

# AGENDA

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**Meeting:** Licensing Committee  
**Place:** The West Wiltshire Room - County Hall, Trowbridge BA14 8JN  
**Date:** Monday 4 June 2018  
**Time:** 10.30 am

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

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

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## Membership:

Cllr Allison Bucknell	Cllr George Jeans
Cllr Trevor Carbin	Cllr Jim Lynch
Cllr Sue Evans	Cllr Leo Randall
Cllr Jose Green (Vice-Chairman)	Cllr Pip Ridout
Cllr Mike Hewitt	Cllr Ian Thorn
Cllr Peter Hutton (Chairman)	Cllr John Smale

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## Substitutes:

Cllr Clare Cape	Cllr Nick Murry
Cllr Ernie Clark	Cllr Steve Oldrieve
Cllr Anna Cuthbert	Cllr Stewart Palmen
Cllr Peter Evans	Cllr James Sheppard
Cllr Gavin Grant	Cllr Graham Wright
Cllr Howard Greenman	

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# AGENDA

1. **Apologies/Substitutions/Membership Changes**

To receive any apologies and details of any substitutions.

To note any changes to Committee membership.

2. **Minutes** (*Pages 7 - 16*)

To confirm and sign the minutes of the meeting held on 11 December 2017 (copy attached).

3. **Chairman's Announcements**

4. **Declarations of Interest**

To receive any declarations of disclosable 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 on the front of the agenda 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 on the front of this agenda no later than 5pm on **Friday 25 May** in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **Wednesday 30 May**. Please contact the officer named on the front 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** (Pages 17 - 92)

To receive and sign the minutes of the following Licensing Sub Committees:

**Southern Area**

- 17/01/17 Application for a Personal Licence
- 26/04/17 Application for a Premises Licence – Chalke Valley History Festival, Broad Chalke, Salisbury
- 05/10/17 Review of a Premises Licence – Queens Arms, Street, Salisbury
- 24/01/18 Variation of a Sex Establishment Licence
- 21/02/18 Application for a Premises Licence – 18 The Street, Amesbury

**Western Area**

- 12/12/17 Application for a Variation of a Premises Licence – Grange Farm, Bratton Road, West Ashton, Trowbridge
- 16/01/18 Application for a Premises Licence – Fairwood Lakes Holiday Park, Dilton Marsh
- 16/04/18 Application for a Variation of a Premises Licence – Waterhouse Hotel, 5 Waterhouse Hotel, Monkton Combe, Bath
- 01/05/18 Application for a Personal Licence

7. **Briefing Note - Event Safety Advisory Group** (Pages 93 - 96)

This Briefing Note, which has been prepared by Linda Holland (Licensing Manager) seeks to outline the role of Wiltshire's Event Safety Advisory Group (ESAG) and provide information for the Licensing Committee.

8. **Review of Statement of Gambling Principles** (Pages 97 - 204)

***The report of Linda Holland (Licensing Manager) asks that the Licensing Committee recommend that officers carry out a consultation of the proposed Statement of Gambling Principles before a finalised statement of Gambling Policy is present to full Council in October 2018.***

9. **Dates of Future Committee Meetings**

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

3 September 2018  
3 December 2018  
11 March 2019.

10. **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.

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## LICENSING COMMITTEE

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**DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 11 DECEMBER 2017 AT THE WEST WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Allison Bucknell, Cllr Trevor Carbin, Cllr Sue Evans, Cllr Jose Green (Vice-Chairman), Cllr Mike Hewitt, Cllr Peter Hutton (Chairman), Cllr Leo Randall and Cllr Robert Yuill

**Also Present:**

Asifa Ashraf (Solicitor), Emma Batchelor (Public Protection Officer), Danial Farr (Compliance Officer), Ian Brown (Head of Environment Services), Linda Holland (Licensing Manager), Sarah Marshall (Senior Solicitor), Charlotte May (Litigation Team Leader), Lisa Pullin (Democratic Services Officer), Tom Ward (Public Health Specialist) and Ceri Williams (Head of Prevention of Harm)

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**11 Apologies/Substitutions**

Apologies were received from Councillors Jeans and Ridout. Councillor Peter Evans was substituting for Councillor Ridout.

**12 Minutes**

The Minutes of the meeting held on 13 March 2017 were presented to the Committee.

**Resolved:**

**That the minutes of the meeting held on 13 March 2017 be approved and signed as a correct record.**

**13 Chairman's Announcements**

As this was the first meeting since the elections in May 2017, the Chairman welcomed all Members of the Licensing Committee and thanked all previous Members of the Committee for the work and for attending the Licensing Sub Committee hearings. He introduced Charlotte May (Litigation Team Leader) who was observing the meeting.

14 **Declarations of Interest**

There were no declarations of interest.

15 **Public Participation**

No questions had been submitted from the public prior to the meeting and there were no members of the public present at the meeting.

16 **Minutes of the Licensing Sub Committees**

**Eastern Area**

01/08/17 Application for a Variation of a Premises Licence  
The Greyhound, High Street, Bromham, Chippenham

**Northern Area**

31/05/17 Application for a Variation of a Premises Licence  
Tesco, Unit 5a Hathaway Retail Park, Foundry Lane,  
Chippenham

**Southern Area**

20/06/17 Application for a Premises Licence  
Snack Van, Lay-by off Packway, Larkhill, Amesbury

**Western Area**

15/08/17 Application for a Premises Licence  
Four Seasons Coffee Shop, 3 Market Street, Trowbridge

**Resolved:**

**That the minutes of the meetings detailed above be approved and signed as correct records.**

17 **Equality Act 2010**

Ian Brown (Head of Environment Services) referred to the report circulated with the Agenda which informed members of the commencement of Sections 165 and 167 of the Equality Act 2010 which came into force on 6 April 2017. These sections impact on the Council's hackney carriage and private hire driver and vehicle licensing regime. Ian highlighted the following:



- Although there is no obligation for Council's to create and maintain a list of designated vehicles for disabled users, the Government strongly recommend that local authorities do this as there is a risk of challenge if it does so without good reason;
- The powers under the Act are more robust and would allow us to convict and fine anyone who breaches the duties under Section 165 and have consideration as to whether they remain a fit and proper person to hold a taxi or private hire driver licence. Any appeals for a revocation of licence are heard by the Magistrates Court;
- Under Section 167 the requirement would be for the Council to have a list of all designated vehicles that is made available on the Council's website to assist travellers in making informed travel choices when looking to find wheelchair accessible vehicles in Wiltshire; and
- Feedback from the trade on the proposals had been mostly positive. Larger firms currently need to provide 1 wheelchair accessible vehicle in 10 and the Council try to encourage more than 1 in 10.

Committee members raised the following:

Q If someone refuses to carry a passenger without reasonable excuse would you issue them with penalty points and then go on to consider if they were fit and proper person to retain their licence?

A Yes if drivers refused to carry passengers, penalty points would be issued and if these totted up it would be likely that their licence would be revoked.

Q Would the Committee get to see the amended guidance for approval?

A The guidelines are currently under review and would be amended in line with the DfT recommendations and brought to a future Licensing Committee for approval.

Q How do we intend to communicate with groups of wheelchair users? I would like to see the Council doing engagement with user groups – Perhaps once the list is prepared it could be highlighted at Area Boards with a list being circulated and shared within Chairman's announcements.

A Yes, we can prepare details for Area Boards.

Q Could we ensure that all vehicles clearly display that they are wheelchair accessible – perhaps with a sticker or logo being displayed?

A Yes this can be arranged.

The Committee all agreed that they would like for these changes to be communicated to all relevant groups and the Area Boards as discussed. It was then:

**Resolved:**

**That the Licensing Committee:**

- 1) Agree the implementation of the powers available to the Council in Sections 165 and 167 of the Equalities Act 2010 and their addition to the Council's Guidelines for taxis and private hire drivers and vehicles, in line with the Department for Transport statutory guidance.**
- 2) Authorise officers to:**
  - i) Create a list of designated vehicles and make available to the public.**
  - ii) Publish the list of designated vehicles for the Equality Act 2010 on the Wiltshire Council website.**
  - iii) Consider exemptions on medical grounds in line with the Department of Transport Guidance based on medical evidence submitted by drivers from their doctors saying that they are unfit to fulfil their duties outlined in Section 165 of the Equality Act 2010.**
  - iv) Implement the change, giving drivers 56 days to submit their exemption request, from date of 1 February 2018 to comply with Section 165 of the Equality Act 2010.**
  - v) All applicants for hackney carriage and private hire driver licences, received after the implementation date will be required to submit exemption request at the time of application.**
  - vi) Prepare amended Guidance for future consideration by the Licensing Committee.**
  - vii) Communicate the information on wheelchair accessible vehicles to user groups and via Area Boards.**

## **18 Update on Public Spaces Protection Orders**

Tom Ward (Public Health Specialist – Community Safety and Substance Misuse) provided a verbal update to the Committee on Public Spaces Protection Orders (PSPO's). He highlighted the following:

- There are currently 7 PSPO's in place in Wiltshire – Calne, Chippenham, Devizes, Durrington, Malmesbury, Trowbridge and Warminster with Salisbury shortly to be made;

- The team would be working with the 8 town and city councils to work on signage for each area that was relevant for their location. The proposed signage is *attached as Appendix 1 to these Minutes*. It was hoped that the Town Councils would share the costs of the new signs;
- The Orders gave Police the powers to ask people to stop drinking within the designated areas; and
- Once the new signage was in place this would be communicated to the Area Boards so that this information could be passed on.

**Resolved:**

**That the update on Public Spaces Protection Orders be noted.**

**Appendix 1 to Minutes - Proposed Signage**

19 **Update on the Licensing Service**

The Committee were referred to the update on the Licensing Service which had been prepared by Linda Holland (Licensing Manager). Linda highlighted the following:

- Prevention of harm is a key element when planning an event and much more focus this year had been on military/terrorist threats – how this could be dealt with is built into the planning process;
- The number of licensing applications received is up on last year – these had been for cafes expanding to add alcohol to their licences. More applications for TENS were also received and this process is now smoother as the applications can be completed online through the GOV.UK website;
- Following concern that a number of Town and Parish Councils were unsure on which grounds they could support or object to an application we updated the guidance notes on making a representation and the link to this is sent on the email when they are notified of applications. We also had to firmly advise that the 28 day consultation deadline is fixed and cannot be extended to fit in with Parish Council meetings;
- The Licensing team had undertaken inspections of all betting shops over the last few months. The Council's Statement of Gambling Policy was due for renewal by January 2019 and a report would be prepared for the March 2018 meeting of the Committee to outline the consultation requirements and members involvement in the process;

- A briefing paper on the work of the ESAG group would be prepared for the March meeting of the Committee:
- Since the beginning of 2016, Wiltshire Council has seen an increase in Animal Boarding licences and Licensing have taken the opportunity to review the fees and charges to reflect this growth also to include dual licensing of some properties. In October 2018, there will be new regulations coming into effect that aim to modernise the current licensing and welfare regime for four different animal licences. Licensing officers will work with the holders of the effected licences to help with their understanding regarding any impact the changes may impose.
- In relation to the suspension of licences (currently 27 in long term suspension), Members asked for a list of those to check if any were in their area and if they had any local knowledge that may assist with contacting any licence holders.

Members asked for an updated list of Council and Wiltshire Police Licensing Officers to be circulated so that they knew who to contact with any queries. Linda Holland agreed to forward this to Lisa Pullin for circulation.

A Member requested an update on environmental enforcement actions within Waste & Environment:

It was reported that there had been two successful prosecutions – one for carrying out waste disposal without a licence for which a £1,000 fine was awarded. Another was a joint investigation with the Environment Agency which uncovered environmental offences and resulted in an award to pay back £2 million under proceeds of crime legislation.

Members wished to express their thanks to all Officers for their hard work.

**Resolved:**

**That the Committee note the Licensing Update.**

## 20 Dates of Future Committee Meetings

Members noted the dates of future meetings of the Licensing Committee as detailed below, all to start at 10.30am:

12 March 2018  
 4 June 2018  
 3 September 2018  
 3 December 2018.

## 21 Urgent Items

There were no urgent items.

(Duration of meeting: 10.30 - 11.20 am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services,  
direct line 01225 713015, e-mail [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk)

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## Restricted alcohol consumption area



**NO ALCOHOL**

**It is an offence to drink alcohol in this area, or to refuse to surrender it, when asked to do so by a police officer or other authorised person.**

**Maximum penalty= Arrest and £500 fine**

**This Order made by Wiltshire Council covers the following area:**

[insert list of areas]

It is an offence for any person in a public space within this area to drink alcohol or anything which a police officer or other authorised person, reasonably believes to be alcohol. Accordingly, an “authorised person” means a person who has been authorised by Wiltshire Police or Wiltshire Council.

A police officer or other authorised person may require any other person to surrender anything in the other person’s possession which is, or which the officer or other authorised person reasonably believes to be, alcohol, or a container for alcohol.

Any person, who without reasonable excuse commits an offence, shall be liable on conviction to a maximum fine of £500.

The above requirements shall not apply to (i) an event for which Wiltshire Council has issued a licence to serve alcohol or (ii) an unlicensed event where prior written permission to serve alcohol has been given by Wiltshire Police to the organisers.

**Public Spaces Protection Order  
Anti-social Behaviour, Crime and Policing Act 2014**

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## **SOUTHERN AREA LICENSING SUB COMMITTEE**

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### **MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 17 JANUARY 2017 AT ALAMEIN SUITE - CITY HALL, MALTHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN APPLICATION FOR A PERSONAL LICENCE**

#### **Present:**

Cllr Trevor Carbin, Cllr Mike Hewitt and Cllr Simon Jacobs

#### **Also Present:**

The Applicant

Ian Garrod (Wiltshire Council Licensing Officer), Susan Thurman-Newall (Police Licensing Officer), Lisa Moore (Democratic Services Officer), Paul Taylor (Solicitor).

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#### **1 Election of Chairman**

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

#### **Resolved:**

**To elect Councillor Simon Jacobs as Chairman for this meeting only.**

#### **2 Apologies for Absence/Substitutions**

There were none.

#### **3 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).

#### **4 Chairman's Announcements**

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

## 5 **Declarations of Interest**

There were no interests declared.

## 6 **Exclusion of the Public**

**Resolved:**

**That, in accordance with Regulation 14 of the Licensing Act (Hearings) regulations 2005 the public be excluded from the hearing as the public interest in so doing outweighed the public interest in the hearing taking place in public.**

## 7 **Licensing Application**

### **Application for a Personal Licence.**

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 were given the opportunity to address the Sub Committee.

Key points raised by the Applicant, were:

- He had taken on the tenancy of a business in Blackpool in 2012 after purchasing the leasehold, to include goodwill and future bookings, which did not later materialise.
- He had paid his landlord for the renewal of the licence for the forthcoming year. He had enquired in October 2012 to the local council, as to the licence situation, where he was advised that he should have it transferred from the landlord to himself and his wife.
- In December 2013, he received a request from the previous owner for a fee to renew the licence. He then decided to scale down the business and continued to pay the fee in 2014 and 2015.
- A visit from a licensing officer was carried out to his surprise due to non-payment of the licence fee. After this he withdrew the bar facilities.
- He was fined by the local authority for the sale of alcohol, which was in breach of his licence.
- He and his wife had then decided to seek pastures new because they had outgrown the premises.

- He had sat and passed the MPH exam.
- He and his wife had spent time and money in the new venture at licensed premises in Wiltshire which had been closed for some time. They had worked to get the premises up and running, with the aim of making it a community venture, which he hoped would involve the whole village.
- The previous landlord at the premises lived next door and continued to hold the premises license.

Key points raised by the Responsible Authority, Wiltshire Police, were:

- Part of application process involved Wiltshire Public Protection department informing the Police Licensing team when an offence might have been committed, to enable them to investigate.
- The applicant had received four fines, relating to licensable activities
  1.
    - As there had been four offences, attention was drawn to legislation in the Rehabilitation of Offenders act. Where it states that if an adult has a fine of a period of over 1 year that this must be declared for a period of one year.
    - 3 of the offences related to a single date in 2016 – Following a licensing inspection which had been carried out. The Applicant had then been present and confirmed he was the owner.
    - The Applicant agreed that he had been selling alcohol during that period.
    - He had been advised by the head of Licensing that as he had been unable to contact the previous owner he should obtain his own license. He then confirmed he had been booked on a course for a personal licence. However, he did not attend such a course until later in 2016.
    - Letters of suspension were sent to the occupier and to the licence holder (former owner).
    - The Applicant confirmed he had been the premises owner between 2012 – 2016.
    - He had demonstrated a disregard for the licensing act.
    - He had by his own admission been running the bar from the first visit by the Licensing Officer.

- It was felt that further licensing act breaches may occur.
- It was felt that there was a risk of public safety and protecting children from harm.
- The Applicant was already in the premises in Wiltshire and had displayed notices that the premises would be opening soon.
- The new premises were in a fairly isolated location and the area would not be subject to regular police patrols. The police had concerns about the Applicant's lack of experience in the late night trade and other concerns around overselling, over inebriation, drink driving and the potential for underage sales.
- The Applicant had only disclosed 3 of the 4 offences he had committed on his application form.
- The Applicant had only been granted the BIIAB personal licence award in November 2016, which was the same day he completed the application for his personal licence.
- On 13 December Wiltshire Police were notified that relevant offences may have been committed.
- It was felt that the Applicant either believed that the law did not apply for him or that he had a disregard for it.
- The Police view was not that the applicant should never hold a licence but that he should not until his convictions were spent, which would be in November 2017.

The following questions were asked of the Responsible Authority:

- Would you always object in a case when there was an unspent offence?  
Answer: It would depend on the offence, as each was looked at individually, for the circumstances. The problem with this case was that the application had been made 10 days before the court hearing had taken place. Given the location of the rural pub the applicant was proposing to run, there were concerns.

questions from the applicant to the police

- The sign outside to say we would be opening shortly, was for the 3 letting rooms. Was that an offence? – Answer: No

The parties were then invited to make any points in summation.

The Responsible Authority made no summation.

The Applicant made the following points:

- Whilst he agreed with a lot of the evidence presented, he felt that the convictions were a result of stupidity on his behalf.
- There would be due diligence through the old landlord as he lived next door.
- He first looked at the premises in Wiltshire in February 2016, when he and his wife intended to move back down south.
- Several trip adviser comments for the previous premises stated that the bar was not open so this showed that he did not promote the bar.
- He wanted a 10 year tenancy at the new premises, part of that included him becoming the DPS, the landlord lived next door so he would be able to keep an eye on the running of the premises.
- It was close to his heart to keep children from harm, as he had 7 grandchildren.
- He intended to market the premises as a community pub.
- He stated that he was more than determined to uphold the objectives of the licensing law.

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

The Sub Committee then retired to consider the application at 11.03am

The Hearing reconvened at 11.30am

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 Southern Area Licensing Sub Committee resolved to uphold the notice of objection issued by Wiltshire Police and reject the application for a personal licence.**

**Reasons:**

After taking into account the written representations from the parties and the oral arguments received at the hearing from the Applicant and the Police, the Sub Committee carefully considered the concerns raised by the Police that the

grant of a personal licence to the Applicant would undermine the licensing objective for the prevention of crime and disorder.

Given the nature and circumstances of the relevant offences, including the fact that the applicant had only been convicted of those offences in 2016, the Sub Committee accepted the Police's concerns that there was a risk of re-offending in this instance and that it was appropriate to reject the application for the promotion of the crime prevention objective.

#### Evidence

The Sub-Committee were informed that the Applicant had been convicted of four relevant offences in 2016. These offences, which were detailed in the agenda papers, had been committed whilst the Applicant and his wife were running a hotel/guest house in Blackpool.

The Sub-Committee heard evidence from the Applicant regarding the circumstances which led to these offences being committed. The Applicant stated that they had been inexperienced in running such premises and that he had relied on assurances given by the owner of the property regarding the premises licence. He admitted that he had been naïve and stupid not to comply with the relevant legislation, particularly following visits from officers of the Licensing Authority.

The Sub-Committee also heard representations from the Police Licensing Officer as to why they had objected to this application. In their view, the actions of the Applicant in continuing to display alcohol for sale following contact from the local authority's Licensing Officers, and in failing to follow the advice of those officers, demonstrated a disregard for the licensing legislation. They also noted that not all of the convictions and sentences had been included on the licence application form. The Police were concerned that there would be further licensing breaches by the Applicant, if he were granted a personal licence at this time and that, therefore, the grant of such a licence now would undermine the licensing objective of preventing crime and disorder objective.

In reaching this decision the Sub Committee took into account the written representations from all parties and the oral arguments received at the hearing. The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 120); 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.

(Duration of meeting: 10.30am – 11.30am)

The Officer who has produced these minutes is DSO Lisa Moore 01722 434560, of Democratic Services, direct line 01722 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

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## SOUTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 26 APRIL 2017 AT THE NADDER CENTRE, WEAVELAND ROAD, TISBURY, SP3 6HJ IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE; CHALKE VALLEY HISTORY FESTIVAL, CHURCH BOTTOM, BROAD CHALKE, SALISBURY, SP5 5DS**

**Present:**

Cllr Mike Hewitt, Cllr Simon Jacobs and Cllr Pip Ridout

**Also Present:**

Ian Garrod, Licensing Officer, Linda Holland, Licensing Manager, Lisa Moore, Democratic Services Officer, Lisa Pullin, Democratic Services Officer, Paul Taylor, Senior Solicitor

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8 **Election of Chairman**

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

**Resolved:**

**To elect Councillor Simon Jacobs as Chairman for this meeting only.**

9 **Apologies for Absence/Substitutions**

There were none.

10 **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).

11 **Chairman's Announcements**

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

12 **Declarations of Interest**

There were no interests declared.

13 **Licensing Application**

**Application by The Chalke Valley History Festival, Church Bottom, Broad Chalke, Salisbury, SP5 5DS.**

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

- 10 relevant representations in objection had been received.
- 23 relevant representations of support had been received.
- The event would take place between Sun 25 June 2017 to Monday 23 July 2017.
- During the consultation period, concerns had been raised that the application had not been advertised properly at the site. Therefore the consultation period had been extended for one week and additional notices had been displayed at the site.
- The representations in objection had raised concerns relating to noise and the consumption of alcohol. These representations were provided in the agenda pack as appendix 5.
- The 23 letters of support were provided in the agenda pack as appendix 6.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Barrister; Marcus Lavell on behalf of the Applicant were:

- Due to the nature of the application, there was an abundance of evidence available to address the issues raised in the representations of objection.
- It was noted that no objections had been made by Environmental Health or the Police.
- The event team recognised that ongoing consultation was essential when putting forward a large-scale event, and had been liaising with partners throughout the planning stages.

Other speakers in support made the following statements:

James Holland, original founder and one of the Directors of the festival:

- The Festival began in 2011 to raise money for the Cricket Club. The original festival had 12 speakers. The aim was to create an atmosphere where people could have a glass of wine and learn some history.
- Following the success of that festival, it was realised that they could take it up a notch. A Trust was set up to enhance and teach history to all ages. Those involved felt passionately about the festival and so decided to crank up the event in 2012, with 50/60 speakers, including a spitfire display.
- The 2012 festival went well, so in 2013 the event was cranked up again, and remained at that level now. The event this year would include a school's festival.
- The event was dependant on volunteers of aged 16 and up. The event attracted volunteers locally and internationally.
- The aim was to inspire people in History. The location was a stunning setting, with droves and ancient linchets.
- The event hoped to attract as many people from the Chalke Valley as possible, which was why they would be offering free ticket to everyone in the village.

Rachel Holland – One of the Festival Directors, involved from the beginning, was also responsible for the School Festival and logistics:

- Broadchalke was a small quiet village, however there was a history of large scale events being held there, such as the Gursten Hill Speed Climb, which was a motor racing event. That event was well established for over 50 years and ran for 12 days - 8 weekend events and 4 further days. The event brought many people through Broadchalke, and was well supported by the village.
- Current events were already taking place at the village and drew people from all over the world. The Village also supported a huge amounts of cyclists throughout the year.
- The provision of alcohol and entertainment at the event would be planned and managed by Terry Barratt, & Charles Luxton. Charles had 25 years of experience as he ran 2 pubs and a wine shop in Tisbury.
- Terry was the DPS, and Charles would run the Bar. Staff would be from his businesses or trained by him prior to the event.
- Personal licence holders would be in attendance on the bar at all times.
- As a charitable company, they encouraged people to buy alcohol from the bar, however visitors were also permitted to bring picnics, which would often include wine or other alcoholic drinks.

- During the week, the event was quite quiet, as it was mainly a literary event, with quiet talks in progress. The event did crank up on the weekends, with a 3-piece jazz band playing by the bar.
- On Saturday night, an Andrews style swing group would be singing.
- The Team would be aware of excessive noise at any point as detailed in the Noise Management Plan, monitoring would take place at the boundary, near the closest property. A dedicated security team were responsible for monitoring and alerting the organisers to any issues via the radios, at which point the sound engineers would reduce the sound.

Other Comments in Support were received:

- Having been attending the festival since the beginning, it was felt to be a safe environment with friendly staff.
- A regular attendee had never seen anyone intoxicated at the event.
- During the party held in the bar tent, you could hold a conversation whilst music playing, as it was not loud.

Cllr Questions

With regards to underage drinking, were there marshals at the event?

Answer: We have SIA accredited security staff there all the times. The bar would not sell to under-aged people. If young people were seen with alcohol, then staff were instructed to report it to us.

The Legal Officer noted that the Sub Committee was here to discuss a licence for licensable activities, if the licensable activities did not take place what effect would this have on the event?

Answer: The event would still go ahead but it would not be as much fun. If alcohol could not be sold, we would still see it being consumed on this site, however it would mean less funds would be raised at the event, as people would bring their own. The festival experience was added to if music was included. To have no music would take a level of charm away.

Questions to the Applicant from those who made representations were:

- Which licensing plans were relevant to the application? As a later version of the plan with a marked licensed area, shown by Mr Crier, who noted that there was no red line on the plan in the agenda. Answer: The plans were as detailed in the agenda pack on P139, item 7d through to p145.
- Where could people consume alcohol? Answer: Anywhere on the site, as people are able to bring their own alcohol in.
- On page 23 the box had been ticked for 'on the premises' the Applicant wished to understand what the premises include? Answer: When alcohol was sold in a bar, it was for consumption in the licensed area, that is where it must remain. The Police made no representation against the

application, so we cannot ask what they consider to be a breach. The plan does demonstrate a scope and a defined area.

The Legal Officer noted: It was reasonable to ask for clarity on whether the alcohol sold in the bars could be taken off the site and therefore to query the extent of the licensed area. Are drinks to be sold in glass or plastic, and to what extent could they be taken anywhere on the site?

Answer: Photos of the bar tent were available on page 44 of the brochure circulated at the hearing. Most people consume alcohol where they purchase it. There will be no attempt made to prevent someone leaving the bar area with their alcohol if they wished. Drinks would be sold in plastic containers

- The dates of the festival provided in the application included the 25 June and 3 July, one day before and one day after the event dates, why was that? – Answer: Building and testing takes place before the event and taking down after. There are also dress rehearsals. We would not be selling alcohol on those days.
- The attendance numbers indicate 300 – 500 on week days and an expected 5k on Saturday, however the application was for 13k. How many people were you likely to have and how many people was the license for? Answer: This was a ticketed event with many of the tickets sold in advance. In terms of the figures used, when planning for this event it would have been preposterous to state under the estimated amount, this event had been planned to accommodate any reasonable fluctuation which may occur.
- Would tickets be sold on the day, and how would you know how many people may turn up on a weekend? Answer: Yes, tickets can be purchased on the day. We monitor the attendance with our security guards, they click the numbers coming in and parking vehicles. In previous years, we have made 90% of our ticket sales in advance, we do not expect huge numbers turning up on the day.
- On page 67 of Event Management Plan – the parking trackway will not go right in to the full extent of the parking fields. Answer; Yes, the plan is correct, the trackway cannot be extended all the way at a cost affordable by the charity.
- On Sunday night, the events are winding down, what is happening until the late hours on the Sunday 2 July? Answer: In general, we don't sell many tickets late on the Sunday – there are less events.
- How many people would be in the campsite? Answer: The campsite included space for volunteers who were not permitted to drink alcohol. The camping would consist of 198 people, including the volunteers.
- On page 42 of the application it lists 'changes to entertainment'. Will there be different entertainment than what had been stated? Answer: If this Sub Committee grants a licence, unless very strict conditions had been applied, then they cannot prescribe the entertainment. However, the purpose for this was to provide the opportunity to find a backup group if the one booked became unable to attend.

- With regards to the impact as far as noise was concerned, would you do your utmost to ensure the noise did not have a negative impact on Mr & Mrs Foster? Answer: We are mindful of all the residents. The generators are incredibly quiet. Efforts would be made to ensure noise was to a minimum. We will have people checking that the volume was reasonable. And reduced if found to be too loud.

