- Hours of opening are restricted to closure at 11pm on all nights of the week.
- Licensee formally warned that disturbances of any kind will result in immediate withdrawal of the licence.
- Withdrawal of the Licence.
- Restriction on opening hours.
- Revocation of the Licence.
- Engage constructively with local police to address issues mentioned in representations.

The Licensing Officer concluded by drawing the Committee's attention to the Secretary of State 182 Guidance, paragraph 11.22, which was also outlined in the report (page 9 of the agenda refers).

In accordance with the procedure detailed in the agenda, the Applicant (Ms Penfold), the Responsible Authorities (Wiltshire Police represented by Ms Gallimore, Sergeant (Sgt) Alvis, Sgt Cook and Inspector Martin) and the Interested Parties (Mr Sykes, Mrs Sykes and Councillor Simon Killane, Unitary Councillor for Malmesbury) were given the opportunity to address the Sub Committee.

Key points raised by the Applicant, Ms Penfold, were:

- The disparity between the size and “lifestyle” in Malmesbury and what was happening in Oxford Street every weekend;
- The fact that the two premises in Oxford Street had later opening times than other premises in Malmesbury therefore attracting patrons “to finish their night” when the other premises closed;
- The effort Ms Penfold had been happy to make to mitigate the impact of living near a public house (such as secondary double glazing); however she had not expected and could not do anything to address issues linked with the neighbouring premises such as violence in the streets, broken glasses, smashed windows, vomiting, urinating, shouting, swearing, cars beeping their horns and playing loud music when collecting patrons. There were restrictions, linked with the conservation area status, to what Ms Penfold could do to protect her property, for example she could not put bars on the windows but was now forced to consider installing a CCTV system;
- The door staff only seemed to have been effective for two weeks and now appeared to be “too friendly”. There also were not enough of them to deal with the situation;
- The recent escalation in problems such as smashed windows and threatening crowds of masked people;
- The fact that a review of this premises licence had taken place previously in 2008 and led to a suspension of the premises licence, yet the situation seemed to be the same, if not worse, four years later.

Councillor Clark sought clarification as to the source of the noise and Ms Penfold confirmed that the noise came from the street (fighting, shouting, cars beeping their horns and playing loud music) as well as the premises (patrons constantly entering and exiting the premises therefore often leaving the door open, which meant that the loud music being played in the premises would carry down the street).

Councillor Phillips enquired about the size of the street and it was confirmed that it was only wide enough for two vehicles to cross if one of them was stationary.

Ms Gallimore representing Wiltshire Police (Responsible Authority) explained that this had been a difficult situation as at the initial stages the level of crime and disorder associated with the premises would not have been enough for

Wiltshire Police to apply for a review; however having carefully considered the situation Wiltshire Police had decided to support the review application.

She explained that there were two sides to the police evidence one side dealt with the management of the premises, the other with corroborating noise and nuisance with the premises. She also explained that she would be referring to information contained in the Command and Control logs, also known as STORM logs which detailed reported incidents (time, location, activity, identity, etc) which had been circulated prior to the meeting.

She introduced Sgt Alvis, Sgt Cook and Inspector Martin and explained that thanks to their respective areas of work they would be able to provide more details on different aspects of the review.

Ms Gallimore then raised the following key points:

- STORM logs incidents occurring between 1 January 2011 and the end of October 2011 which were directly attributed to the Guildhall Bar, Ms Gallimore drew the Committee's attention to the following:
 - 22 October 2011 at 00.23 hours – youths sitting on a local resident's wall with their drinks and acting in an intimidating manner;
 - 09 September 2011 at 20.41 hours – drunk male intoxicated to such an extent that there were concerns for his own safety;
 - 05 August 2011 at 23.29 hours – female driver made a 999 call after her car was kicked;
 - 23 June 2011 at 11.46 hours but reporting an incident which occurred at 21.10 hours the previous night – caller reporting a 4 – 5 inches blade being pulled out of a rucksack during an altercation;
 - 4 June 2011 at 00.06 hours – very intoxicated caller reports that the landlord has been assaulted and later retaliated, the caller's level of intoxication made it difficult to establish the facts;
 - 22 May 2011 at 00.49 hours – distressing log, the young lady concerned is very highly intoxicated and there are concerns about the possibility that a sexual assault took place;
 - 23 March 2011 at 23.56 – fighting inside the bar reported as well as very loud music and background noises;
 - 20 March 2011 at 01.33 hours – an ambulance had to be requested as a male had swallowed his cigarette, then cancelled;
 - 19 February 2011 at 23.02 hours – a caller reports underage drinking and drug taking
- The second set of STORM logs were about incidents in Oxford Street:
 - 18 November 2011 at 23.52 hours – officer emergency and two units despatched, large number of people in the street – to the extent that the Chief Officer was informed;
 - 19 November 2011 – routine licence control and 20 people cleared from the front of the premises;

- 16 October 2011 at 01.34 hours – persons shouting and arguing;
- 29 August 2011 at 00.23 hours – 20 youths causing a disturbance – Police unable to attend;
- 07 August 2011 at 23.00 hours – music blaring from neighbouring premises as doors left open and male sitting on windowsill appearing to be texting;
- 07 August 2011 at 02.53 hours – male collapsed and ambulance called by sober friend;
- 22 July 2011 at 22.28 hours – male detained for criminal damages;
- 27 December 2011 at 01.14 hours – male smashing windows.

Each of these logs demonstrated that anti social behaviour and disorder occurred after 11.00 pm.

- As the evidence presented also included statements from Sgt Alvis and Sgt Cooke Ms Gallimore invited them to expand on their statements:
 - Sgt Alvis explained that he had been a police officer for 24 years, 17 of which in Malmesbury and the last 3 years as part of the Neighbourhood Policing Team. He stressed the narrowness of Oxford Street which was the main way into town and the short stay car park. Sgt Alvis expressed his concerns that, despite Mr Pike having been removed as designated premises supervisor (DPS) following the review in 2008, the current DPS, Mr Lawford, always referred him to Mr Pike when wishing to discuss the premises. Violent crime had reached alarming levels in 2008. There had been a reduction in cases of grievous bodily harm and common assault following the licence review in 2008, but there had been a gradual increase over the last couple of years. A lot of intelligence had been received regarding drug use and selling linked with the Guildhall, following a passive drugs dog operation in all licensed premises in Malmesbury in October 2011 the Guildhall Bar had been the only premises where drugs were found (there had been three “hits”, one a young person of 16 found with cannabis). The layout of the Guildhall Bar meant that most smokers would gather at the front of the premises, which often led to high level of noise as well as nuisance caused to vehicles using Oxford Street by people standing in the street. There was no control of entrance or exit points on the premises, which meant that despite the Public Order for Malmesbury forbidding this, there were often alcoholic drinks brought out on the street. Sgt Alvis spoke about the incidents detailed in his statement and stressed that the Guildhall Bar was the main concern in Oxford Street, although the neighbouring licensed premises was not entirely blameless. Sgt Alvis was also very concerned about co-operation from the Guildhall in resolving issues, especially as Mr Pike had been prone to display public outburst of displeasure with the Police. Sgt Alvis was of the opinion that some people were scared

to come forward and report incidents regarding the Guildhall, as this was a small town and there could be repercussions.

- Sgt Cooke summarised his statement and explained how shocked he had been and still was by Mr Pike's behaviour and his attitude towards the Police.
- There had been numerous occurrences of difficulties with the Guildhall Bar, to such an extent that a meeting had been organised in March 2010 between the Police, the Police Licensing Officer and members of staff from the Guildhall Bar. Difficulties in accessing CCTV footage had now improved.
- The Police had applied for the review in 2008 due to very grave concerns, particularly regarding the safety of young people.

Ms Penfold sought and received confirmation from Sgt Alvis that he had advised her that she may wish to be careful following her application for the review and that on 1 January 2012 when a brick had been thrown through the window of her house there had been no other incidents of the sort reported in the vicinity. Sgt Alvis pointed out that the brick had been picked up away from the property then the culprit had walked back to throw it through Ms Penfold's window.

Councillor Killane asked for the difference in the level of instances and incidents between 2008 and the current situation. Ms Gallimore explained that it was not possible to offer a like-for-like comparison as there were different methods of reporting in place. However it seemed clear that Mr Lawson did not have effective control of the premises and that there was no difference in Mr Pike's demeanour and attitude between 2008 and the present time.

Councillor Philips asked for clarification of the cost following the number of police intervention required for the Guildhall Bar. Ms Gallimore explained that she could not give a figure for the cost but that time spent responding to incidents at the Guildhall Bar was not spent elsewhere.

Key points raised by the Interested Parties were:

- Councillor Killane, Unitary Councillor for Malmesbury, explained that the situation was not typical for Malmesbury and had been going on for too long. He felt that the relationship between the neighbouring landlords was an issue and therefore the sharing of door staff would not be viable. He felt strongly that the Police should not spend such amount of time mitigating the negative effects of businesses on the neighbouring properties and residents whilst these businesses generated a profit; the landlords should take some responsibilities.
- Mrs Sykes, representing a number of local residents, praised the professional attitude of the Police and the Licensing Authority but was horrified at the amount of time and work both had spent with regards to the Guildhall Bar. She explained that nothing had improved since 2008, that

there were problems every Friday and Saturday nights, that crowds could be as large as 40 people and that the trouble could go on until as late as 2.00am. She stated that this had led to Oxford Street becoming a “no go zone” for Malmesbury residents. Mrs Sykes explained that local residents had had enough and asked that the licence for the Guildhall Bar be revoked.

- Mr Sykes, representing the Resident Association, explained that the problems dated back earlier than 2008. He also pointed out that the problems and incidents reported to the Police were not an accurate picture of the amount of nuisance local residents had to deal with as people only reported the worst problems and incidents. Mr Sykes also asked for the licence to be revoked.

The parties were given the opportunity to ask questions of the Interested Parties.

In response to a question from Councillor Carbin, Councillor Killane explained that he had been a Malmesbury Town Councillor for three years and a Unitary Councillor since 2009. The problems had worsened in the last year.

Councillor Phillips asked what the situation was the rest of the week and was informed by Mr and Mrs Sykes and Ms Penfold that there was not really a problem during the week; however the problems at weekends obliterated any benefits from the week (such as sleeping).

Mr Pike, Premises Licence Holder, addressed the committee and raised the following key points:

- He had had issues with his CCTV system in the past which was the reason why there had sometimes been delays in providing footage to the Police. This had now been resolved by Mr Pike’s buying a brand new system and Mr Pike reiterated his offer to the Police to provide his CCTV footage of the smashing of Ms Penfold’s window. He also pointed out that CCTV footage he had provided in the past had helped, specifically for the incident with Amanda’s Kitchen and the incident referred to in Sgt Cooke’s statement;
- He had never shied away from his responsibilities and had been proactive in addressing issues, for example he had met with Sgt Alvis to discuss options to address issues linked with smoking outside the premises. He was also very co-operative with the Police at the Pubwatch meetings;
- He had never intimidated anyone and was surprised at statements made today referring to reluctance from people to come forward for fear of reprisals from the Pike family;
- His staff had always worked hard to prevent underage drinking and would also refuse to serve anyone who would appear too intoxicated;
- The allegation regarding the selling of drugs on the premises was malicious as the person making the allegation had been excluded from

the premises and not allowed back in. Also, the balcony in the premises was no longer used as staff could not see what was happening there;

- He had always cooperated with Sgt Alvis and implemented actions on his recommendation such as not letting people exit through the back door to avoid noise and nuisance in Market Lane, improvements to the CCTV system;
- Appropriate logs were kept and had been checked recently by the Licensing Office;
- He had considered installing bollards at the front of the premises to avoid crowd gathering but there were issues around insurance as well as limitations due to the conservation area status;
- The boarded up shops in Oxford Street were not a consequence of activities at the Guildhall Bar. Owners had told Mr Pike that they had been boarded up to avoid people trespassing or urinating in the doorways;
- Mr Pike concluded by saying that he had always made every effort to address problems when they arose and would speak to the company providing door staff if they had not been perceived as effective as they should be, Mr Lawford concurred and added that he was also prepared to do more if required and was always happy to cooperate.

Following questions from Councillor Philips the following was clarified by Mr Pike and Mr Lawford:

- Confirmation that Mr Lawford understood and appreciated that it was his responsibility to ensure patrons were not causing a nuisance when just leaving or in the immediate vicinity of the premises;
- There were four members of staff employed by the Guildhall Bar;
- Banning through Pubwatch would work if all pubs in Malmesbury were members of Pubwatch;

Following questions from Councillor Carbin the following was clarified by Mr Pike and Mr Lawford:

- There were two CCTV cameras in the premises and one outside which covered around 60-70 yards of Oxford Street;
- Under 18 / over 16 were only admitted before 9.30pm then were asked to leave;
- Mr Pike was the Landlord and Mr Lawford was the DPS, therefore Mr Pike made the final decisions;
- Mr Lawford detailed his routine on Fridays and Saturdays: open at 12.00 noon, stay until 7.00pm, have a couple of hours off; come back and work behind the bar until closing time, lock up at the end of the night. Mr Pike would often be on the premises, mixing with the customers;
- The Guildhall Bar was usually very quiet until 8.00pm, then started getting busier around 10.00-10.30pm with people coming in from other pubs; it would get to its busiest between 11.00pm and midnight when other pubs started closing and patrons would come to the Guildhall Bar or Borough Arms;

- Mr Lawford felt that the working relationship with the Borough Arms was good, whereas Mr Pike felt that it was not a great working relationship and could be improved through Pubwatch which no-one from the Borough Arms attended;
- All glasses used in the Guildhall Bar could be identified as they were marked;
- Shutters on the windows and a solid oak door were used to prevent noise from the music played in the premises be heard outside, the noise level inside the premises were monitored and Mr Lawford also monitored noise level outside the premises.

Mr Paul Taylor (Solicitor) asked for confirmation of the hours the door staff were in operation, it was confirmed that they had started in October-November 2011 and worked from 9.00pm to 2.00am on Fridays and Saturdays.

In answering questions from Ms Penfold (Applicant) Mr Pike acknowledged that he could not control the use of Market Lane as a “beer garden” but that to alleviate the situation he did not allow patrons to use the back door of the premises which led straight to Market Lane. He also confirmed that there were currently two people barred in Malmesbury. Mr Pike disagreed with the size of the crowds referred to by Ms Penfold, in his opinion they had never reached numbers as high as 40.

Ms Gallimore, representing Wiltshire Police, sought and obtained confirmation from Mr Lawford that he understood the responsibilities of a DPS, that the records were kept up to date and had been recently checked by the Licensing Officer, and that he felt he could easily approach Mr Pike when required.

However it was also confirmed by Mr Lawford that one of the conditions of the 2008 licence review had not been complied with as not all members of staff serving alcohol had undertaken the BII Social Responsibility Course, neither Mr Lawford nor Mr Pike provided reasons for this.

For sake of clarity Ms Gallimore reiterated that the review application had been made by Ms Penfold not Wiltshire Police has stated in Mr Pike’s letter.

