

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005)
Date of Meeting:	19 June 2018
Subject:	Application for Grant of a Premises Licence: Witcombe Cider Festival
Report of:	Peter Tonge, Head of Community Services
Corporate Lead:	Robert Weaver, Deputy Chief Executive
Lead Member:	Cllr J R Mason, Lead Member for Clean and Green Environment
Number of Appendices:	8

Executive Summary:

An application has been received for grant of a premises licence under Section 17 of the Licensing Act 2003 in respect of Witcombe Cider Festival.

Representations have been received from residents and responsible authorities on grounds that they believe one or more of the licensing objectives will be compromised if the event goes ahead.

Recommendation:

That the Sub-Committee determine the application.

Reasons for Recommendation:

The Sub-Committee is required, in accordance with Section 18, of the Licensing Act 2003, to determine the application taking such steps as it considers necessary for the promotion of the licensing objectives.

Resource Implications:

If any party to the hearing were successful in appealing any decision taken by the Sub-Committee at a Magistrates Court, the licensing authority may be liable to having costs awarded against them.

Legal Implications:

Decision Making

Members are required to determine the application with a view to promoting the licensing objectives. Members must only impose those conditions that are deemed to be necessary and proportionate to promote the licensing objectives.

Rights of Appeal

- (i) In accordance with the provisions of Part 1 of Schedule 5 of the Act, where a licensing authority rejects in whole or in part, an application for grant or variation of a premises licence, the applicant may appeal against the decision, to a Magistrates' Court within 21 days of being notified of the decision.
- (ii) Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted, or that different or additional conditions should have been imposed on the licence, he may appeal against the decision to the Magistrates' Court within 21 days of being notified of the decision.

Human Rights

The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. Decisions on licensing matters are actions of a public authority and must be compatible with Convention rights. Consequently Members of the Panel must be aware of the rights contained in the Convention (particularly those set out below) when making licensing decisions.

In particular Members should conduct the hearing in a fair and proper manner (Article 6: Right to a Fair Trial) and in accordance with the relevant hearing regulations. Members should also consider any decision in light of Article 8: Right to Respect for Private and Family Life, Article 10: Freedom of Expression, Article 14: Prohibition of Discrimination and Article 1 of the First Protocol: Protection of Property.

Rights under the Human Rights convention can only be breached where it is necessary and proportionate to do so.

Other legal implications are as set out elsewhere in the report.

Risk Management Implications:

None

Performance Management Follow-up:

The decision of the Sub-Committee and details of rights of appeal will need to be notified to all parties. If the application is granted, a licence will be prepared and issued.

Environmental Implications:

Noise pollution, waste and recycling.

1.0 INTRODUCTION/BACKGROUND

1.1 The Licensing Act 2003 (the Act) allows applicants to apply for a premises licence or a variation of a premises licence at any time. In this case, an application for a new premises licence was received on 3 May 2018 from Mr Joseph Pointon in respect of Witcombe Cider Festival, Fields Adjacent to the M5 motorway, 250m south of Pressmead Farm, Brockworth Road, Churchdown, GL3 4RA. . The application was advertised as per the requirements of the Licensing Act 2003. A copy of the Application is attached as **Appendix 1**. A copy of the Public Notice is attached as **Appendix 2**.

1.2 A plan showing the original layout of the site is attached as **Appendix 3**. This plan has been changed slightly following discussions at the Safety Advisory Group (SAG) which met on the 14 May and 4 June 2018. The changes will be included in an updated plan (**Appendix 4**).

2.0 THE APPLICATION

2.1 Licensable activities and hours applied for a maximum of three days per year and in accordance with the table below.

Live Music or similar activity Amplified and Unamplified Music, Outdoor Music Will Cease at 23:00hrs	Friday	09:00 to 00:00
	Saturday	00:00 to 01:00, 09:00 to 00:00
	Sunday	00:00 to 00:01, 09:00 to 00:00
	Monday	00:00 to 01:00
Recorded Music or similar activity Recorded Music Will be Played Between Live Music Performances. Outdoor Music Will Cease at 23:00hrs.	Friday	09:00 to 00:00
	Saturday	00:00 to 01:00, 09:00 to 00:00
	Sunday	00:00 to 01:00, 09:00 to 00:00
	Monday	00:00-01:00
Performance of dance or similar activity	Friday	09:00 to 00:00
	Saturday	00:00 to 01:00, 09:00 to 00:00
	Sunday	00:00 to 01:00, 09:00 to 00:00
	Monday	00:00-01:00
Late Night refreshment	Friday	23:00 to 00:00
	Saturday	00:00 to 02:00, 23:00 to 00:00
	Sunday	00:00 to 02:00, 23:00 to 00:00
	Monday	00:00 to 02:00, 23:00 to 00:00
Supply of Alcohol	Friday	09:00 to 00:00
	Saturday	00:00 to 01:00, 09:00 to 00:00
	Sunday	00:00 to 01:00, 09:00 to 00:00
	Monday	00:00-01:00