Key points raised by those who made a Relevant Representation were:

Mr Phil Crier – Solicitor, on behalf of Mr & Mrs Foster:

Coloured photos of the views of the proposed event site from the Fosters property were shown.

- It was noted that the Objectors had every admiration for the objectives of the History Festival. They had attended in previous years when it had been in Ebbesbourne Wake.
- The Objectors property was 400m away from the event site with access and egress only a stone's throw away from their garden. They felt it would be intolerable and a nuisance during the event period. They believed that the Location was unsuitable.
- The application sought permission for Licensable activities to take place at the event every day from 9am to 11pm. With extended hours on Friday (12.30am) and Saturday (1am).
- The nuisance to neighbours would be cumulative and aggravating in the extreme.
- The applied for capacity of 13,000 was far too high for this site.
- This was a village with narrow streets and lanes which had never seen before a festival of this proposed size and magnitude.
- It was noted that the committee could decide to impose conditions to restrict the hours of activity, in particularly on Friday and Saturday night.
- The application was for a new location, there were no issues with their experience at previous location with a previous licence. However this application was for Church Bottom.
- It was a time limited premises licence with no realistic opportunity for the Fosters to review the licensing activity during this period.
- The Objectors had not been invited to the Safety Advisory Group meetings.
- The quiet rural nature of the village was relevant when dealing with questions of public nuisance.
- Established pattern of use in the area – is this the license applied for at this site – is there an established pattern of use in the area? Not as established as the biking or other events.
- There would be noise from people and cars in the fields adjacent to the Objectors property for several days.

- Statutory guidance – 2.14 & 2.15 - focus on the effect of the licensing activities of those living around the licensed area. Noise can come indirectly or directly from the licensed area.
- Licensing facilities would attract greater numbers or would mean that people would stay longer.
- The Applicants were seeking to provide licensed facilities to thousands of people on this site.
- It was not know when people will be arriving or leaving.
- Mr & Mrs Foster were not alone in their objections – there were 15 others in objection living in Broad Chalke. There were only 11 of the 23 people in support who live in Broad Chalke.

Mr Foster –

- I am a supporter of the festival and had visited it since it started. However it has now been relocated to a village with a narrow echoing valley. Every car would have to drive down the quiet and tranquil narrow lanes.
- The number of cars could be up to 7,500 a day on the weekend.
- To grant an alcohol and entertainment license would make this dire situation worse and not fair on our elderly and disabled residents. It could cause issues in emergency situations.
- The noise with 8 loud speakers would add up to a considerable and unnecessary nuisance.
- The upset extends beyond the 15 objectors who wrote letters.

Mrs Foster –

- We have always supported the festival and acknowledged their aims, but was shocked that they were leaving the old site to come to this site with narrow lanes. The village was not consulted on this.
- It will cause traffic jams, car noise and pollution.
- There will be disrupting traffic diversions, all day every day for 7 consecutive days.
- The applied for alcohol hours are too long and continue far too late. There was no need to sell alcohol after the last lecture of 9.45.
- Ill sited in a residential area, depriving residents of privacy.
- There would be staff, campers and horses on site for 24h a day.
- It should relocate to a more suitable site.
- Captain Riley could not attend.

Cllr Questions:

There were none.

Questions from applicant:

Could the Objectors clarify what was meant by their statement that the village was not consulted in any meaningful way?

Answer: The Fosters saw someone taking photos, they then spoke to Rachel and discovered the festival would be happening in the village. Later there had been something in the paper to say there would be a parish meeting, but no date or venue was given. The people who turned up at that meeting were angry and disappointed. There was little consultation and after that meeting no further consultation was planned. They told the festival that there needed to be more consultation.

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 Chairman asked the applicant what impact an earlier close time for the sale of alcohol would have and called for an adjournment of 10 minutes for this to be considered.

The Sub Committee reconvened to hear the suggestion of the applicant for reduced hours of sale of alcohol, these were:

Mon – thur – 10.30pm

Fri – 11.30

Sat – 12.00 (last performance ends at 11.30)

Sun – no change

The Sub Committee then heard the closing submission from:

#### The Objector

- The Sub Committee could only grant a licence for what was applied for. This was for a supply of alcohol for consumption on the premises. The licensed premises was identified on the plan. The consumption of alcohol should be within the red lined areas.
- The capacity could be considered.
- It was in the wrong location.
- A reduction in hours would be better than nothing.
- The festival was of good intention, but that counts for nothing if the location was not right.
- The proximity of the site was too close to residents. The Fosters felt this application should be refused.

#### The Applicant

- The Objectors have said much about the nature of this area, however this area was a designated history festival area.



- The history festival would be going ahead. It has been approved by the necessary authorities.
- Cars would park on all areas of the parking fields during peak times.
- The link between festival and licensing activity is a tenuous one. Simple vehicular activity was not necessarily a nuisance.
- The applicant could not attend the safety group meetings, that was because he did not have a specific skilled knowledge.
- We only have physical representation today from one property backing on to the site.
- Most licenses have no capacity condition; these are only imposed when confinement or over saturation was an issue.
- This festival would take place without the licensable activity being granted. People would bring their own alcohol. To take away the live music would diminish the overall experience of the festival.
- Vehicular movement figures were within the evidence provided.

The Legal Officer asked whether the applicant wished to make any comments on the nature of the plans.

Answer: The History festival had a clear footprint and plans.

The Sub Committee then retired to consider the application at 13.03

The Hearing reconvened at 13.30pm

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 Southern Area Licensing Sub Committee resolved to GRANT the Premises Licence as applied for, with the following condition:**

- 1. That the Hours for the sale of alcohol will be varied from those applied for, so as to be:**

**Monday to Wednesday – 16.00 – 22.30**  
**Thursday 11.00 22.30**  
**Friday 11.00 to 23.30**  
**Saturday 10.00am – 12.00 midnight**  
**Sunday 10.00 – 21.30**

The granting of this Premises Licence is without prejudice to any other consents or approvals, including any planning permission that may be required.

Reasons:

After taking into account the written representations from all parties and the oral arguments received at the hearing, the Sub Committee has carefully considered the concerns raised by those who had made representations regarding the application.

The Sub-Committee accepted that it was inevitable that an event of this size and duration would have an impact on local residents, given the nature of the local area. However, it was not their role to consider the suitability or otherwise of the event as a whole. That had been considered by the other relevant authorities as appropriate. The role of the sub-committee was to consider the licensable activities that were proposed to take place within the overall Festival and the impact of those activities on the licensing objectives. The Sub-Committee felt that the presence or otherwise of these licensable activities would have a minimal effect on the issues that were principally causing concern for the Objectors, those being mainly the numbers of people and vehicles attending the site and the consequent noise and disruption.

The Sub Committee noted the willingness of the Applicant to reduce the hours for the sale of alcohol, and considered that such measures would be appropriate to address the relevant concerns that had been raised.

#### Evidence

The Applicant's representative and witnesses explained the background to the festival and the nature of the activities that would take place. They accepted that the Festival would attract a considerable number of people and vehicles, particularly at the weekend. Discussions had been on-going for some time with the relevant authorities to address the issues that would be caused by the number of people attending the event, with a view to ensuring the safety of the event and to minimise disruption to the village and local residents.

The Applicant stressed that the licensable activities, essentially comprising a 'beer tent' and musical entertainment between and after lectures, were minor elements in the festival as a whole. The presence of these licensable activities would not have any noticeable impact on the numbers of people attending the Festival, or on the operation of the rest of the Festival activities. In their view, the ability to sell alcohol would actually reduce the risk of any drunken behaviour, as otherwise more people would bring their own alcohol onto the site, which would not be within the control of the event organisers.

As regards the live music, this would not be much louder than the background noise of people talking and of the other unlicensable activities taking place on the site. The Applicants would have people monitoring the levels of the music at the nearest residential property.

In response the Objectors set out their concerns about the impact of the Festival on the peaceable enjoyment of their properties. There were particular concerns about car parking and traffic noise and movements. In their view, this

was not a suitable location for an event of this size. Contrary to view of the Applicants, the Objectors argued that the history events taking place on the site could not be divorced from the licensable activities as they would attract more people and encourage them to stay longer on the site. They argued that that there was no need for the event to sell alcohol after the end of the last lectures and that this would only add to the inconveniences that local residents would already be suffering.

The Sub Committee also 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.

Appeals:

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

- 14 **Hearing Report**
- 15 **Appendix 1 - Application**
- 16 **Appendix 2 - Site Plan**
- 17 **Appendix 3 - Safety Plan**
- 18 **Appendix 4 - Plans**
- 19 **Appendix 5 - Representation Form**
- 20 **Appendix 6 - Email**
- 21 **Appendix 7 - Premises Licence**

(Duration of meeting: 10.30am – 1.38pm )

The Officer who has produced these minutes is DSO Lisa Moore, of Democratic Services, direct line 01722 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

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## SOUTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 5 OCTOBER 2017 AT THE ENTERPRISE NETWORK, SALISBURY OLD FIRE STATION, SALT LANE, SALISBURY SP1 1DU IN RESPECT OF AN REVIEW OF A PREMISES LICENCE: QUEENS ARMS, IVY STREET, SALISBURY, SP1 2AY**

**Present:**

Cllr Trevor Carbin, Cllr Mike Hewitt and Cllr Robert Yuill (Substitute)

**Also Present:**

Mr Pugh – Resident  
Ms Hubbard – Resident  
Ms Gurd - Resident  
Cllr Jose Green  
Asifa Ashraf – Legal Officer  
Lisa Moore – Democratic Services Officer  
Ian Garrod – Licensing Officer  
Trish Morse – Public Protection Officer  
Gary Tomsett – Public Protection, Team Leader

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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 **Apologies for Absence/Substitutions**

Cllr Jose Green was substituted by Cllr Robert Yuill.

3 **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).

#### 4 **Chairman's Announcements**

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

#### 5 **Declarations of Interest**

There were no interests declared.

#### 6 **Licensing Application**

Review of a Premises Licence for the Queens Arms, Ivy Street, Salisbury, SP1 2AY

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

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

- The grounds for review related to failure to comply with licensing conditions in relation to noise. The Public Protection Team had brought the review and details of their proposed conditions were listed in the agenda.
- During the consultation 3 representations had been received from members of the public. Details of these were included as Appendix 7
- A revised variation application had been granted
- A noise management plan had been put into place

Public Protection Officer, Trish Morse highlighted the background to the review and showed photos of the premises to the committee:

- Members of the team had investigated complaints of noise and a notice had been served on Christopher Brown.
- A representation has been made by the Environmental Health Team as detailed in the report.
- The premises was a grade 2 listed building, surrounded on all 4 sides by residential properties.
- There had been a history of complaints after the pub had changed hands in 2014, in Dec 2015 Mr Brown took over.

- Investigations began in February 2016 following substantial complaints from residents.
- Up until the beginning of 2016, the Queens Arms had been a quiet public house and had no history of noise complaints
- In February 2016, a noise abatement order was served on Adrian Sainsbury.
- In April 2016, further conditions were attached to the premises licence and the noise management plan updated, so that no further music was to be played in the barn area.
- No formal action was taken at that time due to notice suspended.
- A resident in Ivy Street made a complaint, after they called the pub to request the music be turned down. A lady believed to be bar manager was rude and swore down the phone.
- We met with Mr Sainsbury. A follow up letter was sent on 1 Feb (p161).
- Feb 2017 – July 2017 complaints received from members of the public.
- On Saturday 29<sup>th</sup> April, both residents had independently contacted the out of hours service to make further complaints, Mr Tomsett attended the location.

Public Protection Team leader, Gary Thomsett

- Visited on 29 April, from 9pm – 12pm, also visiting Mr Pughs property opposite the Queens Arms. The music from a live band was clearly audible from street and inside the property. The noise included people outside having conversations and a bass guitar all clearly audible. The noise levels were extremely excessive.
- Following swearing and loud voices, at 9.22pm we received a further complaint from Mrs Hibberd.
- Following the objections and having listened to the noise from Mr Pugh's, he went to Mrs Hubbards. At this time (9.30pm) there were a number of taxis outside, with people talking and chatting.
- The music was audible from the dining room. The volume increased after 10pm, the bass and drums were audible.
- He visited twice, that evening, and when he left Trinity street, into Gigant Street, the bass was clearly audible at 100yards away. In his professional opinion, the noise constituted as a public nuisance.

Trish Morse

- On 4<sup>th</sup> May I telephoned Mr Pratt to advise him that we were still receiving complaints. He seemed dismissive of the complaints. On the same day I rang Mr Sainsbury, he did not answer his phone so I left him a message. He never returned my call.
- 10<sup>th</sup> May – 2 complaints were received regarding fights.
- 20<sup>th</sup> May a complaint regarding loud music was received. The Duty officer Sarah Weadon attended to record the sound. She claimed that the

level of the music was unacceptable and that she could hear the music above the complainants tv.

- At the beginning of June, we were notified that Adrian Sainsbury had left his role and that Sandra had taken over.
- I attended Mr Pugh's home and installed noise recording equipment. The property is 13m from the front of the Queens Head. The lounge window and secondary double glazing were closed as were the curtains, when the recording equipment was set up.
- 11 recordings were made that evening, the sound of the bass were intrusive and easily heard over the TV. I was of the opinion that the noise levels were in breach of what was permitted.

A sample of these recordings were played at the hearing.

- As there had been a change of designated premises supervisor, I served a premises abatement notice and one on Sandra Oates
- In July further complaints were received of the noise. A section 80 was served on Mr Brown.
- There had been no music since July 2017.
- Due to quick change of DPS, this department was not able to consider legal action in respect of breach of the notice.

Questions from the Members:

- When you made the recording what was the condition of the public house? Answer: The windows were closed, curtains closed and door pushed to. If they were open it would have been louder.
- What happened with the noise abatement notice? Answer: The difficulty was that originally it was only served on Mr Sainsbury, there had been a rapid change in people at the premises. Could not pin any one person down to hold accountable.

Questions from residents:

- There were none.

Questions from Licence holder:

- There were none.

Presentations from the Residents:

Mr Pugh

I represent myself as live opposite the pub and I represent other elderly people who live in local community who do not feel confident enough to come forward. I have spoken to them and I know it has a wider impact



I moved in when the previous manager Neil was there and this was a very quiet pub. He had no intention to put live music there as he felt it would not be fair on the residents.

Unfortunately, after the change of management, our lives changed quite dramatically. I tried to speak to the new manager to try and find a way forward, but they were not interested. I contacted the council and their officers have put together the case and helped to get us here to trial.

It has not just been noise problems, it includes people outside, intoxicated shouting and fighting. Has been badly managed.

That old building is not currently suitable to play live music. Not sure how they could alter the building to enable this. There is associated noise after the music stops of people and a band.

Since July the noise level has been of a manageable level.

The noise impacts on my sleep, have to sleep in different rooms in my house. Not helpful, my routine is broken, I get tired. I want to maintain a healthy routine.

Its been forced upon the local residents by the owner of that pub. I want to thank Trish Morse for the work of her team for the tranquil peace we have had since July.

#### Ms Hubbard

I only met Mr Pugh today. I live on site at Trinity Hospital, I cannot move away. Residents at the hospital in alms house are elderly in their 80's and cannot get away from the noise late at night. There are 2 ladies who did not want to come today for fear of repercussions. I work shifts and am on call, I do suffer migraines, and had ill health, sometimes felt like I could not cope.

#### Mr Gurd

I live in Brown Street next to the barn. I did have the worse of it and had asked my carer to get me out of bed so that I could go and ask the pub to turn the music down, I was met with abuse and threats from people drinking there. I have not been out again. I get people knocking on my windows late at night. There is no way I can move away and once I have been put to bed at night there was no way I could get out of bed again to get away from the music.

I am grateful for the fact that it is much quieter now since July, but I still get people knocking on windows and shouting through the letter box. When using the barn people would be near my windowsills. Some of the people who were abusing or threatening are now the ones who are banging on the window.

I feel vulnerable as a disabled person. After my first letter I have kept my head down as felt vulnerable.

### Questions from Cllrs to residents:

- When the pub had been licensed, were you in anyway made aware of the change and that it now could have music? Answer: Before I purchased the property, I was told by estate agent to do my homework. I spoke to owner then, and for the 4 years he was the manager there, there was ever an issue.
- When you moved in, was there a juke box in there? Answer: No.

There were no questions from the Officers.

### Licence Holder

When we first took over we were all directors, Sandra Oats and Mr Sainsbury. In July I resigned as the director of that company and took over myself as the licence holder.

Since then I have not had any music, I am just a sole trader on my own just trying to earn a living.

We had some guideline to follow, we bought a CCTV system yesterday, and now have no smoking out the front.

### Questions from Councillors

- Since you have had no music, do you consider you still a viable business? Answer: We have a juke box in the bar, we have no plan for any other music, and we now serve food. With the Christmas period coming up customers had asked for a small disco, would that be ok?

Response from Mr Pugh – the building is not suitable for live music, the Environmental Health team had had difficulty in trying to pin down who was responsible. If we allow a disco and it gets out of hand, we would be back at square one.

- What will the barn be used for? Answer: If we use it, then it would be used for food.
- Is the fire door used for access? Answer: The only reason the fire door would be used was in case there was a fire or on a Tuesday morning for deliveries to the cellar.

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

The Sub Committee then retired to consider the application at 11:20am

The Hearing reconvened at 12:00noon.

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:

“No legal advice was sought by the Sub committee members.”

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 Southern Area Licensing Sub-Committee having considered the review resolved to add the following conditions to the Premises Licence:**

- 1. The provisions of the Live Music Act 2012 be dis-applied to this premises with the juke box to be permitted as incidental background music only.**
- 2. That both live and recorded amplified music be removed from the premises licence.**
- 3. CCTV cameras to be installed inside of the premises (subject to planning consent). Recordings to be kept for a minimum of 28 days and made available to Officers on request.**
- 4. Outside area to the front and side of the premises to be checked hourly between the hours of 8pm and closing. Any patrons using these areas either be moved on away from the premises, or asked to use the designated smoking shelter. Written records of all checks to be recorded and made available to local authority Officers on request.**
- 5. No glasses or drinks permitted outside. Smoking to be restricted to the designated smoking area in the court yard.**
- 6. Noise levels will be controlled by the Designated Premises Supervisor (or Nominee) at all times.**
- 7. Noise Management Plan to be reviewed and updated. Any changes to be agreed in writing with the Licensing Authority and Wiltshire Council Public Protection.**

**Reasons:**

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

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

Appeals

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

(Duration of meeting: 10:30 – 13:15)

The Officer who has produced these minutes is Lisa Moore Democratic Services, of Democratic Services, direct line 01722 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

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## SOUTHERN AREA LICENSING SUB COMMITTEE

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### DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 24 JANUARY 2018 AT NADDER CENTRE, WEAVELAND ROAD, TISBURY, SP3 6HJ IN RESPECT OF AN VARIATION OF A SEX ESTABLISHMENT LICENSE

#### **Present:**

Cllr Trevor Carbin, Cllr Jose Green, Cllr Robert Yuill

#### **Also Present:**

Cllr George Jeans - Substitute  
Johnathan Spencer - Applicant  
Paul Taylor – Legal Officer  
Hannah Hould – Licensing Officer  
Lisa Moore – Democratic Services Officer

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#### 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.**

Cllr Carbin in the Chair.

#### 2 **Apologies for Absence/Substitutions**

There were none.

#### 3 **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).

#### 4 **Chairman's Announcements**

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

#### 5 **Declarations of Interest**

There were no interests declared.

#### 6 **Licensing Application**

**Application by Mr J Spencer for the Variation to a Sex Establishment Licence in respect of Erotica-Belle, 105 Fisherton Street, Salisbury, Wiltshire SP2 7SP.**

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

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

Under the terms of the Council's Scheme of Delegation, any application to vary a Sex Establishment Licence must be made by Members and cannot be decided by an Officer.

Details of the variations applied for were included on page 8 of the agenda.

The application had been advertised by the applicant, and no representations had been received.

Key points raised by Mr J Spencer of AF Southern Ltd, in respect of Erotica-belle, were:

- He had been informed by the Licensing Manager, Linda Holland, at a previous meeting that she would be providing a statement, however it was noted that this had not been received.
- When he took over the business, he had applied for a variation to the conditions regarding window displays. He had understood those variations to have been approved, and that window displays were allowed, but later found out that those changes had not been added to the licence. He believed this was due to a clerical error.
- As he had believed the licence to have been varied, he had put window displays at the premises. It was only when an unnamed Councillor had complained to the Licensing Officer that he had become aware that window displays were still not allowed and he was then asked to remove them. This was why he had applied for the variations to the licence again.

- The applicant had won certificates in other counties for his window displays in the other sex establishments he owned in Andover, Weymouth and Bournemouth.
- The applicant felt that his business was losing money at the Salisbury shop due to there being no window displays.
- It was noted that other premises in Salisbury were able to display similar merchandise. Poundland and Boots both sold sexual health care products with no restrictions. In Anne Summers over 40% of their stock was sex toys, so he considered that they should be licensed. But when queried, the applicant had been told that they were too big a company to take to court.
- He was not asking to put sex items in the window. He would like to put advertisements for products, items of lingerie and pills and potions in the window.
- In September 2016, the applicant had been asked to support the local LGB Pride event. He had been asked to display a poster in the shop window. After this, the local Christian group had started to complain about the shop. The staff at the shop had been abused by several of the ladies from the Church group, who lived locally.
- The shops takings were down £66,000 from not having displays in the windows.
- Having blacked-out or obscured windows deterred people from entering the shop and gave an incorrect image of the premises. It was his aim to break down barriers for people who were too embarrassed to go in to a sex shop, but who may need the products sold there. This would be helped by the appearance of the shop being more like others on the High Street.
- Before being asked to remove the window displays he had lingerie in the front and he would like to go back to that. The shop had been trading 18 years prior to the applicant taking it on, and it had always had window displays.

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

- The layout and licensable area of the other premises owned by the Applicant. It was confirmed by the Applicant that, at his other shops, the whole of the premises was licensed.
- The proximity of this premises to a place of worship.
- Whether the other shops were in locations with a greater footfall.
- The proposed content of the window displays.
- The access points to the shop, which consisted of one main front entrance and a rear fire door, not accessed by customers.
- The suggestion to reduce the licensable area, and split the shop into two sections, with a front and rear. The front for non-sex related items, such as lingerie and the rear for the adult only items. With a divided section

between the two. The applicant confirmed that there would sometimes only be one member of staff on duty at the shop.

- What the applicant meant by health products.
- The barriers the business faced due to having an obscured window.

The Applicant was then invited to make a summary of his case:

- No objections to the variation had been made.
- No one had voiced their concerns.
- There were many customers who want to use the shop.
- People need the items.

The Licensing Officer made a summary:

- The Applicant has stated that he would be removing the DVDs so would no longer require a licence. This would need to be assessed at the time.
- The Applicant has asked to have window displays and for part of the shop to be visible through the window. Either or both of those could be achieved with conditions.
- The Applicant stated that he was losing trade due to not having window displays.

The Sub Committee members sought clarification on some points before retiring at 11.15am to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Panel reconvened at 11.55am

### **Resolved:**

The Sub-Committee resolved:-

1. to amend Condition 6 to allow the display of approved advertisements within the shop window. Condition 6 to be amended to read as follows (additional wording underlined):-

*6. The Licence Holder shall not display any advertisement, model, sign, notice, device, representation, drawing, or writing which is visible to persons outside the premises except as permitted by these Regulations or under the Act or with the approval of the Council and no such advertisements shall be displayed wherever visible which depict any sex article as defined.*

2. to amend Condition 7 to allow the display of non-sex articles within the window of the premises, provided that the rest of the interior of the premises is not visible from outside the premises. Condition 7 to be



amended as follows (additional wording underlined):-

*7. Subject to 7A, the Licence Holder shall ensure that the premises has screening and/or 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.*

*7A The display of items within the windows of the premises shall be permitted on the following conditions:-*

- a) Opaque screens shall be placed behind any window displays so as to ensure that no part of the rest of the interior of the premises is visible from outside the premises.*
- b) Window displays must not include any sex articles, as defined in the Act and must be approved by Wiltshire Council.*

#### **Reasons:**

The current licence conditions prevented any window displays at the premises and also prevented any advertising on the premises, other than that prescribed or allowed in the legislation.

The Sub-Committee were informed that the Premises sold a range of non-sex items, such as lingerie, which were also sold by other retailers within the city. They accepted that the current restrictions on window displays and advertising put the Applicant at a commercial disadvantage compared to those other retailers. They also accepted that fully obscured windows did make the premises less attractive to potential customers.

The Sub-Committee were also informed that the Applicant operated a number of sex shops in other towns. Those shops were allowed to have window displays and advertising, subject to various restrictions. In particular, the displays and advertising were subject to the approval of the relevant local authority and the interior of the shop premises, beyond any window displays remained obscured to persons outside the premises. The Sub-Committee noted that these arrangements seemed to be operating reasonably successfully in those other towns.

The Sub-Committee therefore considered that it would be appropriate to amend the existing licence conditions to allow controlled window displays and advertising within those displays, as set out in the agreed variations. They did not consider it appropriate to amend the extent of the licensed premises, so as to limit it just to the rear section, particularly as the premises would still be operating as a single business, and as it would affect the ability of the Council to control the window displays. In view of the proposed amendments to the licence

conditions ( which would allow window displays with screening behind), it was not necessary to add any conditions regarding the layout of the premises.

(Duration of meeting: 10.30 am - 12.00 pm)

The Officer who has produced these minutes is Lisa Moore 01722 434560 or email: [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk), of Democratic Services, direct line 01722 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

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## SOUTHERN AREA LICENSING SUB COMMITTEE

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### DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 21 FEBRUARY 2018 AT ALAMEIN SUITE - CITY HALL, MALHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN 18 THE HIGH STREET, AMESBURY

#### **Present:**

Cllr Trevor Carbin, Cllr Graham Wright and Cllr Leo Randall (Substitute)

#### **Also Present:**

Mr Steve Cox – Representative of the Applicant  
Mr Nathan Muirhead – Applicant  
Mr Williams – Amesbury TC  
Mr Osment – Amesbury TC  
Mr Aymes – Resident  
Mr Hedge - Resident  
Lisa Moore, Democratic Services Officer  
Asifa Ashraf, Legal Officer  
Hannah Hould, Licensing Officer

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#### 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.**

Cllr Carbin in the Chair

#### 2 **Apologies for Absence/Substitutions**

Apologies were received from Cllr Robert Yuill, who was substituted by Cllr Leo Randal.

#### 3 **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).

#### 4 **Chairman's Announcements**

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

#### 5 **Declarations of Interest**

There were no interests declared.

#### 6 **Licensing Application**

##### **Application by Keystone Entertainment Ltd for a Premises Licence at 18 High Street, Amesbury, SP4 7DN**

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

- No responsible authority had made a representation in objection.
- Additional door security had been agreed as part of the Environmental Health request.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Steve Cox on behalf of the Applicant (Nathan Muirhead) were:

- Appropriate practices would be in place to minimise the risks
- A public meeting had been held, they had listened to feedback and realised that it would be a challenge to have a nightclub.
- The applicant then changed the type of business to a multi-use facility.
- The focus would be on the cocktail bar element of the venue, the premises would not be dominated by loud music and a dance floor, there would be music but it would not be dominant.
- Purpose of the business was to bring together people to socialise, similar places included the Cathedral Hotel, and Yoyo bar.
- The whole proposal should be considered and not to dwell on the cocktail bar element or let it over shadow the rest of the facilities planned.
- Cocktail bar will be the main revenue maker.

Those who had made representations presented their views:

Mr Cox, local resident, lives 200m to proposed venue:

- He supported the application, as he felt it would help to protect home town by further business erosion.
- Town should encourage the right type of investment.
- On 16 December the Salisbury Journal advertised the vacant premises, there were no takers for Amesbury shops. To entice people they offered low rent but there was still no take up.
- Amesbury needs new blood and investment. Keystone are offering the chance to start that happening. Cocktail bar and musical entertainment offered here to attract tourists.
- Keystone are listening to the local community and changing their original proposal, sympathetic to the objections, but put in place a comprehensive list of actions to mitigate the concerns.
- As a family man, want children to grow up thinking Amesbury is a great place to live.

#### Questions from the Panel:

- When showing films, what size audience are we looking at? Answer: Fire regulations state no more than 150 seated.
- Was there a necessity for the cocktail bar for revenue, and how would late night drinking reduce the trend for shops shut in Amesbury? Answer: Our town needs to bring in more new investment. With the local military, and the increase in soldiers coming back to Amesbury, but also officers, they enjoy highbrow entertainment, bringing more people into the local community generally.
- Why do you want the licence to start at 8am? Answer: Other establishments have a similar flexibility, just there to accommodate extra events. Happy to review that if not appropriate.
- Will the under 13's come with an adult? You have said that if someone was 18 then they could not come for younger people events, what about 16-year olds? Answer: There would be no alcohol served if there were an event exclusively for under age people.
- Many of the objections talk about after closing time, what dispersal policies do you have? Answer: We would have door supervisors staying on up to 30 mins after closing to assist with this. Numbers dwindle at closing times.
- Would there be a smoking area? Answer: Yes there is a specific area shown on page 42, agenda item 6b, smoking area would be around the side corner, a L shaped, which would not be visible from neighbouring properties.
- Would there be anyone in the accommodation above? Answer: That would be a planning term. No one would reside in property.