When asked by Ms Gallimore Mr Pike explained that the records of the extended stop and search were kept by the door staff but could be provided to the Police if required and that nothing had been found so far.

Sgt Alvis highlighted the fact that Mr Lawford always referred issues to Mr Pike and would not deal directly with the Police as the DPS, Mr Lawford explained that he was sometimes too busy to deal with the Police and had on occasion felt intimidated.

Mr Paul Taylor (Solicitor) asked the Police if they could identify issues should the neighbouring premises (Guildhall Bar and Borough Arms) not have the same operating hours. Ms Gallimore explained that there were many other issues to address and could not answer at that time.

The Chairman asked the Interested Parties, Relevant Authority (Ms Gallimore), the Applicant and the Premises Licence Holder to sum up.

Ms Gallimore highlighted that sufficient evidence of intoxication at the Guildhall Bar had been provided and that extreme intoxication, at best, resulted in noise and nuisance and, at worst, in serious offences. She pointed out that punitive measures put in place in 2008 had not worked and that the Police had no confidence in Mr Lawson's control and supervision of the premises and no confidence in Mr Pike as Licence Holder. The Police felt that only revocation of the licence would ensure that the Licencing Objectives were respected.

Councillor Killane expressed his wish for Police resources to not be monopolised by issues with the premises and his concerns regarding the effectiveness of the management of the premises.

Mr and Mrs Sykes hoped that their concerns had been heard earlier in the meeting and reiterated that actions put in place in 2008 had failed and asked the committee to consider revoking the licence.

Ms Penfold also expressed concerns over the effectiveness of the 2008 licence review and pointed out that the Guildhall had been offered many chances to improve the situation.

Mr Pike stressed that broken windows and other offences should not be attributed to the Guildhall Bar and reminded the Police that he had some CCTV footage they may wish to view in a bid to catch the culprit. He also stated that he had himself suffered from a nuisance neighbour, of which he had CCTV evidence, and that he had received no help to deal with the issue.

The Sub Committee retired at 1.00pm to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Hearing reconvened at 3.30pm.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement that no material legal advice had been given in closed session other than to remind members of the Committee of the options available to them and the criteria in the statutory guidance. He had also reminded them of the need to address their considerations to the specific premises under review.

He informed all present that the Licensing Officer had been asked to provide advice to the Committee with regards to available training.

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:

The Northern Area Licensing Sub Committee has resolved to amend the Premises Licence for the Guildhall Bar, Malmesbury as follows:

The Provision of Licensable Activities:

Films

Monday to Saturday 11.00 hrs to 23.00 hrs
Sunday 12.00 hrs to 23.00 hrs

Indoor Sporting Events

Monday to Saturday 11.00 hrs to 23.00 hrs
Sunday 12.00 hrs to 23.00 hrs

Live Music

Sunday to Saturday 20.00 hrs to 23.00 hrs

Recorded Music

Sunday to Saturday 20.00 hrs to 23.00 hrs

Performances of Dance

Monday to Saturday 11.00 hrs to 23.00 hrs
Sunday 12.00 hrs to 23.00 hrs

Anything of a similar description to that falling within Live Music, Recorded Music, Performances of Dance

Monday to Saturday 11.00 hrs to 23.00 hrs
Sunday 12.00 hrs to 23.00 hrs

Provide Facilities for Dancing

Monday to Saturday 11.00 hrs to 23.00 hrs
Sunday 12.00 hrs to 23.00 hrs

Supply of Alcohol – for consumption both on and off the premises

Monday to Saturday 11.00 hrs to 23.00 hrs
Sunday 12.00 hrs to 23.00 hrs

The opening hours of the premises

Monday to Saturday 11.00 hrs to 23.30 hrs
Sunday 12.00 hrs to 23.30 hrs

And subject to the following additional conditions:

- 1) All staff serving alcohol on the premises shall have undertaken the BII Social Responsibility Course. For the avoidance of doubt this applies to

- existing staff and any new staff as and when appointed. (This is to replace the existing condition regarding training as a clarification)
- 2) No alcohol will be permitted to be taken from the premises in unsealed or open containers and notices to this effect to be prominently displayed.
 - 3) Notices are to be prominently displayed at all exits from the premises requesting that patrons respect the needs of people living in the area and to leave the area quietly.
 - 4) All windows are to be kept closed and all doors to be kept closed except for access and exit whenever regulated entertainment is taking place.

The premises licence is to be suspended for a period of up to three calendar months to enable the premises to carry out required staff training. If the licence holder can satisfy the Police and Licensing Officer that the training requirements as set out in 1 above have been successfully met, then permission may be granted in writing by the Licensing Officer for the premises to open prior to the end of the three month period.

Mr Michael Lawford is to be removed as Designated Premises Supervisor and a new Designated Premises Supervisor be appointed.

Reasons

The Sub-Committee accepted that there was a significant problem of noise nuisance and anti social behaviour outside and associated with the premises on Friday and Saturday nights. The Sub Committee considered that the reduction in hours would reduce these problems and was necessary to meet the licensing objectives. The Sub Committee considered that the additional conditions above would address the issue of noise and anti social behaviour.

Having heard evidence that the management of the premises is inadequate, the removal of the Designated Premises Supervisor and temporary suspension of the premises licence until such time as the required training had been undertaken were considered necessary to address these issues.

In reaching its decision the Sub Committee has 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 also considered the written evidence presented in the agenda and the supporting evidence provided orally. After thorough consideration of the request from the Police and local residents to revoke the premises license, the Sub Committee felt that on balance the decision reached was proportionate to meet the licensing requirements.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. This decision does not come into effect until the appeal period has elapsed or, if an appeal is made, until that appeal has been finally disposed of.

(Duration of meeting: 10.30 am - 3.40 pm)

The Officer who has produced these minutes is Marie Gondlach (Democratic Services Officer), direct line 01225 713597 or email marie.gondlach@wiltshire.gov.uk, of Democratic Services, direct line , e-mail

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WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 14 NOVEMBER 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE, BA14 0RD IN RESPECT OF AN PREMISES LICENCE - GLOVE FACTORY, HOLT

Present:

Cllr Peggy Dow, Cllr George Jeans and Cllr Nina Phillips

Also Present:

Pam Denton, Senior Democratic Services Officer
Maggie Jones, Licensing Officer
Paul Taylor, Senior Solicitor
Mr N Kirkham, Applicant
Mr and Mrs Mulvany, Interested Parties
Mrs Foster, Interested Parties

1. Election of Chairman

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

Resolved:

To elect Councillor George Jeans 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 – 6 of the Agenda refers).

3. Chairman's Announcements

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

4. Declarations of Interest

There were no interests declared.

5. **Licensing Application**

Application by Mr N R Marshall and Ms A M Kirkham for a Premises Licence at the Glove Factory Café, Glove Factory Studios, Brook Lane.

The Chairman sought clarity from the Applicant, Mr Kirkham, whether the Sub Committee were considering the application as detailed within the agenda as there had been reference in the correspondence to agreed amendments . Mr Kirkham clarified that this was the case.

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. The background and the history of the premises is outlined within the report (page 7 and 11 of the agenda refer). During the consultation period relevant representations have been received from three Interested Parties.

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

Key points raised by Applicant were:

- The Glove Factory Studio is a managed workspace complex aimed at the higher skills and knowledge based small and micro businesses.
- The building is a refurbished heritage building in a rural setting and within this are 20 self contained office/studios, a business/meeting room and a bespoke café.
- Wiltshire Design Network supported by Wiltshire Council has approached the Applicant to develop and host monthly events and networking meetings/meals to encourage networking potential.
- The café holds the network of businesses together and a licence would make it more attractive to visitors and networking opportunities and events. Predominantly the Glove Factory Café is a business facility with business events being hosted until the early evening. They encourage the use of the café courtyard garden and paddock for use as a village facility.
- The site previously was a light industrial unit with a tannoy system and lights. However these have been removed at the request of local residents.
- There will be no events with amplified music. They will want to occasionally show films as part of a cultural or local event.
- They want the flexibility to be able to run interesting local and cultural events.
- Holt has 40,000-50,000 visitors a year to two National Trust properties at Great Chalfield Manor and The Courts Gardens. The Courts Gardens have an agreement with the local Village Hall for 35 parking spaces but this is not enough and parking takes place all along the Midland bend. If the

Glove Factory was fully let there would be a need for further parking. Since the summer they have an agreement to use an additional 16 places which will remain until the determination of the factory site. The parking issues in Holt cannot be blamed on the Glove Factory and the use of its café.

Members of the Sub-Committee sought clarity on a number of points;

- Whether cultural events that would take place would need amplified music to be played outside. The applicant did not think that the playing of amplified music would be necessary.
- Whether the building was listed. The applicant clarified that the building was not listed.
- Whether, if the building is not listed, there may be opportunity for further sound proofing. The applicant explained that there was no intention to have any amplified music inside to any level.

The interested parties were then given an opportunity to question the applicant. Mrs Foster explained that an e-mail had been sent to Mrs Jones the Licensing Officer to explain that a meeting had taken place on Friday with Mr Kirkham regarding the working arrangements of the café and as such they were withdrawing their objections to the application. Mr Mulvany explained that they were in agreement with Mr Kirkham taking this application forward. Their concerns were if the Glove Factory should change ownership. Mrs Jones explained that the licence can be passed on to someone else but there is legislation in place through the Review process. Mr Taylor, Senior Lawyer, Wiltshire Council, informed the Interested Parties that should the premises change ownership and the nature of the activities change, then local residents would have the opportunity to seek a review of the licence, if they had concerns about those activities.

The Sub-Committee members retired 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 10.50am

The Hearing reconvened at 11.15am

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

Resolved:

To grant the application with operating hours and proposed conditions as applied for i.e.

Licensable Activity	Timings	Days
Provision of regulated entertainment (Indoors & Outdoors) Plays, Films, Live music, Performance of Dance, Anything of a similar description –	1000 – 2300 1000 – 1800	Monday to Saturday Sunday
Recorded Music	1000 – 2300	Monday – Sunday
Sale by retail of alcohol (on & off the premises)	1000 – 2300 1000 – 1800	Monday to Saturday Sunday

Subject to the following conditions:

1. During any performance of live music, the Designated Premises Supervisor (DPS) or other person authorised by the DPS shall, by standing in the vicinity of the nearest dwelling to the premises being Garlands Farm BA14 6RL, monitor and carry out a subjective assessment of the sound levels at the location of the premises and where as a result of that assessment the music is deemed to be too loud, action shall be taken to reduce the sound to an acceptable level. The following details shall be recorded in a log book: (a) the name of the person undertaking the sound assessment; (b) the date of the performance of live music; (c) the time of each assessment; the location or locations of each assessment; (d) the observations of the person carrying out the assessment; and (e) details of any action taken.
2. The windows in the café/restaurant area of the premises shall be kept closed during any performance of live music.
3. A notice will be placed on the entrance asking the public to leave quietly from the venue.

4. The licence holder will notify Wiltshire Council Public Safety Group of any events that are likely to exceed 500 people, sixty days prior to the event taking place.
5. There will be a notice prominently displayed with the contact details, including telephone number, of the licence holder.

Evidence:

The Sub-Committee considered the written evidence attached to the agenda. In addition the Sub-Committee heard evidence from the applicant.

The Sub-Committee also received evidence from the following individuals who had made representations:

Mr and Mrs Mulvany
Mrs J Foster
Mr and Mrs Stevens

Reasons

The sub-committee considered that the conditions attached to the licence addressed the issues that had been raised by the interested parties and are necessary to meet the licensing objective of preventing public nuisance.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days.

An interested party or responsible authority may apply to the Licensing Authority for a review of a premises licence, whether or not a review hearing takes place is in the discretion of the Licensing Authority but will not normally be granted within the first 12 months except for the most compelling circumstances.

(Duration of meeting: 10.00 - 11.15 am)

The Officer who has produced these minutes is Anna Thurman, of Democratic Services, direct line 01225 718379, e-mail

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 21 NOVEMBER 2011 AT ST JOHN'S PARISH CENTRE, 2 WINGFIELD ROAD, TROWBRIDGE, BA14 9EA IN RESPECT OF AN REVIEW - THE COURTHOUSE, TROWBRIDGE

Present:

Cllr Desna Allen, Cllr Trevor Carbin and Cllr Pip Ridout

Also Present:

Anna Thurman – Democratic Services Officer
Maggie Jones – Licensing Officer (Wiltshire Council)
Paul Taylor – Senior Solicitor (Wiltshire Council)
Ms Jacqui Gallimore – Licensing Officer (Wiltshire Police)
Mr Valls – Legal Representative for the Courthouse
Sgt McLundie – Wiltshire Police
PC Briddon – Wiltshire Police
PC Hambly – Wiltshire Police
Ms L Sutton – Licensee, The Courthouse
Mr G Picket – DPS, The Courthouse

1. Election of Chairman

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

Resolved:

To elect Councillor Desna Allen 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 – 6 of the Agenda refers).

3. Chairman's Announcements

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

The Sub-committee were informed that, as part of their representations, the police intended to present an extract from a covert camera used to watch the premises.

The Sub-Committee resolved to exclude the public and press from that part of the hearing when the CCTV footage was being presented. This was on the basis that the footage would identify individual members of the public. The Sub-Committee considered that the public interest in excluding the public from the part of the meeting when the CCTV footage was to be shown outweighed the public interest in that part of the hearing, in accordance with Regulation 14(2) of the Hearings Regulations.

4. **Declarations of Interest**

There were no interests declared.

5. **Licensing Application**

Application for Review of Premises License by Wiltshire Police for The Courthouse, 2 Castle Street, Trowbridge.

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

The application relates to a Review of the Courthouse Premises Licence for the sale of alcohol, regulated entertainment and late night refreshment. Following advertisement of the application, no additional representations from responsible authorities or interested parties had been received.

Since November 2005, the premises has benefitted from a Premises Licence issued under the Licensing Act 2003.

The premises Licence was subsequently varied in November 2007 to extend the hours of the licence until 0600hrs Monday to Sundays. The Licence was transferred to Ms Lisa Sutton in February 2010. Ms Sutton applied to have Mr Gary Pickett named on the licence as Designated Premises Supervisor in August 2011.

On the 30 September 2011, an application for a review of the Premises Licence was served on the premises and the Licensing Authority. The review of the licence has been requested by Wiltshire Police on the grounds that the premises have been conducted in such a manner as to prejudice the licensing objectives. The grounds for review were:

- The premises had been associated with high levels of crime and disorder.
- Police and Licensing Authority have attempted to work with the management of the premises over this period including numerous interventions and whilst short term improvements have been made for a short period of time, the premises has reverted back to being the subject of unacceptable levels of associated crime.
- March 2011 a serious incident occurred directly outside of the premises involving door staff and an ejected customer which is the subject of a criminal investigation. The incident provides evidence of assault by a member of door staff, as well as a lack of basic welfare and aftercare combined with a failure to provide police with accurate details of what actually took place.
- In summary the police have serious concerns that the licensing objective of preventing crime and disorder and public safety are not being supported.