Questions from those that had made representation:

- We struggle with the cocktail bar/night club distinction, in the planning application you show a DJ every Friday, we feel you are trying to pull the wool over our eyes. To us it is a night club. Answer: A DJ plays recorded music not live music. There are several other bars that have DJs it's the in thing, it sits with the cocktail bar theme that we are going for.
- Why do you need an 8am start, we do not see the need to start at that time? Answer: I would be happy to change this.
- With a DJ in this venue, would the music be played at a level that would allow conversation to be conducted. Answer: A noise assessment carried out established the level required, whether through a CD or by DJ it was the same. With the size of the dance floor, we would expect people to dance. There would be a noise limiter that cuts out if the noise is too loud.
- Had events calendar that was originally proposed, been modified now that this is a cocktail bar and how did Drum and Base (D&B) fit in to that? Answer: It was not a set schedule it was just an indicative list. A specific event could be put on to cater for D&B, but the cocktail bar would be on Friday's and Saturday's with the DJ. I would expect it to be slower and more lounge music style.
- What was the jurisdiction of your security staff in the street? Answer: They would have a responsibility for the removal off the premises, that is the benefit of the door watch scheme with the other venues
- Will there be any additional CCTV outside to monitor what goes on around your proposed establishment? Answer: Planning regulations - we proposed to have CCTV outside here and the New Inn.
- The Poll you submitted, how was this advertised. We knew nothing about it and I suspect the people who did know about it told each other. Did you advertise it? Answer: It went out to a 10k reach area, advertised on New Spotted Amesbury web site and the keystone web page. Tried to keep it neutral and advertised it down 2 streams.

Presentation from those that made Representations:

Cllr Williams – Amesbury TC

We were concerned about the past, no evidence yet for the future. Have done a lot of work over last few years to try and improve the night time economy. There are concerns with how things will progress with soldiers returning. This is difficult as I like some aspects of the application, but in this location, we have had a history of issues. Deeply concerned. Must support those we feel will be mostly affected.

Cllr Osment – Amesbury TC

We have been asked about putting in an additional taxi rank, as the delay and loitering of clientele will not decrease. The police have to take any arrested people to Melksham which has a 2 hr turn around. There were 2.5k of soldiers,

coming back over next few years to the Tidworth/Bulford area. There would also be a number of construction staff living in accommodation linked to A303 tunnel works.

#### Mr Aymes

A plan was submitted showing venues for evening entertainment and houses. That was incorrect, as there was substantially more housing in the area than was shown. Amesbury is now a residential area. The fact that there is evening entertainment is acceptable, people moved in thinking that was enough, now we are looking at additional venues for this. People should be able to live at night without the noise from this keeping them awake at night. Yes shops are closing, this is because of out of town shopping areas, the evening venue will not improve the shopping area.

#### Mr Hedge

Day time usage does not seem to present any problems, the concerns are around the evening events. The re-branding of the cocktail bar.

#### Questions from Panel –

- With regards to the night time economy, the Town Council mentioned previous history of disruption, what is the biggest factor that's changed? Answer: There is an ongoing problem, only have to look at the police presence dealing with that. There are regular disturbances. We got pub watch going and have introduced street pastors. Goes in peaks and troughs. Pay weekend can be bad.
- How did the current issues locally apply to the proposed venue? Answer: There had been some issues with the other establishments. They had adapted to make things better. Staggering their closure times from each other to assist the police in dealing with the outfall. Smokers in the street make a lot of noise, they will go in the street even with a dedicated smoking area.

There were no questions from the Applicant.

#### Closing submissions:

Those that made representations:

- The Town Council stands by what it had said. We are encouraged by the talk of a later start time. We would like to see an earlier close time too. If this goes ahead we would work with the applicant to do the best for the town. The large numbers it would attract would cause an issue to local resident.
- A 2am finish would not work well with late night disturbance.

Applicant:

- I am the director of the New Inn, where we regularly hit full capacity, we operate a one out and one in policy at those times.
- Some events can attract over 300 people.
- Had 2 police related incidents in the 2 years we have owned the new inn, comes from successful management and the schemes we put in place.
- Anti-social behaviour issues are typical of any large town with 5 establishments in it.
- The Police had no major incidents worthy of mentioning in January.
- We want to fulfil the demand and need for the daytime activity. There is room to work together with the community.
- The George hotel and the Antrobus have not objected they support this application.
- There has been little interest in the property, the owner cannot sell it and it could not become new homes.
- Lots of residents in the area not objected. Only 3 of 33 retirement accommodation made representations.
- The planning application offers more options than this process to explain in detail what we propose to do.
- 2 local taxi companies support this proposal.
- Competitor drinking establishments support this. It is welcomed due to the boost to the local economy.
- If we collaborate with the local community we have a second ancillary floor which could be used.
- A Noise management plan would cover any noise issues.

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

The Sub Committee then retired to consider the application at 11.20am and reconvened at 12.15pm.



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:

“No legal advice was sought by the Sub committee members.”

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 18 High Street, Amesbury, SP4 7DN be granted with conditions as detailed below**

- **CCTV cameras to be installed outside of the premises. Recordings to be kept for a minimum of 28 days and made available to Officers on request**
- **Prominent, clear and legible notices must be displayed notifying of the CCTV**
- **A noise limiting device (the specification and design to be agreed with Wiltshire Councils Environmental Control and Protection Service) shall be fitted so that all regulated entertainment is channelled through the device(s). The maximum noise levels shall be set in agreement with the Wiltshire Councils Environmental Control and Protection Service. The settings of the noise limiter(s) shall not be adjusted unless agreed by Wiltshire Councils Environmental Control and Protection Service and in the presence of the licence holder or their representative.**
- **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.**
- **During under 18s events, No alcohol will be available.**

**Reasons:**

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

***The Sub-Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from the Applicant, the applicant's representative and 4 of the objectors who raised concerns about the application for the new premises. These concerns related primarily to the perceived public nuisance by patrons of the premises when leaving the premises.***

The Sub Committee noted that although the parties raised concerns relating to public nuisance, crime and disorder and public safety, there was no evidence to support this as it was a new application. Also, no representations had been received from any of the responsible authorities and no other evidence relating to these concerns had been presented to the Sub Committee.

#### Appeals

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

- 7 **Appendix 1 - Application for a Premises Licence**
- 8 **Appendix 2 - Draft Noise Management Plan**
- 9 **Appendix 3 - Site Plan**
- 10 **Appendix 4 - Relevant Representations**
- 11 **Appendix 5 -Correspondence between the Applicant and a number of the representations**
- 12 **Appendix 6 - Amendment to Licence Conditions**
- 13 **Appendix 7 - Response of Environmental Health Officer**
- 14 **Appendix 8 - Location Plan of Premises**

(Duration of meeting: 10.30 am – 12.30pm)

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## WESTERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 12 DECEMBER 2017 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE - GRANGE FARM, BRATTON ROAD, WEST ASHTON**

**Present:**

Cllr Trevor Carbin, Cllr Peter Hutton and Cllr George Jeans

**Also Present:**

Carla Adkins (Public Protection Officer – Licensing), Asifa Ashraf (Solicitor), Emma Batchelor (Public Protection Officer – Licensing), Councillor Stewart Palmen and Lisa Pullin (Democratic Services Officer)

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**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 Apologies for Absence/Substitutions**

There were no apologies or substitutions.

**3 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 5 - 12 of the Agenda refers).

**4 Chairman's Announcements**

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

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

**Application by Ten Gallon Events Ltd for a Variation of a Premises Licence at Grange Farm, Bratton Road, West Ashton, Trowbridge**

Carla Adkins (Public Protection Officer – Licensing) introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. Carla highlighted the following:

- This was an application by Ten Gallon Events Ltd to vary their existing premises licence dated 20 February 2016 to add Sunday to the running days of the festival. The following timings for licensable activities were requested:

<b>Licensable Activity</b>	<b>Proposed additional hours</b>
Films, Plays, Performance of dance (indoors and outdoors)	Sun 11.00 – 00.30
Live Music (indoors)	Sun 11.00 – 01.00
Recorded Music (indoors)	Sun 11.00 – 01.30
Late Night Refreshment (indoors and outdoors)	Sun 23.00 – 02.00
Sale of Alcohol (on sales)	Sun 11.00 – 01.30
Hours open to the public	Sun 08.30 – 02.00

- During the consultation process, one relevant representation was received from Mr Peter Brabner relating to concerns over public nuisance.

In accordance with the procedure detailed in the agenda, the Applicant and the person who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Steve Henwood and Keith Murray on behalf of the Applicant (Ten Gallon Events Ltd) were:

- We have been running festivals on this site since 2014 (some under temporary events notices) and since 2016 on the Premises Licence. We launched our festival to run from Thursdays to Saturdays which is unorthodox. Following feedback from our customers, suppliers and carrying out market research we would like to amend the premises licence to include Sundays so that our festival runs from Friday to Sunday;

- We have an ever-evolving Event Management Plan which we develop with the Council's Licensing Team and would continue to do so to ensure that everything is in place to run a well-managed event;
- We haven't received any complaints about our previous festivals on this site;
- We have submitted maps which have been prepared by our Acoustic Consultants which show the projected noise levels and how the sound travels. You also need to take into account the wind direction, foliage, buildings and the direction of the speakers;
- The person who has made the representation lives over 2 miles from the site and although he may be able to hear us on a quiet night, the sound level does not constitute a nuisance;
- We are aware of other events that have happened in the area around Westbury White Horse and this may have been what he has heard previously;
- We have not broken any licensing conditions in the last 4 years and we regularly check the sound levels from the agreed measuring points. We worked with the Council's Environmental Health Officer last year to draw up the Noise Management Policy for the site to set the level for the abatement notice; and
- We are happy to address any issues that we can so that we don't cause problems for our neighbours.

The Sub Committee were then given the opportunity to ask questions of the Applicant:

Q Why have you asked for late finishing times on Sunday/Monday morning?

A We would drop our decibel level to 40db at 00:00 on the Sunday to start to wind the festival down and reduce the impact of the noise. If we finish earlier than the early hours of Monday morning this doesn't allow for a decompression time. We have been running festivals for 14 years and we know from audience management that we get complaints if the headline bands finish early. Customers expect the last night to finish and then there is time for wind down time and the purchase of refreshments etc.

Q You have asked for a significant change by ending the event on the Sunday instead of a Saturday – this will have an impact for those who live in the area.

A We do not run the music at full power as it is turned down at 00:00. Live band music would cease at 00:00 and only recorded music at a reduced level would play until 01:30.

Q Do you plan to hold the event over a bank holiday weekend and how many people usually attend?

A No we don't plan to hold the event over a bank holiday weekend. We are licenced for 1,500 people but we sold around 600 tickets last year. We have a dispersal plan and we encourage people to leave at different times. Some will leave as soon as it ends and some who are camping will leave at different times on the Monday. We offer refreshments the next day and encourage them not to leave during school drop off times.

A Councillor wished to clarify the music cut off times for the Sunday as it had been stated by the Applicant at the hearing that live music would cease at 00:00, but the application stated that live music would cease at 01:00.

The Applicant confirmed that the sound levels would be reduced as previously stated from 00:00 and all music would cease on the main stage at 00:00. Live bands would end at 00:00 but there could be a solo singer with a guitar which would count as live music and this would end by 01:00 and this would be at a lesser sound level. DJ's would be playing recorded music until 01:30.

Mr Peter Brabner (who arrived late to the hearing) had made a relevant representation. He did not wish to ask any questions of the Applicants.

Key points raised by Peter Brabner were:

- He only became aware of the application to vary the premises licence on the day before the closing date as he happened to see it on the Agenda for a Bratton Parish Council meeting. He then went to look for the public notices in West Ashton that were almost illegible on the roadside as they were rain soaked. He felt that it should also have been sent to West Ashton Parish Council as it is near to their area and that no one in West Ashton would be aware of the application as they wouldn't walk along where the notices were placed and then probably couldn't read them if they did see them;
- This event was held in a rural area in a marquee in a field. It was now proposed to hold the also have the event running on a Sunday evening/Monday morning where people living nearby would have to get up for work and school on the Monday. Music travels a distance on a still night; and
- He lived approximately 2 ¼ miles from the site and felt that any music after 23:00 is a public nuisance. He was concerned about the welfare of all residents in the area.



A Sub Committee Member wished to clarify a point raised by Mr Brabner:

Is it correct that any music after 23:00 is constituted as a public nuisance?

The Licensing Officer commented that as she is not an Environmental Health Officer she was unable to answer that question. She was able to confirm that all Licensing applications are sent to the relevant Parish Clerks for which the application falls into their area. They are not required to send them to neighbouring parishes.

Mr Henwood (the Applicant) confirmed that he had spoken to the Chair of West Ashton Parish Council about the application and they had the opportunity to submit a representation but chose not to. The notice was also published in the Wiltshire Times.

The Applicants were then given the opportunity to ask questions of Mr Brabner:

Q Have you ever heard our Festival?

A Two years ago in July we were woken by music playing past midnight. At 02:00 I called the Police. I recall that the sound was coming from the direction of your festival but I cannot say definitely that it was your festival causing the disturbance.

The Applicants stated that they had been running festivals until 02:30 for the last 4 years. Mr Brabner confirmed that he had heard the music whilst driving past the festival and may have heard them once in the evening when he was woken but could not say it was definitely this festival that was causing the disturbance.

Mr Brabner did not wish to make any points in summation.

The Applicants made the following points in summation:

- We want to make this event work for all. For our customers and for financial reasons we wish for this event to run from Friday to Sunday; and
- West Ashton Parish Council sell tickets on our behalf and we give them a percentage of the sales.

The Sub Committee then adjourned at 11:00 and retired with the Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 11:40.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council confirmed that no specific issues of legal advice were given the Members.

**Resolved:**

**The Western Area Licensing Sub Committee (Councillors Trevor Carbin, Peter Hutton and George Jeans) resolved to GRANT the variation to the Premises Licence to add Sunday to the running day of the festival (for which this Premises Licence covers) for the hours and activities detailed below:**

Licensable Activity	Timings
Films, Plays, Performance of dance (indoors and outdoors)	Sunday 11.00 – 00.30
Live Music (indoors)	Sunday 11.00 – 01.00
Recorded Music (indoors)	Sunday 11.00 – 01.30
Late Night Refreshment (indoors and outdoors)	Sunday 23.00 – 02.00
Sale of Alcohol (on sales)	Sunday 11.00 – 01.30
Hours open to the public	Sunday 08.30 – 02.00

Subject to the following additional conditions:

1. That this event is limited to a maximum of 72 hours.
2. That the Applicant give a minimum of 6 months’ notice of the dates/timings of the event to the Wiltshire Council Licensing Authority and Bratton and West Ashton Parish Councils.

Informative

The Applicant to ensure that all other statutory requirements are met.

**Reasons**

After taking into account the written representations from all parties and the oral submissions received at the hearing, the Sub Committee considered the concerns raised by Mr Brabner regarding the application. These concerns related to the perceived public nuisance from music and noise from the premises after 23:00 hours on a Sunday.

The Sub Committee noted that although Mr Brabner raised concerns relating to public nuisance, there had been no recorded complaints from other residents, no representations had been received from the Parish Council or any of the responsible authorities and no other evidence relating to these concerns had been presented to the Sub Committee. The Sub Committee also noted that agreement had been given that the event would not exceed 72 hours.

In reaching its decision the Sub Committee also 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 the written decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.

(Duration of meeting: 10.20 - 11.45 am)

The Officer who has produced these minutes is Lisa Pullin, Tel 01225 713015 or email [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk)

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## WESTERN AREA LICENSING SUB COMMITTEE

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### DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 16 JANUARY 2018 AT THE WEST WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE - FAIRWOOD LAKES HOLIDAY PARK, DILTON MARSH

#### Present:

Cllr Allison Bucknell, Cllr Trevor Carbin and Cllr Sue Evans

#### Also Present:

#### Applicant

Mr Crispin Thomas

#### Those who made a relevant representation

Mrs Priscilla Gray  
Mrs Kimberley Green  
Mr Richard Gregory on behalf of Mrs Julia Underwood  
Cllr Alison Irving on behalf of Dilton Marsh Parish Council  
Councillor Jerry Wickham

#### Wiltshire Council

Carla Adkins (Public Protection Officer – Licensing)  
Asifa Ashraf (Solicitor)  
Lisa Pullin (Democratic Services Officer)  
Councillor Ian Thorn

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#### 1 Election of Chairman

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

#### Resolved:

**To elect Councillor Allison Bucknell as Chairman for this meeting only.**

2 **Apologies for Absence/Substitutions**

There were no apologies or substitutions.

3 **Procedure for the Meeting**

The Chair 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 5 - 11 of the Agenda refers).

4 **Chairman's Announcements**

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

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

**Application by Fairwood Lakes Holiday Park Limited for a Premises Licence at Fairwood Lakes Holiday Park, Dilton Marsh**

Carla Adkins (Public Protection Officer – Licensing) introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. Carla highlighted the following:

- This was an application by Fairwood Lakes Holiday Park Limited for a Premises Licence for the provision of regulated entertainment, provision of late night refreshment and sale by retail of alcohol (on and off sales). The following days/timings for licensable activities were requested:

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
<u>Provision of regulated entertainment</u>		
Films		
Live music	09.00 – 00.00 10.00 – 00.00	Mon-Sat Sun
Recorded music		
Performance of dance		
Provision of late night refreshment	23.00 – 00.00	Mon-Sun

Sale by retail of alcohol (on and off sales)	09.00 – 00.00	Mon-Sun
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- During the consultation process, five relevant representations were received – three from local residents and from Dilton Marsh Parish Council and Cllr Jerry Wickham, the divisional Councillor. Their representations were made over concerns about public nuisance and public safety;
- For clarification – as part of the Live Music Act 2015, a venue with a Premises Licence can provide live music from 08.00 to 23.00 every day. The playing of background music is not a licensable activity; and
- There was an error on page 15 of the Agenda – a representation had been received from Mrs Priscilla Gray (not Green).

In accordance with the procedure detailed in the agenda, the Applicant and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Mr Crispin Thomas on behalf of the Applicant were:

- The holiday park had opened in June 2017 and had proved to be successful. 8 new jobs had been created and the park was a mix of luxury lodges and pitches for tents and touring caravans;
- They have a café with an outside decking area and a small shop. They would like to offer the sale of alcohol to their guests and would control the sales. Security measures would be added as this was a family holiday park;
- They currently played background music on the café decking area and were not planning to stage music festivals at the site and would not be planning a huge amount of music to go on late into the evening. They want to be able to offer some entertainment to guests;
- The Applicants were happy to discuss any concerns with their local neighbours. They were a family park, who did not wish to cause disturbance to their neighbours; and
- The park was aware of their rights in relation to the Live Music Act 2015.

The Sub Committee were then given the opportunity to ask questions of the Applicant:

Q You mentioned security measures – what do you mean by this?

A If we were to have a bar open until late in the evening we would look to have someone who is SIA registered on site. We currently have our own security guard who can be contacted via a number given to our guests

Q Do you currently have any rules and regulations for your guests relating to the consumption of alcohol on your site?

A Yes, our rules around alcohol are in the welcome packs given out to our guests. At the last bank holiday, we had 110 guests on site and 65 of these were children. As a Park, we are aware of our responsibilities towards our guests our staff are appropriately trained.

Q From the representations I see that there was a concern about loud music last year – what do you say about that?

A When I read this in the Agenda papers I was aghast at hearing about this. It could not have come from us and just have been the guests playing their own music. We have wardens who live on site and keep a check on our guests to ensure that they are not playing loud music. The lodges on our site are 5\* our guests that pay a lot of money to stay in them would not want to be disturbed by loud music.

*Mrs Kimberley Green reported that she had heard the loud music during the day coming from the Café and had quite frequently heard the music during the summer months.*

Carla Adkins was asked to clarify “background music”. She stated that background music should not be played at a level loud enough to penetrate a conversation.

Mr Thomas on behalf of the Applicant stated that he would turn the background music down if he was aware that it was creating a disturbance and would work with the Park’s neighbours to prevent this. If there was a disturbance it would need to be reported so that the Applicants were aware of it.

Those who had made a relevant representation were then given the opportunity to ask questions of the Applicant:

Q You have mentioned that you would wish to provide entertainment for your guests – what might that be?

A Possibly someone playing an acoustic guitar or another live music event on the decking area during an evening.

Q You are applying to sell alcohol from the café. Who are you intending to sell this alcohol to?

A It is intended to be sold to patrons on the site.



Q Who is a “patron”?

A There has been some confusion within the planning permission as to what a “patron” is.

The Chairman clarified that planning permission was not a relevant consideration for the Licensing Sub Committee and that they would not wish to discuss it at the hearing.

Q The Parish Council are concerned about off sales of alcohol to the general public that could potentially be from 09.00 to 00.00, Monday to Sunday – do you intend for it to become an off licence for those who are not staying at the site?

A I do not envisage it becoming an off licence.

Q Are you intending to open a bar?

A Yes as shown in the plan in the application, we intend to sell alcohol in the care and from a mobile bar on the decking area of the patio.

Q What experience do you have in selling alcohol?

The Chair answered that this was not relevant and the Applicant did not have to have experience in the sale of alcohol. What was required was a Designated Premises Supervisor who was responsible for the sale of alcohol this named person would be a personal licence holder and would have undertaken a relevant qualification to hold this licence.

Key points raised by Cllr Jerry Wickham who made a Relevant Representation were:

- That he was speaking on behalf of some residents in this small community;
- He had met with the Applicant prior to the hearing and made a request for a compromise with there being reduced hours sought for regulated entertainment and the sale of alcohol. Cllr Wickham didn't feel there was a need for there to be entertainment beyond 23:00. The Applicant had initially appeared to agree with the proposals but then reported that he wished for the hearing to go ahead as planned;
- He reported that the residents don't want there to be outside entertainment at the holiday park as this would have a detrimental effect on their amenity and as this site is in open countryside a number of properties would be affected by this public nuisance;

- When the retrospective planning application was considered in June 2017 it was agreed that the café should only be used by patrons of those using the site; and
- It was acceptable for there to be music played in the café but if it was played outside it would be a public nuisance.

The Applicant made the following statement in response to Cllr Wickham's representation:

What we said following our meeting was that we would come to the hearing to discuss as we could reach an agreement around the issue of the music. The residents don't object to the alcohol provision. I said I would consult with the Licensing Officer and following advice I decided that the compromise was not for me.

Mr Richard Gregory (who was speaking on behalf of Mrs Julia Underwood who made a relevant representation) made the following points:

- Mrs Underwood had received a call from the Applicant to discuss her concerns but felt his tone was bullying and aggressive;
- She felt that it should have been possible to reach a consensus on what would work for all involved and that she felt it was not in the Applicant's interests to have a lot of music; and
- Obtrusive levels of music may cause substantial damage if the licence is granted in full.

Key points raised by Mrs Kimberley Green who had made a relevant representation were:

- I live next door to the site and for me sound is a major issue. The area is in open flat countryside and I have heard loud music coming from the decking area – I should have complained about this. I did have a contact number to report concerns, but I believe this member of staff no longer works at the holiday park; and
- The scale and degree of intrusion I am anticipating concerns me. The proposed mobile bar would be close to my property and a marquee is mentioned and it is not clear what the frequency of this use would be. The days/hours that have been applied for are huge and if fully used would have a large potential impact on us.

The Chair clarified that in her experience that although applications are made for a large range of days/hours, they are never fully used as it just wasn't practical or economically viable, but enabled Applicants to have the ability to put

on events when they wanted to without the need to apply for a Temporary Events Notice (which they could still do at any time).

Key points raised by Cllr Alison Irving on behalf of Dilton Marsh Parish Council who made a relevant representation were:

- They were concerned about potential off sales with members of the public driving in to purchase alcohol to consume off site. There are road issues in the area as the roads are narrow in this small rural hamlet;
- The holiday park had been a massive change to the area and the anticipated noise generation was inappropriate for the area. The hours proposed were very extensive and if the licence was to be granted they could well be used in full;
- The Parish Council asked for consideration to be given to limiting the extension of hours and the selling of alcohol to those off site.

All were then give the opportunity to make points in summation:

Dilton Marsh Parish Council – We are mainly concerned with the noise disturbance and members of the public coming into the site to purchase alcohol and using the facilities as an off licence.

Mr Thomas (Applicant) – We are very sympathetic to the concerns raised and wish to work with our neighbours.

The Sub Committee then adjourned at 10:30 and retired with the Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 11:20.

Following the deliberations of the Sub Committee Members, it was

**Resolved:**

**The Western Area Licensing Sub Committee resolved to GRANT the application for a Premises Licence for the activities and timings detailed below:**

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
<u>Provision of regulated entertainment</u>		
Films		
Live music	09.00 – 00.00 10.00 – 00.00	Mon-Sat Sun

Recorded music		
Performance of dance		
Provision of late night refreshment	23.00 – 00.00	Mon-Sun
Sale by retail of alcohol (on and off sales)	09.00 – 00.00	Mon-Sun

Subject to the following additional condition:

1. The Applicant to provide a telephone contact number (which will be responded to within the hours that the licensable activities take place) for residents to report any concerns relating to public nuisance.

### **Informative**

The expectation is that any off sales of alcohol are intended for the users of Fairwood Lakes Holiday Park for consumption within the curtilage of Fairwood Lakes Holiday Park.

### **Reasons**

After taking into account the written representations from all parties and the oral submissions received at the hearing, the Sub Committee considered the concerns raised by various parties regarding the application. These concerns related to the perceived public nuisance from live music and noise from the premises after 23:00 hours, extending the hours to midnight for sale of on and off sale of alcohol.

The Sub Committee noted that although the parties raised concerns relating to public nuisance, there had been no recorded complaints from other residents or any of the responsible authorities and no other evidence relating to these concerns had been presented to the Sub Committee.

In reaching its decision the Sub Committee also considered the relevant provisions of the Licensing Act 2003, (Sections 4 and 18); 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 the written decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.

(Duration of meeting: 9.30 - 11.25 am)

The Officer who has produced these minutes is Lisa Pullin, Tel 01225 713015 or email [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk), of Democratic Services

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## WESTERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 16 APRIL 2018 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER IN RESPECT OF AN APPLICATION FOR A VARIATION OF A PREMISES LICENCE - WATERHOUSE HOTEL, 5 WATERHOUSE LANE, MONKTON COMBE, BATH**

**Present:**

Cllr Trevor Carbin, Cllr Stewart Palmen and Cllr Ian Thorn

**Also Present:**

On behalf of the Applicant

Simon Wilsher  
Richard Wilsher  
Matt Perry  
Helen Wright  
Sue Wilsher

Those who made a relevant representation

James Aveling  
Luke Sturgess-Durden  
Mike Wells

Wiltshire Council

Councillor Peter Hutton (Substitute)  
Sarah Marshall (Senior Solicitor)  
Jemma Price (Public Protection Officer – Licensing)  
Lisa Pullin (Democratic Services Officer)  
Tara Shannon (Democratic Services Officer)

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1 **Election of Chairman**

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

**Resolved:**

**To elect Councillor Ian Thorn as Chairman for this meeting only.**

## 2 **Apologies for Absence/Substitutions**

Apologies were received from Cllr Gavin Grant (substitute). Cllr Peter Hutton was substitute in his place.

## 3 **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 5 – 12 of the Agenda refers).

## 4 **Chairman's Announcements**

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

## 5 **Declarations of Interest**

There were no interests declared.

## 6 **Licensing Application**

### **Application by Simon Wilsher for a Variation of a Premises Licence at The Waterhouse Hotel, 5 Waterhouse Lane, Monkton Combe, Bath**

Jemma Price (Public Protection Officer – Licensing) introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. Jemma highlighted the following:

- This was an application for a variation to the Premises Licence which was granted on 22 October 2013 in respect of the Waterhouse Hotel, Waterhouse Lane, Monkton Combe, Bath;
- The application proposed to remove/amend one of the additional conditions imposed at the original Hearing, in order to permit the sale of alcohol to "passing trade" on a Saturday and Sunday between the hours of 11:00 and 00:00;
- Thirteen relevant representations were received – nine from local residents and one from Monkton Combe Parish Council in objection to the application. Their representations were made over concerns about public nuisance and public safety – in particular with the use of the lane leading to and from the hotel. Three representations were in support of the application; and
- During the consultation period, the Applicant amended the application further to restrict the hours from the requested 11:00 to 00:00, to permit the



sale of alcohol to “passing trade” on a Saturday and Sunday between the hours of 12:00 and 19:00.

In accordance with the procedure detailed in the agenda, the Applicant and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Mr Simon Wilsher (Applicant) were:

- If the hotel did not find ways of increasing their revenue then they would cease to be viable. In the last 12 months, a large number of hotel bedrooms had opened in and around Bath and as a result Waterhouse occupancy had reduced by 20% and may drop further this year;
- In order to remain viable the hotel had looked at other ways of raising revenue and it had been suggested by people who came to stay at the premises and also by some local residents that they would like the opportunity to be able to visit and call in for a drink/food over the weekends;
- Waterhouse’s vision was to be a place of rest, recreation and restoration. They also provided employment for 15 people, brought money into the local economy, supported local business start-ups, sponsored young entrepreneurs and provided holiday jobs for young people;
- They were the fourth family in 400 years to own Waterhouse – the risk was that if things continued they would have to sell and the legacy would not continue and the premises could be taken over by someone who had less interest in its history and importance to the local area;
- They took over premises when it was a failed care home and restored the Georgian building retaining many of the original features. The Applicants had no intention of disturbing the peace for their neighbours and had not received any complaints about noise in the 10 years that they had been there. They felt they were good stewards who ran the establishment responsibly, hence the no complaints; and
- Following concerns raised by neighbours they had amended their application to open to passing trade on a Saturday and Sunday and accordingly reduced their request to be able to serve alcohol between 12:00 and 19:00. They would look to offer drinks and afternoon teas and Sunday lunches to their guests without having to book.

As there was no one present who had made a relevant representation in objection to the application, the Chairman invited those who were in support of the application to address the Sub Committee.

Key points raised by Luke Sturgess-Durden were:

- I have been a resident of Monkton Combe for 14 years and my garden looks out over Waterhouse. I am impressed by the quality of the Waterhouse provision and the improvements carried out to the building over the years have improved my view;
- I enjoy walking and would like to be able to drop in and use the facilities at Waterhouse over the weekend when we are out and about;
- I have used the meeting rooms at Waterhouse and I admire the investments made by the Wilsher Group in the buildings and grounds. I believe that the benefits brought by the provision vastly outweigh any minor inconvenience brought about by traffic movements. I feel that some of the neighbours are being petty with their objections and clutching at straws to say their children are at risk; and
- I am fully in support of the application to allowing passing trade to visitors on Saturdays and Sundays without having to pre-book.

Key points raised by Mike Wells were:

- I am an Environmental Planner and I rent office space from the Wilsher Group in the grounds of Waterhouse. I work long hours and at weekends and I am not disturbed in my work by any events at Waterhouse; and
- I think that the plans to be able to serve drinks and refreshments to walkers/cyclists and local residents over the weekend are in keeping with the Waterhouse mission – they are not trying to be a pub – they are a 5-star guest house looking to seeking extra revenue to remain viable.

The Sub Committee Members then asked the following questions of the Applicant:

Q Those who have made relevant representations in objection have talked about concerns over traffic on the lane – how do you intend to manage this?

A We appreciate that the lane is not ideal. We have officially adopted it and widened the entrance with the A36 at the cost of £30k. No accidents have occurred on the junction. There are some pot holes in the lane and there are limited passing places. We have spoken to the other home owners who use the lane for access and they are not in agreement with what should be done to make improvements. We suggested adding more passing places, but some felt that the speed on the lane would increase. I have asked the residents to contribute to the upkeep of the lane but no one has yet responded to that request.

Q Will the changes you propose make enough of a difference to you to remain viable?

A We certainly hope so – our team have been looking at ways to increase revenue and this is what they are suggesting. At present, we have to turn away people at the weekend who would like to come in and use our facilities. We anticipate that we could draw in the large number of visitors that use the cycling/canal path – we believe the footfall is there for us.

Simon Wilsher made the following points in summation:

- We need to remain viable and we really want to continue to provide that all Waterhouse does for the local community;
- We have an excellent track record of running the business, we have no complaints;
- We do not envisage there being a significant increase in traffic movements on the lane should this application be granted. If we have larger events we ensure that traffic is managed accordingly; and
- We would like to be able to offer a drink to passing trade at the weekend which is not tied to having to order food as well and request that you grant this application.

The Sub Committee then adjourned at 10:50 and retired with the Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 11:00.

Following the deliberations of the Sub Committee Members, it was

**Resolved:**

**That the Western Area Licensing Sub Committee has resolved to GRANT the variation, subject to the amendment of condition 1 (as agreed at the hearing on 22 October 2013)**

The amendment of condition 1 is detailed in bold below:

- 1a. The sale of alcohol shall only be permitted between the hours of 11:00 – 23:59 to persons who are:**
- Residing at Waterhouse and their bona fide guests;**
  - Attending pre-booked conference/training events at the premises, or**
  - Who are members of any other pre-booked groups attending the premises.**

**1b. The sale of alcohol may be made to any person on Saturdays and Sundays between 12:00 and 19:00 hours.**

Conditions numbered 2 – 4 (below) to remain unchanged.

2. No alcoholic beverages sold at the premises are to be taken to, or consumed in, any of the outside areas after 21:30 hours.
3. The windows and external doors to all public areas are to be closed and remain closed after 21:30 except for access and egress.
4. Clear and legible notices are to be prominently displayed at all exits from the premises requesting that all persons respect the needs of people living in the area and to leave the area quietly.

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

The Sub Committee considered the four licensing objectives; the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm and also took into account 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.

**Reasons**

The Sub Committee noted that the Applicant wished to increase the business revenue to ensure the continued sustainability of the business and he wanted to vary the 2013 conditions to be able to sell alcohol to people using the footpath/cycle path along the canal or visitors to the village who may wish to stop for a drink at lunchtime or during the afternoon over the weekends.

The Sub Committee noted the issue of noise had been raised but having heard from the Applicant felt that the variation would be unlikely to cause a significant or inappropriate increase in noise bearing in mind the village location of the premises and considered that the proposed variation to the conditions would not cause a significant increase in noise during the day between the hours of 1200 and 1900 on Saturdays and Sundays.

The Sub Committee considered the comments that had been made regarding the use and condition of the access road to the premises, but the use and condition of the road was not a licensing consideration and in any event the variation of the licence would not adversely impact on the traffic movement to and from the Waterhouse Hotel. The Applicant confirmed the Hotel undertook regular maintenance of the access road.

The granting of this licence is without prejudice to any other consents or approvals that may be required.

**Right to Appeal**

All parties have the right to appeal to the Magistrates' Court within 21 days of receipt of this decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.

(Duration of meeting: 10.15 - 11.05 am)

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## WESTERN AREA LICENSING SUB COMMITTEE

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### DRAFT MINUTES OF THE WESTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 1 MAY 2018 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN IN RESPECT OF AN APPLICATION FOR A PERSONAL LICENCE

#### **Present:**

Cllr Peter Hutton, Cllr Jim Lynch and Cllr Stewart Palmen (Substitute - Part II)

#### **Also Present:**

The Applicant

Carla Adkins (Public Protection Officer – Licensing), Sarah Marshall (Senior Solicitor), Lisa Pullin (Democratic Service Officer), Susan Thurman-Newall (Licensing Officer – Wiltshire Police)

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#### 1 **Election of Chairman**

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

#### **Resolved:**

**To elect Councillor Peter Hutton as Chairman for this meeting only.**

#### 2 **Apologies for Absence/Substitutions**

Cllr Stewart Palmen was substituting for Cllr Ian Thorn.

#### 3 **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 5 – 12 of the Agenda refers).

#### 4 **Chairman's Announcements**

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

5 **Declarations of Interest**

There were no interests declared.

6 **Exclusion of the Public**

**Resolved:**

**That the public be excluded from the meeting to prevent the disclosure of information relating to an individual in accordance with Section 14(2) of The Licensing Act 2003 (Hearings) Regulations 2005. It would not, on balance, be in the public interest to disclose this information because disclosure of the personal information would not be fair to the applicant and would breach their data protection rights and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.**

7 **Licensing Application**

**Application for a Personal Licence**

Carla Adkins (Public Protection Officer – Licensing) introduced the purpose and scope of the application and the key issues for consideration. Carla highlighted the following:

- This was an application for a Personal Licence made in accordance with Section 117 of the Licensing Act 2003;
- As the Applicant had been convicted of a “relevant” offence the Local Authority notified the Chief Officer of Wiltshire Police to that effect in accordance with Section 120 (4); and
- Wiltshire Police duly gave notice of objection on 11 April 2018 to the personal licence application on the basis that the granting of a personal licence to an individual with such convictions would undermine the licensing objective – the prevention of crime and disorder.

The Chairman wished to clarify the following questions with Wiltshire Police:

Q If a Personal Licence was to be granted would the Applicant have to make a separate application to be a Designed Premises Supervisor (DPS) for the premises they are currently employed at?

A Yes, if it was an existing premise, they would need to apply to Vary the DPS and because of the relevant offences, Wiltshire Police would be notified of any relevant offences of the Applicant, following which they would issue an objection notice which would require a hearing by the Licensing Sub Committee.



Q If a Personal Licence was to be granted would that follow the Applicant in whichever premises they might be employed?

A Yes, a Personal Licence follows a person and is valid in England and Wales.

In accordance with the procedure detailed in the agenda, the Applicant and Wiltshire Police (Responsible Authority) were given the opportunity to address the Sub Committee.

Key points raised by the Applicant, were:

- My life is in a different place now, and although I knew that convictions take time to become “spent”, I was under the impression that this time had now passed;
- I have made mistakes but I am now married and settled down. I have the support of the community in this venture and I wish to move forward and better myself. I have been in full time employment since 2011 and I am now a Head Chef having worked my way up. I did run my own kitchen and the opportunity arose to run a pub and we agreed to take it on so that it didn't close;
- Myself and my partner have both carried out the Personal Licence course and I wanted to do this for my own self achievement; and
- I was advised that that I would be better off making this application later next year when my conviction would become spent and I did ask if I had anything to lose by making my application now. If I fail, I will apply again as I am trying to move forward with my life.

The Sub Committee members then asked the Applicant the following question:

Q Have you got any experience/completed any training in relation to running and managing a pub?

A I am self-taught and learning as I go. I would be happy to complete any relevant training. I have friends in the industry who I talk to and a friend who works for a brewery. I like to learn.

Key points raised by Susan Thurman-Newall from Wiltshire Police as Responsible Authority were:

- When the notice of “relevant” offences was received in relation to this application for a Personal Licence, initial enquiries were made by Wiltshire Police and it was noted that the Applicant received a relevant

conviction in 2009 and that this offence would not become spent until November 2019 under the Rehabilitation of Offenders Act 1974;

- Following further investigation, Wiltshire Police became aware of the Applicant's 12 convictions for 31 offences which were of course a cause on concern the Police. In 2005, the Applicant was convicted of 5 offences, a number of these under the Theft Act 1968. The Applicant received penalties of imprisonment to run consecutively, resulting in a term of 6 years imprisonment. The Rehabilitation of Offenders Act 1974 states that where there is a custodial sentence of more than 4 years the offence will never become "spent";
- With this information, the Police informed the Applicant by telephone conversation that Wiltshire Police would be objecting to the application as the 2009 offence was not yet spent, together with the caution that was received in 2013 for possession of a class B drug. Because of this and the Applicant's lack of a proven record in the running of a late-night economy establishment, the current pub's rural location and concerns over the patrons in the area drink driving and underage drinking, the Police would urge the Sub Committee not to grant this application.

The parties were then invited to make any points in summation.

The Responsible Authority made no summation.

The Applicant made the following points:

- I don't condone my past – I am where I am and I would like to move forward with my life.

The Sub Committee then adjourned at 10:30 and retired with the Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Applicant and Responsible Authority were advised that they would receive a telephone call later today with the outcome of the hearing and that the decision would be published on the Council's website within 5 working days. They would then receive the decision in writing.

The Sub Committee agreed the following decision and the hearing was ended at 10:45.

**Resolved:**

**The Western Area Licensing Sub Committee resolved to uphold the notice of objection issued by Wiltshire Police and reject the application for a personal licence.**

**Reasons:**

After taking into account the written representations from the parties and the oral arguments received at the hearing from the Applicant and the Police, the Sub Committee carefully considered the concerns raised by the Police that the grant of a personal licence to the Applicant would undermine the licensing objective for the prevention of crime and disorder.

The Sub Committee having regard to the Council's statutory duties under the Licensing Act 2003 and the licensing objectives considered it appropriate for the prevention of crime and disorder to reject the application.

From the evidence presented, and given the nature of the relevant offences, the Sub Committee considered there was a risk of reoffending in this instance, such as would prejudice the crime prevention licensing objective. The Applicant had a relevant conviction that would never be spent under Rehabilitation of Offenders Act 1974.

The Sub Committee acknowledged the Applicant's desire to move forward and were supportive of his efforts at rehabilitation but were concerned that apart from obtaining the certified qualification in order to apply for a personal licence, the Applicant had not undertaken nor demonstrated a firmer commitment to undergo further formal training. The Sub Committee were also concerned the Applicant had undertaken no formal training in managing challenging situations in a rural public house (such as dealing with drink driving or under age-drinking).

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 120 and schedule 4); 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.

(Duration of meeting: 10.00 - 10.45 am)

The Officer who has produced these minutes is Lisa Pullin, tel 01225 713015, email - [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk), of Democratic Services

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

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## **Briefing Note – Event Safety Advisory Group**

### **1. Purpose of Briefing Note**

The purpose of the briefing note is to outline the role of Wiltshire's Event Safety Advisory Group (ESAG).

Event Safety Advisory Groups (ESAG) sometimes also known as Operational Management Groups, Public Event Safety Groups or Safety Advisory Groups (SAG), can be utilised as a tool in planning the safety of community events and other similar public mass gatherings.

### **2. Background**

ESAGs were recommended as a result of the Hillsborough Stadium Disaster and are now recognised as a fundamental core planning forum for safety planning at all sports stadia. Nationally ESAGs have been relatively successful as a planning tool and the principle of this type of partnership / inter professional approach is good practice to be shared for events that are organised outside of stadia.

### **3. Purpose and scope of an Event Safety Advisory Group**

ESAGs provide a forum for discussing and advising on public safety at an event. They aim to help organisers with the planning and management of an event and to encourage co-operation and co-ordination between all relevant agencies. ESAGs are non-statutory bodies and so do not have legal powers or responsibilities, and are not empowered to approve or prohibit events from taking place. Event organisers and others involved in the running of an event, retain the principal legal duties for ensuring public safety.

ESAGs are usually co-ordinated by the Local Authority (LA) and made up of representatives from the LA, emergency services, other relevant bodies and the event organiser.

### **4. ESAGs and public events**

The local authorities have a legislative requirement in respect of certifying sports stadia and licensing public events and as such they have democratic public accountability. The Licensing Act 2003 has meant many smaller events can take place through applying for a Temporary Event Notice (TEN) although the larger events will require licensing and may require an ESAG.

Public and community events may be "one off" and may take place in venues or at sites not normally designated for that function such as local parks, fields and streets. These will therefore provide additional risks because of the nature and environment in which they are taking place. It is in these circumstances that the benefit of working in collaboration across services and agencies will provide a more effective and consistent advisory response to public health and safety risk.

When groups of people gather together, dangerous situations can occur and many different factors can influence crowd behaviour. The event organiser is responsible for the health, safety and welfare of the people attending their event, as well as that of the employees, contractors and sub-contractors working there.

## **5. Wiltshire's ESAG**

There are many types of public events that take place in the Wiltshire Council area every year. These public events can enhance community life in Wiltshire but if poorly planned the potential for risks to public safety and adverse environmental effects is increased. Proper planning and management by the event organiser is essential to reduce those risks.

Some public events take place without the organiser contacting the local authority or emergency services - in such circumstances public safety can be compromised and the organiser could be vulnerable to legal action. To help organisers, a Wiltshire Event Safety Advisory Group (ESAG) has been established to co-ordinate the efforts of relevant agencies to provide advice to anyone who wishes to organise an event within the council's area.

Wiltshire's ESAG members encourage event organisers to take advantage of the safety advice available and to make sure that public safety at the event is always a major priority.

Wiltshire's Event Safety Advisory Group (ESAG) is a multi-agency group, which provides advice and guidance to event organisers of licensable or non- licensable events and in particularly for those that have the potential to pose a significant risk to the safety and wellbeing of participants, spectators and/or the general public.

Wiltshire's ESAG has terms of reference that were written in 2017 and approved by the Community Safety Partnership. See appendix A

A new website page is under construction to aid event organisers and advising of the ESAG process.

## **6. Wiltshire's ESAG includes representatives from:**

- Chair (Licensing Manager Public Health and Protection Service)
- C/o Chair (Public Health Consultant)
- Wiltshire Council Environmental Food & Health and Safety
- Wiltshire Council Emergency Planning
- Wiltshire Council Highways
- Wiltshire Council Environmental Protection
- Wiltshire Police: Traffic, Licensing, Events Team, Counter Terrorism
- South West Ambulance Service,
- Dorset & Wilts Fire and Rescue,
- Highways England.

The Chair may invite such other specialists as the Chair feels appropriate to assist the ESAG to fully consider any issue.

## **7. What is Wiltshire's ESAG's remit?**

The Event Safety Advisory Group (ESAG) provides independent specialist advice to event organisers who retain the legal responsibility for ensuring a safe event and to help them discharge their responsibilities under relevant legislation, and to create a consistent process that can be used to enhance public safety at events. It does this by:

- Providing advice to individuals and organisations that are planning a public event – from street parties to festivals.
- Working together to give consistent safety advice and share learning from previously held events.
- Ensuring plans are in place in place for emergency situations, including contingency arrangements.

- Providing a forum for discussion between the Council, emergency services and other relevant groups to develop best practice for the safe management of events.
- Ensuring that any detrimental effects on the environment and road network are minimized and to encourage the principles of sustainability when possible.
- Advising event organisers on any licensing and permit requirements for their events and check that these are in place.
- Making recommendations for future safety improvements following an event.
- Producing a set of minutes following the ESAG meeting outlining the discussions that have taken place.

## **8. Frequency of meetings of the ESAG**

The number and location of the ESAG meetings is flexible, determined by particular local circumstances and is event (s) specific.

Number of events / festivals going through the ESAG process in Wiltshire:

2015 = 16 plus 1 debrief  
 2016 = 14 plus 1 debrief  
 2017 = 13 plus 2 de-briefs  
 2018 = 5 to date

On average Wiltshire have 100+ licensable events a year ranging from Womad with a licence for 40,000 to attend, to small scale festivals for 499. Events include carnivals, festivals, street fayres, re-enactments, motor bike meets, vintage car shows and parades. Several of the events include fly overs / fly pasts which, since the Shoreham accident, the organisers now have to consider / incorporate further restrictions on no-fly zones.

Wiltshire is a military county and due to the heightened security risk following a number of national and international events, advice around counter terrorism is included in the meetings where relevant.

## **9. Consideration of what events get invited to ESAG**

- Any high profile / high risk events such as Womad (this is also conditioned on the licence), Sir Elton John, mass motor bike rallies
- Through the use of the ESAG trigger form which is utilised by members of the group to assess the event via a number of criteria.
- At the request of the event organisers and agreed by the Chair.

## **10. Conclusion**

The provision of a pre-event safety planning service for our event organisers and partner agencies has proven to be effective and popular, and has grown in scope and scale over the past 2 years. It continues to be delivered at no extra cost to event organisers and the participating services are keen to stay fully committed and involved.

## **11. Summary**

The Licensing Committee is asked to support the work of the Event Safety Advisory Group and note the report.

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Wiltshire Council

Licensing Committee

4 June 2018

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## Gambling Policy Statement of Principles – Update

### Summary

To provide background information concerning the new proposed Gambling Policy Statement of Principles.

### Proposal(s)

It is recommended:

That the Licensing Committee requests officers to carry out a 8 week consultation process on the proposed Gambling Policy Statement of Principles 2019 – 2021.

### Reason for Proposal

In order for the Licensing Authority to discharge its licensing functions it is required to draw up a Statement of Principles under the Gambling Act 2005. This policy is to be reviewed every three years and be the subject of a consultation process

Tracy Daszkiewicz

Director – Public Health and Protection

Wiltshire Council

Licensing Committee

4 June 2018

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## Gambling Policy

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### Purpose of Report

1. To provide background information concerning the new proposed Statement of Gambling Principles.
2. To recommend that the Licensing Committee request officers to carry out a consultation on the proposed Statement of Gambling Principles as attached at Appendix 1.
3. To inform the Licensing Committee that at its meeting in September 2018, the committee will be required to consider recommending the finalised Statement of Gambling Principles to Full Council for adoption.

### Relevance to the Council's Business Plan

4. "People in Wiltshire work together to solve problems locally and participate in decisions that affect them".  
  
"People are as protected from harm as possible and feel safe".

### Main Considerations for the Council

5. It is a statutory requirement that the Statement of Gambling Principles must be approved by Council as this is not a function that can be delegated to the Licensing Committee.

### Background

6. Wiltshire Council is the Licensing Authority, and is required to discharge its responsibilities under the 2005 Act with a view to promoting the three licensing objectives, namely:
  - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
  - Ensuring that gambling is conducted in a fair and open way,
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Gambling Act 2005 ('The 2005 Act') was designed to be light touch legislation covering a number of "licensable activities". Such activities are defined within the Act.

All councils will now be required to review their policies and have them in place for January 2019.

7. In order for the Licensing Authority to discharge its licensing functions it is required to draw up a Statement of Gambling Principles under the Gambling Act. This policy is to be reviewed every three years and be the subject of a consultation process.
8. The draft statement of principles attached already includes a number of the areas highlighted by the Gambling Commission. A copy of the current Statement of Principles is attached as Appendix 2 for information.
9. Before amending its Statement, the Council is required to consult the police, persons representing gambling businesses and persons representing the interests of people likely to be affected by gambling. Officers will arrange to carry out an extensive consultation process over a 8 week period to consider the views of the police, persons representing gambling businesses and persons representing the interests of people likely to be affected by the Council's exercise of its functions under the 2005 Act.

#### Safeguarding Implications

10. One of the key objectives of, the 2005 Act is 'Protection children and other vulnerable persons from being harmed or exploited by gambling. Wiltshire Council's Child Protection Team, are a Responsible Authority under the 2005 Act. In this capacity, they are required to ensure that decisions about licensing are taken with due regard to the need to safeguard and promote the welfare of children.

#### Public Health Implications

11. The Licensing and Public Health teams work together within the council to ensure that the health impacts of Gambling are considered.

#### Environmental and Climate Change Considerations

12. There is minimal environmental impact of these proposals.

#### Corporate Procurement Implications

13. There are no procurement implications contained within this report.

#### Equalities Impact of the Proposal

14. The impact of these proposals is assessed as 'low' against the Council statutory responsibilities. There are potential implications with respect to human rights.

## Risk Assessment

15. Licensing is a statutory undertaking. Should the proposals in this report not be adopted it would leave Wiltshire Council in a position of being unable to undertake its statutory responsibilities and functions under the 2005 Act.

### Risks that may arise if the proposed decision and related work is not taken

16. Criticism of the Council and compromise the reputation of the Wiltshire Council.

### Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

17. There are no particular risks identified from any of the proposals.

## Financial Implications

18. There are no additional financial implications of the proposals contained within this report.

## Legal Implications

19. As stated, the Council is required, under the 2005 Act to prepare and publish a statement of principles in relation to the exercise of its functions under the 2005 Act. This statement must be kept under review and reissued for each three year period. The Statement, once adopted, is a material consideration to be taken into account when the Council is exercising any of its functions under the 2005 Act. When preparing its Statement, the Council is required to consult the police, persons representing gambling businesses and persons representing the interests of people likely to be affected by gambling. In accordance with the 2005 Act and the Council's constitution, the Statement must be approved by full Council.
20. The licensing service is a high profile regulatory service important for protecting the public but also for ensuring the development of the leisure industry and economic viability. Fair application of licensing functions is critical for the reputation of the Council and for building trust and confidence in its service provision.

## Conclusions

21. The adoption of a revised Statement of Gambling Principles by January 2019 is a statutory requirement.

## Proposal

22. That the Licensing Committee requests Officers to carry out an 8 week consultation process on the proposed Statement of Gambling Principles

2019-2021.

23. The Licensing Committee note that at its meeting in September 2018, the committee will be required to consider commending for approval the finalised Statement of Licensing Policy to Full Council.

#### Reason for Proposal

24. The Wiltshire Council's Statement of Gambling Principles must be reviewed every three years and be the subject of a consultation process.

Tracy Daszkiewicz  
Director Public Health & Public Protection

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Report Author: Linda Holland, Licensing Manager Public Health and Protection

[linda.holland@wiltshire.gov.uk](mailto:linda.holland@wiltshire.gov.uk), 01249 706410

23 May 2018

#### Background Papers

- Gambling Act 2005
- Gambling Commissions Guidance to Local Authorities 4<sup>th</sup> Edition
- Gambling Commissions strengthening Social Responsibility
- Gambling Commissions Guidance to Local Authorities 5th Edition ( In consultation)
- Wiltshire Councils Current Gambling Statement of Principles

#### Appendices

1. Proposed Statement Of Principles
2. Current Statement of Principles

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# Wiltshire Council

## Gambling Act 2005

### Statement of Principles

2018 - 2021

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## 1.0 Introduction

Wiltshire is a predominantly rural county with a population of approximately 488,400, situated in the Southwest of England. Wiltshire council is made up of 18 area boards and has 98 Elected Officials.

Although centrally divided by the large expanse of Salisbury Plain there are highly populated areas such as Salisbury, Chippenham and Trowbridge contrasting the many hamlets and villages spread across the county.

Wiltshire is a county with 44% of it being made up of areas of outstanding beauty. It is home to world renowned cultural and heritage destinations such as Stonehenge and Avebury Stone Circle as well as a number of National Trust properties and other important stately and country homes. It is also home to internationally established World of Music Arts and Dance Festival (WOMAD) along with a number of other long established festivals.

There are currently 43 Licensed Gambling Premises in Wiltshire comprising of; two Bingo Halls, six Adult Gaming Centres, 34 Betting Shops and one Horse Racing Track. There are also two Unlicensed Family Entertainment Centres and a number of premises who hold Gaming Machine Permits (31) and two Club Gaming Permits.



## 2.0 Overview

The Gambling Act 2005 provides the regime for the licensing and regulation of commercial gambling in the UK. It is intended to regulate the provisions for gambling and the use of premises for gambling.

The Act defines three types of gambling;

- Gaming,
- Betting, and
- Promoting a lottery.

A variety of licences and permits allow for these gambling activities to take place.

The task of granting these is shared between the Gambling Commission and Licensing Authorities. The Gambling Commission approves the operating and personal licences; the Licensing Authorities approve the premises licences and other permissions.

It should be noted that it falls to the Gambling Commission to licence remote gambling, via operating licences.

When carrying out its responsibilities in relation to the Gambling Act 2005, this Licensing Authority will always take into account the three licensing objectives;

- preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime,
- ensuring that the gambling is conducted in a fair and open way, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

Wiltshire Council Licensing Officers recognise the potential impact that gambling could have on the communities of Wiltshire and will seek to maintain safe environments for the communities of Wiltshire. We will work closely with Partner Agencies, Premises Licence Operators / Holders to not only assist with the growing local economy but to also ensure that together we do all we can to protect vulnerable persons from harm.

### 2.1 Statement of Gambling Principles

This Licensing Authority's approach to exercising its functions under the Gambling Act 2005 is set out in this 'Gambling Statement of Principles'.

It is a requirement of the Gambling Act 2005 to publish and consult on a statement of the principles which we propose to apply when exercising our functions. This policy statement will remain responsive to emerging risks and can be reviewed at any time prior to the statutory three year deadline.

In reviewing this Statement of Principles all necessary bodies and relevant stakeholders were consulted. The consultation process was conducted between

June and August by way of direct communication to those identified and also via publication on Wiltshire Council's website <http://www.wiltshire.gov.uk/council-democracy-consultations>. A list of those consulted is available from this Licensing Authority on request.

It should be noted that this statement of principles does not override the right of appropriate persons to make an application, make representations about an application, or apply for a review of a licence, in accordance with the statutory requirements of the Gambling Act 2005.

## 2.2 Licensing Authority Functions

The functions, under the Gambling Act 2005, will be carried out by the Licensing Committee, the Licensing Sub-Committee, and/or Officers acting under the delegated authority of Wiltshire Council.

Licensing Authorities are required under the Gambling Act 2005 to:-

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Regulate Members' Clubs and Miners' Welfare Institutes who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant Permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres;
- Issue Prize Gaming Permits;
- Register Small Society Lotteries below prescribed thresholds;
- Receive notifications from Alcohol Licensed Premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- Receive and Endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Issue Provisional Statements;
- Provide information to the Gambling Commission regarding details of licences issued;
- Maintain registers of the permits and licences that are issued under these functions.