There were no questions to the Licensing Officer and the Chairman thanked the Licensing Officer for her report.

Jacqui Gallimore, Licensing Officer for Wiltshire Police detailed the relevant points in support of the review application.

She explained that the Courthouse operates within a busy and vibrant night time economy, which includes pubs, clubs, numerous late night refreshment premises and taxi ranks. She went on to explain the recording systems that the Police had used and examined in relation to the Courthouse, specifically alcohol related arrest data and the Niche record management system.

- Alcohol related arrest data is collected through the divisional custody units, where detainees are booked into custody following an arrest for any offence to establish if they are under the influence of alcohol. Those who have consumed alcohol are will be questioned when sober.
- The niche record management system is where all crimes and crime related incidents are recorded. When a crime or incident takes place that is related to a licensed premises a tag is activated – this allows specific data searches to take place.

The Police Licensing Officer went on to detail a number of incidents that had taken place between January 2010 and August 2011 and provided supporting evidence to link the violent crime or crime and disorder to the premises with evidence of poor management practice and breaches of the conditions. She referred to the following incidents:-

- 9 Jan 2010 male arrested for affray. He had been drinking at the premises.
- 10 Jan 2010 disturbance including general disorder. Police called to premises where attending officers described the door staff as being 'unhelpful and passively obstructive' refusing to detail what had occurred.

- 16 Jan 2010 police attend the premises and request ambulance for a male with injuries.
- 24 Jan 2010 female calls police stating that she has been assaulted, two arrests made.
- 5 Feb 2010 information passed to the Licensing Officer. Bar staff continued to serve a man who was about to vomit and was clearly drunk.
- 7 Feb 2010 a female called the police for assistance, a known suspect assaulted the female by punching her in the face. The investigation also revealed that there were persons under the age of 18 years on the premises.
- 20 Feb 2010 police receive a call stating that a man was heading to the Courthouse armed with a rolling pin. He had been drinking in other establishments and continued to drink in the premises. There was an altercation and he went home but at home became angry and went back to the premises armed with the rolling pin – his recollection is hazy.
- 27 Feb 2010 a police officer found two persons who were highly intoxicated, one of the individuals had a cut to his head and were unable to understand what he was saying. The female became extremely abusive and violent and had to be restrained to protect herself from harming herself.
- 27 Feb 2010 police called as a female had been 'bottled'. She sustained a cut to her head and required hospital treatment.
- 6 March 2010 violent disorder outside the Courthouse whereby two males were punched unconscious. Interviewees explained that the Courthouse and Fever were selling double spirits and a mixer for £2.50. He had consumed a number of these before gaining entry to the Courthouse where he was still served additional drinks. Investigating Officers noted that this male could hardly walk when viewed on CCTV.
- 13 Jun 2010 police officers on patrol requested an ambulance for a male. It transpired that he had been hit several times over the back of the head whilst involved in an altercation on the dance floor at the Courthouse. A male was arrested for Actual Bodily Harm (ABH).
- 5 July 2010 staff were found not to be displaying their SIA badges. Officers found a heavily intoxicated individual. When asked to leave he became violent and aggressive and was arrested.
- 24 Aug 2010 a female had assaulted her partner with a pint glass. Police located both the victim who was treated for head injuries and the female who was arrested for assault.
- 29 Aug 2010 officers were approached by an injured party who had been punched in the face, scratched and had had her hair pulled by the suspect. A female was arrested for assault.
- 9 Oct 2010 patrolling officers came across door staff restraining a male, who had allegedly punched a female in the face, he was arrested for common assault. The male denied assault. On viewing CCTV it was found that 4 persons were involved in a fight on the premises. As a result of an investigation two females were arrested.

- 27 Nov 2010 a female calls the police reporting that she has been assaulted in the toilets of the Courthouse. She was able to identify a suspect.
- 18 Dec 2010 a female reported that she had been assaulted in the Courthouse. She sustained a cut to her head which required hospital treatment.
- 17 Jan 2011 a male contacted the police to report that he had been assaulted on the dance floor of the Courthouse. He sustained injuries, including a black eye, bite marks on his cheek, he had head pain and general bruising.
- 23 Jan 2011 ambulance staff reported that they were treating a male with a head injury, who was taken to hospital. Door staff had ejected the male for fighting on the premises. It is unknown how he sustained the injury.
- 9 Feb 2011 a male is ejected from the premises following an altercation inside the premises. He was issued with a Section 27 direction notice to leave the area.
- 26 Feb 2011 an incident occurs outside the premises initially involving two males. Others join in a verbal altercation, punches are thrown – no door staff intervention.
- 5 Mar 2011 CCTV operators called the police to report that door staff are dealing with a number of people fighting. Police attend but the door staff had broken up the fighting.
- 13 Mar 2011 officers attend a female who has sustained a head injury. She had been drinking in the Courthouse and alleged that she had been hit with a bottle.
- 16 Apr 2011 Licensing officers attend the premises and witness a male who appeared to be very intoxicated and had been refused entry at bar Fever. The male walked in to the Courthouse past two door staff.
- 15 May 2011 CCTV operator reported that persons were fighting door staff at another premises. They reported that the persons had come from the Courthouse. Police attended and found a female with head injuries and arrested a male for ABH. The male had been drinking in the Courthouse.
- 11 Jun 2011 a male was arrested on suspicion of assault which occurred outside the Courthouse. Both the suspect and the injured party were drunk.
- 3 Jul 2011 a female alleged that she had been assaulted in the Courthouse. She had injuries consistent with her account. She had been pushed and punched. Later she was attacked again, punched and was straddled on the floor by the suspect. The log indicates that both individuals were highly intoxicated.
- 28 Oct 2011 officers responded to a call from a late night refreshment establishment, where a female had a large cut to her arm. The female had thrown a brick at the premises. She was subsequently arrested and violent towards officers. She was heavily intoxicated and had just come out of the Courthouse.

These incidents relate to high levels of intoxication which led to violent crime.

The Police Licensing Officer drew the Sub-Committees attention to a letter dated 1 Mar 2010 which detailed the outcomes of a meeting between herself, Sgt McLundie and Ms Sutton. A number of incidents were discussed. Ideas on how to improve the premises incident book and register of door supervisors were made. Sgt McLundie discussed the dispersal policy and suggestions were made as how staff could prevent large numbers of people leaving the premises at the same time. Also discussed were the challenges of running a late night establishment, the management of door staff, and the need to reinforce to all bar staff their responsibility in relation to the serving of alcohol to person who were intoxicated.

The Police Licensing Officer detailed salient points from a letter dated 8 Mar 2010 which was a debrief from a meeting held on the 3 Mar 2010 following an incident on the premises in which a female was assaulted with a weapon. Ms Sutton was advised that the premises would continue to be monitored, and that given the concerns officers would be advised to consider enforcement action in the form of a closure notice to deal with immediate problems. If improvements were not made in the running of the establishment the premises may be the subject of a police review.

The Police Licensing Officer also commented on work undertaken by partner agencies who were working in tandem with the police to improve the premises. During the period of February and March 2010 there was considerable support to the premises and for a time this appeared to have a positive effect, however the police still had significant concerns to have a covert camera installed. Data available from police analysts showed that the Courthouse during Jan – Dec 2010 was second in the premises list for alcohol related arrests and from Jan to September 2011 was eighth in the same list.

It was noted that the Courthouse was shutting earlier at 3.00am and that on the 18 Aug 2011 an application was received to change the Designated Premises Supervisor. However a formal application to vary premises licence had not been received.

In accordance with the procedure detailed in the agenda, the representative of the Licence Holder, Mr Valls took the opportunity to address the Sub-Committee.

- He did not dispute and of the evidence produced by the police.
- He concurred that an application had been made to change the DPS and that there was no intention to trade after 3.00am. He stated that licensable activities would stop at 3.00am, with the premises closing at 3.30 a.m., to allow 30mins for customers to disperse.

- He stated that the present door staff and company would be dismissed and that no individuals from that company would be employed at the premises in future. A new security company, Full Security Limited, had been appointed. The new company could, if required be in place by the weekend.

The Licensing Officer welcomed these comments but had significant concern that it had taken a review of the Premises Licence to address the issues raised by the police.

Members of the Sub Committee asked whether the quality of the CCTV within the premises was adequate. Mr Valls informed them that CCTV (12 cameras) had been installed in June 2010, and appropriate training for staff had taken place.

The Chairman requested that the press and public should leave the rooms for the duration of the DVD and the subsequent discussion that would follow surrounding the viewing of the DVD.

The Chairman then asked for the Licensing Officer to sum up her case for the Police. She stated that although there had been a reduction in incidents from 2010 to date there needed to be a further drop and for this to be maintained. Numerous agencies had been involved and had worked hard in conjunction with the Courthouse to improve. There was still significant evidence of over serving and that members of the public were vulnerable by virtue of their intoxication coupled with the failure to provide police with CCTV footage when required.

Mr Valls acknowledged that the evidence presented by the police showed an unacceptable situation at the premises. He fully supported the suggestions that the Police Licensing Officer had suggested to rectify the management issues at the Courthouse.

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 12.30pm

The Hearing reconvened at 2.30pm

Following the deliberations of the Sub-Committee, the Solicitor for the Council reported that no material legal advice had been given in closed session, other than to draw members' attention to the Council's policy on the cumulative impact of licensed premises and the related provisions in the statutory guidance.

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 Chairman read out the decision of the Sub-committee, as follows:-

Decision:

The Western Area Licensing Sub Committee has resolved to amend the Premises Licence for the Courthouse, Trowbridge as follows:

The Provision of Licensable Activity:

Supply of Alcohol – on and off sales

Monday to Sunday 1100 to 0300 (the following day)

Exhibition of a film, live music, recorded music, performance of dance, karaoke, provision of facilities for making music, provision of facilities for dancing and similar entertainment

Monday to Sunday 1100 to 0300 (the following day)

Late Night Refreshment

Monday to Sunday 2300 to 0300 (the following day)

And subject to the following additional conditions:

- 1) Premises should be closed to the public by 0330hrs.
- 2) The DPS or suitably experienced and qualified replacement appointed to deputise, to be present at the premises throughout all key trading times. Prior notification to be given to the Police of the name of the designated deputy.
Key trading times are Thursday, Friday and Saturday from 2000 – 0330hrs; or any time when regulated entertainment is taking place on the premises or for special events such as Christmas, New Year.
- 3) The Licence Holder shall, within 30 days, prepare, and thereafter maintain and comply with, a management plan setting out the management responsibility for dealing with any incidents, including the keeping of appropriate records and the management of door supervisors. This management plan should be approved by Wiltshire Council's Licensing Authority and Wiltshire Police.

Reasons

In reaching its decision the Sub Committee has 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 also considered the written evidence presented in the agenda and the supporting evidence provided by the Police, together with the oral evidence given at the hearing from Ms Jacqui Gallimore, PC Bridden and PC Hambly (On behalf of the Applicant), and Mr Valls (On behalf of the Licence Holder). They noted in particular the assurance given on behalf of the licence holder that the present company supplying door staff for the premises would be dismissed and that no individuals from that company would be allowed to work as door staff at the premises.

The Sub Committee considered that the evidence presented by the Police showed a failure to manage the premises and to comply with the licensing objectives, in particular those relating to the prevention of crime and disorder and public safety.

The proposed additional conditions are considered to be necessary to address the concerns regarding these objectives.

Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. This decision does not come into effect until the appeal period has elapsed or, if an appeal is made, until that appeal has been finally disposed of.

(Duration of meeting: 10.30am – 2.35pm)

The Officer who has produced these minutes is Anna Thurman, Direct Line - 01225718379 or E-mail anna.thurman@wiltshire.gov.uk, of Democratic Services, direct line 01225 718379, e-mail

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WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 15 DECEMBER 2011 AT WARMINSTER CIVIC CENTRE, DEWEY HOUSE, WARMINSTER IN RESPECT OF AN REVIEW - FETA FEAST

Present:

Cllr Trevor Carbin, Cllr Ernie Clark and Cllr George Jeans

Also Present:

Ms Maggie Jones – Licensing Officer, Wiltshire Council
Ms Jacqui Gallimore – Licensing Officer, Wiltshire Police
Inspector Winter – Wiltshire Police
Paul Taylor – Solicitor, Wiltshire Council
Mr Sa'd Thnaibat – Licence Holder

1. 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.

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 – 6 of the Agenda refers).

3. Chairman's Announcements

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

4. Declarations of Interest

There were no interests declared.

5. Licensing Application

Application for Review of Premises License by Wiltshire Police for Feta Feast 82 Market Place, Warminster BA12 9AW

The Licensing Officer introduced the purpose and scope of the application, and explained that an application for the Review of Feta Feast's Premises Licence for late night refreshment, has been made by Wiltshire Police.

Since November 2005, the premise benefits from a Premises Licence issued under the Licensing Act 2003.

The Premises Licence was subsequently varied in January 2006 to extend the hours of late night refreshment. Following representation from Wiltshire Police, the application for variation was subject to a Hearing, held on 22 February 2006 at the Council Offices, Bradley Road, Trowbridge. A varied licence was subsequently granted by the Licensing Committee.

An application to transfer the Premises Licence to Mr Sa'd Thnaibat was received on the 13 July 2011.

In July 2011, the Licensing Officer for Wiltshire Council, wrote to Mr Thnaibat enclosing the re-issued Premises Licence. The letter also included advice with regard to the terms and conditions to which the licence was granted.

There were no questions of the Council's Licensing Officer.

In accordance with the procedure detailed in the agenda, Jacqui Gallimore on behalf of Wiltshire Police, the Applicant, was given the opportunity to address the Sub-Committee.

Key points raised by the Applicant were:

- The Police have had concerns about Feta Feast going back to 2009, before Mr Thnaibat took it over.
- Police had no concerns over the condition regarding seating.
- Reference was made to the two supporting documents issued by the Police and Jacqui Gallimore quoted from these citing instances where issues of public disorder had arisen.
- Inspector Winter outlined the nature of the night time economy in Warminster
- Jacqui Gallimore said that on the occasion that both Speedy Chef and Feta Feast had closed at 2am Warminster had been 'a different place'.