When regulating gambling within Wiltshire, the Licensing Authority will take into consideration the interests of the public, guidance from the Gambling Commission and the three licensing objectives; but will not take into account demand, need or moral objections for gambling when considering applications submitted. The premises location, layout and size are factors that will be considered, along with the style of the operation.

### 2.3 Delegated Powers

Wiltshire Council Licensing Officers will be responsible for issuing licences and permits for applications where no representations were received; and when representations were received but it was agreed upon by all parties that it would be unnecessary for a hearing to take place.

Wiltshire Council Licensing Officers will also be responsible for determining whether a Licensing Sub-Committee is needed to decide upon applications and reviews of premises licences or permits when representations have been received. For those instances where representations have been made by an Interested Party and/or a Responsible Authority a hearing will be arranged and a Licensing Sub-Committee will sit to determine the outcome of the application.

The Licensing Sub-Committee will be made up of three Councillors from the Licensing Committee. Councillors from the same area as the application will not be able to sit on that Licensing Sub-Committee for that hearing.

For the full table of Delegated Powers see Appendix A.

### 2.4 Exchange of Information

Wiltshire Council Licensing Authority will act in accordance with the provisions of the Gambling Act 2005 in relation to the exchange of information; it will also ensure that the Data Protection Act 2018 is not contravened.

As permitted in the Gambling Act 2005, this Licensing Authority will work closely with and share information with Wiltshire Police, HM Revenues and Customs, the Secretary of State and other Enforcement Officers.

Those wishing to make a representation will be informed that their details will be forwarded to the Applicants, in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000, in order to allow negotiation between the parties. If a hearing is held it should be noted that their details will form part of the public document.

### 2.5 Declaration

In producing the final Statement of Gambling Principles, Wiltshire Council Licensing Authority declares that it has considered the licensing objectives of the Gambling Act 2005, guidance issued by the Gambling Commission and any responses from those consulted.

### 3.0 Licensing Objectives and Social Responsibility

This Licensing Authority will have regard to the licensing objectives as set out in the Gambling Act 2005 when exercising our functions.

The licensing objectives are:-

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

There is an expectation that gambling operators work together with this Licensing Authority to ensure compliance with the licensing objectives. If an Operator fails to satisfy the Licensing Authority that risks are sufficiently mitigated, it may be considered appropriate for there to be a review.

An individual is responsible for their own gambling; however this Licensing Authority wishes to stress that although it acknowledges this, it also recognises that the Applicant/Operator has a “duty of care” to patrons.

#### 3.1 Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime

The Gambling Commission will take the lead role in the prevention of gambling being a source of crime. The Gambling Commission are responsible for ensuring the suitability of an operator before issuing an operating licence.

If this Licensing Authority becomes aware of any information whilst carrying out its delegated functions, which could question the appropriateness of an applicant, it will ensure that this information is shared with the Gambling Commission.

The location of a premises will be given great consideration by this Licensing Authority when looking at promoting this licensing objective. If there are concerns over a premises location, due to problems with disorder or high crime levels for example; in order to prevent that premises from becoming a source of crime, this Licensing Authority will consider whether additional conditions should be attached to the licence. While determining the additional conditions consideration will be given to the operator’s own risk assessment and/or the local area profile for that area.

If this Licensing Authority feels that the operator of any given premises is not doing all they could or should do to prevent persistent or serious disorder in the vicinity of their premises, it will bring it to the attention of the Gambling Commission.

### 3.1.1 Money Laundering

Money laundering in the gambling sector takes two main forms:

- Exchanging money acquired criminally for money that appears to be legitimate or 'clean' by gambling on low risk outcomes.
- The use of criminal proceeds to fund gambling as a leisure activity (so called criminal or 'lifestyle' spend).

It is expected that all Gambling Premises are aware of risk factors in relation to this activity, for example to be mindful of a pattern of increasing spending, the spending being inconsistent with the apparent source of income or unusual patterns of play and have procedures in place to comply with The Proceeds of Crime Act 2002 and other relevant legislation.

### 3.2 Ensuring the gambling is conducted in a fair and open way

The Gambling Commission is primarily responsible for ensuring that not only is gambling fair in the way it is played, but also that the rules are transparent to players and they know what to expect. It achieves this by working to ensure that:-

- Operating and Personal Licences are issued only to those who are suitable to offer gambling facilities or work in the industry;
- easily understandable information is made available by Operators to players about, for example, the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted;
- the rules are fair;
- advertising is not misleading;
- the results of events and competitions on which commercial gambling takes place are made public;
- machines, equipment and software used to produce the outcome of games meet standards set by the Gambling Commission and operate as advertised.

This Licensing Authority does not deal with issues related to fairness and openness frequently. This is due to the fact that they are usually matters concerning the management of the gambling business (and therefore subject to the operating licence), or the suitability and actions of an individual (and therefore subject to a personal licence). These permissions both fall within the remit of the Gambling Commission.

This will differ with Tracks, as Track Owners will not necessarily hold an Operating Licence, therefore this Licensing Authority will adopt a different role.

If this Licensing Authority suspected that a gambling activity in Wiltshire was/is not being conducted in a fair and open way, the information regarding the concern will be brought to the attention of the Gambling Commission.



### 3.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling

The Gambling Act 2005 is intended to ensure that children and vulnerable persons should not be allowed to gamble and should be prohibited from entering those gambling premises which are adult-only environments.

This licensing objective refers to protecting children from being 'harmed or exploited by gambling'; meaning that they should be prevented from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children, with the exception of Category D gaming machines. The ability of the licence holder to ensure supervision of the premises, in particular the use of the machines is considered of great importance to this Licensing Authority.

The Gambling Commission does not seek to disallow particular groups of adults from gambling in the same way that it does children, therefore the Gambling Commission has not sought to define 'vulnerable persons', but it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.

This Licensing Authority will consider, on a case by case basis, whether any further unique considerations are required in relation to protecting vulnerable persons at a particular premises. These will be balanced against the aim to permit the use of premises for gambling.

While carrying out its delegated functions this Licensing Authority will look at the physical attributes of a premises, to ensure that these do not inhibit the Operators ability to comply with this licensing objective. An Applicant/Operator may be requested by this Licensing Authority to make changes to their premises (structure or layout), or put in place additional measures to mitigate the perceived risks. This Licensing Authority will ensure that any changes contemplated are proportionate.

#### 3.3.1 Gambling and Public Health

Chief Medical Officers are now recognising that Gambling is becoming a public health concern. The implications of gambling related harm is far wider spread than that of any one individual. However the financial, social and health cost that gambling has to society is not fully understood at present.

Although Public Health are not currently a Responsible Authority for the Gambling Act 2005, this Licensing Authority will consult with the Public Health Team within Wiltshire Council when considering risks associated with gambling within the local communities.

### 3.4 Social Responsibility

Wiltshire Council Licensing Authority is committed to ensuring that all gambling facilities offered within the county are delivered with full commitment to social responsibility and public protection.

It will take particular regard to the below points, when looking at whether a premises is being socially responsible when providing gambling facilities:

- The way the premises manages the prevention of underage gambling and supervises its patrons in the use of the gambling facilities;
- Supporting those who wish to self-exclude, including the potential use of the Multi Operator Self Exclusion Scheme, and providing suitable problem gambling materials;
- Premises having meaningful customer interactions with all customers and recording the incidents of this;
- Having a robust local area risk assessment that staff are aware of and that is reviewed on a regular basis;
- Staff receiving training on social responsibility ensuring the importance is understood.

Wiltshire Council is aware that Child Sexual Exploitation (CSE) and Grooming are becoming more evident in today's society. It is the expectation of the Licensing Authority that gambling premises staff are mindful when promoting the third licensing objective and raise or share any concerns to ensure that we are doing all we can to protect the vulnerable in our community.

## 4.0 Local Area Risk Assessment

All Gambling Operators were required to complete a local area risk assessment for their premises from April 2016. Under the Gambling Commission's Social Responsibility Code, Gambling Operators will need to take into consideration of the likely harm their premises could have to the local community. They will need to consider that in relation to the licensing objectives.

See Appendix C for guidance on this Licensing Authorities expectation on how a local area risk assessment should be completed.

### 4.1 Risk Assessment Triggers and Reviews of Assessment

During the lifetime of a gambling premises there will be times when the risk assessment needs to be reviewed and amended following the initial risk assessment. It is this Licensing Authority's expectation that the Gambling Operator conducts a review at regular intervals or following certain prompts, such as; a variation of a premises licence, when a significant change has occurred in the local area, when the licensee has made a significant change to the premises that would impact the risk the premises could pose or that may vary the management of those risks. A significant change could be a temporary change however despite the temporary nature of the change the risk assessment would need to be amended accordingly. This Licensing Authority may also request a review of a risk assessment if it is felt necessary.

This Licensing Authority will not request an up to date risk assessment each time it is reviewed by the operator however it would considered it best practice if the operator shared their risk assessment if asked.

The risk assessment provided by the Gambling Operator should clearly state the present areas of concern at the premises and the measures introduced to counteract these. If completed diligently and comprehensively, this will assist both the premises and this Licensing Authority by reducing the concerns that we may have with a premises.

### 4.2 New/Variation of a Premises Licence

When a New or a Variation of a Premises Licence application is submitted a local area risk assessment must be provided with the application.

### 4.3 Significant changes in local circumstances

Changes occur in the local area regularly, this Licensing Authority would consider the following to be significant changes in local circumstances (this list is not exhaustive):

- Any building developments or conversions in the local area that would change the number of people visiting the area and the makeup of those people.
- Any increase or decrease in Military accommodation, facilities or training centres.

- Any educational facilities in the area or the building of new facilities whether it be a significant extension or conversion of a current school/college etc. or a new build.
- Any changes to the local provisions of public transport;
  - Change in location of bus stops;
  - Changes to timings of buses or train services for example services going later into the evening;
  - Changes to the type of services in the area for example school bus stop being moved in closer proximity to gambling premises.
  - Any changes to the location of taxi ranks in the area.
  - Road diversions which involve the re direction of traffic.
- Other gambling premises in the area or new gambling premises seeking permission to open in an area.
- Any current pawn brokers or pay day loan businesses in the area or the opening of a new facility.
- Any facilities for vulnerable groups or the development of facilities for vulnerable groups in close proximity to a gambling premises.

#### 4.4 Significant changes to the premises

It is highly likely that cosmetic improvements will take place throughout the lifespan of a premises, it would be up to the Gambling Operator to decide whether these changes would be classed as significant.

The following would be considered by this Licensing Authority as significant changes to a premises, some of which could result in the need for a variation to the premises licence (this list is not exhaustive):

- A refurbishment of a premises or building works in a premises that would result in the relocation of facilities.
- A change to the entrances or exits of a premises;
  - Location of the entrances or exits,
  - Change in the direction the doors open,
  - Change in the way round the doors are used i.e. a swap of an entrance to become an exit or vice versa.
  - Change in the material used to make the door.
- A change to the internal policies or procedures of the operator which could result in the need to amendments of control measures and/or staff retraining.
- A change to the levels of staff in the premises or the opening times of the premises.
- An application for a premises licence under the Licensing Act 2003 to increase the activities at a premises for example a licence for the sale of alcohol or adult entertainment at the premises.
- A difference in the gambling facilities that are available at a premises;
  - Increase or decrease in self-service machines,
  - The use of hand held gaming devices,
  - Different category of gaming machines.
- The transfer of a licence to a different gambling operator, consideration will be required in relation to the policies and procedures of the new operator.

#### 4.5 Local area risk factors

It is essential for this Licensing Authority that the Gambling Operator understands their local area and the makeup of those who frequent it. The sphere of influence of the premises also needs to be considered when looking at the risk assessment as this could increase what is meant by local area.

The list below shows some examples the Operator that may wish to consider (this list is not exhaustive):

- Makeup of the local area surrounding the gambling premises;
  - Residential/Commercial,
  - Other Gambling Operators in the area,
  - Large scale events held in the area that could increase the number of people or vary the makeup of population for a time.
- Demographic of population;
  - Residents/Workers/Visitors/Professionals/Families/Young or Ageing population,
  - Socio-economic make-up of the area.
- Facilities in the local area;
  - Transport and parking facilities i.e. bus stops, taxi ranks, train station,
  - Educational/Community buildings,
  - Hospitals/Mental Health Facilities,
  - Job Centres,
  - Children's Homes or Care facilities,
  - Specialised housing for vulnerable people,
  - Gambling addiction support facilities/ Alcohol or Drug support facilities,
  - Hostels or support services for the homeless,
  - Pawn brokers or pay day loan businesses,
  - The area is frequented by children or young people at varying times of day.
  - Presence of rough sleepers.
  - Unemployment rates for the area and within a certain age group.
  - Type and rates of crime in the area that could impact the premises.
  - High number of people who have self-excluded themselves from other gambling premises.

#### 4.6 Gambling operational risks

The risks associated with the Gambling Operation relate to the policies and procedures the business has in place. These should take into consideration all relevant legislation and guidance. Due to the potential generic nature of such documents, this Licensing Authority considers it important that these risks are looked at on an individual premises basis.

The list below shows some examples that this Licensing Authority would wish the Operator to consider (this list is not exhaustive):

- Hours of operation for a premises - possible impact in the night time economy,
- Number of staff employed at a premises at any one time/lone working policy,

- Training provided to staff,
- The operation of the gambling business;
  - Policies and Procedures,
  - Use of account/loyalty cards,
  - Support provided to customers, any intervention programmes,
  - Security provision in place at the premises,
- What local advertising will take place for the premises,
- What products and facilities the premises are going to provide for gambling.

## 4.7 Premises design risks

The design of a Premises can assist greatly in the Operators' ability to manage identified local risks. Lack of planning in layout and design can actually result in an increase in risks at a premises.

### 4.7.1 Interior design risks

Depending upon the type of gambling premises and the facilities on offer this Licensing Authority believes that the internal layout of the premises is a very important factor to consider. A simple design of the internal area can lessen a number of risks and offer the premises vital opportunities to better manage their business.

The list below shows some examples the Operator that may wish to consider (this list is not exhaustive):

- Position of internal CCTV cameras, the length of which recordings are kept.
- Use of mirrors in a premises to be able to view all areas of the premises and around obstructions, such as support pillars, machines or advertising screens.
- Positioning of gaming activities in the premises.
- The segregation of different gambling activities in the premises.
- Design of premises to allow gaming machines to be in line of sight of staff.
- Location of the staff area where money is taken for gambling activities.
- Distances between gambling facilities within a premises.
- Number of and locations of Cash Machines.
- The location of information displayed in the premises by the Operator.
- The location and use of marketing materials within the premises.
- Fixtures and fittings used in the premises.

### 4.7.2 Exterior design risks

The external area of a premises can offer the Operator valuable advertising therefore the design and frontage of the premises needs to be taken into consideration for this risk assessment. This Licensing Authority would wish the Operator to have particular regard to the licensing objectives when determining the risks related to the exterior of the premises.

The list below shows some examples the Operator that may wish to consider (this list is not exhaustive):

- Use of glass in the shop frontage,
- Use of shutters on the entrances/exits or window frontage,
- Use of external CCTV cameras covering entrances/exits,
- Use of high quality CCTV to enable identification of banned persons.
- Use of CCTV or other aids i.e. mirrors
- Fitting screens or other materials to obscure the view from the street into the premises to prevent vulnerable persons having sight of the gambling activities,
- Use of advertising/marketing materials.

#### 4.8 Control measures

When risks are identified, control measures must be considered and put in place to lessen the potential impact the risk will have. The level of the risks identified will directly impact what type of control measures should be put in place; some risks may require a combination of systems, design and physical measures.

This Licensing Authority would request that a Gambling Operator ensures that staff are aware of the measures that are put in place and are trained adequately to guarantee compliance. Records may be kept by the Operator in relation to this as part of their due diligence defence.

##### 4.8.1 Systems

When looking at systems as a control measure, reference is made to the policies and procedures established at the premises by the Gambling Operator. Some of the systems put in place will be specific to the company and therefore generic to all premises held by them, however others may be created purposely for an individual premises in order to alleviate the risks in that local area.

##### 4.8.2 Design

It would be expected by this Licensing Authority that the design of a premises is thoroughly considered and changes made as necessary in order to mitigate potential risks; such changes could be the location of certain facilities such as gaming machines, cashier counters, positioning of cameras and general layout.

##### 4.8.3 Physical

This Licensing Authority would wish an Operator to consider physical measures to address an identified risk factor, these could be;

- Intruder/Panic Alarm System
- CCTV cameras/Mirrors
- Window and Door Shutters or Security Doors
- Safes with time locks

- UV lights in toilets
- Lighting in all areas of premises (not to allow any dark corners).

#### 4.8.4 Licence conditions

As New or Variation Premises Licence Applications require a local risk assessment to be submitted as part of the application, any control measures stated within the risk assessments may form part of the conditions on a gambling licence.

#### 4.9 Local Area Profile

Wiltshire Council Licensing Authority can provide a profile of the local area to a Gambling Operator upon written request within 28 days.

The profile will include a map of the area with key features in the immediate vicinity will be marked out, for example; hospitals, GP surgeries, schools and higher education buildings, supported accommodation, food banks, job centres and pawn brokers. Any concerns that this Authority has in an area will be clearly stated and the level of risk each possess will be shared with the Gambling Operator.

An example of this can be found as Appendix D.



## 5.0 Types of Premises

The definitions of premises are correct at the time of publishing this document.

### 5.1 Adult Gaming Centres (AGC)

An Adult Gaming Centre (AGC) is a gambling premises, for those over the age of 18, that makes available gaming machines of Category B, C and D.

For this Licensing Authority to accept an application for an AGC, the Operator must already hold a “Gaming Machines General Operating Licence (Adult Gaming Centre)” with the Gambling Commission.

This Licensing Authority will need to be satisfied that there will be sufficient measures to meet the licensing objectives and comply with all mandatory conditions and the Gambling Commission Codes of Practice. As no one under the age of 18 is permitted to enter an AGC, this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.

Where an AGC is located in a Motorway Service Station this Licensing Authority will pay particular attention to entry points and how an operator will control these entry points to safeguard children who are using the site and therefore may be able to gain access to gambling.

### 5.2 Betting Premises

The Gambling Act 2005 defines betting as the making or accepting of a bet on the outcome of a race, competition or other event or process. Whether this is for the likelihood of anything occurring or not occurring; or whether anything is or is not true. A transaction may still be a bet despite the fact the race, competition or event has already taken place and one party to the transaction knows the outcome.

The most common form of betting is ‘fixed odds betting’ whereby the customer bets a stake to win a fixed amount calculated by the odds available.

For this Authority to accept an application for betting premises, the operator must already hold the appropriate operating licence with the Gambling Commission.

This Licensing Authority expects betting premises to have particular regard to social responsibility and the protection of children and vulnerable persons from harm, and that this is reflected in any application submitted to this Licensing Authority.

#### 5.2.1. Gaming Machines

Betting Premises are permitted to have a total of four gaming machines available for use. These can be Category B2, B3, B4, C or D; the total number can either be all the same category or a mixture of categories.

When considering the number of machines in a premises this Licensing Authority will take into account the size of the premises, location of the machines and the ability of the staff to monitor the use of the machines.

This Licensing Authority reserves the right to limit the number of machines if there has been evidence to suggest that they have in the past, or are likely to be in the future, used in breach of the licensing objectives.

### 5.2.2. Self Service Betting Terminals (SSBTs)

Under the Gambling Act 2005 a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. These SSBTs are often made available in Betting Premises as a substitute for placing a bet, on live events, over the counter. As SSBTs merely automate the process that can be conducted in person the Gambling Act 2005 exempts them from regulation as a gaming machine, they therefore do not count towards the number of gaming machines a premises is allowed, they also do not have to comply with any stake or prize limits.

As stated in Section 181 of the Gambling Act 2005 Licensing Authorities have the power to restrict the number of SSBTs, their nature and the circumstances in which they are made available in a premises by attaching a condition to the Licence.

This Licensing Authority will exercise this power if it was felt that the premises was not able to demonstrate that it was promoting the Licensing Objectives namely the protection of children and vulnerable persons or acting in accordance with the social responsibility codes.

## 5.3 Bingo

Bingo does not have a statutory definition in the Gambling Act 2005, however there are two types of bingo most frequently played, cash bingo and prize bingo.

### 5.3.1. Children and Young Persons

If the Licence Holder allows, children and young persons are permitted into Bingo Premises; however they are not permitted to take part in Bingo or play on category B or C machines.

Anyone under the age of 18 years old cannot be employed in providing any facilities for gambling on a Bingo Premises. However, young persons, aged 16 and 17, may be employed in Bingo Premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines.

### 5.3.2. Gaming Machines

A Premises Licence granted for a Bingo Premises will permit the holder to make available for use a number of Category B3/B4 machines equal to 20% of the total number of machines available for use. There is no limit on the number of Category C and D machines that can be made available.

As stated above, if the Licence Holder permits children and young persons into the premises and Category B or C machines are made available for use, this Licensing Authority will require that the premises does the following;

- the category C and/or B machines must be separated from the rest of the premises by a physical barrier which is effective to prevent access, other than through a designated entrance;

- access to the area where the machines are located is supervised at all times;
- arranged so that the area can be observed by persons responsible for supervision, or CCTV which is monitored;
- the gaming machines area must also have a notice at the entrance stating that no person under the age of 18 years is permitted to enter the area.

#### 5.4 Casinos

This Licensing Authority has not passed a resolution not to issue Casino Licences under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

#### 5.5 Licensed Family Entertainment Centres

The Gambling Act puts Family Entertainment Centres (FECs) into two classes; Licenced and Unlicensed. Unlicensed Family Entertainment Centres are covered by a permit (See Permit Section for further details).

A licensed FEC is classified as 'premises' and only premises that are wholly or mainly used for making gaming machines available may hold an FEC premises licence.

The Gambling Commission considers that it is not permissible for gaming machines which should be contained within the FEC premises, to be located in corridors and walkways which form part of the larger building. As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, and motorway service stations or similar, as this exposes young people to ambient gambling that the Act was designed to prevent.

For this Licensing Authority to accept an application for an FEC, the Operator must already hold a "Gaming Machine General Operating Licence (Family Entertainment Centre)" with the Gambling Commission.

A Premises Licence granted for a Licensed FEC will permit the holder to make available for use any number of category C and D machines.

If category C gaming machines are made available for use on the premises of an FEC then the gaming machines must be;

- separated from the rest of the premises by a physical barrier to prevent access other than via an entrance designed to be the entrance,
- supervised at all times to ensure children or young persons do not enter the area, and/or,
- arrange so that the area can be observed by persons responsible for supervision, or CCTV which is monitored.

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

machine areas. Clear separation between machines is needed in Licensed FECs to make certain that children are not permitted access to Category C machines.

There is an expectation from this Licensing Authority that all applicants of an FEC will demonstrate that they can promote the licensing objectives and comply with the Codes of Practice issued by the Gambling Commission as well as all relevant mandatory conditions.

## 5.6 Tracks

The Gambling Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place. The Act does not give a list of premises that are officially recognised as 'tracks' but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include:

- a horse racecourse
- a greyhound track
- a point-to-point horse race meeting
- football, cricket and rugby grounds
- an athletics stadium
- a golf course
- venues hosting darts, bowls, or snooker tournaments
- a premises staging boxing matches
- a section of river hosting a fishing competition
- a motor racing event.

This Licensing Authority is aware that tracks differ greatly from other premises and may be subject to one or more Premises Licence. The Track Operator themselves may not be required to hold an Operating Licence, this may be due to the fact that the individual bookmakers at the track will be required to hold their own Operating Licences.

This Licensing Authority will especially consider the impact upon the protection of children and vulnerable persons from being harmed or exploited by gambling. It is noted that children will be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided. It is therefore expected that the premises licence applicant demonstrates suitable measures to ensure that children do not have access to adult-only gaming facilities. The need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

The individual applicant will need to be mindful when applying for a licence of offering measures to meet and promote the licensing objectives. This list is not exhaustive, and is merely indicative of example measures:-

- Proof of age schemes;
- CCTV or Notices/Signage;

- Location and supervision of entrances/machine areas;
- Physical separation of areas;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare;
- Data sharing e.g. the number of self-exclusions and underage attempts to gamble;
- Operators actively participate in safety and security schemes such as Bet Watch.

It may be appropriate for the applicant to provide the following to support an application and to assist this Licensing Authority to fully understand the application they have submitted:-

- Proof that measures are in place to promote the third licensing objective and to guarantee compliance;
- Specify what proposals have been made to administrate betting (it would be recommended that specific areas are set aside for this function)
- Detailed plan of the track and grounds which identify;
  - any fixed betting facilities;
  - areas that will be specifically used by 'on course' operators on race days;
  - the location of any gaming machines;
  - any temporary structures that will offer betting facilities;
  - mobile betting facilities and other proposed gambling facilities that are not already marked.

Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

### 5.6.1. Gaming Machines

The presence of a Premises Licence on a track does not provide automatic entitlement for gaming machines. This licence can be held without any corresponding Operators Licence. However track owners holding both a track premises Licence and a Commission Operators Licence – pool betting (in effect Dog tracks only) may site up to four gaming machines within categories B2 to D.

Some tracks qualify for an alcohol licence and therefore have automatic entitlement to two gaming machines category C to D.

Each application will be decided upon on a case by case basis, as due to the size and nature of a track premises there are significant problems with the potential abundance of machines that could be located. This Licensing Authority may look to moderate the number of machines or change the location of machines in order to meet the licensing objective which protects children from harm. Children are allowed to play Category D machines at tracks; however the location of any adult gaming machines throughout the track premises will need to guarantee that they are situated where children would be excluded.

## 6.0 Permits

The Gambling Act 2005 introduces a range of permits for gambling. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.

Licensing Authorities may only grant or reject an application for a permit and cannot impose or attach any conditions.

### 6.1 Alcohol Licensed Premises Gaming Machine Permits

Licensing Authorities may issue gaming machine permits for any number of category C or D machines in alcohol licensed premises. Where a permit authorises the making available of a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to, any automatic entitlement to two machines under section 282 of the Gambling Act 2005. This is covered in Section 7 of this document.

If a premises wishes to have more than 2 gaming machines, then it needs to apply for a permit. This Licensing Authority will consider each application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant.” This Licensing Authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling.

This Licensing Authority has the expectation that the applicant will put sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines.

In relation to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

In determining an application, this Licensing Authority will have regard to the licensing objectives. They may also take account of any other matters that are considered relevant to the application. It should also be noted that the holder of the permit must comply with the code of practice issued by the Gambling Commission about the location and operation of the machine.

The application does not require notification to the Gambling Commission or police before determination, however, this licensing authority will on occasion notify the Gambling Commission and Police should there be cause to do so.

The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. It should be noted that this Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. When granted, the Licensing Authority will issue the permit as soon as possible after that.

When an application is going to be refused the applicant will be notified as soon as possible, setting out the reasons for refusal. This Licensing Authority will not refuse an application, or grant it for a different number or category of machines, without notifying the applicant of the intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.

This Licensing Authority is able to cancel permits. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Gambling Act 2005 has been committed. Before it cancels a permit this Licensing Authority will notify the holder, giving 21 days notice of the intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed.

When this Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined. A permit will also be cancelled by this Licensing Authority if the holder fails to pay the annual fee, unless failure is the result of an administrative error.

Where a person applies to this Licensing Authority to transfer the Alcohol Premises Licence, they will also need to apply separately for the transfer of the gaming machine permit.

## 6.2 Club Gaming and Club Machine Permits

The Gambling Act 2005 creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:

- Members clubs (including Miners' Welfare Institutes) and;
- Commercial clubs

This is an important distinction in respect of the gaming that may take place.

The Gambling Commission Guidance states: "Members Clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A Members' Club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include Working Men's Clubs, branches of Royal British Legion and clubs with political affiliations."

A Commercial Club is a club established for commercial gain, whether or not they are actually making a commercial gain; for example these could be commercial snooker clubs or clubs established as private companies and clubs established for personal profit.

The Commission and the police may object to the permit being granted. If any valid objections are made, this Licensing Authority will hold a hearing (unless consent has been given to dispense with it).

Licensing Authorities may only grant or refuse a permit, but may not attach any conditions to a permit. This Licensing Authority will inform the applicant, the Commission and the Police of the outcome of the application and of any objections made.

Licensing authorities may only refuse an application on the grounds that:

- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- b) the applicant's premises are used wholly or mainly by children and/or young persons
- c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- d) a permit held by the applicant has been cancelled in the previous ten years
- e) an objection has been lodged by the Commission or the police.

If the authority is satisfied that (a) or (b) is the case, it must refuse the application.

If a premises already holds a Club Premises Certificate under the Licensing Act 2003 they may apply for Club Gaming and Club Machine permits under the fast-track procedure. Fast track means that there is no opportunity for the Gambling Commission or Police to object to the application and this Licensing Authority has reduced grounds upon which it could refuse the application.