Members of the committee asked questions of the Police

- At what time do you think that door staff would be required at Feta Feast? Jacqui Gallimore replied that the police would like to see door staff from midnight.
- Have you got examples of instances when Mr Thnaibat was uncooperative and obstructive? Jacqui Gallimore replied that mostly instances were in the log but she added that Mr Thnaibat had not only gone against the advice of licensing officers but also senior Police officers.
- Do you still want revocation of the licence? The reply was in the affirmative.
- Would you still like to keep the conditions worded as they are at present? Inspector Winter replied that the conditions were confusing making the premises difficult to police. The Police would like to see the presence of door staff from midnight to 3am.
- Had there been an increase in anti-social behaviour since June 2011? Jacqui Gallimore replied that there had been a spike in August and there had been an additional Police presence at the premises since then which would have had an impact. Police felt that they had effectively been providing door staff for Feta Feast for several months.
- You said that Feta Feast had been linked to violence and disorder most weekends, where is the evidence for this? Jacqui Gallimore replied that it depended on what was considered to be disorder, but that there was always some evidence of anti-social behaviour
- Are there any other food premises that employ door staff in Warminster? Jacqui Gallimore confirmed that there were not
- In response to a question regarding the hours when the police would like to see door staff at the premises, Inspector Winter replied that she would like to see the premises closing at 2am. However, if they are open to 3am the Police would like to see door staff from midnight but if they close at 2am there is no need for door staff.
- Do you get many complaints from the public about general activity in Warminster? Yes
- Are these complaints amplified because of the military? No

- Why does Feta Feast need door staff from midnight but Speedy Chef doesn't? Inspector Winter replied that she would ask for door staff at Speedy Chef too but at present they were compliant. Speedy Chef is a small shop where few people gather, both places are totally different.

In accordance with the procedure detailed in the agenda, the Licence Holder, Mr Thnaibat took the opportunity to address the Sub-Committee.

- The best trading time for Feta Feast was between 1am and 3am but he has to use all his profit to pay for the security staff.
- He could deal with any problems that arise himself or his staff would handle it.
- He was not aware of the door staff conditions when he bought the premises.

In response to questions from Members of the committee, the licence holder

- Stated that he only had sight of the Premises Licence after it was transferred to him
- Accepted that he was fully responsible for the premises
- Stated that he was not aware that he needed to be registered with the SIA to deal with people who are causing trouble, .
- Stated that he thought that the hearing today was to consider a variation to the licence and that his preference would be to open until 3am without security.

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 2.30pm

The Hearing reconvened at 4.10pm

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:

The Western Area Licensing Sub Committee has resolved to amend the Premises Licence for Feta Feast, Warminster as follows:

The Provision of Licensable Activity:

Late Night Refreshment

Sunday, Monday and Tuesday 23.00 until 01.00 (the following day)

Wednesday, Thursday, Friday and Saturday 23.00 to 02.00 (the following day)

Hours of opening

Sunday, Monday and Tuesday 23.00 until 01.00 (the following day)

Wednesday, Thursday, Friday and Saturday 23.00 to 02.00 (the following day)

Conditions to be varied as followed:

- 1) The customer waiting area must be covered by CCTV system capable of producing images of quality so as to identify individuals. The system should be capable of recording images and the record should be stored for a period of 30 days in a secure location. The images should be clearly marked with the date and available to Police on request.
- 2) The additional condition regarding door staff previously attached by the Licensing Authority be removed.
- 3) The seating provision at the premises to be removed by 23.00 on Wednesday, Thursday, Friday and Saturday.
- 4) The licence holder shall within two weeks of the date that this Decision Notice comes into effect, prepare, and submit to the Licensing Authority for approval, a written management plan setting out how he will comply with the licensing objectives including training of any staff. The approved management plan shall thereafter be maintained and complied with.
- 5) The condition regarding gaming machines is removed due to changes in legislation

Suspension of Licence

The licence shall be suspended for 2 weeks or until such time as the management plan in additional condition 4) above, is prepared and submitted to the Licensing Authority (if this is sooner than 2 weeks)

Reasons

To reduce the level of anti-social behaviour associated with the premises as evidenced by the Police.

The reduction in the opening hours to 02.00 would remove the necessity for door staff and the sub-committee were not satisfied that the licence holder was capable of safely managing the premises after 02.00.

The licence holder had not demonstrated his full understanding of managing the premises in accordance with the licensing objectives and the management plan was required to ensure that the licensing objectives would be properly addressed in the management of the premises. The suspension of the licence for two weeks would provide time for the licence holder to consider any changes to the operation of the premises and to prepare the management plan.

The amendment to the condition regarding CCTV was to bring it in line with the standard terms for such a condition and to ensure that the licence holder is aware of his responsibilities in respect of maintaining CCTV records.

In reaching its decision the Sub Committee has 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 also considered the written evidence presented in the agenda and the supporting evidence provided by the Police, together with the oral evidence given at the hearing from Ms Jacqui Gallimore and Inspector Winter (On behalf of the Applicant), and Mr Thnaibat (The Licence Holder).

The Sub Committee considered that the evidence presented by the Police showed a failure by Mr Thnaibat to manage the premises and to comply with the licensing objectives, in particular those relating to the prevention of crime and disorder and prevention of nuisance. They noted in particular that the majority of incidents of disorder and nuisance associated with the premises occurred after 2.00 a.m. and that the licence holder had regularly failed to comply with the existing condition requiring door staff to be on duty, if the premises were to remain open after that time.

The proposed conditions are considered to be necessary to address the concerns regarding these objectives.

(Duration of meeting: 1.00 - 4.15 pm)

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WESTERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 22 DECEMBER 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE, BA14 0RD IN RESPECT OF AN VARIATION OF A PREMISES LICENCE; GALAXY CAFFE, 28 ROUNDSTONE STREET, TROWBRIDGE

Present:

Cllr Liz Bryant, Cllr Trevor Carbin and Cllr Rod Eaton

Also Present:

Richard Francis - Senior Environmental Health Officer, Wiltshire Council
Maggie Jones – Licensing Officer, Wiltshire Council
Paul Taylor – Solicitor, Wiltshire Council
Mr D Siegmuller and Mr S Siegmuller - Applicants

1. **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.

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 – 6 of the Agenda refers).

3. **Chairman's Announcements**

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

4. **Declarations of Interest**

There were no interests declared.

5. **Licensing Application**

Application by Sebastian Siegmuller and Damian Siegmuller for a variation of a Premises Licence in respect of Galaxy Caffe, Trowbridge

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. She added that she believed that the applicants had agreed with the Police to amend their application but so far had received nothing in writing.

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 the Applicant were:

- They want to have light music, for example just one person with a guitar and to use the premises for events such as birthday parties and to exhibit art.
- They don't want to upset neighbours. They are prepared to fit acoustic curtains to reduce any noise from the large front windows.
- They would like to have a proper restaurant and have spent a lot of money improving the premises so would like to be able to recoup that money.

Cllr Eaton asked the applicants if they had agreed with the Police to amend their application and the applicants replied that they had.

Cllr Bryant asked about late night refreshments – would they be indoors or outdoors? The applicants replied that they would be indoors.

Cllr Carbin asked about the steps that had been proposed to monitor noise from the premises; how would these work? The applicants replied that they planned to keep checking outside the premises and listen, if the music was too loud then they would simply turn it down. If there were any events or parties planned then they would alert their neighbours in advance.

Key points raised by the Responsible Authority (Richard Francis of the Environmental Protection Department, Wiltshire Council) were:

- His objection was on the grounds of public nuisance.
- The shop frontage is large with a single pane window with no acoustic properties. There was also a residential flat above the premises.
- The main concern was trying to combine live music with residential premises. The premises were not designed for live music.

- Acoustic measures would require an acoustic report and would be very expensive to carry out.
- There had been complaints in relation to smoking areas and it would be good to have the smoking area to the rear of the premises, however he would like to see a condition regarding the times that this area could be used.
- He suggested that a condition saying that no drinks or food to be taken outside after 8pm because of the closeness of the neighbours.
- He could agree to a single acoustic performance until 11pm but a live band with amplified music would create a public nuisance.
- He objected to karaoke as it was uncontrolled and could cause a public nuisance.

The Sub-Committee then retired to consider the application at 11.10am

The Hearing reconvened at 12.30pm

Following the deliberations of the Sub-Committee Members, the Solicitor for the Council confirmed that there no material legal issues had arisen during the Sub-Committee's deliberations.

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:

The Western Area Licensing Sub Committee has resolved to grant the application for a variation of the Premises Licence for Galaxy Caffe, 28 Roundstone Street, Trowbridge, as amended and detailed below:

Sale of Alcohol (on sales)

Monday to Sunday 10.00 to 01.30

Recorded Music (indoors)

Monday to Sunday 10.00 to 00.00

Live Music (amplified)

Monday to Sunday 10.00 to 00.00

Live Music (acoustic)

Monday to Sunday 10.00 to 01.00

Late Night Refreshment

Monday to Sunday

23.00 to 01.30

And subject to the following additional conditions:

1. No karaoke on the premises at any time.
2. No glasses, bottles or food to be taken outside the front of the premises at any time, or into the garden area at the rear of the premises after 21.00.
3. Doors and windows are to be kept closed when amplified music is performed.
4. A nominated member of staff to monitor noise in the vicinity of the premises, both to the front and the rear, with particular regard to changes of volumes when the doors are opened. Action to be taken if necessary. A log book to be kept to include the time and date of checks, name of staff and action taken.

Reasons:

1. The reduction in hours for both recorded and live music, was considered necessary to address concerns regarding public nuisance, in particular noise.
2. The conditions on the restriction of removal of glasses, bottles and food from the premises were considered necessary to reduce the levels of noise arising from persons congregating at the front of the premises and in the rear area late in the evening.

The Sub Committee considered the written representations from the Environmental Health Officer, Wiltshire Police, and Natasha Owen of the Polebarn Hotel presented in the agenda, together with the oral representations given at the hearing on behalf of the Applicant and the Public Protection Team.

In reaching its decision the Sub Committee has considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 35); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

(Duration of meeting: 10.30 am - 12.30 pm)

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SEX ESTABLISHMENT LICENSING POLICY AND CONDITIONS

Executive Summary

This report is to update Members on new regulations in relation to sexual entertainment venues.

These regulations are referred to as conditions in this report.

It outlines the progress and actions that have so far been agreed and taken.

It recommends that the Licensing Committee agrees to the adoption and implementation of the Sex Establishment Licensing Policy, Standard Conditions for Sexual Entertainment Venues and Sex Cinemas and Standard Conditions for Sex Shops.

Recommendations

It is recommended:

The Licensing Committee agrees to the adoption and implementation of the Policy and Regulations prescribing Conditions for Sex Establishments from 1st March 2012.

The Licensing Committee delegate authority to the Service Director Public Protection Services to instigate proceedings under Schedule 3, Local Government (Miscellaneous Provisions) Act 1982.

Reason for Proposal

To allow Wiltshire Council, as the Licensing Authority to effectively control the number, locality and management of sexual entertainment venues within Wiltshire's communities.

Author: Jo Lloyd , Public Protection Officer – Licensing North

Contact Details: jo.lloyd@wiltshire.gov.uk, 01249 706411

Purpose of Report

1. This report is to update Members on new regulations in relation to sexual entertainment venues.
2. These regulations are referred to as conditions in this report.
3. It outlines the progress and actions that have so far been agreed and taken.
4. It recommends that the Licensing Committee agrees to the adoption and implementation of the Sex Establishment Licensing Policy, Standard Conditions for Sexual Entertainment Venues and Sex Cinemas and Standard Conditions for Sex Shops. These are attached at Appendices 1 – 3.

Background

5. On the 26th May 2010, a report was presented to the Licensing Committee updating Members on the new provisions relating to the regulation of sexual entertainment venues.
6. Section 27 of the Policing and Crime Act 2009 amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to allow Licensing Authorities to licence sexual entertainment venues where relevant entertainment is provided before a live audience for financial gain of the organiser or the entertainer.
7. On 26th May 2010 the Licensing Committee recommended the adoption of the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to the Council for approval at its meeting on 13th July 2010.
8. On 13th July 2010 Council adopted the amendment to the Local Government (Miscellaneous Provisions) Act 1983, Schedule 3 by Section 27 of the Policing and Crime Act 2009.
9. Currently there is only one existing establishment located in Salisbury which is affected by the new legislation. A new licence under the new regime will be required in March 2012, hence the request for implementation by 1st March 2012.
10. The new legislative controls available to the Licensing Authority will strengthen the role that local communities can play in deciding whether a lap dancing premises is appropriate in the locality.
11. This will bring the licensing of lap dancing premises in line with other sex establishments such as sex shops and sex cinemas and to recognise the legitimate concerns of local people.

Environmental Impact

12. The introduction of the new legislative controls under Schedule 3 of the 1982 Act gives the Council new powers to tackle issues of local concern to

communities around the crime and disorder and anti-social behaviour associated with sex establishments.

Equality and Diversity

13. One of the aims of the new legislation is to give communities the chance to comment on applications both at application and renewal stage, therefore giving the public a greater voice.

Risk Assessment

14. To not agree the adoption and implementation of this policy and conditions and maintain the status quo would allow prospective sexual entertainment venues to take advantage of a perceived loophole in the Licensing Act 2003.

Financial Implications

15. The cost of a new licence for a sex shop or cinema is £1380.00 and the cost at renewal or transfer of a licence is £690.00.

It is proposed to charge a fee of £2700 for a new application for a sexual entertainment venue and £1200 for a renewal. These proposed fees have been calculated on the cost of the procedures including the cost of holding a Licensing Committee meeting.

Legal Implications

None

Conclusion

16. It is recommended:-

The Licensing Committee agrees to the implementation of the Policy and Regulations prescribing Conditions for Sex Establishments from 1st March 2012.

Background Papers

- Minutes of the Licensing Committee – 26th May 2010
- Minutes of the Council Committee – 13th July 2010
- Policing and Crime Act 2009 – Section 27
- Local Government (Miscellaneous Provisions) Act 1982 – Schedule 3

Appendices

Appendix 1 – Sex Establishment Licence Policy

Appendix 2 – Conditions – Sexual Entertainment Venues and Sex Cinemas

Appendix 3 – Conditions – Sex Shops

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Sex Establishment Licensing Policy

Guidance and Standard Conditions

Licensing of Sex Establishments

Introduction

- 1.1 This policy has been produced as a result of new provisions that allow the Council to regulate lap dancing and similar venues.
- 1.2 The Licensing Authority is responsible for developing and implementing this policy.
- 1.3 Wiltshire Council has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) so that it can regulate sex shops, sex cinemas and sexual entertainment venues in the County.
- 1.4 Should any change to the Standard Conditions make it necessary to update relevant parts of the policy document, the amended policy document will be consulted upon.
- 1.5 This policy supersedes all previous policies implemented by Wiltshire Council.

Purpose and Aim of the Policy

- 2.1 This policy is intended to set out clear and concise guidance, procedure and principles for the benefit of the Licensing Authority, the public, applicants and other relevant organisations.
- 2.2 This policy also contains Standard Conditions which will be applied to the sex establishment which forms part of any granted licence.

Scope

- 3.1 This policy relates to any premises wishing to operate as a sex establishment.
- 3.2 Not all premises will automatically require a licence. Where there is an exemption within the legislation this has been set out in this policy document.
- 3.3 Consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for Sex Establishment Licences.
- 3.4 When considering applications for a Sex Establishment Licence, in respect of premises that have previously operated without the requirement for a licence prior to the adoption of the legislation, in addition to this policy document the Licensing Authority must have regard to the Home Office guidance issued in March 2010 entitled 'Sexual Entertainment Venues – Guidance for England and Wales'.