The grounds on which an application under this process may be refused are that:

- a) the club is established primarily for gaming, other than gaming prescribed by regulations under section 266 of the Gambling Act 2005,
- b) in addition to the prescribed gaming, the applicant provides facilities for other gaming,
- c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

Unless a permit is surrendered or lapses or is renewed, it will have effect for ten years. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited, or it lapses. A permit will lapse if the holder of the permit stops being a club, or if it no longer qualifies under the fast-track system for a permit. This Licensing Authority will inform the Police and the Commission when a permit has been surrendered or lapsed.

Permits may be amended to meet changing circumstances. This Licensing Authority will only refuse a variation if on consideration of a completely new application it would refuse the permit.

This Licensing Authority will cancel the permit if it is found that:

- the premises are used wholly by children and/or young persons, or
- an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.



Before cancelling a permit, the permit holder will be given at least 21 days' notice of the intention to cancel by this Licensing Authority and will consider any representations that may be made. This Licensing Authority will hold a hearing if it is requested by the permit holder and will comply with any other procedural requirements set out in regulations.

If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. This Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

Neither a club gaming permit nor club machine permit can be issued for a vessel or vehicle.

### 6.2.1 Club Gaming Permit

A club gaming permit is available to members' clubs but not commercial clubs. It allows the club to offer equal chance gaming, games of chance and up to three gaming machines in total of categories B3A, B4, C or D, but by agreement, only one machine can be of category B3A.

When applying for a club gaming permit (without the fast track process), the club must provide considerable evidence to this Licensing Authority of activities other than gaming taking place in order to prove that it meets the requirements of a Club under the Gambling Act 2005.

This Licensing Authority expects that holders of club gaming permits comply with the statutory conditions having regard to the code of practice concerning the location and operation of gaming machines to ensure that no child uses a category B or C machine on the premises.

A Licensing Officer may visit the premises if necessary before granting the permit in order to better understand how the club will operate.

### 6.2.2 Club Machine Permit

A club machine permit is available to members' clubs and commercial clubs. It allows the club to offer equal chance gaming and up to three gaming machines in total of categories B3A, B4, C or D, but by agreement, only one machine can be of category B3A (B3A not permitted for commercial clubs).

This Licensing Authority will need to be satisfied that the gaming on offer meets the conditions set out in the Gambling Act 2005 and the relevant regulations;

- participation fees must be within the limits prescribed in the regulations,
- prizes must be within the limits prescribed in the regulations.

Club Machine Permit Holders need to comply with the code of practice issued by the Gambling Commission in relation to the location and operation of machines.

### 6.3 Prize Gaming Permits

Gaming is defined in the Gambling Act 2005 as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises.

This Licensing Authority will require an applicant to set out the types of gaming that they are intending to offer and demonstrate that they understand the limits to stakes and prizes that are set out in regulations and the gaming offered is within the law.

Further information may be sought from an applicant who applies for a prize gaming permit, such as:-

- the location of the machines along with any notices that may be positioned throughout the premises on a scaled plan;
- age verification scheme;
- confirmation that Fire Safety and Health and Safety legislation has been complied with by the applicant;
- information regarding opening times for the premises;
- details of number of staff employed;
- evidence of public liability insurance documents;
- other policies or procedures in place to promote safeguarding of children and vulnerable persons from harm;
- commitment to enable data sharing e.g. the number of self-exclusions and underage attempts to gamble.

This Licensing Authority can grant or refuse an application for a permit, but cannot add conditions. The permit may only be granted if the Police have been consulted on the application, as the Police may wish to object to the application.

In making its decision on an application for this permit this Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.

If a permit is granted, the licensing authority will issue it as soon as is reasonably practicable. The permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. The permit may also cease to have effect if it is surrendered by the holder.

This Licensing Authority will not refuse an application until notification has been given to the applicant of the intention to refuse and the reasons for it, and they have been given the opportunity to make representations orally or in writing or both.

If the permit holder is convicted of a relevant offence under the Gambling Act 2005, the court may order the forfeiture of the permit. The court must notify the licensing authority that it has made a forfeiture order as soon as is reasonably practicable after making the order.

#### 6.4 Unlicensed Family Entertainment Centre

Unlicensed Family Entertainment Centres (uFEC) are able to offer any number of category D machines. UFECs are premises which are 'wholly or mainly' used for making gaming machines available a permit cannot therefore be granted for an entire shopping centre for example. Permits cannot be issued in respect of vessels or vehicles.

An application for a permit can only be made by a person who occupies or plans to occupy the premises; if the applicant is an individual, he or she must be aged 18 or over, also applications for a permit cannot be made if a premises licence is in effect for the same premises.

Due to the nature of uFECs and their appeal to children and young persons, this Licensing Authority will give consideration to the suitability of the applicant and what measures are being proposed to mitigate the risk associated with protecting children from being harmed or exploited by gambling.

As part of this it is expected that the applicant ensures that children do not have 'direct access' to adult premises and are not attracted to adult only areas. Although there is no definition of 'direct access' this Licensing Authority will consider what is appropriate on a case by case basis. It may consider the below as proportionate;

- Partitions should be permanently fixed between premises and should not be transparent;
- A gaming/skills with prizes machine or any other machine should not form the partition or any part of the partition;
- Minimum height for partitions should be 1.75 metres and a maximum of 0.15 metres from the floor.

The Licensing Authority may grant or refuse an application for a permit, but cannot add conditions.

When this Licensing Authority considers an application for an uFEC it shall have regard to the Gambling Act 2005 guidance and the licensing objectives. Further information may be sort from the applicant so that the Licensing Authority can be assured that they can demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs,
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act),
- that employees are trained to have a full understanding of the maximum stakes and prizes.

The additional information requested could include;

- the location of any cash machines and category D machines along with any notices that may be positioned throughout the premises on a scaled plan (1:100);
- information regarding the number of category D machines (space between machines needs to be considered for public safety);
- confirmation that applicants are aware of the limits of stakes and prizes that comply with the regulations and the law;
- proof of staff training that will be undertaken and records kept, covering how staff would deal with unsupervised young children being on the premises or children causing perceived problems on or around the premises or suspected truant school children on the premises;
- demonstrate that policies or procedures in place to promote safeguarding of children from harm, in this instance the harm does not refer solely to harm from gambling but also to include harm from any child protection issues;
- confirmation that Fire Safety and Health and Safety legislation has been complied with by the applicant;
- information regarding opening times for the premises and the appearance of the premises externally;
- details of the number of staff employed;
- evidence of public liability insurance documents,
- commitment to data sharing e.g. the number of self-exclusions etc.

An application for a permit may be granted only if this Licensing Authority is satisfied that the premises will be used as an uFEC, and if the Police have been consulted on the application. When a permit has been granted this Licensing Authority will issue it as soon as reasonably practical.

An application may be refused by this Licensing Authority if the applicant is unable to meet the requirements. If it is the intention of this Licensing Authority to refuse the application the applicant will be notified in writing setting out the reasons why. The applicant will be given opportunity to make representations orally or in writing or both. Applicants will have the right to appeal against this Licensing Authority's decision of refusal.

If the permit holder is convicted of a relevant offence the Court may order the forfeiture of the permit, in this instance the Court will inform this Licensing Authority of the forfeiture order.

This Licensing Authority will only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse,
- renewal would not be reasonably consistent with the licensing objectives.

This Licensing Authority will consult with the Police and will if applicable be made aware of any concerns that have arisen during the life of the permit.

## 7.0 Small Society Lotteries

A Lottery is a form of gambling that has three essential elements; a payment is required to participate; one or more prizes are awarded; and those prizes are awarded by chance. There are two categories that they can fall into; Licensed Lotteries that require an Operating Licence from the Gambling Commission and Exempt Lotteries which require registration with the Licensing Authority.

Small Society Lotteries are Lotteries promoted for the benefit of a Non-Commercial Society. Such Societies are organisations that have distinct aims and objectives for a Society to be Non-Commercial it needs to be established and conducted:-

- for a good cause;
- for the purpose of enabling participation in, or of supporting, sport, athletics, or a cultural activity; and
- for any other Non-Commercial purpose other than that of private gain.

When applicants apply to this Licensing Authority, they will need to inform the Licensing Authority the purpose in which the Society was originally established and the Society will need to declare that they represent a bona fide Non-Commercial Society and have no relevant convictions. Further information may be sought from a Society by this Licensing Authority.

An application will be refused by this Licensing Authority if:-

- an applicant has held an operating licence that has been revoked in the preceding 5 years;
- or they have applied for registration of an operating licence in the preceding 5 years that has been refused.

Applications may also be refused by this Licensing Authority if they are of the opinion that:-

- The applicant is not a Non-Commercial Society;
- A person who will or may be connected with the promotion of the Lottery has been convicted of a relevant offence; or
- Information provided in or with the application for registration is false or misleading.
- Previous lottery returns have not been provided as required.

When an application is going to be refused the Society will have an opportunity to make a representation against the decision. This Licensing Authority will notify the Society of the reasons for the refusal in writing.

This Licensing Authority will seek advice from the Gambling Commission if they are unsure about a refusal of an application.

If this Licensing Authority is of the opinion that the Lottery registration of a Society needs to be revoked, due to a reason that they would refuse the application if it were being made at the time, they will inform the Society in writing. They will outline the evidence that has led to the decision being reached to allow the Society the opportunity to make a representation.

This Licensing Authority will keep a register of all applications for Small Society Lotteries and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority.

## 8.0 Other types of Gambling

### 8.1 Notification of Gaming Machines

There is provision in the Gambling Act 2005 for premises licensed to sell alcohol for consumption ON the premises, to automatically have 2 gaming machines, of categories C and/or D. The Premises Licence Holder is required to notify the Licensing Authority by completing the requisite application form and paying the prescribed fee. A new notification needs to be submitted after every transfer of Premises Licence Holder.

The Designated Premises Supervisor is responsible for the supervision of gaming and there needs to be compliance with the Gambling Commissions code of practice.

This Licensing Authority will look to remove the automatic authorisation in respect of any particular premises if:-

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act 2005;
- the premises are mainly used for gaming; or
- an offence under the Gambling Act 2005 has been committed on the premises.

## 9.0 Temporary and Occasional Use Notices

### 9.1 Temporary Use Notices

It is an offence to provide facilities for gambling unless either the required permissions are in place, or an exemption applies. One such exemption is for the holder of an operating licence to notify a Temporary Use Notice (TUN) to the relevant licensing authority. This is not a permanent arrangement, but allows premises such as hotels, conference centres or sporting venues to be used temporarily for providing facilities for gambling. A TUN may also apply to a vessel, whether moored or moving. A TUN may not be given in respect of a vehicle.

A Temporary Use Notice permits the use of a Premises for gambling where there is no Premises Licence, but where a Gambling Operator wishes to use the premises temporarily for providing facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Such as;

- operate a casino,
- provide facilities for the playing of bingo,
- make a gaming machine available for use,
- provide other facilities for gaming, or
- provide facilities for betting (whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets).

A TUN may only be granted to a person or company holding a relevant Operating Licence and there are a number of statutory limits as regards TUNs.

#### 9.1.1 Meaning of premises

Section 218 of the Gambling Act 2005 refers to a 'set of premises' and provides that a set of premises is the subject of a Temporary Use Notice if 'any part' of the premises is the subject of a notice.

The maximum period by which a "set of premises" may be the subject of a Temporary Use Notice is 21 days within a period of 12 months. A set of premises may be the subject of more than one Temporary Use Notice in a period of twelve months provided the maximum aggregate for which the Temporary Use Notices have effect does not exceed 21 days.

In considering whether a place falls within the definition of 'a set of premises', this Licensing Authority will look at, amongst other things, the ownership/occupation and control of the premises.



### 9.1.2 Objections to TUNs

This Licensing Authority will be minded to object to a TUN if they feel that the Licensing Objectives would be undermined. If it is felt that Temporary Use Notices are resulting in allowing regular gambling to take place in a place that could be described as one set of premises, this Licensing Authority will object. Consideration will be taken as to whether the gambling should not take place, or only with modifications.

This Licensing Authority will ensure that such notices are considered without delay so that, where appropriate, the opportunity to lodge an objection is not missed.

If objections are received, this licensing authority will hold a hearing to listen to representations from the person who gave the TUN, all the objectors and any person who was entitled to receive a copy of the notice.

If this licensing authority considers that the TUN should not have effect, after a hearing has taken place or has been dispensed with, it will issue a counter-notice. This Licensing Authority will apply the same principles for issuing a counter notice as when determining premises licence applications.

If this licensing authority gives a counter-notice, it will give reasons for doing so and will copy the counter-notice to all those who received copies of the TUN. If this licensing authority decides not to issue a counter-notice, the TUN will take effect.

### 9.1.3 Endorsement of the notice

If no objections are made within 14 days of the date of the notice, the licensing authority must endorse the notice as valid and return it to the person who gave it.

The person who gives a TUN may notify the licensing authority that it is withdrawn at any time up to and during the time it has effect. In those circumstances the notice will have no effect, and any unelapsed period of time will not count towards the 21-day maximum for a TUN having effect on the premises.

The TUN needs to be prominently displayed at the premises when the gambling is taking place. It would be considered an offence not to produce the notice endorsed by the Licensing Authority when requested to do so by a Constable, an officer of HM Revenue and Customs, an Enforcement Officer, or an Authorised Local Authority Officer.

### 9.1.4 Maximum period

A licensing authority may issue a counter-notice which limits the number of days that the TUN comes into effect, bringing it within the 21-day limit. The applicant will be consulted if a counter notice is to be required in order to ensure that the restrictions being imposed do not result in an unworkable event or a failure to comply.

## 9.2 Occasional Use Notices (OUN)

Where there is betting on a Track, on eight or less days in a calendar year (1st January to 31st December), the Gambling Act 2005 allows this to be undertaken by an Occasional Use Notice instead of a Full Premises Licence.

### 9.2.1 Definition of a track

The Gambling Act 2005 defines a track as any premises on any part of which a race or other sporting event takes place, or is intended to take place. This means it is not restricted to just horse racecourses or dog tracks. They also do not need to be a permanent fixture, land only used temporarily can qualify provided that races or sporting events either do take place there or will take place there. Land that has a number of uses can also qualify for an OUN as long as one of those uses is for a track. The definition of what constitutes a track will be considered on a case by case basis by this Local Authority.

### 9.2.2 Use (and misuse) of OUNs

Occasional Use Notices are intended to be able to permit licensed Betting Operators, with permission from the Commission, to use tracks for conducting betting provided that the event upon which the betting is to take place is of a temporary, infrequent nature. The use of an OUN means that the track does not require a Betting Premises Licence. However, an OUN does not allow Betting Operators to provide gaming machines at the track. Non-commercial, fund raising race nights can be run as betting events at sporting venues under the authority of an OUN, whether or not the sporting event on which the bets are taken is held at that venue. The sporting event on which the bets are or will be taken also need not be taking place at the same time as the betting under the OUN.

## 9.3 Travelling Fairs

The Gambling Act 2005 defines a Travelling Fair as 'wholly or principally' providing amusements. A Travelling Fair may provide facilities for gambling via gaming machines without a Permit as long as it is purely an ancillary amusement.

An unlimited number of Category D machines are permitted however the higher Category B and C are not allowed. The machines must be sourced from a Gambling Commission licensed supplier and those working with the gaming machines at the Travelling Fair must be at least 18 years old.

A Travelling Fair cannot be on a site that has been used for fairs for more than 27 days. The statutory maximum of 27 days is per calendar year and not a 12 month period. It applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

### 9.3.1 Prize Gaming and Travelling Fairs

Travelling Fairs, under the Gambling Act 2005, are also able to provide equal chance gaming without a Permit as long as it is purely an ancillary amusement. Young Persons and Children may participate in equal chance gaming.

Conditions for Travelling Fairs offering equal chance gaming;

- the limits on participation fees must be complied with, as set out in regulations;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day;
- the game must be played and completed on the day the chances are allocated;
- the result of the game must be made public in the premises on the day that it is played;
- prize amounts must not exceed the amount set in the regulations if a money prize or the prescribed value if a non-monetary prize; and,
- the participation in the gaming must not entitle the player to take part in any other gambling.

This Licensing Authority will be responsible for making the following decisions in relation to Travelling Fairs;

- a) whether the statutory definition of a Travelling Fair is met,
- b) whether the gambling facilities provided at the fair are in fact an ancillary amusement,
- c) whether Category D machines and/or equal chance prize gaming without a Permit is to be made available for use at Travelling Fairs in this county.

## 10.0 Premises Licence Applications

The Gambling Act 2005 defines a premises as “any place”. It is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Areas of a building that are artificially or temporarily separate cannot be properly regarded as different premises.

This Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Applicants should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.

### 10.1 Provisional Statements

Section 204 of the Gambling Act 2005 provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that is:-

- Expected to be constructed
- Expected to be altered; or
- Expected to acquire a right to occupy

Provisional statements are dealt with in the same way as premises licence applications. Representations may be made by Responsible Authorities and Interested Parties, and there is a right to appeal.

An application for a provisional statement differs from an application for a premises licence in as much as those applying for a provisional statement do not have to fulfil the same criteria as those applying for a premises licence. In order to apply for a premises licence the applicant must hold or have applied for an operating licence from the Gambling Commission (except in the case of a track), and they must have the right to occupy the premises. These criteria do not have to be in place at the time of submitting a provisional statement application.

As a provisional statement can be applied for without the applicant having the right to occupy the premises this Licensing Authority will accept more than one provisional statement for a premises.

Once a provisional statement has been granted, this Licensing Authority will be restricted by what it will consider when the premises licence application is submitted for the same premises.

When a premises licence application is made following the grant of a provisional statement, no further representations from Responsible Authorities or Interested Parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances.

In addition, this Licensing Authority may refuse the provisional statements (or grant it on terms different to those attached to the provisional statement) only by reference to matters:-

- which could not have been raised by objectors at the provisional licence stage; or
- which, in this authority's opinion, reflect a change in the operator's circumstances;
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and this Licensing Authority will discuss any concerns they have with the applicant before making a decision.

## 10.2 New/Variation Applications

There is an expectation that the applicant offers their own suggestions for how they intend to promote the licensing objectives on their application. These may be used as conditions and placed on the licence if appropriate. This list is not exhaustive, and is merely indicative of example measures:-

- Proof of age schemes;
- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare;
- Data sharing e.g. the number of self-exclusions and underage attempts to gamble;
- Operators actively participate in safety and security schemes such as Bet Watch.

This Licensing Authority will take into the consideration the following factors when looking at premises licence applications, however they will be considered on a case by case basis:-

- Premises location including its immediacy to local schools; children's centres or centre's used by vulnerable persons; residential areas that have a high populations of children and vulnerable persons; and areas of deprivation where children and vulnerable persons reside;
- Premises layout and design;
- Installation of security features, such as CCTV or location of cash registers and safes;
- Staff training in all areas that are appropriate to the promotion of the licensing objectives;
- Policies and procedures for age verification;

- Possibility of crime and disorder associated with a licence being granted at a given premises;
- Local Area Risk Assessment for premises (came into force April 2016).

### 10.3 Fees

Licence fees are set within the prescribed maximum levels in accordance with 'The Gambling (Premises Licence) Fees (England and Wales) Regulations'. Fees for permits and other services will be as set by the Secretary of State.

Information concerning the fees charged by Wiltshire Council for premises licence applications, permits and other permissions will be made available to the public via Wiltshire Council's website – <http://www.wiltshire.gov.uk/licences-permits-gambling-fees-charges>.

In accordance with the Gambling Act 2005, failure of a premises to pay the prescribed fee will result in this Licensing Authority revoking the licence. In relation to permits, this Licensing Authority will cancel the permit if the Permit Holder fails to pay the annual fee due. This will not occur however, if the failure of payment is attributed to an administration error.

### 10.4 Conditions

This Licensing Authorities decisions regarding placing conditions onto an individual premises licence will be made on a case by case basis. Any conditions attached to licences will be:-

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

In a hearing, Wiltshire Council Licensing Committee may also consider it fitting to add further conditions to the licence that are proportionate to the application, each application being considered on its own merits. Licence conditions applied at a hearing will be tailored to the individual premises and activities and only those necessary to meet the licensing objectives will be applied.

### 10.5 Plans

This Licensing Authority is minded to take note of the Premises Licence and Provisional Statements Regulation 2007, Section 153 Guidance and the Commissions Codes of Practice when considering what it will accept in relation to a plan.

The Gambling Act 2005 states that a premises, except a track, needs to provide a plan that 'must show the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'.

This Licensing Authority will require more information than this to be included on the plan so that it can make an informed decision on applications, the plan is a way for the applicant to demonstrate how they intend to meet the requirements and promote the licensing objectives, therefore applicants will be asked to provide further information or resubmit plans if they are felt to be insufficient.

It is expected that as well as what is required in the Regulations, the applicant may also include the locations of the following where appropriate (this list is not exhaustive);

- Counter and other staff areas;
- Gaming machines and the location of the different categories;
- Self-service machines;
- Cash machines;
- Toilets accessible to the Public;
- The position of gaming activities in the premises and any potential segregation between different types of gaming;
- Any obstructions i.e. pillars, advertising boards, machines etc.;
- Position of internal CCTV cameras/monitor or mirrors that may be used for line of sight;
- Any fixtures within the premises.

## 10.6 Door Supervision

Section 178 of the Gambling Act 2005 sets out a definition of 'door supervisor' and provides that where a person employed in such a role is required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence.

If this Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access, for example, by children and young persons, then it may require that the entrances to the premises are controlled by a door supervisor. In this instance this Licensing Authority will impose a condition on the premises licence to this effect.

In relation to Casinos and Bingo Premises, contract staff that are to be employed as door supervisors will need to be licensed by the SIA. However, in house employees working as door supervisors are exempt from that requirement.

## 10.7 Representations

For a representation to be relevant it needs to relate to one of the three licensing objectives and be made by a Responsible Authority or Interested Party. Wiltshire Council Licensing Officers will make the decision as to whether representations received for applications are irrelevant, frivolous or vexatious.

Representations made in relation to demand or competition will not be accepted as relevant. Moral objections to gambling will also not be accepted. Representations will not be considered relevant if the issues raised can be dealt with by other legislation.

When a valid representation against an application has been received by this Licensing Authority, we may arrange for a meeting to take place with the Applicant and the person who made the representation in order to try to reach an appeasement.

If this is not an appropriate course of action or an agreement cannot be reached then the matter will be taken to a Licensing Sub-Committee hearing.

If it is the case that a representation is rejected then the person who made the representation will be informed in writing that it will not be considered. The decision of the Licensing Authority Officer that the representation is not accepted cannot be appealed against.

### 10.8 Responsible Authorities

Responsible Authorities will be notified by this Licensing Authority of all premises licence applications and are entitled to make representations in relation to these applications if they are relevant to the licensing objectives.

Section 157 of the Gambling Act 2005 defines those authorities as:

- Gambling Commission
- Police
- Fire Service
- Local Planning Authority
- Environmental Health
- Wiltshire Council Child Protection
- HM Revenue and Customs
- In relation to a vessel;
  - a Navigation Authority,
  - the Environment Agency,
  - the British Waterways Board,
  - the Secretary of State.
- A Licensing Authority in whose area the Premises is situated that is, the Council itself and also any adjoining Council where premises straddle the boundaries between the two.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via Wiltshire Council's website – <http://www.wiltshire.gov.uk/licences-permits-gambling> or attached as Appendix B.



## 10.9 Interested Parties

Interested Parties can make representations in respect of licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as:-

- a) a person or persons who lives sufficiently close to the premises and is likely to be affected by the authorised activities,
- b) a business or businesses whose interests might be affected by the authorised activities, or
- c) an individual or group who represents persons who satisfy paragraph (a) or (b).

Councillors and Town/Parish Councils that cover the area that would be likely affected by the specific premises will be considered as Interested Parties. If individuals wish to approach their local Councillor to ask them to represent their views no specific evidence of being asked to represent an interested person will be required by this Licensing Authority.

Other than these however, this Licensing Authority will require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities.

## 11.0 Compliance and Enforcement

### 11.1 Inspection

This Licensing Authority inspects premises in Wiltshire to ensure compliance using a risk based approach. We will inspect those premises that are a higher risk or have a history of complaints more frequently than those premises with lower perceived risks. However Licensing Officers will also be permitted to use their discretion.

Inspections may be carried out on Temporary Use Notices and Occasional Use Notices to ensure that the licensing objectives are being promoted.

Joint visits may take place with Responsible Authorities or other agencies where relevant.

### 11.2 Powers of Entry

Wiltshire Council Licensing Officers are authorised to inspect Gambling Premises in order to assess the premises compliance with the terms and conditions of the Premises Licence.

Licensing Officers are have powers to;

- Enter any gambling premises or premises where gambling is believed to be taking place,
- Use reasonable force in order to enter the premises for inspection purposes, should it be necessary,
- Inspect any part of the premises, any machine or other thing,
- Question any person on the premises,
- Access to any written or electronic record which is kept on the premises, or require that a copy is provided,
- Remove or retain anything if they reasonably believe that it constitutes or contains evidence of the commission of an offence under the Gambling Act 2005, or a breach of a term or condition of the premises licence.

It should be noted that it is an offence if a person, without reasonable excuse, obstructs or fails to cooperate with an Authorised Local Authority Officer who is exercising powers under Part 15 ('Inspection') of the Gambling Act 2005.

It is also an offence to provide false information without reasonable excuse to the Authorised Licensing Officer.

### 11.3 Complaints

Wiltshire Council Licensing Authority will investigate all complaints received related to gambling activities or Premises.

Licensing Officers will refer complaints to or liaise with other relevant agencies/council services, as appropriate, in order to get complaints addressed.

## 11.4 Enforcement

This Licensing Authority is responsible for ensuring the compliance of Licences and Permits, along with any relevant Gambling Commission Codes of Practice, in Wiltshire. The Gambling Commission is the enforcement body for Operating and Personal Licences.

This Licensing Authority is guided by the Gambling Commission's Guidance for Local Authorities when it comes to the enforcement action we will take against premises. The action will be:-

- Proportionate
- Accountable
- Consistent
- Transparent
- Targeted

## 11.5 Reviews

The Gambling Act 2005 sets out the arrangements to enable a review of a Premises Licence where it is alleged that the licensing objectives are not being promoted. Requests for a review of a Premises Licence can be made by Interested Parties or Responsible Authorities; however, it is for this Licensing Authority to decide whether the application for review is accepted.

The request for a Review will be determined as appropriate if it is in accordance with, any relevant Code of Practice or Guidance issued by the Gambling Commission; in accordance with Wiltshire Council's Gambling Statement of Principles and is reasonable consistent with the licensing objectives.

This Licensing Authority will also initiate a review of a licence if;

- it has reason to suspect that premises licence conditions are not being observed
- the premises is operating outside of the principles set out in the licensing authority's statement of policy
- there is evidence to suggest that compliance with the licensing objectives is at risk
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party.

Upon review of a premises licence, this Licensing Authority will, having regard to the application for review and any relevant representations and take such steps as it considers necessary for the promotion of the Licensing Objectives. Such steps might be:-

- add, remove or amend a licence condition imposed by the licensing authority
- exclude a default condition imposed by the Secretary (for example, relating to opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period not exceeding three months
- revoke the premises licence.

## Appendix A – Table of Delegations of Licensing Functions

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Licensing Committee or Licensing Sub Committee</b>	<b>Officers</b>
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Consideration for calling a review			X
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Licensing Committee or Licensing Sub Committee</b>	<b>Officers</b>
Applications for other permits			X
Cancellation of licensed premises gaming machine			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as to whether a representation is frivolous, vexatious or repetitive			X
Consideration for actions to be taken against illegal gambling			X

## Appendix B – Responsible Authorities

### **Wiltshire Council Licensing Authority**

Public Protection – Licensing  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Email: [publicprotectionnorth@wiltshire.gov.uk](mailto:publicprotectionnorth@wiltshire.gov.uk)

### **Wiltshire Constabulary Licensing Officer**

Trowbridge Police Station  
Polebarn Road  
Trowbridge  
Wiltshire  
BA14 7EP

Email: [licensingE@wiltshire.pnn.police.uk](mailto:licensingE@wiltshire.pnn.police.uk)

### **Wiltshire Council Environmental Health**

County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Email: [publicprotectionwest@wiltshire.gov.uk](mailto:publicprotectionwest@wiltshire.gov.uk)

### **Wiltshire Council Planning Department**

County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

Email: [Developmentmanagement@wiltshire.gov.uk](mailto:Developmentmanagement@wiltshire.gov.uk)

### **Dorset & Wiltshire Fire and Rescue Service**

Five Rivers Health and Wellbeing Centre  
Hulse Road  
Salisbury  
SP1 3NR

Email: [fire.safety@dwfire.org.uk](mailto:fire.safety@dwfire.org.uk)

**Wiltshire Council Child Protection**

Support and Safeguarding  
Children's Social Care  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire  
BA14 8JN

**Gambling Commission**

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

**HM Revenue & Customs**

National Registration Unit  
Betting and Gaming  
Porcullis Head  
21 India Street  
Glasgow  
G2 4PZ

Email: [nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)

## Appendix C – Local Area Risk Assessment Guidance

### Undertaking a local area risk assessment

This Licensing Authority has an expectation that the local area risk assessment will be carried out methodically at a gambling premises; to ensure that there is thorough consideration for all the possible risks.

Whoever is carrying out the assessment should consider the risks associated with;

- the local area,
- the gambling operation, and
- the design of the premises both internally and externally.

When the risks have been identified, this Licensing Authority would envisage that appropriate control measures proportionate to the risks will be considered and implemented. Some of these control measures may already be in place as part of the policies or procedures of the business however both the risks and the control measures should be documented within the assessment. This Licensing Authority considers it beneficial if it was stated who would be responsible for putting the control measures in place and recording when they have been completed.

If the Operator of the premises has requested a Local Area Profile from this Licensing Authority the contents of the profile should be considered within the assessment.

### Who should undertake the assessment?

The Gambling Operator has the responsibility of completing the local area risk assessment; however this could be delegated to a competent assessor.

Whoever is tasked with the completion of the document should have an understanding of, the business and how they currently operate or intend to operate, the local area where the premises is situated and its design.

If the local area risk assessment is not completed thoroughly it could result in the Operator breaching the provisions of the Licence Conditions and Codes of Practices submitted by the Gambling Commission.

### Step 1: The local area

For the Operator to be able to correctly identify the local risk factors relating to the premises it first must understand what makes up the local area. Certain gambling premises may have a larger sphere of influence than others therefore the local area could be larger than first thought for certain premises.



## Step 2: The gambling operation

For this section of the assessment, this Licensing Authority expects the assessor to look at the Gambling Operators' policies and procedures and decide whether these procedures;

- a) result in a risk at the premises based on the local area, or
- b) mitigate risk already identified in the local area and therefore could be used as a control measure.

## Step 3: The design of the premises

The design of a premises can assist greatly in the Operators' ability to mitigate and manage identified local risks. It is important that the assessor looks at the risks of both the internal and external design and considers these with reference to the local risks already recognised.

## Step 4: Control measures

When all the risk factors have been acknowledged, this Licensing Authority now expects that the assessor will ascertain suitable and appropriate control measures to mitigate the risks identified. The four categories of control measures; systems, design, physical and licence conditions should be considered. For some risks it may be that a combination of control measures are needed to neutralise the risk identified.

## Completed assessment

Once the risk assessment has been completed and the control measures documented, they then need to be implemented at the premises. This may involve changes to the layout or design, staff training or changes in procedures. It should be documented when they have been actioned. A copy of the risk assessment should then be kept on the premises; this Licensing Authority expects this to be reviewed regularly.

## Appendix D - Local Area Profile

Wiltshire Council's Licensing Authority has produced this document as a guide for gambling operators to use when undertaking and preparing their local area risk assessment. This guide is intended for all gambling premises and hasn't been designed with a specific type of gambling premises in mind.

Wiltshire Council Licensing Authority can provide a profile of a specific area to a gambling operator upon written request within 28 days.

This local area profile will identify key characteristics of Wiltshire in the context of gambling-related harm.

The information provided in this document will help to provide an understanding of the potential risks that may be prevalent to gambling premises in Wiltshire.

Included within the profile is a map identifying hospitals, GP surgeries, schools and higher education buildings, supported accommodation, food banks, job centres and pawn brokers. Also mapped are the locations of all the gambling premises within Wiltshire. Any concerns that this Licensing Authority has in an area will be clearly stated.

### Wiltshire Area Profile

Wiltshire's resident population is 488,400 this figure is gradually increasing. Those aged between 30 to 59 years old make up 40% of Wiltshire's population. The third largest age group within Wiltshire, with 100,000 of our 488,400 residents are those aged over 65. Just less than 1% of the population are aged 90 and over. Those aged 18 or under make up 21.9% of our population.

Wiltshire is mostly an affluent county. The average gross weekly pay for people resident in Wiltshire is £553.10 this is slightly above the South West average of £527 a week and just above the UK average of £552.70 a week.

Wiltshire has relatively low unemployment with only 2.9% of persons aged 16-74 being unemployed, compared with the national average of 4.3%.

Most residents are healthy and enjoy well above average life expectancy. The workforce is generally well-educated and highly skilled. Just over half of Wiltshire's population (50.7%) work in job areas that include: managerial positions, Senior Officials and Professionals. This is above the UK average of 45.6%.

We currently have 43 Gambling Premises the majority of these are located in Town Centres.

## Wiltshire Council Risk Factors

### **Risk Factor** – New building developments/conversion

Information will be sought specific to the area requested to ascertain whether any large developments or conversions are being planned that could have an impact on the gambling premises. The increase of residents to an area, or the increase of industrial areas will be stated so that the operator understands the potential clientele it may attract. As this could dramatically change the footfall or the type of customer the premises could receive it is important that this is considered in the local area risk assessment.

### **Risk Factor** – Educational Facilities

#### **Those potentially at risk** – Children and Young Persons

These locations will be included as they represent areas where children will be present in larger numbers at certain times of the day, it could also increase the number of adults who have to traverse the area. The operator may wish to consider this in relation to the advertising and frontage of the premises.

It would be expected that the premises considers the risk associated with colleges and other higher educational facilities in relation to under age gambling.

This Licensing Authority will carefully consider the type of premises wishing to be located in an area with educational facilities; the operator will need to mitigate these risks.

It would also be appropriate for operators to take into consideration the location of Children's play parks and other such recreational facilities. The proximity of these areas in relation to the premises needs to be considered similarly as above.

### **Risk Factor** – Healthcare provisions

#### **Those potentially at risk** – Vulnerable Persons

GP Surgeries, Hospitals and Mental Health facilities will be mapped due to the potential increase in vulnerable persons who would use these services.

### **Risk Factor** - Location of Job centres, Pawn Brokers, Payday Loans and Foodbanks

#### **Those potentially at risk** – Unemployed and those with financial difficulties/debt

Job Centres will be accessed by members of the population who are likely to be unemployed and considered likely to have a combination of very low income and a large amount of personal disposable time.

This data locates where those with financial difficulties and debt problems are more likely to be present, visiting places where credit is accessed through less secured means, or places where people are so severely financially constrained they cannot afford to buy food. Although pay day loan shops may be accessed by many members of the population, these locations may serve to pull vulnerable populations

with financial and debt problems into an area by providing them with access to unsecured and easy-access finance.

**Risk Factors** - Location of Hostels and Supported Accommodation

**Those potentially at risk** – Homeless or those suffering from housing instability

There are a variety of support services for the homeless, ranging from temporary accommodation to more mid to long-term supported accommodation representing broader housing instability.

**Risk Factor** – Those currently with substance misuse issues

**Those potentially at risk** - People with substance misuse problems

The facilities for those struggling with substance misuse may act as a 'pull' for potentially vulnerable people to certain locations. Turning Point has recently commenced a three year contract with Wiltshire Council to support people in Wiltshire with addiction. They provide outreach facilities to enable as many people access to their services as possible. Therefore in coming months and years there may not be any clinics or centres that would draw those with this vulnerability to any specific area.

There could be other areas that attract numbers of vulnerable people who potentially suffer from substance misuse problems which could make them vulnerable in relation to gambling for example areas that are used by rough sleepers.

Details of support agencies can be found in useful contacts Appendix E.

**Risk Factor** – Crime Rates

Crime statistics will be provided upon request to ensure that the figures for the area are up to date.

The map for Wiltshire as a whole is attached to this document and an example of a Town specific map is also attached to this document.

## Appendix E - Useful Contacts

### **Gamble Aware**

[www.gambleaware.co.uk](http://www.gambleaware.co.uk)

### **GamCare**

Head Office  
2nd Floor  
7-11 St John's Hill  
London  
SW11 1TR

Freephone: 0808 8020 133

Main switchboard: 020 7801 7000

Fax: 020 801 7033

Email: [info@gamcare.org.uk](mailto:info@gamcare.org.uk)

Website: <http://www.gamcare.org.uk/support-and-counselling/face-face-counselling/find-local-counselling>

### **Gamblers Anonymous UK**

<http://www.gamblersanonymous.org.uk/>

### **Domestic Abuse**

<https://www.victimsupport.org.uk/help-victims/ive-been-affected/domestic-abuse>

### **Women's Aid**

<http://www.womensaid.org.uk/>

### **Samaritans**

<http://www.samaritans.org/>

### **Step Change**

<http://www.stepchange.org/Howwecanhelpyou/Debtadvice.aspx>

### **Citizens Advice Bureau**

[http://www.adviceguide.org.uk/wales/debt\\_w/debt\\_help\\_with\\_debt\\_e.htm](http://www.adviceguide.org.uk/wales/debt_w/debt_help_with_debt_e.htm)

### **National Debt Line**

<https://www.nationaldebtline.org/>

### **Gov.uk**

<https://www.gov.uk/options-for-paying-off-your-debts/overview>

### **Money Advice Service**

<https://www.moneyadviceservice.org.uk/en/tools/debt-advice-locator>

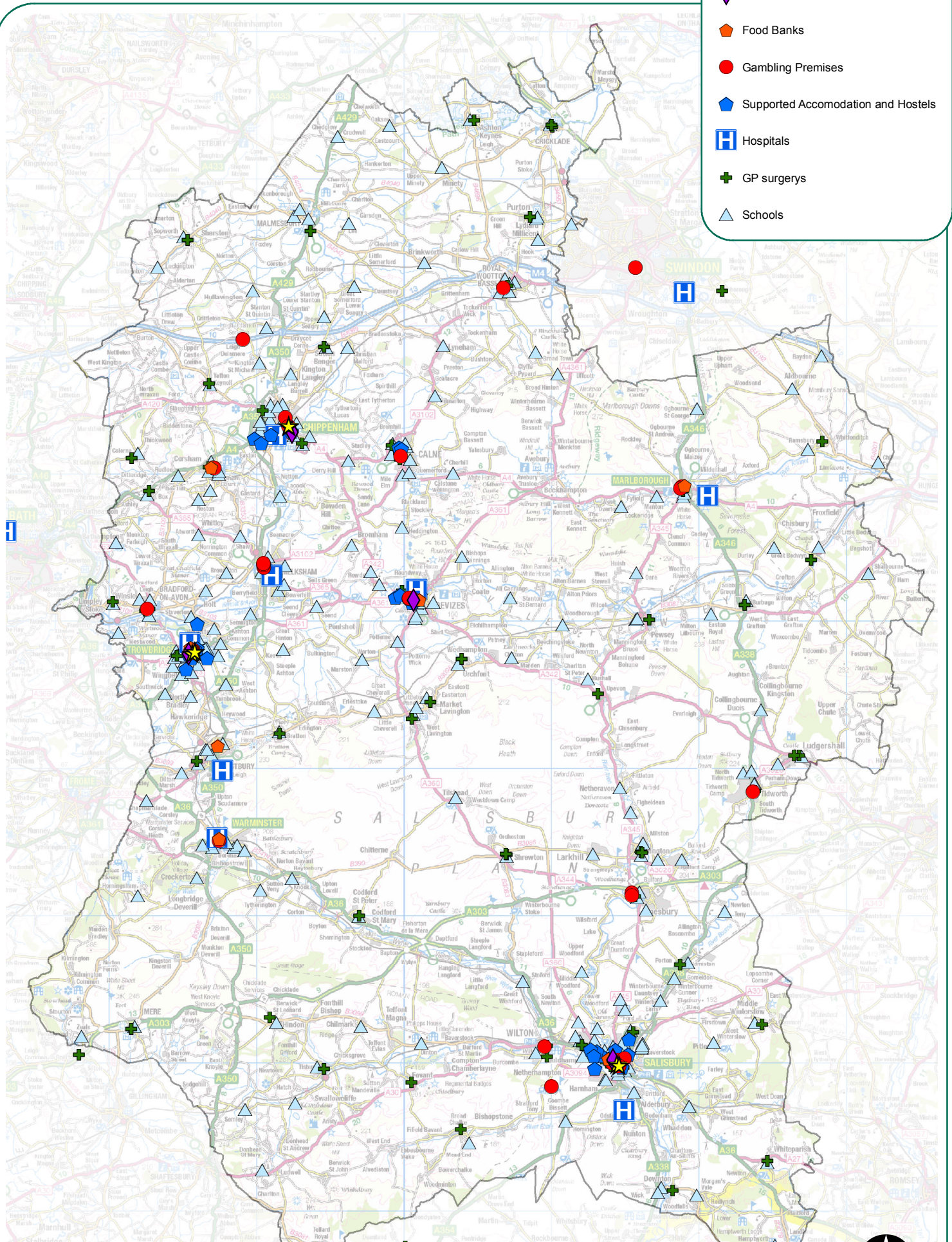
### **Turning Point**

<http://www.turning-point.co.uk>

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Key Risks

- ★ Pawn Brokers and Payday Loans
- ◆ Job Centres
- 🍷 Food Banks
- Gambling Premises
- 🏠 Supported Accomodation and Hostels
- H Hospitals
- ✚ GP surgeries
- △ Schools

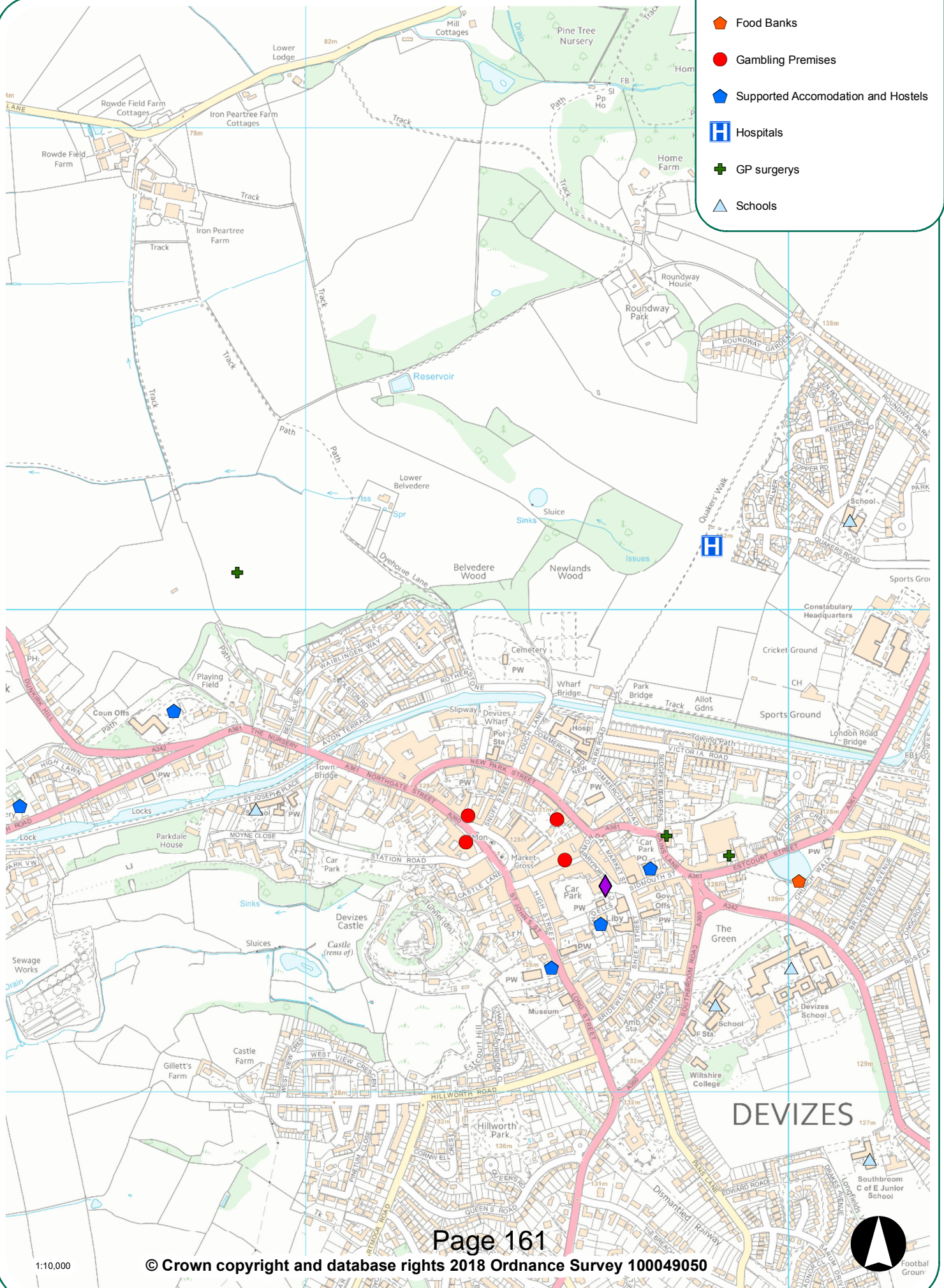


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Key Risks

- ★ Pawn Brokers and Payday Loans
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- 🏠 Supported Accomodation and Hostels
- H Hospitals
- ✚ GP surgeries
- △ Schools



DEVIZES



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# Wiltshire Council

## Gambling Act 2005

### Statement of Principles

2015 – 2018

Linda Holland, Public Protection Team Leader (Licensing)

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## 1.0 Introduction to Wiltshire

Wiltshire is a predominantly rural county in the south-west of England with a population of 476,816. Although centrally divided by the large expanse of Salisbury Plain, Wiltshire has many market towns and villages with mixed and vibrant communities. Wiltshire is also home to world-renowned cultural and heritage destinations such as Stonehenge and the internationally established World of Music, Arts and Dance Festival.

Larger populations live within the cathedral city of Salisbury to the south and in other towns such as Trowbridge and Chippenham to the north of Salisbury Plain. The armed forces and their families form a significant population group in Wiltshire, with numbers set to expand significantly in future years as the Ministry of Defence relocates service personnel from overseas locations to Wiltshire in 2015-19.



## 2.0 Overview

The Gambling Act 2005 provides the regime for licensing and regulation of commercial gambling in the UK and is intended to regulate the provisions of facilities for gambling and the use of premises for gambling. It defines three types of gambling: - gaming, betting, and participating in a lottery. A variety of licences and permits allows these gambling activities to take place. The task of granting these is shared between Licensing Authorities and the Gambling Commission. The Gambling Commission approve operating and personal licences; premises licences and other permissions are approved by the Licensing Authority.

Wiltshire Council Licensing Authority recognises the potential impact of gambling on the communities of Wiltshire. In adopting this policy, this Licensing Authority will seek to work with communities and partners to ensure that it helps to maintain strong and resilient communities. It will address the concerns of the public to maintain safe and high quality environments making Wiltshire an even better place to live, work and visit. It wishes to work together with premises licence operators/holders to assist the thriving and growing local economy whilst seeking to protect vulnerable persons from harm.

Licensing Authorities are required by the Gambling Act 2005 to publish and consult on a statement of the principles which they propose to apply when exercising their functions. This policy statement should also remain responsive to emerging risks and can be reviewed at any time, but must be reviewed at least every three years.

The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:-

- The Chief Officer of Police;
- One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Licensing Authority's area;
- One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Licensing Authority's functions under the Gambling Act 2005.

In reviewing this statement of principles this Licensing Authority consulted widely with all necessary bodies and relevant stakeholders. The consultation process was conducted between May 2015 and August 2015 by way of a direct letter to those identified and also via publication on Wiltshire Council's website - [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

A list of those consulted is available from this Licensing Authority on request.

It should be noted that this statement of principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.



## 2.1 Licensing Authority Functions

This Licensing Authority's approach to exercising its functions under the Gambling Act 2005 is set out in this 'Gambling Statement of Principles'. When regulating gambling, this Licensing Authority will take into consideration the interests of the public using guidance from the Gambling Commission and taking into account the three licensing objectives, when carrying out its licensing functions:-

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

The Gambling Act 2005 will not be used by this Licensing Authority to resolve matters that can be dealt with by alternative legislation.

This Licensing Authority will not take into account demand, need or moral objections for gambling when considering applications submitted to them; however layout, size and the location of a premises are factors that will be considered, along with the style of operation. Applications will all be assessed on an individual basis.

Gambling is a complex issue and this Licensing Authority has identified the following points in order to carry out its role accurately. These are:-

- Gambling is defined in the Gambling Act 2005 as either gaming, betting, or taking part in a lottery;
- Gaming means playing a game of chance for a prize;
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event, the likelihood of anything occurring or not occurring, or whether anything is true or not;
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

Licensing Authorities are required under the Gambling Act 2005 to:-

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate Members' Clubs and Miners' Welfare Institutes who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant Permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres;
- Receive notifications from Alcohol Licensed Premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;

- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register Small Society Lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and Endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued;
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that this Licensing Authority will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

The National Lottery is regulated by the National Lottery Commission.

This Licensing Authority's functions under the Gambling Act 2005 will be carried out by the Licensing Committee, the Licensing Sub-Committee, and/or Officers acting under the delegated authority of the Licensing Committee.

## **2.2 Responsible Authorities**

This Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Gambling Act 2005 to designate, in writing, a body which is competent to advise the Licensing Authority about the protection of children from harm.

The principles are:-

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

In accordance with the suggestion in the Gambling Commission's Guidance for Local Authorities, this Licensing Authority designates the Children's Services Department of Wiltshire Council for this purpose.

Responsible Authorities will be notified by this Licensing Authority of all premises licence applications. The Responsible Authorities are permitted to make representations in relation to premises applications.

The contact details of all the Responsible Authorities under the Gambling Act 2005 will be available via Wiltshire Council's website - [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

## 2.3 Interested Parties

Interested Parties can make representations for or in respect of licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as:-

- a) a person or persons who lives sufficiently close to the premises and is likely to be affected by the authorised activities,
- b) a business or businesses whose interests might be affected by the authorised activities, or
- c) an individual or group who represents persons who satisfy paragraph (a) or (b).

This Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an Interested Party. The principles are:-

- Each case will be decided upon its merits;
- This Licensing Authority will not apply a rigid rule to its decision making;
- It will consider the examples of considerations provided in the Gambling Commission's Guidance for Local Authorities at 8.14 and 8.15;
- It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

The Gambling Commission recommended in its guidance that the Licensing Authority states that Interested Parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission Guidance for local authorities 8.17). This Licensing Authority will not generally view these bodies as Interested Parties unless they can demonstrate they have been requested by one of their members who can be classed as an interested person under the terms of the Gambling Act 2005, i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested Parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the Ward likely to be affected. Likewise, Parish Councils likely to be affected will be considered to be Interested Parties. Other than these however, this Licensing Authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons requesting the representation is sufficient.

Individuals are encouraged to approach the local Councillor or Council to ask them to represent their views.

## **2.4 Exchange of Information**

Licensing Authorities are required to include in their statement of principles how they will exercise their functions under section 29 and 30 of the Gambling Act 2005 with respect to the exchange of information between them and the Gambling Commission.

In addition, under section 350 of the Gambling Act 2005, the exchange of information between the Licensing Authority and other persons is set out in Schedule 6 to the Gambling Act 2005.

The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened.

This Licensing Authority will have regard to the guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Those wishing to make a representation will be informed that their details will be forwarded to the applicants, in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000, in order to allow negotiation between the parties. If a hearing is held it should be noted that their details will form part of the public document.

The Licensing Authority will work closely with the Gambling Commission, Wiltshire Police and with the other Responsible Authorities where there is a need to exchange information on specific premises.

## **2.5 Fees**

Licence fees are set within the prescribed maximum levels in accordance with 'The Gambling (Premises Licence) Fees (England and Wales) Regulations'. Fees for permits and other services will be as set by the Secretary of State.

Information concerning the fees charged by Wiltshire Council for premises licence applications, permits and other permissions will be made available to the public via Wiltshire Council's website – [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

This Licensing Authority considers non-payment of annual fees seriously and, in accordance with Paragraph 193 of the Gambling Act 2005, where the Premises Licence Holder fails to pay the annual fee, this Licensing Authority will revoke the licence. This will be disappplied if the Licensing Officers considers that a failure to pay is attributable to administrative error. In relation to permits, this Licensing Authority will cancel the permit if the permit holder fails to pay the annual fee due.

## **2.6 Declaration**

In producing the final statement of principles, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

### 3.0 Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, Licensing Authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005. The licensing objectives are:-

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

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

The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. This Licensing Authority is aware that it falls to the Gambling Commission to ensure the suitability of an operator before issuing an operating licence. However, this Licensing Authority will bring to the attention of the Gambling Commission any information that is brought to its attention, during the course of processing a premises licence application or at any other time, which could question the appropriateness of an applicant.

Where an area has known high levels of crime this Licensing Authority will consider carefully whether gambling premises are suitable to be located there. If there are concerns over a premises location, in order to prevent that premises from becoming a source of crime, certain conditions could be considered by this Licensing Authority to be attached to the licence. These could include door supervisors or CCTV etc.

#### **3.2 Ensuring the gambling is conducted in a fair and open way**

The Gambling Commission is concerned to ensure that not only is gambling fair in the way it is played, but also that the rules are transparent to players and they know what to expect. It achieves this by working to ensure that:-

- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry;
- easily understandable information is made available by operators to players about, for example, the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted;
- the rules are fair;
- advertising is not misleading;
- the results of events and competitions on which commercial gambling takes place are made public;
- machines, equipment and software used to produce the outcome of games meet standards set by the Gambling Commission and operate as advertised.

The Gambling Commission would not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way. This is

because this will usually be concerned with either the management of the gambling business (and therefore subject to the operating licence), or the suitability and actions of an individual (and therefore subject to a personal licence). These permissions both fall within the remit of the Gambling Commission.

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

The Gambling Act 2005 is intended to ensure that children and vulnerable persons should not be allowed to gamble and should be prohibited from entering those gambling premises which are adult-only environments.

This licensing objective refers to protecting children from being ‘harmed or exploited by gambling’; meaning that they should be prevented from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children, with the exception of Category D gaming machines.

It does not however seek to disallow particular groups of adults from gambling in the same way that it does children. The Gambling Commission has not sought to define ‘vulnerable persons’, but it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.

This Licensing Authority will consider this licensing objective on a case by case basis. In order to protect vulnerable persons, this Licensing Authority will consider whether any special considerations apply to a particular premises. These considerations could include self barring schemes or providing information in the form of leaflets or helpline information from relevant organisations.

### **3.4 Social Responsibilities (Comes into force on 6<sup>th</sup> April 2016)**

#### **3.4 (a) Assessing Local Risk**

**All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.**

- 1** Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority’s statement of licensing policy.
- 2** Licensees must review (and update as necessary) their local risk assessments:
  - a** to take account of significant changes in local circumstances, including those identified in a licensing authority’s statement of licensing policy;
  - b** when there are significant changes at a licensee’s premises that may affect their mitigation of local risks;

- c when applying for a variation of a premises licence; and
- d in any case, undertake a local risk assessment when applying for a new premises licence.

#### 3.4 (b) Sharing Local Risk Assessments

**All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non- remote general betting (limited) and betting intermediary licences**

- 1 Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.



## 4.0 Premises Licences

A Premises is defined in the Gambling Act 2005 as “any place”. It is possible for a single building to be subject to more than one premises license, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. The Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). There will be specific issues that this Licensing Authority will consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Gambling Act 2005. In addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Gambling Act 2005.

This Licensing Authority will take specific care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular applicants should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.

The following factors will be taken into consideration by this Licensing Authority when looking at premises licence applications, the Local Authority will be mindful of the type of gambling application submitted and consider each on a case by case basis:-

- Premises location including its immediacy to local schools; children’s centres or centre’s used by vulnerable persons; residential areas that have a high populations of children and vulnerable persons; and areas of deprivation where children and vulnerable persons reside;
- Premises layout and design;
- Installation of security features, such as CCTV or location of cash registers and safes;
- Staff training in all areas that are appropriate to the promotion of the licensing objectives;
- Policies and procedures for age verification;
- Possibility of crime and disorder associated with a licence being granted at a given premises.
- Local Risk Assessment for premises (coming into force April 2016).

An individual is responsible for their own gambling; however this Licensing Authority wishes to stress that although it acknowledges this, it also recognises that the applicant/operator has a “duty of care” to patrons.

#### **4.1 Adult Gaming Centres**

As no one under the age of 18 is permitted to enter an Adult Gaming Centre, this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It will expect the applicant to satisfy this Licensing Authority that there will be sufficient measures to meet the licensing objectives and comply with all mandatory conditions and the Gambling Commission Codes of Practice, for example, ensure that under 18 year olds do not have access to the premises.