Definitions

4.1 Sex Shop

The legislation defines a sex shop as:

- “(1) Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –
- (a) sex articles; or
 - (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging –
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.
- (2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.”

Sex articles are defined as:

- “(3) (a) anything made for use in connection with, or for the purpose of stimulating or encouraging –
- (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
- (b) anything to which sub-paragraph (4) below applies.
- (4) This sub-paragraph applies –
- (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - (b) to any recording vision or sound, which –
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.”

4.2 Sex Cinema

The legislation defines a sex cinema as:

- “(1) Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which –
- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage -
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; or

- (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

but does not include a dwelling-house to which the public is not admitted.

- (2) No premises shall be treated as a sex cinema by reason only –
 - (a) if they are licensed under Section 1 of the Cinemas Act 1985, or their use or purpose for which a licence under that section is required; or
 - (b) of their use for an exhibition to which Section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of that Act.

4.3 Sexual Entertainment Venue

The legislation defines a Sexual Entertainment Venue as:

- “2A (1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “relevant entertainment” means –
- (a) any live performance; or
 - (b) any live display of nudity;
- which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (3) The following are not sexual entertainment venues for the purposes of this Schedule –
- (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being provided at that time –
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

(c) premises specified or described in an order made by the relevant national authority.

(4) – (12) refer to other matters and are not relevant to this policy.

(13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organizer.

(14) In this paragraph –

“audience” includes an audience of one;

“display of nudity” means –

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organization or management of –

(a) the relevant entertainment; or

(b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

And for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

Examples of “relevant entertainment” are:

- Lap Dancing
- Pole Dancing
- Table Dancing
- Strip Shows
- Peep Shows
- Live Sex Shows

Application Process

5.1 The application form and relevant documentation for the new licence, renewal or transfer must be completed and returned with the appropriate fee as set out in the Council’s fees and charges.

- 5.2 A copy of the application form and supporting documentation must be forwarded to the Chief of Police within 7 days of the date of the application being made.
- 5.3 Applicants must also make notice of the application by publishing an advertisement in a local newspaper which circulates within the area of the premises. The notice should clearly identify the premises to which it relates and should be published no later than 7 days from the date the application is made. There is an additional requirement for the notice of application to be displayed for 21 days on or near the premises in a place that is convenient for the public to read. The notice must contain certain information prescribed by the Licensing Authority.
- 5.4 the Council will carry out a consultation process where views are sought from: Wiltshire Council, Wiltshire Fire and Rescue Service, Council Ward Members for the area of the premises and the Council's Planning Department.
- 5.5 Objections to the application for the grant, renewal or transfer of a licence shall be given in writing, stating the terms of the objection no later than 28 days from the date of the application.
- 5.6 Where notice of an objection is received by the Council they will give notice in writing to the applicant of the general nature of the objection before it is given due consideration.
- 5.7 Objections must be made in writing and should include the following:
- (a) the name and address of the person making the objection;
 - (b) the premises to which the objection relates
 - (c) the proximity of the premises to the person making the objection;
 - (d) the reasons for making the objections.
- 5.8 Objections should be relevant to the statutory grounds for refusal as set out in the Local Government (Miscellaneous Provisions) Act 1982 Act.
- 5.9 The Licensing Authority will not consider objections that are frivolous or vexatious and decisions on these will be made objectively by Licensing Officers. Where objections of this nature are rejected, the objector will be notified in writing.

Vexatious Objections are generally taken to be one which is repetitive, without foundation or made for some other reason such as malice.

Frivolous Objections are generally taken to be one that is lacking in seriousness.

Valid Objections will be considered by the Licensing Committee to consider the application

Determination of an Application

- 6.1 The Council will consider every application on its merits, following the appropriate consultation and in accordance with this policy.
- 6.2 The Act specifies a number of issues that should be considered:

- (a) A Council cannot have regard to the morality of sex establishments.
 - (b) Straightforward objections on the grounds that sex establishments should not be allowed, will not be taken into account when assessing applications.
 - (c) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
 - (d) That if the licence was to be granted, renewed or transferred, the business to which it relates will be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he/she had made the application himself/herself.
 - (e) That the grant or renewal of a licence would be inappropriate having regard to:
 - (i) the character of the relevant locality;
 - (ii) the existence of other similar businesses within the locality;
 - (iii) the use to which any premises in the vicinity are put;
 - (iv) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
 - (f) No new sex establishment will be permitted if it will be situated within “inappropriate proximity”:
 - (i) near to housing;
 - (ii) near, or near to access routes to and from schools, play areas, nurseries, children’s centers or similar premises;
 - (iii) in shopping centers;
 - (iv) near places of worship;
 - (v) near a community facility or public building, including but not limited to swimming pools, leisure centres, public parks, youth centre’s/club and sheltered housing;
 - (vi) near historic buildings or tourist attractions.
- “Inappropriate proximity”** is defined as a distance of 200m in direct line of sight between the proposed establishment and any locations listed above, or 100m distance if there is no direct line of sight.
- (g) An applicant must be a fit and proper person to hold a licence. In determining suitability for a new licence or a transfer the Council will take the following into account:
 - (i) previous relevant knowledge and experience of the applicant;
 - (ii) any evidence of the operation of any existing or previous licence held by the applicant, including any licence held in any other council area;
 - (iii) any report about the applicant and management of the premises received from statutory objectors.

6.3 Section 12(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 prohibits the Licensing Authority from granting a licence:

- (a) “to a person under the age of 18; or

- (b) to a person who is for the time being disqualified from holding a licence following revocation of such a licence; or
- (c) to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
- (d) to a body corporate who is not in an EEA state; or
- (e) to a person who had, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.”

- 6.4 The Licensing Authority will give clear reasons for its decision.
- 6.5 Any sex establishment licence may be granted subject to conditions imposed by the Council; therefore an application should not be refused if conditions could adequately address any area of concern.
- 6.6 All licences will be subject to the Council's Standard Conditions for sex establishments as at Appendix A.
- 6.7 in the event of conflict between Standard Conditions and Special Conditions contained in the sex establishment licence, the Special Conditions shall prevail.

Grant of a Licence

- 7.1 All applications for the grant of a new licence will be determined by the Licensing Committee, irrespective of whether objections are received.

Renewal or Transfer of an Existing Licence

- 7.2 Where no valid objections or observations have been received, the application will be considered under officer delegated powers.
- 7.3 If the officer is minded to refuse such an application it will be referred to the Licensing Committee.
- 7.4 Where valid objections are received the application will be determined by the Licensing Committee.
- 7.5 At a Licensing Committee hearing the applicants and any objectors/observers will be given an opportunity to address the Committee.

Hearing Procedure

- 8.1 Where the Council is required to determine an application by referral to a Licensing Committee, the applicant and objectors/observers will be advised of the date, time and venue of the hearing.
- 8.2 In preparation for the hearing, all parties will receive a copy of the Licensing Officer's report prior to the hearing. The report will contain a summary of the application, representations and any other relevant information.

- 8.3 At the hearing all parties will have the opportunity to address the Committee and ask factual questions of other parties. The Licensing Committee may also ask questions of all parties that they feel relevant to determine the application.
- 8.4 The Licensing Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation within 7 days.
- 8.5 If a licence is to be granted the Licensing Authority will aim to do this within 'number of days' of the Committee's decision.

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Wiltshire Council



Where everybody matters

STANDARD CONDITIONS

SEXUAL ENTERTAINMENT VENUES AND SEX CINEMAS

These regulations are made by Wiltshire Council under the conferred powers of paragraph 13(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by-law order or regulation other than Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended.

In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.

Definitions: -

'Sex Establishment', 'sex cinema', 'sex shop', and 'sex article' shall have the same meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

'Premises' means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a sex shop granted under the said Schedule 3.

'The Council' means Wiltshire Council.

'Authorised Officer' means any person authorised in writing by the Council.

These conditions may be dispensed with or modified by the Council in any special case.

Where there is any reference in these conditions to the consent of the Council being required, such consent may be given on such terms and conditions and subject to such restrictions as may be so specified.

If the Licence Holder wishes any of the terms of the licence to be varied any application must be made to the Council.

SEXUAL ENTERTAINMENT VENUES

1. Exhibition of a Licence

- a) A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the premises so as to be available for inspection by the police, the fire authority and authorised officers of the Council.

2. Hours of Opening and Closing

- a) The premises shall not open outside of the permitted hours stated on the licence.

3. Management of Licensed Premises

- a) The licence holder or some responsible person, being 21 years of age or over, nominated by him/her in writing shall be in attendance at the premises at all such times as the premises are open to the public and any nomination shall be produced to any Police Officer or Authorised Officer of the Council or Police and give the name and address of the person nominated.
- b) The name of the person responsible for the management of the premises, whether the licensee or the manager, shall be displayed in a conspicuous position within the premises throughout the period during which he is responsible for the conduct of the premises.
- c) All members of staff shall be easily identifiable as such. If required by the Council in writing the Licence Holder shall ensure that during the hours the premises are open for business every employee or person working in the license premises wears a badge of a type approved by the Council indicating his name and that he is an employee or person working in the premises.
- d) The licence holder shall exhibit in a conspicuous place inside the licensed premises and at the point of access to the licensed premises a notice stating that persons under the age of eighteen years are not permitted on the premises.
- e) No other notices unless pursuant to these Regulations may be exhibited.
- f) The licence holder shall not display in any position visible to persons outside the premises any matter which does not comply with the Indecent Displays (Control) Act 1981.
- g) The licence holder shall not display any advertisement which is visible to persons outside the premises except as permitted by these Regulations or under the Act and no advertisements shall be displayed wherever visible which depict any sex article as defined.
- h) The licence holder shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the sex establishment in the licensee's absence and the names and addresses of those employed in the sex establishment. The register is to be completed each day within 1 hour of the premises

opening for business and is to be available for inspection by the police and by authorised officers of the Council and police.

- i) The licence holder must submit a set of "House Rules" to the Licensing Authority as part of the application process; these rules will form part of the licence, and must be complied with. All performers must sign an agreement to adhere to these House Rules.
- j) Where the licence holder is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.

4. Operation of the Premises

- a) The Licence Holder shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
- b) The licence holder shall not permit any person other than persons employed by him, his servant or agent, statutory undertakers or, if applicable, his landlord to enter upon any part of the premises which are not available to the public in connection with the display, sale, hire, exchange, loan or demonstration of sex articles.
- c) No person under the age of 18 shall be admitted to any part of the premises which is used as a sex establishment or be employed in the business of the sex establishment.
- d) All persons working in the premises, including performers, shall be aged not less than 18 years old.
- e) Neither the licence holder nor any employees or agent shall personally solicit custom for the sex establishment outside or in the locality of the premises.
- f) The licence holder shall not permit the display outside the premises of photographs or other images which indicate or suggest that relevant entertainment takes place in the premises.

External advertising of relevant entertainment shall not include any of the following:

- Any depiction of full nudity
 - Any depiction of partial nudity
 - Any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm
- g) No sex articles shall be used, displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue or sex cinema.

- h) The licence holder shall not knowingly allow the licensed premises to be the habitual resort or meeting place of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution.
- i) The licensed premises shall not be used for any purpose other than the business of a sex establishment.
- j) The licensed premises shall not be open for the purposes of which a sex establishment is granted on any occasion when the Council may signify in writing to the licence holder, occupier or other person having at the time the care and management of the premises, that the same should not be open.

5. **External Appearance**

- a) A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the premises.
- b) The licence holder shall ensure that the interior of the sex establishment is not visible to persons outside the premises.
- c) The exterior of the licensed premises shall be of a design and materials approved by the Council. The exterior of the premises shall consist of material and colours of a discreet nature appropriate to the character of the locality and shall be in keeping with the appearance of other premises in the vicinity.

Detailed proposals for the external appearance of the premises shall be agreed with the Council's Delegated Officer within 14 days of the notification of the determination of a grant of the application for a new premises licence.

The approval shall be subject to ratification by the Council's Licensing Committee.

- d) The interior and exterior of the licensed premises shall be kept in good repair and condition.
- e) No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the Council's Delegated Officer and shall be subject to ratification by the Council's Licensing Committee.
- f) The external doors of the licensed premises shall be fitted with self-closing mechanisms and such mechanisms shall be maintained in good order. Doors and openings, other than exits, which lead to parts of the premises to which public are not permitted to have access shall be clearly marked "Private".
- g) No external doors shall be fixed in an open position at any time during the permitted hours.
- h) The entrances, windows and openings to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers-by.

6. Internal Layout and Condition of Premises

- a) The licence holder shall maintain the premises in good repair and condition as well as carrying out his duties under the Health and Safety at Work etc Act 1974 and other related legislation.
- b) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of an emergency.
- c) Lighting shall be in operation continuously during the whole time that the sex establishment is open to the public.
- d) Any alterations or additions to the premises shall not be made without prior written consent from the Council. A variation application will be required to make any such changes to the internal or external look of the building.
- e) No fastenings shall be fitted to any booth or cubicle within the Sex Establishment. Appropriate fastenings are permitted on toilet doors.

7. Provision of Relevant Entertainment

- a) Any person who is providing relevant entertainment must be briefed verbally or in writing by the licence holder or his deputy about the conditions that relate to the premises and any code of conduct.
- b) Any person providing relevant entertainment shall be made aware that their activities will be recorded on CCTV.
- c) The performer(s) shall sign in a register that they have received briefings and these shall be retained for 12 months and made available for inspection by any Police Officer or authorised officer of the Council.
- d) During any performance of relevant entertainment there must be no physical contact between the performer and any member of the public. The only exceptions are the placing of money or tokens in an item of clothing worn by the performer or in the performer's hand.
- e) There shall be no penetration of a performer's genitals or anus by any means.
- f) Performers shall not engage in masturbation and/or oral sex.
- g) No customer shall participate in any relevant entertainment except at the consent of the performer and must remain seated at all times.
- h) No customer shall be required or encouraged to participate in any relevant entertainment against their will.
- i) No customer shall have any clothing removed during any relevant entertainment.

- j) On completion of relevant entertainment performers shall dress immediately and leave the performance area.
- k) Performers are not to solicit, exchange addresses or telephone numbers with customers, or arrange to meet customers off the premises.

8. **Safety and Security**

- a) The licence holder shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not cause annoyance to residents and persons passing by.
- b) Relevant entertainment may only take place in 'designated areas' marked on the plan of the premises which was submitted as part of the application process.
- c) The licence holder shall have in place a policy concerning the safety of performers arriving at and leaving the premises, which shall be made in writing and made available to the Police or authorised officer of the Council or Police on request.
- d) The licence holder or deputy shall be present on the premises at all times whilst the relevant entertainment is taking place.
- e) The licence holder shall take all reasonable precautions for the safety of the public, employees and other persons working in the premises.
- f) A CCTV system shall be installed in the premises to the satisfaction of the Council's Licensing Officer. The system shall efficiently record the operation of the licensed premises and shall automatically indicate the date and time of the events recorded to a standard that would be acceptable as evidence in court.