This Licensing Authority may consider measures to meet the licensing objectives. The list below is not mandatory, nor exhaustive, and is merely indicative of example measures:-

- Proof of age schemes;
- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare;
- Data sharing e.g. the number of self-exclusions and underage attempts to gamble;
- Operators actively participate in safety and security schemes such as Bet Watch.

Where Adult Gaming Centres are located in a Motorway Service Station this Licensing Authority will pay particular attention to entry points and how an operator will control these entry points to safeguard children who are using the site and therefore may be able to gain access to gambling.

#### **4.2 Betting Premises**

Betting is defined by the Gambling Act 2005 as the making or accepting of a bet on the outcome of a race, competition or other event or process; the likelihood of anything occurring or not occurring; or whether anything is or is not true.

A transaction may still be a bet despite the fact the race, competition or event has already taken place and one party to the transaction knows the outcome.

The most common form of betting is ‘fixed odds betting’ whereby the customer bets a stake to win a fixed amount calculated by the odds available.

## **4.2 (a) Betting Machines**

This Licensing Authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children (it is an offence for those under 18 to bet) and vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

This Licensing Authority reserves the right to limit the number of machines if there has been evidence to suggest that they have in the past, or are likely to be in the future, used in breach of the licensing objectives.

## **4.2 (b) Tracks**

*(Defined as: a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place)*

This Licensing Authority is aware that tracks differ greatly from other premises and may be subject to one or more than one premises licence. The Track Operator themselves may not be required to hold an operating licence, this may be due to the fact that the individual bookmakers at the track will be required to hold their own operating licences.

This Licensing Authority will especially consider the impact upon the protection of children and vulnerable persons from being harmed or exploited by gambling. The need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that children will be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided. This Licensing Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities.

It is expected from this Licensing Authority that individual applicants will offer measures to meet the licensing objectives. This list is not mandatory, nor exhaustive, and is merely indicative of example measures:-

- Proof of age schemes;
- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare;

- Data sharing e.g. the number of self-exclusions and underage attempts to gamble;
- Operators actively participate in safety and security schemes such as Bet Watch.

It may be appropriate for the applicant to provide the following to support an application and to assist this Licensing Authority to fully understand the application they have submitted:-

- Proof that measures are in place to promote the third licensing objective and to guarantee compliance;
- Specify what proposals have been made to administrate betting (it would be recommended that specific areas are set aside for this function)
- Detailed plan of the track and grounds which identify;
  - any fixed betting facilities;
  - areas that will be specifically used by 'on course' operators on race days;
  - the location of any gaming machines;
  - any temporary structures that will offer betting facilities;
  - mobile betting facilities and other proposed gambling facilities that are not already marked.

Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

#### **4.2 (c) Conditions on rules being displayed**

The Gambling Commission has advised in its Guidance for Local Authorities that "...Licensing Authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

#### **4.2 (d) Betting Machines and Tracks**

This Licensing Authority will expect the track operator to ensure that their premises complies with all the legislation set out in the Gambling Act 2005 to prevent children from using machines at tracks. Children are allowed to play Category D machines at tracks; however this Licensing Authority will be looking at the location of any adult gaming machines throughout the track premises, in order to guarantee that they are situated where children would be excluded.

Each application will be decided upon on a case by case basis, as due to the size and nature of a track premises there are significant problems with the potential abundance of machines that could be located. This Licensing Authority may look to moderate the number of machines or change the location of machines in order to meet the licensing objective which protects children from harm.

### **4.3 Bingo**

Bingo does not have a statutory definition in the Gambling Act 2005, however there are two types of bingo most frequently played, cash bingo and prize bingo.

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted this Licensing Authority will ensure that:-

- no more than 8 category B3 or B4 machines are provided in the premises;
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

The Licensing Authority is aware that there is no restriction on the number of category C or D machines that can be on a premises.

Records may be checked by this Licensing Authority if they suspect a Licensee or Club is exceeding the turnover limit required in a 7-day period. Where appropriate the Gambling Commission will be consulted.

Bingo permitted on Alcohol Licensed Premises needs to be low level bingo. There is an expectation that information issued by the Gambling Commission will be complied with by the applicant; record keeping being a specific area of compliance.

'High level' bingo will require a Bingo Operating Licence.

When looking at the suitability and layout of a bingo premises the Licensing Authority will take into consideration guidance issued by the Gambling Commission.

### **4.4 Casinos**

This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

Casino premises licences will have conditions attached by this Licensing Authority in accordance with the Gambling Commission's Guidance outlined in paragraph 9 and their Licence Conditions and Codes of Practice.

#### 4.5 Licensed Family Entertainment Centres

There are two classes of Family Entertainment Centres (FEC); Licensed and Unlicensed. Licensed Family Entertainment Centres require a premises licence and can provide Category C and D machines. Whereas, Unlicensed FECs provide Category D machines only and are regulated through FEC Gaming Machine Permits (See permit section for further details).

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. This list is not mandatory, nor exhaustive, and is merely indicative of example measures:-

- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-barring schemes;
- Self exclusion scheme;
- Provision of information leaflets/helpline numbers for organisations such as GamCare;
- Measures/training for staff on how to deal with suspected truant school children on the premises;
- Data sharing e.g. the number of self-exclusions and underage attempts to gamble;
- Operators actively participate in safety and security schemes such as Bet Watch.

Clear separation between machines is needed in Licensed Family Entertainment Centres to make certain that children are not permitted access.

This Licensing Authority will refer to the Gambling Commission's website to ensure that up to date conditions are applied in relation to the way in which the area containing the category C machines should be defined. This will include any mandatory or default conditions.

There is an expectation from this Licensing Authority that all applicants of Licensed Family Entertainment Centres will meet the licensing objectives, comply with the Codes of Practice issued by the Gambling Commission as well as all relevant mandatory conditions.

## 5.0 Permits

The Gambling Act 2005 introduces a range of permits for gambling. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. A Licensing Authority may only grant or reject an application for a permit and cannot impose or attach any conditions.

### 5.1 Alcohol Licensed Premises Gaming Machine Permits

There is provision in the Gambling Act 2005 for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises licence holder is required to notify the Licensing Authority by completing the requisite application form and paying the prescribed fee. A new notification needs to be submitted after every transfer of premises licence holder.

The Designated Premises Supervisor is responsible for the supervision of gaming and there needs to be compliance with the Gambling Commissions code of practice.

The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:-

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act 2005;
- the premises are mainly used for gaming; or
- an offence under the Gambling Act 2005 has been committed on the premises.

If a premises wishes to have more than 2 gaming machines, then it needs to apply for a permit and this Licensing Authority must consider each application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This Licensing Authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling. It will be expected of the applicant to satisfy this Licensing Authority that there will be sufficient measures put in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy this Licensing Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. The presence of notices and signage may also help. In relation to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a gambling premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that this Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit must comply with any code of practice issued by the Gambling Commission about the location and operation of the machine.

## **5.2 Club Gaming and Club Machines Permits**

Members' Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

The Gambling Commission Guidance states: "Members Clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A Members' Club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include Working Men's Clubs, branches of Royal British Legion and clubs with political affiliations."

The Gambling Commission Guidance also notes that Licensing Authorities may only refuse an application on the grounds that:-

- (a) the applicant does not fulfil the requirements for a members' or Commercial Club or Miners' Welfare Institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young person's;
- (c) an offence under the Gambling Act 2005 or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Gambling Commission or the Police.

There is also a 'fast-track' procedure available under the Gambling Act 2005 for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for Local Authorities states:- "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the ground upon



which an Authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:-

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

There are statutory conditions on club gaming permits that the holder must comply with regarding the code of practice concerning the location and operation of gaming machines to ensure that no child uses a category B or C machine on the premises.

Commercial clubs can only apply for Club Machine Permits and are expected to abide by the codes of practice from the Gambling Commission and with the Secretary of State's statutory stakes and prize limits.

### **5.3 Prize Gaming Permits**

The Gambling Act 2005 states that a Licensing Authority may "prepare a statement of principles that they propose to apply in exercising their functions under this Schedule" which "may, in particular, specify matters that the Licensing Authority proposes to consider in determining the suitability of the applicant for a permit".

This Licensing Authority has prepared a statement of principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:-

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.

In making its decision on an application for this permit this Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

Further information may be sought from an applicant who applies for a prize gaming permit, such as:-

- the location of the machines along with any notices that may be positioned throughout the premises on a scaled plan (1:100);
- confirmation that the limits of stakes and prizes comply with the regulations and the law and that staff are knowledgeable of the limits and stakes;
- age verification scheme;
- confirmation that Fire Safety and Health and Safety legislation has been complied with by the applicant;
- information regarding opening times for the premises;
- details of number of staff employed;

- evidence of public liability insurance documents;
- other policies or procedures in place to promote safeguarding of children and vulnerable persons from harm;
- commitment to enable data sharing e.g. the number of self-exclusions and underage attempts to gamble.

It should be noted that there are mandatory requirements in the Gambling Act 2005 which the permit holder must comply with. The Licensing Authority cannot attach conditions. The conditions in the Gambling Act 2005 are:-

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

If this Licensing Authority intends to refuse an application for a prize gaming permit they will inform the applicant in writing and allow the applicant to make a representation against the decision.

#### **5.4 Unlicensed Family Entertainment Centre**

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to this Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

The Gambling Act 2005 states that a Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications.

Safeguarding children will be a principal concern to this Licensing Authority when dealing with Unlicensed Family Entertainment Centres. Before granting a permit to an applicant for an Unlicensed Family Entertainment Centre this Licensing Authority will need to be satisfied that the premises will be used as such.

Applicants wishing to apply for a permit will need to show:-

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (these that are set out in Schedule 7 of the Gambling Act 2005; and

- that staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

#### **5.4 (a) Statement of Principles**

Additional information will be requested from this Licensing Authority when a permit is applied for by an applicant, such as:-

- the location of any cash machines and category D machines along with any notices that may be positioned throughout the premises on a scaled plan (1:100);
- information regarding the number of category D machines (space between machines needs to be considered for public safety);
- confirmation that applicants are aware of the limits of stakes and prizes that comply with the regulations and the law;
- proof of staff training that will be undertaken and records kept, covering how staff would deal with unsupervised young children being on the premises or children causing perceived problems on or around the premises or suspected truant school children on the premises;
- demonstrate that policies or procedures in place to promote safeguarding of children from harm, in this instance the harm does not refer solely to harm from gambling but also to include harm from any child protection issues;
- confirmation that Fire Safety and Health and Safety legislation has been complied with by the applicant;
- information regarding opening times for the premises and the appearance of the premises externally;
- details of the number of staff employed;
- evidence of public liability insurance documents,
- commitment to data sharing e.g. the number of self-exclusions etc.

Renewals of Unlicensed Family Entertainment Centres are not subject to this statement of principles.

An application may be refused by this Licensing Authority if the applicant is unable to meet the requirements. If it is the intention of this Licensing Authority to refuse the application the applicant will be notified in writing setting out the reasons why.

Should the application be refused applicants have the right to appeal against the Licensing Authority's decision of refusal.

Refusals of a renewal application will occur if the premises has refused access to an Authorised Authority Officer without reasonable excuse; or by in renewing the permit it would have a detriment to the licensing objectives, principally non-compliance issues.

Unless a permit lapses or is surrendered it can remain for 10 years.

#### **5.4 (b) Statement of Principles relating to Direct Access between Adult Gaming Centres and Un/Licensed Family Entertainment Centres**

Applicants must consider the protection of children and other vulnerable persons from being harmed or exploited by gambling; therefore they must ensure that children do not have 'direct access' to adult premises and are not attracted to adult only areas.

There is no definition of 'direct access' therefore this Licensing Authority will look at each application on a case by case basis with regards to access. It may be preferable that there is an area that separates the premises from other areas that the public use for purposes other than gambling, so there is no direct access.

The principles below can be applied:-

- Partitions should be permanently fixed between premises and should not be transparent;
- A gaming/skills with prizes machine or any other machine should not form the partition or any part of the partition;
- Minimum height for partitions should be 1.75 metres and a maximum of 0.15 metres from the floor.

If legislation offers further definitions of either 'direct access' or 'separation' this Licensing Authority will recognise that.

## 6.0 Small Society Lotteries

It is illegal to run a Lottery that does not fit into one of the categories permitted by the law contained in the Gambling Act 2005. There are two categories that they can fall into; Licensed Lotteries that require an operating licence from the Gambling Commission and Exempt Lotteries which require registration with the Licensing Authority. There are further Exempt Lotteries that do not require registration with the Licensing Authority, but are still subject to regulations laid out in the Gambling Act 2005.

A Lottery is a form of gambling that has three essential elements; a payment is required to participate; one or more prizes are awarded; and those prizes are awarded by chance.

Small Society Lotteries are Lotteries promoted for the benefit of a Non-Commercial Society. Such Societies are organisations that have distinct aims and objectives and meet the definition of a Non-Commercial Society set out in the Gambling Act 2005.

For a Society to be Non-Commercial it needs to be established and conducted:-

- for charitable purposes;
- for the purpose of enabling participation in, or of supporting, sport, athletics, or a cultural activity;
- and for any other Non-Commercial purpose other than that of private gain.

Types of Lottery that **require** permission:-

- Small Society Lotteries – the Society in question must be set up for Non-Commercial purposes. There is a top limit of £20,000 in tickets sales.
- Large Society Lotteries – similar to the Small Society Lottery, but there is a minimum of £20,000 in ticket sales.
- Licensing Authority Lotteries – run by the Licensing Authority, to help with any expenditure it normally incurs.

Types of Lottery that **do not require** permission;

- Private Society Lotteries – any group or Society except those set up for gambling. The proceeds of the Lottery must go to the purposes of the Society.
- Work Lotteries – these can only be run and played by colleagues at a particular place of work. This type of Lottery cannot make a profit, and so is unsuitable for fundraising.
- Residents' Lotteries – these can only be run and played by people living at a particular address. This type of Lottery cannot make a profit, and so is unsuitable for fundraising.
- Customer Lotteries – these can only be run by a business, at its own premises and for its own customers. No prize can be more than £50 in value. This type of Lottery cannot make a profit, and so is unsuitable for fundraising.

- Incidental Non-Commercial Lotteries – these are held at Non-Commercial events, such as school fetes etc. All the sales and the draw must take place during the main event, which may last more than a single day. Prizes cannot total more than £500.

*These limits and definitions are correct as of the date of publication of this document, however they may be subject to change in the future by Government Legislation and any amendments to these definitions or limits will be corrected in the appendices of this policy.*

Those wishing to run a Lottery may wish to seek independent legal advice to clarify which type of Lottery category their Lottery will fall into.

### **6.1 Rules of Small Society Lotteries**

For a Society to run a Small Society Lottery, no more than £20,000 worth of tickets can be put on sale for each Lottery and the accumulative total in proceeds from the lotteries cannot surpass £250,000 in a year. The Society must register with the Licensing Authority. If the Society is approaching its yearly limit and believes that it will be exceeded by the end of the year it is responsible for applying to the Gambling Commission for a licence before it exceeds the limit.

If a Society has registered with the Licensing Authority and wishes to sell tickets for a lottery by means of remote communication (internet, telephone etc.) the Gambling Commission does not require them to hold a remote gambling licence.

Even those Small Societies who's Lotteries fall below the staking and prize levels that would require them to have an operating licence are still required to register with the Licensing Authority.

This Licensing Authority will take into consideration the Guidance set out by the Gambling Commission when exercising its functions with regard to Small Society and Exempt Lotteries.

Participants of a Lottery should be a minimum of 16 years of age, it would be an offence if anyone younger was permitted to enter a Lottery; therefore those Societies whom are licensed need to have written policies and procedures that state how they are going to manage their Lotteries and therefore prevent cases of under-age play.

### **6.2 Proceeds and Prizes**

There is no maximum price for a lottery ticket.

Rollovers are allowed providing the maximum single prize limit is not breached.

A Small Society Lottery must apply a minimum of 20% of the gross proceeds of each Lottery directly to the purposes of the Society. Up to a maximum of 80% of the gross proceeds of each Lottery may be divided between prizes and the expenses of the Lottery. The maximum prize in a single Lottery is £25,000 in the case of a Small Society Lottery.

### **6.3 Policy**

This Licensing Authority will keep a register of all applications for Small Society Lotteries and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority.

An application will be refused by this Licensing Authority if:-

- an applicant has held an operating licence that has been revoked in the preceding 5 years;
- or they have applied for registration of an operating licence in the preceding 5 years that has been refused.

This Licensing Authority will seek advice from the Gambling Commission if they are unsure about a refusal of an application.

Applications may also be refused by this Licensing Authority if they are of the opinion that:-

- The applicant is not a Non-Commercial Society;
- A person who will or may be connected with the promotion of the Lottery has been convicted of a relevant offence; or
- Information provided in or with the application for registration is false or misleading.
- Previous lottery returns have not been provided as required.

When applicants apply to this Licensing Authority, they will need to inform the Licensing Authority the purpose in which the Society was originally established and the Society will need to declare that they represent a bona fide Non-Commercial Society and have no relevant convictions. Further information may be sought from a Society by this Licensing Authority.

When an application is going to be refused the Society will have an opportunity to make a representation against the decision. This Licensing Authority will notify the Society of the reasons for the refusal in writing.

If this Licensing Authority is of the opinion that the Lottery registration of a Society needs to be revoked, due to a reason that they would refuse the application if it were being made at the time, they will inform the Society in writing. They will outline the evidence that has led to the decision being reached to allow the Society the opportunity to make a representation.

### **6.4 Social Responsibility**

Lotteries are a form of gambling and therefore it is the responsibility of the Society running the Lottery to make sure that children and vulnerable people are not exploited by their Lottery.

## 7.0 Temporary/Occasional Use Notices

### 7.1 Temporary Use Notices

Under Part 9 of the Gambling Act 2005 a Temporary Use Notice allows the use of a premises for gambling where there is no premises licence, but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.

A Temporary Use Notice may only be granted to a person or company holding a relevant operating licence and there are a number of statutory limits as regards Temporary Use Notices. Regulations state that Temporary Use Notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.

Section 218 of the Gambling Act 2005 refers to a 'set of premises' and provides that a set of premises is the subject of a Temporary Use Notice if 'any part' of the premises is the subject of a notice. This is not the same as the references to 'premises' in Part 8 of the Gambling Act 2005. The reference to 'a set of premises' prevents one large premises from having a Temporary Use Notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock.

In considering whether a place falls within the definition of 'a set of premises', Licensing Authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.

The maximum period by which a "set of premises" may be the subject of a Temporary Use Notice is 21 days within a period of 12 months. A set of premises may be the subject of more than one Temporary Use Notice in a period of twelve months provided the maximum aggregate for which the Temporary Use Notices have effect does not exceed 21 days.

If this Licensing Authority feels that Temporary Use Notices are resulting in allowing regular gambling to take place in a place that could be described as one set of premises, it will object.

Acknowledgement to the applicant will be made by this Licensing Authority when they are in receipt of a Temporary Use Notice.

### 7.2 Occasional Use Notices

Section 39 of the Gambling Act 2005 provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an Occasional Use Notice without the need for a full premises licence. Licensing Authorities and track operators and occupiers should note that the processes set out in the Gambling Act 2005 for applying for an Occasional Use Notice are different to those for Temporary Use Notices.



While tracks are normally thought of as permanent racecourses, this Licensing Authority would note that the meaning of ‘track’ in the Gambling Act 2005 covers not just horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place, or is intended to take place.

This means that land which has a number of uses, one of which fulfils the definition of track, can qualify for the Occasional Use Notice provisions (for example agricultural land upon which a point-to-point meeting takes place). Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

This Licensing Authority will, however, consider what constitutes a ‘track’ on a case-by-case basis and will keep a record of the number of notices served to ensure that the statutory limit of 8 days in a calendar year is not exceeded.

### **7.3 Travelling Fairs**

The Gambling Act 2005 defines a travelling fair as “wholly or principally” providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit to provide gaming machines, but must comply with the legal requirements about the way the machine operates.

It will fall to this Licensing Authority to decide:

- whether the applicant falls within the statutory definition of a travelling fair
- whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met
- and whether category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs in this county.

It should be noted that the 27-day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## 8.0 Decision Making

### 8.1 Representations

Licensing Authority Officers will make the decision as to whether representations received for applications are irrelevant, frivolous or vexatious. For a representation to be relevant it needs to relate to one of the three licensing objectives and be made by a Responsible Authority or Interested Party.

Representations made in relation to demand or competition will not be accepted as relevant, moral objections to gambling will also not be accepted. Representations will not be considered relevant if the issues raised can be dealt with by other legislation.

If it is the case that a representation is rejected then the person who made the representation will be informed in writing that it will not be considered.

Those wishing to make a representation against an application are encouraged to do so as soon as possible in order to allow time for both parties to mediate and come to an amicable resolution. This could involve the voluntary agreement of the applicant to place conditions on their licence.

The decision of the Licensing Authority Officer that the representation is not accepted cannot be appealed against.

### 8.2 Conditions

Any conditions attached to licences will be proportionate and will be:-

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as a way in which the licensing objectives can be met effectively.

If there is a breach of licence conditions these will be dealt with by enforcement action (see Inspection and Enforcement section for further details).

### **8.3 Door Supervisors**

The Gambling Commission advises in its Guidance for Local Authorities that Licensing Authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. Where operators and Licensing Authorities decide that supervision of entrances/machines is appropriate for particular cases, it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

### **8.4 Delegated Powers**

Licensing Authority Officers will be responsible for issuing licences and permits for applications where no representations were received; and when representations were received but it was agreed upon by all parties that it would be unnecessary for a hearing to take place. Licensing Authority Officers will also be responsible for determining whether a Licensing Sub-Committee is needed to decide upon applications and representations for reviews of premises licences or permits.

For those instances where representations have been made by an Interested Party and/or a Responsible Authority a hearing will be arranged and a Licensing Sub-Committee will sit to determine the outcome of the application. The Licensing Sub-Committee will be made up of three Councillors. Councillors from the same area as the application will not be able to sit on that Licensing Sub-Committee for that hearing.

The decision of the Licensing Sub-Committee will be sent to the applicant and all of those who had made a relevant representation. The decision will be clear, concise and include the reasons for the decision.

### **8.5 Provisional Statements**

Section 204 of the Gambling Act 2005 provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:-

- Expects to be constructed
- Expects to be altered; or
- Expects to acquire a right to occupy

Provisional statements are dealt with in the same way as premises licence applications. Representations may be made by Responsible Authorities and Interested Parties, and there is a right to appeal.

An application for a provisional statement differs from an application for a premises licence in as much as those applying for a provisional statement do not have to fulfil the same criteria as those applying for a premises licence. In order to apply for a premises licence the applicant must hold or have applied for an operating licence from the Gambling Commission (except in the case of a track), and they must have

the right to occupy the premises. These criteria do not have to be in place at the time of submitting a provisional statement application.

As a provisional statement can be applied for without the applicant having the right to occupy the premises this Licensing Authority can accept more than one provisional statement for a premises.

When a provisional statement has been granted, this Licensing Authority is restricted by what it can consider when the premises licence application is submitted for the same premises. In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from Responsible Authorities or Interested Parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, this Local Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:-

- which could not have been raised by objectors at the provisional licence stage; or
- which, in the authority's opinion, reflect a change in the operator's circumstances;
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and this Licensing Authority will discuss any concerns they have with the applicant before making a decision.

## 9.0 Inspection and Enforcement

### 9.1 Enforcement

The Gambling Commission will be the enforcement body for operating and personal licences along with illegal gambling. The Licensing Authority will take the lead in ensuring compliance with licences/permits and any relevant Gambling Commission Codes of Practice.

This Licensing Authority will be guided by the Gambling Commission's Guidance for Local Authorities when it comes to enforcement action they will take against premises. The action will be:-

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

### 9.2 Inspection

This Licensing Authority aims to inspect premises on a risk based approach to secure compliance with the Gambling Act 2005, the Gambling Commissions Code of Practice and the licensing objectives.

Authorised Officers will have the discretion as to the frequency of inspections and which premises require an inspection while gambling activities are taking place. Where appropriate joint visits will take place encompassing a number of relevant agencies.

Inspections may be carried out on Temporary Use Notices and Occasional Use Notices to ensure that the licensing objectives are being promoted.

This Licensing Authority will inspect those premises that are a higher risk or have a history of complaints more frequently than those premises with lower perceived risks.

### 9.3 Complaints

Wiltshire Council as the Licensing Authority will investigate all complaints received related to gambling activities and will have regard for the licensing objectives when addressing any complaints. Licensing Authority Officers will refer complaints to or liaise with other relevant agencies/council services as appropriate in order to get complaints addressed.

## 9.4 Reviews

The Gambling Act 2005 sets out the arrangements to enable a review of a premises licence where it is alleged that the licensing objectives are not being promoted.

Requests for a review of a premises licence can be made by Interested Parties or Responsible Authorities; however, it is for the Licensing Authority to decide whether the application for review is accepted. Consideration will be made as to whether the request:-

- is frivolous, vexatious or
- will certainly not cause this authority to wish alter/revoke/suspend the licence, or
- whether it is substantially the same as previous representations or requests for review.
- 

This will be on the basis of whether the request for the review is relevant to the matters listed below:-

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this Licensing Authority's Gambling statement of principles

When a valid representation against a premises or a valid application for a licence to be reviewed has been received by this Licensing Authority from an Interested Party; this Licensing Authority may arrange for a meeting between the Interested Party and Licence Holder in order to try to reach an appeasement in relation to the issues raised. This may not always be appropriate and therefore the Licensing Officer may deem a hearing by the Licensing Sub-Committee necessary.

This Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

In a hearing to determine an application for a licence or consider a review application, the overriding principle adopted by this Licensing Authority is that each application will be considered on its own individual merits. Licence conditions applied at such a hearing will be tailored to the individual premises and activities and only those necessary to meet the licensing objectives will be applied.

Upon review of a premises licence, this Licensing Authority must, having regard to the application for review and any relevant representations, take such steps as it considers necessary for the promotion of the licensing objectives. Such steps might be:-

- the modification of the conditions of the licence;
- the exclusion of a licensable activity from the scope of the licence;
- the removal of the designated premises supervisor;
- the suspension of the licence for a period not exceeding three months;
- the revocation of the licence.

## Appendix A – Table of Delegations of Licensing Functions

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Licensing Committee or Licensing Sub Committee</b>	<b>Officers</b>
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X



Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as whether a representation is frivolous, vexatious or repetitive			X

## Appendix B – Responsible Authorities

These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- Gambling Commission
- Police
- Fire Service
- Local Planning Authority
- Environmental Health
- HM Revenue and Customs

In relation to a vessel;

- a Navigation Authority,
- the Environment Agency,
- the British Waterways Board,
- the Secretary of State.

A Licensing Authority in whose area the premises is situated that is, the Council itself and also any adjoining Council where premises straddle the boundaries between the two.

A body designated in writing that is competent to advise the Authority in matters relating to the protection of children from harm: Wiltshire Children's Services Department.

## Appendix C – Useful Contacts

Gamble Aware  
[www.gambleaware.co.uk](http://www.gambleaware.co.uk)

GamCare  
Head Office  
2nd Floor  
7-11 St John's Hill  
London  
SW11 1TR

Main switchboard: 020 7801 7000  
Fax: 020 7801 7033  
Email: [info@gamcare.org.uk](mailto:info@gamcare.org.uk)

Freephone: 0808 8020 133

<http://www.gamcare.org.uk/about-us>

Domestic Abuse  
<https://www.victimsupport.org.uk/help-victims/ive-been-affected/domestic-abuse>

Womens Aid  
<http://www.womensaid.org.uk/>

Gamblers Anonymous UK  
<http://www.gamblersanonymous.org.uk/>

Samaritans  
<http://www.samaritans.org/>

Debt Advice

Step Change  
<http://www.stepchange.org/Howwecanhelpyou/Debtadvice.aspx>

Citizens Advice Beureau  
[http://www.adviceguide.org.uk/wales/debt\\_w/debt\\_help\\_with\\_debt\\_e.htm](http://www.adviceguide.org.uk/wales/debt_w/debt_help_with_debt_e.htm)

National Debt Line  
<https://www.nationaldebtline.org/>

Gov.uk  
<https://www.gov.uk/options-for-paying-off-your-debts/overview>

Money Advice Service  
<https://www.moneyadviceservice.org.uk/en/tools/debt-advice-locator>

### Further Information

The Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

**Fax:** 0121 230 6720

**Telephone:** 0121 230 6666

**Email:** [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

**Business opening hours:** 9am to 5pm, Monday to Friday

<http://www.gamblingcommission.gov.uk/Home.aspx>

The Licensing Authority  
Wiltshire Council  
Monkton Park  
Chippenham  
Wiltshire  
SN15 1ER

[publicprotectionnorth@wiltshire.gov.uk](mailto:publicprotectionnorth@wiltshire.gov.uk)

[www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

Department for Culture, Media and Sport

<https://www.gov.uk/government/organisations/department-for-culture-media-sport/about>