All CCTV recordings shall be securely retained for a minimum of 28 days and shall be made available at the place licensed for inspection by a police officer or an authorised officer of the Council or police.

SEX CINEMAS

1. **Exhibition of a Licence**

- a) A copy of the licence and any special conditions attached shall, at all times, be displayed in a conspicuous position on the premises so as to be available for inspection by the police, the fire authority and authorised officers of the Council.

2. **Film Categories**

The categories U, PG, 12, 15, 18 and restricted 18 have the following effect:

- U – Universal – suitable for all
- PG – Parental Guidance – some scenes may be unsuitable for young children
- 12 – Passed only for persons of 12 years and over

- 15 – Passed only for persons of 15 years and over
- 18 – Passed only for persons of 18 years and over
- Restricted 18 – Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

3. **Unclassified Films**

- a) The licence holder must notify the Council in writing no later than 28 days prior to exhibiting any other film that has not been classified as specified in the film categories. Such a film may only be exhibited if the Council's gives written consent prior to the event and must comply in accordance with the terms of any such consent given.

4. **Restricted Films**

- a) Films restricted 18 (R18) may be shown at the premises only with the Council prior written consent and in accordance with the terms of any such consent.

5. **Persons Under 18**

- a) No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licence holder shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

“PERSONS UNDER 18 YEARS OF AGE CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME”

- b) No persons under 18 years of age shall be employed in any capacity at the premises in an area operating as sex cinema club.

6. **Advertising**

- a) No advertisement displayed at the premises where a film is to be exhibited shall depict any scene or incident from a film that has been classified by the British Board of Film Classification, Board of Film Censors or approved for exhibition by the Licensing Authority as 18 or R18.
- b) The licence holder shall display in a conspicuous position, to the satisfaction of the Council at each entrance to the premises, during the whole time the public are admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.
- c) When the programme includes a film restricted 18, the licence holder shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

“CINEMA CLUB – MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 YEARS OF AGE CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME.”

7. **Restricted 18**

- a) A register of all members and all visitors, books of their guests shall be available for immediate inspection by police or an officer of the Council during any performance or at any other reasonable time.
- b) Tickets shall in no circumstances be sold to persons other than to members.

8. **Membership**

- a) The club rules must be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.
- b) Membership shall be open to persons of both sexes of not less than 18 years of age.
- c) Applications for membership, including both name and address, shall be in writing, signed by the applicant and if deemed necessary such applicant shall provide satisfactory references and proof of age.
- d) No persons shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the management of the club.
- e) New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.
- f) An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the management may refuse to renew any membership without assigning reason for such refusal.
- g) Members shall be entitled on any day to bring no more than one guest to accompany the member, and the name of the guest shall be entered in the visitors book and counter signed by the member. Any guest must be over the age of 18 years.
- h) Tickets shall be sold only to members on the production of a membership card, and members shall if required sign and acknowledgement for the ticket or tickets issued.
- i) Membership cards shall be personal to the member and carry a photograph of the holder.
- j) Neither membership tickets nor guest tickets shall be transferable.
- k) Guests may be asked for proof of identity, or of age, or of any particulars of any guest shall be produced by any member of guest if demanded by the management.
- l) Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may

be refused admission or expelled from the premises. A member may also be deprived of membership.

9. **Sale of Sex Articles**

- a) Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.
- b) Where a sex shop forms part of the structure of a building containing a sex cinema there shall be no access from the sex cinema to the sex shop or from the sex shop into the sex cinema.

10. **Display of Tariff and Charges**

- a) C26. There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises.

11. **Conduct and Management of Premises**

- a) A notice showing the name of the person responsible for the management of the sex cinema on that day to be prominently displayed within the sex cinema throughout the period during which he is responsible for its conduct.

12. **Internal access to cinema**

- a) Windows and openings within the premises where films are shown should have blinds of a type and size that covers windows and openings which render the interior of the cinema where films are being shown invisible to passers by and/or other areas within the building that are open to the public for other activities.
- b) The licensee shall ensure that no noise shall emanate from the cinema that can be heard from within another area of the building or from outside.

13. **Security**

- a) A member of staff to remain in the vicinity of the entrance to the cinema to prevent under 18's or non-members from illegal entry.

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Wiltshire Council



Where everybody matters

STANDARD CONDITIONS

SEX SHOPS

These regulations are made by Wiltshire Council under the conferred powers of paragraph 13 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Separate conditions cover sexual entertainment venues and sex cinemas.

In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.

Definitions: -

'Sex Establishment', 'sex cinema', 'sex shop', and 'sex article' shall have the same meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

'Premises' means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a sex shop granted under the said Schedule 3.

'The Council' means Wiltshire Council.

'Authorised Officer' means any person authorised in writing by the Council.

1. Premises licensed as a Sex Shop under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, shall be used only for the purposes of a Sex Shop as defined in Paragraph 4 of Schedule 3 and shall not be used, wholly or in part, for any other purposes during the period that the premises are licensed as a Sex Shop.
2. The licensed premises shall be closed throughout Good Friday, Christmas Day and every Sunday. The premises may be open only during the permitted hours prescribed in these regulations.
 - a) The permitted hours if opening, unless varied by special condition, shall be as follows: -
 - Mondays 9:00 am to 9:00 pm
 - Tuesdays 9:00 am to 9:00 pm
 - Wednesdays 9:00 am to 9:00 pm
 - Thursdays 9:00 am to 9:00 pm
 - Fridays 9:00 am to 9:00 pm
 - Saturdays 9:00 am to 9:00 pm

3. Over each entrance to the premises, the Licensee shall affix and maintain in a permanent position a notice stating that the premises are licensed as a Sex Shop under the provisions of the Local Government (Miscellaneous) Provisions Act 1982. Such a notice shall carry the full name of the licensee.
4. At each entrance there shall be prominently displayed so as to be visible at all times to persons approaching the premises a notice prohibiting entry to all persons less than 18 years of age.
5. The Licensee of every premises licensed as a Sex Shop shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.
6. The Licence Holder shall not display any advertisement which is visible to persons outside the premises except as permitted by these Regulations or under the Act and no advertisements shall be displayed wherever visible which depict any sex article as defined.
7. The Licence Holder shall ensure that the premises has screening and obscured windows, doors and other openings so that the interior of the licensed premises and the displays of articles for sale at the premises shall not be visible to persons outside the building
8. All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
9. The Licensee shall make such provision for the reception of goods and articles for sale, hire or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard.
10. The Licence Holder shall produce a list of all stock carried at the premises and shall make it available to a police officer or authorised officer of the Council or police on demand in respect of a sex shop.
11. All merchandise shall be clearly marked so as to show persons inside the premises the purchase price of each item in respect of a sex shop.
12. The Licence Holder or some responsible person nominated by him in writing for the purpose shall be in charge of and be at the premises during the whole time they are open to the public.
13. Where the licence holder is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
14. The Licence Holder shall inform the Council in writing within 14 days if he/she or an employee is convicted or cautioned for a criminal offence.

**STREET COLLECTIONS
REGULATIONS AND POLICY**

Executive Summary

This report is to seek approval for Regulations and a harmonised Policy in relation to Street Collections.

Recommendations

It is recommended that:

The Licensing Committee agree to the harmonised Policy on Street Collections attached as Appendix 2.

The Licensing Committee agree to make the Regulations attached as Appendix 3 for submission to the Minister for the Cabinet Office for approval and that any previous Street Collection Regulations be revoked from the date that the new Regulations come into effect.

The Licensing Committee agree that once notification is received of the approval of the Regulations that the Regulations and Policy are implemented as soon as possible thereafter.

Reason for Proposal

To provide a harmonised Policy in relation to street collections throughout the Wiltshire Council area.

Author: Jo Lloyd, Public Protection Officer – Licensing North

Contact Details: jo.lloyd@wiltshire.gov.uk, 01249 706411

Purpose of Report

1. This report is to seek approval for Regulations and a harmonised Policy in relation to street collections.
2. It outlines the actions required by the Licensing Committee and further processes required to implement the Regulations and Policy in relation to street collections.
3. It recommends that the Licensing Committee agree to the harmonised Policy and the formal adoption by Wiltshire Council of the Regulations for approval by The Minister of the Cabinet Office.

Background

4. Prior to the District Councils and County Council becoming a Unitary Authority, the District Councils had individually adopted standard Regulations relating to Street Collections. These regulations cover places where and the conditions under which persons may be permitted in any street or public place within Wiltshire to collect money or sell articles for the benefit of charitable or other purposes. In addition the District Councils adopted their own local policies on such matters as the number of collections allowed in their area by charitable organisations.
5. Since unification to Wiltshire Council, these four separate Policies are still being operated in order to implement and enforce Street Collections across the County of Wiltshire resulting in significant differences in the allocation of days for each charity in the four main hub areas.
6. The four current policies are attached at Appendix 1, and the proposed new harmonised policy at Appendix 2.
7. Although the Regulations were adopted by the four District Councils, they have yet to be adopted by Wiltshire Council. The Regulations are attached as Appendix 3.
8. In order for Wiltshire Council to adopt the Regulations they must be sent to the Minister of the Cabinet Office for approval stating that 'all previous regulations are hereby revoked'.

Environmental Impact

9. The implementation of a new harmonised Policy will allow for easier implementation and enforcement across the County of Wiltshire and a standard agreement for the number of collections allowed in any town, being one collection per day.

Equality and Diversity

10. The new Policy will mean that all charities will be treated fairly and equitably with no singular charity being favoured over another.

Risk Assessment

None

Financial Implications

None

Legal Implications

11. In order for Wiltshire Council to adopt the Regulations, a request for this must be sent to and approved by the Minister of the Cabinet Office.

Conclusion

It is recommended:-

The Licensing Committee agree to the harmonised Policy on Street Collections.

The Licensing Committee agree to the Regulations being sent to the Minister for the Cabinet Office for approval and that any previous Regulations to be then revoked.

The Licensing Committee agree that once notification is received of the adoption of the Regulations that the Regulations and Policy are implemented as soon as possible thereafter.

Background Papers

- Current Policies in place across the four areas of Wiltshire
- Model Regulations

Appendices

Appendix 1 – Current Policies
Appendix 2 – Harmonised Policy
Appendix 3 – Regulations

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STREET COLLECTION

STATEMENT OF POLICY

1. The designated areas for Street Collections in Wiltshire will be on streets and/or public places in the towns of Devizes, Marlborough, Pewsey, Tidworth and Ludgershall (i.e. the main settlements in East Wiltshire). Collections are not normally permitted in any other towns/villages etc.
2. No organisation will be permitted more than two collections within any one calendar year. See below for more information.
3. There shall be no more than two collections in any of the above-designated areas per week. They shall be on different days unless, there is a morning or afternoon collection with no overlap of time or the organisations concerned have specifically agreed to collect on the same day, or at the same time of day.
4. Applications for a collection in any year should be received no later than 1st September of the preceding year. Dates will then be allocated on first come first served basis. Applications for a second collection in any one year will be considered after the 1st April of that year. Dates will then be allocated according to availability, again on first come first served basis.
5. **Wiltshire** based charities or recognised national charities will be given priority along with those who hold an Exemption Certificate from the Home Office for the purposes of house to house collections. Charities that hold National Flag days will be given priority on dates where possible.
6. Within one month of the date of any collection the person to whom the permit has been granted shall forward to the Wiltshire Council, East division, Browfort, Devizes SN10 2AT, a Statement of Returns. Organisations who do not comply with this requirement will not be issued with a permit the following year, nor be considered for a second permit in that year
7. Any applications from persons/organisations judged, in the opinion of the Council, not to be fit and proper persons to hold a licence, based upon consultation undertaken/reliable information received, will be refused.
8. Note:- ‘Table top sales’ are legally classified as Street Collections and therefore fall within the remit of this policy.

January 2001

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PROCEDURE NOTE

Street Collections – Issuing Permits**Direct Debit collectors**

Only one direct debit collection in a town on a given date. Only two direct debit collections per organization, per month. After you have checked in the diary, ask the requester to email you with the details and you can then email back confirming the dates are entered in the diary. Keep a copy of the email in the folder in case you need to refer to it if there are problems.

Street Collections

- When a request is received for a street collection you will need to check in the Diary of Events that the date is free – **idrive/licences, street collection/diary of events/20??**
- Check, by clicking on the first tab of the spreadsheet – Organisation rota – that the collectors have not had more than two collections in any one town, in any one year, as this is the limit. When you have finished the telephone call you can go back in this list and pop in the name etc.
- Note the details on the monthly tab if the date is free.
- Complete a booking form with the details – **idrive, licences, street collection/masterdocs/booking information file sheet**. I keep a supply of these forms by the side of my telephone and it is just a note of the name of the organisation, the date and time of collection, location and contact details and whether forms were sent or downloaded. This is done in case they do not send in an application form or in case there are any problems.
- When you post or email the application form you will also need to send a copy of the regulations – **idrive, applications & regulations, Street Collections regulations**.
- When the application is received
 - Check it is entered in **i/Licences/Street Collection/Diary of Events/200?**
 - File it under the relevant month in the Lever Arch File “Street Collections” until the Permit can be issued – usually 4 – 6 weeks prior to the collection taking place.
- About 4 – 6 weeks before the collection is due to take place, take the applications out of the Lever Arch file and place in date order, refer to the Diary of Events saved under **“i/Licences/Street Collection/Diary of Events/200?”** to assist with this.
- Give each application a Permit number (starting at No. 1 for each month) numerically going down the list (**i.e. 2008/01/01 – year/month/issue no**) and write number of top right hand corner of application form and fill in Permit No column on Diary of Events with this number.
- Send covering letter saved as Word Template by selecting **“idrive/licences/street collections/templates/street collection letter**. Note: you should send the permit letter to the person who is making the application and who will be jointly responsible for the collection or sale (4th box down)
- Select Permit saved as Word Template by selecting **“idrive/Licensing/street collections/ templates/street collection permit”**. Complete template by filling in all relevant details with information taken from application form. Use the address of the Society on the Permit and not the applicant’s personal address if possible.
- Print one copy on headed paper and one copy on white paper for your records. Save copy of Permit under Street Collections/Permits/year/month. Pass Permit to Licensing

PROCEDURE NOTE

Officer for signature.

- Also print one copy of Statement of Income & Expenditure Form which is saved under “**idrive/Licensing/Street Collections/masterdocs/WC Street Collection Statement of Return**” (2 pages - back to front) updating “Permit No” at top left-hand corner of form.
- Send the Permit on headed paper, the letter and the statement.
- File permit application and the signed copy of the permit on the blank paper in the lever arch file.
- Enter the details on the delegated powers section – I drive/committee/delegated powers

EXTRA NOTES

- Applicants should give Technical Officer **at least one month’s notice** to book and issue Permit. Technical Officer may make exceptions as required.
- There should never be more than **one collector in any one town**, on any one day.
- No collection shall be made in any part of the **carriageway** of any street which has a **footway**, as not to cause an **obstruction**.
- While collecting -
 - (a) a collector shall **remain stationary**; and
 - (b) a collector or two collectors together shall not be nearer to another collector than **25 meters**.
- No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of **sixteen years** to act as a collector.
- Every collector must carry a **collection box** and each box must be securely sealed.

SALISBURY DISTRICT COUNCIL

STREET COLLECTION POLICY

Policy within the City

1. Two collections on any one day
2. Three collections are permitted, during the late night shopping days, prior to Christmas and the Tuesday and Saturdays in December.
3. At two, of three locations, either the Old George Mall, Maltings or the City Centre, excluding the two shopping Malls.
4. Between 0800 and 1800 hours except the late night shopping evenings, when the time is extended to 2100.
5. Charities can benefit from only two collections per year, except the Mayor's Appeal, which is allowed to collect during the three days of the pleasure fair in October plus two other days.
6. Collections which take place in supermarket car parks/entrance to stores are not included in the above, although a permit is required, unless the collection is actually inside the store.
7. On the 1st January each year we welcome applications for the next year, from local charities and those with a Home Office Exemption for H to H (only to distinguish the National charities).
8. Those smaller charities, which are not local, may apply from September for the following year.
9. Each professional fund raiser i.e. the direct debit collectors, are regarded as a charity and permitted to collect in Salisbury on two occasions each year.

Areas outside the City

- 1 Only one collection per day
- 2 Charities are not limited to the number of occasions they may benefit from a collection.

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PROCEDURE NOTE
STREET COLLECTIONS

SC001

Objective

To ensure that permits are issued for any charitable street collections within the district of West Wiltshire.

Legislation

Police, Factories etc (Miscellaneous Provisions) Act 1916
Local Government Act 1972 Section 251 and Schedule 29
West Wiltshire District Council Regulations with Regard to Street Collections - implemented prior to 1 January 2000

Information

West Wiltshire has made regulations to permit in any street or public place the collection of money or the selling of articles for the benefit of charitable or other purposes within the District Council's area.

No collection can be made in any street or public place without the promoter obtaining a permit. Applications need to be made no later than one month before the date on which it is proposed to make the collection.

No charges are made for the issuing of these permits. Council policy states that permits are normally issued for Saturdays only and any one organisation may only be issued with one permit per town per year and only one permit per town per day will be authorised.

Note: Permits are not required for a collection taken at a meeting in the open air or for the selling of articles in the ordinary course of trade and the Notice period may be reduced if there are special reasons for doing so.

The permit will specify the date, location and the hours between which a collection may be made.

The promoter must provide written authority to all collectors and there are rules which specify the manner in which, where and how collectors may operate. All collection boxes need to be consecutively numbered, closed and sealed with the name of the charity or fund prominently displayed on it.

No collector may receive remuneration and no payments out of the proceeds may be made without the approval of West Wiltshire District Council.

Within one month of the date of a collection a 'statement form' showing the amount received and expenses incurred and certified by a qualified accountant or an independent responsible person must be submitted to West Wiltshire District Council.

Performance targets

Respond to an application within 14 days.

Procedure

On Telephone Enquiry

- 1 Check the Street Collection Diary Record for available dates around the time requested by the charitable organisation (kept on top of the licensing filing cabinet). Only Saturdays are approved collection days.

- 2 Pencil in organisation's name on the appropriate date★.
- 3 Send out the application form (SC002).

On Receipt of the Application Form:

- 4 Ink in the organisation's name on the Street Collection Diary Board.
- 5 Send out: - the permit (SC003)
- the Form of Statement (SC005)
- 6 Store records in the Street Collections file (kept in the Licensing filing cabinet).
- 7 Check the Street Collections file monthly to chase up the Forms of Statements as required.

On Receipt of the Form of Statement:

- 7 Check: - forms adequately completed.
- certified by a qualified accountant or approved independent responsible person.
- any expenses indicated are permitted.

***Additional Collection Dates**

A Principal Environmental Health Officer only may, at their discretion, authorise the issuing of permits for days other than Saturdays in case of exceptional circumstances.

★Enquiries for Next Calendar Year

Where organisation request dates well in advance for the next calendar year confirmation is sent via form SC004 copies of which are kept to update Street Collection Diary Board for the appropriate year once it is produced.

Summary

This procedure outlines the types of street collections that require permits and how such permits are issued.

Associated Procedures and Documents

- [SC002](#) Application for Permission to hold a Street Collection.
- [SC003](#) Street Collection permit.
- [SC004](#) Street Collection 2000 (acknowledgement).
- [SC005](#) Street Collection. Form of Statement.
- [SC006](#) Street Collection Diary Forms/Board.
- [SC007](#) Regulations made by West Wiltshire District Council with regard to Street Collections.

Revisions

Date	Revision by	Reason

Wiltshire Council



Where everybody matters

STREET COLLECTION POLICY

1. Applications must be submitted in writing no later than one month prior to the date of the collection. Permits will be issued on a first come first served basis.
2. In the event of a national or international disaster the Licensing Officer may grant a permit to hold a collection at short notice.
3. The Council would like to encourage Direct Debit collectors to inform the Authority of when they will be collecting mandates in their area, to try and ensure that there is not a conflict with another permitted collection.
4. Each charity can apply for two street collections per town or village per year. Each collection will last no more than the duration of one whole day.
5. Only one collection per town or village per day is permitted except in exceptional circumstances.
6. A year runs from January to December and street collections are permitted on any day of the week for the times of the day applied for.
7. Each permit may cover multiple towns.
8. In relation to Carnivals, if an application is received for a day that has already been allocated, should the timings not coincide the permit will be granted.
9. Table Top Sales applications must be supported by Public Liability Insurance covering the date and nature of the event. The Oxford Dictionary definition of Table Top Sale is *'an occasion when participants sell unwanted possessions from tables, especially one where at least some of the proceeds go to charity'*.
10. Any application where it is proposed to use any structure, table, 'A' board etc., in conjunction with a street collection must be supported by Public Liability Insurance and written permission of the landowner and or Highways Authority.
11. Cadets, Boy Scouts, Girl Guides and members of similar organisations are permitted to collect for their particular organisation, but must not be less than 11 years old, must collect or sell under the direct supervision of an adult and dress in the uniform of their organisation.

12. If the applicant is wishing to carry out a collection on private land, permission from the landowner must be requested and agreed. A permit from Wiltshire Council is not required.

Towns covered by this Policy

North Area: Calne, Corsham, Chippenham, Malmesbury, Wootton Bassett and surrounding villages.

West Area: Bradford on Avon, Melksham, Trowbridge, Warminster, Westbury and surrounding villages.

East Area: Devizes, Marlborough, Pewsey, Tidworth/Ludgershall and surrounding villages.

South Area: Salisbury City Centre and surrounding villages.

Wiltshire Council



Where everybody matters

POLICE, FACTORIES ETC, (MISCELLANEOUS PROVISIONS) ACT 1916

STREET COLLECTION REGULATIONS

In pursuance of Section 5 of the Police, Factories, etc (Miscellaneous Provisions) Act 1916 as amended by Section 251 and Schedule 29 to the Local Government Act 1972, Wiltshire Council hereby makes the following regulations in respect of the places where and the conditions under which persons may be permitted in any street or public place within Wiltshire to collect money or sell articles for the benefit of charitable or other purposes.

1. In these Regulations, unless the context otherwise requires:-

"collection" means a collection of money or a sale of articles for the benefit of charitable or other purposes and the word "collector" shall be construed accordingly:

"promoter" means a person who causes others to act as collectors:

"licensing authority" means Wiltshire Council:

"permit" means a permit for a collection:

"contributor" means a person who contributes to a collection and includes a purchaser of articles for sale for the benefit of charitable or other purposes ; and

"collecting box" means a box or other receptacle for the reception of money from contributors.

2. No collection, other than a collection taken at a meeting in the open air, shall be made in any street or public place within Wiltshire unless a promoter shall have obtained from the licensing authority a permit.
3. Application for a permit shall be made in writing not later than one month before the date on which it is proposed to make the collection.

The licensing authority may reduce the period of one month if satisfied that there are special reasons for so doing.
4. No collection shall be made except upon the day and between the hours stated in the permit.
5. The licensing authority may, in granting a permit, limit the collection to such streets or public places or such parts thereof as it thinks fit.
6. (1) No person may assist or take part in any collection without the written authority of a promoter.

(2) Any person authorised under paragraph 6(1) above shall produce such a written authority forthwith for inspection on being requested to do so by a duly authorised officer of the licensing authority or any constable.

7. No collection shall be made in any part of the carriageway of any street which has a footway:-

Provided that the licensing authority may, if it thinks fit, allow a collection to take place on the said carriageway where such collection has been authorised to be held in connection with a procession or collection moving through the county of Wiltshire.

8. No collection shall be made in a manner likely to inconvenience or annoy any person.

9. No collector shall importune any person to the annoyance of such person.

10. While collecting -

(1) a collector shall remain stationary; and

(2) a collector or two collectors together shall not be nearer to another collector than 25 meters.

The licensing authority may, if it thinks fit, waive the requirements of the Regulations in respect of a collection which has been authorised to be held in connection with a procession or a collection moving through the county of Wiltshire.

11. No promoter, collector or person who is otherwise connected with a collection shall permit a person under the age of sixteen years to act as a collector unless the collectors are part of an organisation such as cadets, girl guides or boy scouts.

12. (1) Every collector shall carry a collecting box.

(2) All collecting boxes shall be numbered consecutively and shall be securely closed and sealed in such a way as to prevent them being opened without the seal being broken.

(3) All money received by a collector from contributors shall immediately be placed in a collecting box.

(4) Every collector shall deliver, unopened, all collecting boxes in his possession to a promoter.

13. A collector shall not carry or use any collecting box, receptacle or tray which does not bear displayed prominently thereon the name of the charity or fund which is to benefit nor any collecting box which is not duly numbered.

14. (1) Subject to paragraph 14(2) below a collecting box shall be opened in the presence of a promoter and another responsible person.

(2) Where a collecting box is delivered, unopened, to a bank, it may be opened by an official of the bank.

(3) As soon as a collecting box has been opened, the person opening it shall count the contents and shall enter the amount with the number of the collecting box on a list which shall be certified by that person.

15. (1) No payment shall be made to any collector.
- (2) No payment shall be made out of the proceeds of a collection, either directly or indirectly, to any other person connected with the promotion or conduct of such collection for, or in respect of, services connected therewith, except such payments as may have been approved by the licensing authority.
16. (1) within one month after the date of any collection the person to whom a Permit has been granted will forward to the licensing authority -
- (a) a statement in the form set out in the Schedule to these Regulations or in a form to the like effect, showing the amount received and the expenses and payments incurred in connection with such collection, and certified by that person and a qualified accountant;
- (b) a list of the collectors;
- (c) a list of the amounts contained in each collecting box;
- and shall, if required by the licensing authority, satisfy it as to the proper application of the proceeds of the collection.
- (2) The said person shall also, within the same period, at the expense of that person and after a qualified accountant has given his certificate under paragraph 16(1)(a) above, publish in such newspaper or newspapers as the licensing authority may direct a statement showing the name of the person to whom the permit has been granted, the area to which the permit related, the name of the charity or fund to benefit, the date of the collection, the amount collected, and the amount of the expenses and payments incurred in connection with such collection.
- (3) The licensing authority may, if satisfied there are special reasons for doing so extend the period of one month referred to in paragraph 16(1) above.
- (4) For the purposes of this Regulation " a qualified accountant" means a member of one or more of the following bodies -
- The Institute of Chartered Accountants in England and Wales ;
The Institute of Chartered Accountants of Scotland ;
The Association of Certified Accountants ;
The Institute of Certified Accountants in Ireland.
17. These Regulations shall not apply -
- (1) In respect of a collection taken at a meeting in the open air ; or
- (2) To the selling of articles in any street or public place when the articles are sold in the ordinary course of trade.
18. Any person who acts in contravention of any of the foregoing regulations shall be liable on summary conviction to a fine not exceeding two hundred pounds.

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Cosmetic Piercing and Skin Colouring – Adoption of Legislation and Byelaws

Executive Summary

Wiltshire Council as a unitary authority has not yet adopted the legislation set in Part VIII of the Local Government (Miscellaneous Provisions) Act 1982, which allows the Council to regulate persons carrying on acupuncture, tattooing, and skin piercing. The Council must adopt this primary legislation before it can make any associated byelaws. There are revised model byelaws which will allow Wiltshire Council to regulate businesses which carry out skin piercing activities. The adoption of these provisions of the Act and the making of these byelaws will help protect human health from the spread of blood borne viral infection within Wiltshire and give control to the local authority to maintain these premises in a hygienic state.

Recommendations

It is recommended:

1. That the Committee recommend to Council to adopt the provisions of Section 14, 15, 16 and 17 of the Local Government (Miscellaneous) Provisions Act 1982 and that these provisions shall come into effect on 1st July 2012
2. That the Committee recommend that the Council make byelaws relating to cosmetic piercing and semi-permanent skin colouring, in the form of the model byelaws as set out in the attached Appendix for submission to the Secretary of State for approval.
3. That the Committee recommend the Council that the current byelaws relating to cosmetic piercing and semi-permanent skin colouring, which had previously been adopted by the ex-district councils be revoked on the confirmation of the new model byelaws

Reason for Proposal

Cosmetic piercing and skin colouring carries a high risk of blood borne viral infection such as Hepatitis B and Hepatitis C if infection control procedures are not observed. The provisions of Section 120 and Schedule 6 of the Local Government Act 2003 amend Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 and allow local authorities to regulate the cleanliness and hygienic practices of skin piercing businesses. The Council, however cannot implement these provisions without first adopting the relevant part of the Act.

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1. Background

- 1.1 Section 14 of the Local Government (Miscellaneous Provisions) Act 1982 provides that persons and premises carrying out the business of acupuncture are required to be registered with their local authority.
- 1.2 Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 originally provided persons and premises carrying out the business of tattooing ear-piercing and electrolysis are to be registered with their local authority.
- 1.3 West Wiltshire District Council, Kennet District Council, Salisbury District Council and North Wiltshire District Council all adopted Section 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 between 1984 and 1985.
- 1.4 Originally Section 15 of the 1982 Act only regulated ear-piercing, tattooing and electrolysis and did not cover the broader spectrum of cosmetic piercing (all body piercings in addition to ear-piercing) and semi-permanent skin colouring (including micropigmentation, semi-permanent make-up and temporary tattooing)
- 1.5 The Local Government Act 2003 amended Section 15 of the 1982 Act so that local authorities may require persons carrying on the businesses of cosmetic piercing or semi-permanent skin colouring to register themselves and their premises. It also allows local authorities to make byelaws for
 - The cleanliness of premises and fittings
 - The cleanliness of the operators
 - The cleansing and, if appropriate, sterilisation of instruments, materials and equipment
- 1.6 Only North Wiltshire District Council adopted revised byelaws to cover the extended scope of Section 15, to include provisions relating to cosmetic piercing and skin colouring
- 1.7 Section 16 of the Act allows for the enforcement of the requirement to register and any byelaws that have been made under sections 14 and 15 and Section 17 confers a power of entry into premises in relation to such enforcement.

Environmental Impact

None

Equality and Diversity

None

Risk Assessment

Not to adopt the recommendations above will result in the Local Authority not being able to legally enforce hygiene standards within cosmetic piercing and skin colouring establishments thus reducing human health protection from the spread of Blood Borne Viral infections within Wiltshire.

Financial Implications

Section 14 and Section 15 of the Local Government (Miscellaneous Provisions) Act 1982 enables local authorities to charge reasonable fees for registration of persons and premises carrying out the business of skin piercing. The fee might cover initial inspection(s) associated with registration, advising the business about registration and associated administration.

Currently Wiltshire Council charge a fee of £117.00 to register a premises and person and a £12.00 fee for each additional person to be registered.

There will be a cost to Wiltshire Council to advertise the adopted legislation and associated byelaws.

Legal Implications

These are set out in the body of this report. There is a requirement to publish notice that a resolution to adopt Sections 14 to 17 of the 1982 Act in two consecutive weeks in a local newspaper circulation in their area.

The first publication shall not be later than 28 days before the day specified in the resolution as the date on which these sections are to come into force.

Conclusion

It is recommended that the Committee recommend to Council that the byelaws adopted by the ex-district councils are revoked and that Wiltshire Council as a unitary authority adopt Sections 14,15, 16 and 17 of the Local Government (Miscellaneous Provisions) Act 1982 and that they make byelaws relating to skin piercing in the form of the Secretary of State's model byelaws as attached

Background Papers

Local Government Act 2003 – Regulation of Cosmetic Piercing and Skin-Colouring Businesses – Guidance on Section 120 and Schedule 6.

Appendices

Model Byelaws

APPENDIX 1

ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN-COLOURING, COSMETIC PIERCING AND ELECTROLYSIS

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Wiltshire Council in pursuance of sections 14(7) or 15(7) or both of the Act.

Interpretation

1.—(1) In these byelaws, unless the context otherwise requires—

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

(a) the lobe or upper flat cartilage of the ear, or

(b) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

(a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;

(b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;

(c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;

(d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;

(e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—

(i) immediately after use; and

(ii) at the end of each working day.

(f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;

(g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.

(2)(a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3)(a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

3.—(1) For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

(a) an operator shall ensure that—

(i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—

(aa) is clean and in good repair and, so far as is appropriate, is sterile;

(bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.

(ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;

(iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

(iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;

(v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b) a proprietor shall provide—

(i) adequate facilities and equipment for—

(aa) cleansing; and

(bb) sterilization, unless only pre-sterilized items are used.

(ii) sufficient and safe gas points and electrical socket outlets;

(iii) an adequate and constant supply of clean hot and cold water on the premises;

(iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4.—(1) For the purpose of securing the cleanliness of operators, a proprietor—

(a) shall ensure that an operator—

(i) keeps his hands and nails clean and his nails short;

(ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;

(iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);

(iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;

(v) does not smoke or consume food or drink in the treatment area; and

(b) shall provide—

(i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and

(ii) suitable and sufficient sanitary accommodation for operators.

(2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities the proprietor provides need not be for the sole use of the operator.

(3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—

- (a) the client is bleeding or has an open lesion on an exposed part of his body; or
- (b) the client is known to be infected with a blood-borne virus; or
- (c) the operator has an open lesion on his hand; or
- (d) the operator is handling items that may be contaminated with blood or other body fluids.

5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).

6. The byelaws relating to the subject matters that were made by Kennet District Council, Salisbury District Council, West Wiltshire District Council and North Wiltshire District Council as listed below are revoked:

Subject	Authority	Date Made	Name of confirming authority	Date confirmed
S. 14 Acupuncture	Kennet District Council	10 July 1985	Secretary of State for Social Services	27 September 1985
S. 15 Ear piercing and Electrolysis	Kennet District Council	10 July 1985	Secretary of State for Social Services	27 September 1985
S. 15 Tattooing	Kennet District Council	10 July 1985	Secretary of State for Social Services	27 September 1985
S. 14 Acupuncture	Salisbury District Council	21 December 1983	Secretary of State for Social Services	30 May 1984
S. 15 Ear piercing	Salisbury District Council	21 December 1983	Secretary of State for Social Services	30 May 1984
S. 15 Electrolysis	Salisbury District Council	21 December 1983	Secretary of State for Social Services	30 May 1984
S. 15 Tattooing	Salisbury District Council	21 December 1983	Secretary of State for Social Services	30 May 1984
S. 14 Acupuncture	West Wiltshire District Council	15 August 1984	Secretary of State for Social Services	27 November 1984
S. 15 Tattooing, Acupuncture, Ear piercing and Electrolysis	West Wiltshire District Council	15 August 1984	Secretary of State for Social Services	27 November 1984
Ss. 14 and 15 Acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis	North Wiltshire District Council	2 February 2007	Secretary of State for Health	26 April 2007

ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN-COLOURING, COSMETIC PIERCING AND ELECTROLYSIS (2007)

NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) **do not apply to acupuncture.***

*The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment **applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.***

*The requirements relating to dye or a container used to hold dye used for treatment in paragraphs 3(1) (a) (iv) and (v) **apply to tattooing and semi-permanent skin-colouring.***

The requirement in paragraph 4(1)(a)(iii) that an operator wears disposable examination gloves that have not previously been used with another client does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).

The provisions of paragraph 4(2) in relation to washing facilities apply to cosmetic piercing using only a hygienic piercing instrument.

The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a dentist applies only to acupuncture (see section 14(8) of the Act).

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HYPNOTISM ACT - CONDITIONS

Executive Summary

Wiltshire Council (as the Licensing Authority) must authorise any public performance of a hypnotist carried out in the Wiltshire Council area.

Recommendations

It is recommended:

- **The Licensing Committee adopt the Conditions (attached at Appendix 1 to this report) so that they can be applied by the Licensing Authority to any future applications under the Hypnotism Act.**
- **The Licensing Committee delegate authority to the Licensing Manager to determine any future applications under the Hypnotism Act 1952 and to authorise proceedings under the Act.**

Reason for Proposal

The Hypnotism Act 1952 empowered licensing authorities for public entertainments under the Local Government (Miscellaneous Provisions) Act 1982 to attach conditions to a public entertainments licence regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person at the place for which the public entertainment licence had been granted.

Concern over the content of some performances of stage hypnotism prompted the issue of the Home Office Circular No. 42/1989, which proposed, revised and updated guidance for local authorities whilst exercising their licensing responsibilities.

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Purpose of Report

1. The Licensing Committee adopt the Conditions (attached at Appendix 1 to this report) so that they can be applied by the Licensing Authority to any future applications under the Hypnotism Act.
2. The Licensing Committee delegate authority to the Licensing Manager to determine any future applications under the Hypnotism Act 1952 and to authorise proceedings under the Act.

Background

3. The Council previously controlled the performance of hypnotism by imposing standard conditions on all public entertainment licences. Under the Licensing Act 2003, a premises licence which licences regulated entertainment does not permit the performance of hypnotism, unless specifically stated. It is therefore necessary for an application to be made to the Council for authority to do so under the Hypnotism Act 1952.
4. Under the Hypnotism Act, no person shall give an exhibition, demonstration or performance of hypnotism on any person at or in connection with entertainment to which the public are admitted whether on payment or otherwise at any place, unless the authority has authorised that exhibition demonstration or performance. Any authorisation may be subject to conditions.
5. Hypnotism includes hypnotism, mesmerism and any similar act or process which produces or is intended to produce in any person any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased, but does not include hypnotism, mesmerism or any such similar act or process which is self induced.
6. It is an offence to hypnotise any person under the age of 18.

Risk Assessment

7. In order for the Council to properly carry out its legal duties, it should adopt standards for the performance of hypnotism under the Hypnotism Act 1952. The attached conditions are based on model conditions produced by the Home Office. (Appendix 1).

Financial Implications

8. The statutory requirement to pay a fee under Section 2a of the Hypnotism Act only applies to the London Boroughs.
9. Wiltshire Council may consider a charge for the authorisation under discretionary services, however for the amount of applications we are likely to receive it may not be worth considering such a charge.

Legal Implications

10. It is an offence to give an exhibition, demonstration or performance of hypnotism on any person at or in connection with entertainment to which the public are admitted whether on payment or otherwise at any unless the authority has authorised that exhibition, demonstration or performance.
11. It is also an offence to give such an exhibition in contravention of any conditions that have been imposed on an authorisation that has been granted.
12. The maximum fine for contravention of the Act or any authorisation granted is £1,000.

Conclusion

It is recommended:-

- The Licensing Committee adopt the Conditions (attached at Appendix 1 to this report) so that they can be applied by the Licensing Authority to any future applications under the Hypnotism Act.
- The Licensing Committee delegate authority to the Licensing Manager to determine any future applications under the Hypnotism Act 1952 and to authorise proceedings under the Act.

Background Papers

- **Hypnotism Act 1952**
- **Home Office Circular No. 42/1989**
- **Home Office Circular No. 39/1996**
- **Licensing Act 2003**

Appendices

- **Appendix 1 – Conditions for the Performance of Stage Hypnotism**

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Wiltshire Council



Where everybody matters

CONDITIONS FOR THE PERFORMANCE OF STAGE HYPNOTISM

Consents

1. Any exhibition, demonstration or performance (hereafter referred to as a “performance” of hypnotism (as defined in the Hypnotism Act 1952) on any person requires the express written consent of the licensing authority and must comply with any attached conditions. The authority may consent under the provisions of the Hypnotism Act 1952.
2. An application for consent under condition 1 shall be in writing and signed by the applicant or his agent and made not less than 28 days in advance of the performance concerned. A copy of the application shall at the same time be sent to the Chief Officer of Police and the Fire Authority.

This period may be reduced in the case of a hypnotist who has performed at the same venue within the last three years without any problems occurring.

The authority will normally respond within 7-14 days; less where the hypnotist has previously performed at the same venue.

3. The application shall contain the following:
 - a. the name (both real and stage, if different) and the address of the person who will give the performance (hereafter referred to as the “hypnotist”) along with details of their last three performances (where and when); and
 - b. a statement as to whether, and if so giving full details, the hypnotist has been previously refused, or had withdrawn, a consent by any licensing authority or been convicted of an offence under the Hypnotism Act 1952 or of an offence involving the breach of a condition regulating or prohibiting the giving of a performance of hypnotism on any person at a place licensed for public entertainment. (Refusal of consent by another authority does not necessarily indicate that the particular hypnotist is unacceptable and will not of itself prejudice the application.

CONDITIONS

4. The following conditions shall apply to any consent given:

Publicity

5. No poster, advertisement or programme for the performance, which is likely to cause public offence, shall be displayed, sold or supplied, by or on behalf of the licensee either at the premises or elsewhere.
6. Every poster, advertisement or programme for the performance, which is displayed, sold or supplied shall include, clearly and legibly, the following statement:

“Volunteers, who must be aged 18 or over, can refuse at any point to continue taking part in the performance.”

Insurance

7. The performance shall be covered to a minimum of £1,000,000 public liability insurance. The hypnotist must provide evidence of this to the local authority if requested; and it must be available for inspection at the performance.

Physical Arrangements

8. The means of access between the auditorium and the stage for participants shall be properly lit and free from obstruction.
9. A continuous white or yellow line shall be provided on the floor of any raised stage at a safe distance from the edge. This line shall run parallel with the edge of the stage for its whole width. The hypnotist shall inform all subjects that they must not cross the line while under hypnosis, unless specifically told to do so as a part of the performance.

Treatment of Audience and Subjects

10. Before starting the performance the hypnotist shall make a statement to the audience, in a serious manner, identifying those groups of people who should not volunteer to participate in it; explaining what volunteers might be asked to perform; informing the audience of the possible risks from embarrassment or anxiety; and emphasising that subjects may cease to participate at any time if they wish. The following is a suggested statement, which might be amended as necessary to suit individual styles as long as the overall message remains the same:

“I shall be looking for volunteers aged over 18 who are willing to be hypnotised and participate in the show. Anyone who comes forward should be prepared to take part in a range of entertaining hypnotic suggestions but can be assured that they will not be asked to do anything which is indecent, offensive or

harmful. Volunteers need to be in normal physical and mental health and I must ask that no-one volunteers if they have a history of mental illness,, are under the influence of alcohol or other drugs or are pregnant.”

11. No form of coercion shall be used to persuade members of the audience to participate in the performance. In particular, hypnotists shall not use selection techniques, which seek to identify and coerce onto the stage the most suggestible members of the audience without their prior knowledge of what is intended. Any use of such selection techniques (eg, asking members of the audience to clasp their hands together and asking those who cannot free them again to come onto the stage) should only be used when the audience is fully aware of what is intended and that participation is entirely voluntary at every stage.
12. If volunteers are to remain hypnotised during an interval in the performance, a reasonable number of attendants as agreed with the licensing authority shall be in attendance throughout to ensure their safety.

Prohibited Actions

13. The performance shall be so conducted as not to be likely to cause offence to any person in the audience or any hypnotised subject.
14. The performance shall be so conducted as not to be likely to cause harm, anxiety or distress to any person in the audience or any hypnotised subject. In particular, the performance shall not include:
 - a. any suggestion involving the age regression of a subject (ie, asking the subject to revert to an earlier age in their life; this does not prohibit the hypnotist from asking subjects to act as if they were a child etc);
 - b. any suggestion that the subject has lost something (eg, a body part) which, if it really occurred, could cause considerable distress;
 - c. any demonstration in which the subject is suspended between supports (so-called “catalepsy”);
 - d. the consumption of any harmful or noxious substance;
 - e. any demonstration of the power of hypnosis to block pain (eg, pushing a needle through skin).
15. The performance shall not include giving hypnotherapy or any other form of treatment.

Completion

16. All hypnotised subjects shall remain in the presence of the hypnotist and in the room where the performance takes place until all hypnotic suggestions have been removed.
17. All hypnotic or post-hypnotic suggestions shall be completely removed from the minds of the subjects and the audience before the performance ends. All hypnotised subjects shall have the suggestions removed both individually and collectively and the hypnotist shall confirm with each of them that they feel well and relaxed (the restriction on post-hypnotic suggestions does not prevent the hypnotist telling subjects that they will feel well and relaxed after the suggestions are removed).
18. The hypnotist shall remain available for at least 30 minutes after the show to help deal with any problems which might arise. (Such help might take the form of reassurance in the event of headaches or giddiness but this condition does not imply that the hypnotist is an appropriate person to treat anyone who is otherwise unwell.)

Authorised Access

19. Where:
 - a. a constable; or
 - b. an authorised officer of the licensing authority; or
 - c. an authorised officer of the fire authority

has reason to believe that a performance is being, or is about to be, given he may enter the venue with a view to seeing whether the conditions on which approval for the performance was granted are being complied with.