Hours premises open to Public	Friday	09:00 to 00:00
	Saturday	00:00 to 02:00, 09:00 to 00:00
	Sunday	00:00 to 02:00, 09:00 to 00:00
	Monday	00:00 to 02:00

2.2 Promotion of the Licensing Objectives

The application states that the following steps shall be taken to promote the licensing objectives (*presented as written*):

2.2.1 General

A wide range of measures are in place to ensure that the four licensing objectives are promoted at this festival. In addition to the below-listed conditions, many more preventative measures are contained within the Event Operating Schedule, Event Safety Plan, Risk Assessments, Health & Safety Plan, Sound Management Plan, Safeguarding Plan and Traffic Management Plan.

2.2.2 Core Conditions

1. Licensing activities can only take place under the authority of the premises licence on a maximum of two occasions each calendar year (that being one event per year, plus one contingency weekend that needs to be used in the event of unforeseen circumstances in relation to the main event), and cannot be carried out on more than three consecutive days on any one occasion, i.e. when the site is open to members of the public. For the avoidance of doubt, this does not include the setting-up and taking-down of the event.
2. All responsible authorities shall be notified at least 28 days before the licensable activities can take place under the authority of this premises licence.
3. In addition to the responsible authorities, all residents who live within a 1/4 mile (400 metre) radius shall be given at least 28 days' notice of the event.
4. The licensing authority and other responsible authorities shall be afforded full access to the site for the purpose of any inspection.
5. Event road signs shall be provided and erected by the AA (or equivalent provider) in the 24-48 hours preceding the event. In addition, early warning signs (to be placed no less than a week before the event) shall also be supplied and erected by the provider.

2.2.3 The Prevention of Crime and Disorder

1. Non-alcoholic/low-alcohol drinks will be promoted during the event, especially to designated drivers.
2. SIA-badged security staff and stewards shall be employed to control the whole site. Security staff shall carry out searches on entry, and monitor the bars and crowds. Any person deemed to be drunk or whose conduct falls below the required standard shall be warned by security staff and shall be escorted from the site if necessary.
3. Between the hours of 09:00 and 20:00 on event days, there shall be no less than 30 security officers on site.
4. Between the hours of 20:00 and closing-time on event days, the number of security officers shall be maintained at a minimum ratio of 1 security officer to 75 patrons.
5. Security officers shall remain on site (or in the immediate vicinity) until it is fully cleared of patrons. Thereafter, an overnight security presence shall be maintained.
6. A mobile security presence shall be operated. Between 09:00 and 20:00 mobile patrols shall be carried out from time-to-time along Brockworth Road and Court Road. Between the hours of 20:00 and closing-time, mobile patrols shall be carried out at least twice-per-hour and shall continue until such time as those who have attended the festival have dispersed.
7. A CCTV system shall be installed at the security checkpoint on the site in order to record images of patrons attending the event. Recordings shall be retained for a minimum of two weeks and shall be made available to the statutory authorities on request in the event of problems occurring.
8. A number of buses shall be employed to provide a picking-up service to transport attendees to the festival site.
9. Buses shall also be employed to transport patrons away from the festival site at the end of each day. A minimum of eight buses shall operate from 21:00 to closing-time on Saturday and Sunday evenings. A minimum of four buses shall operate on Friday evening from 21:00 to closing-time.
10. Stewards shall oversee the transport facilities and shall encourage customers heading towards the exit to make use of the available buses.
11. Security staff shall travel on the buses to maintain good order.
12. In order to encourage a gradual dispersal of patrons, a one-hour drinking-up time shall be implemented following closure of the bars, during which time food and drinking-water shall remain available.

2.2.4 Public Safety

1. SIA-badged personnel, supported by a team of stewards, shall perform duties including crowd management, parking, marshalling traffic on the site, monitoring entrances and exits, fire prevention, and generally assisting members of the public.
2. A first-aid station shall be present on site throughout the event, staffed by medically trained staff.
3. Drinks shall not be served in glass containers.
4. Searches shall be conducted of patrons entering the site. Attendees shall not be permitted to bring weapons, drugs, glassware or alcohol into the festival.
5. In order to ensure the safe movement of traffic onto and off the site, the following arrangements shall be in place:
 - a. The licence holder shall produce a Traffic Management Plan for the event and shall take all reasonable steps to ensure that vehicles waiting to enter the site do not create queues of traffic on Brockworth Road.
 - b. 'SLOW' signs shall be positioned on Brockworth Road, 200 metres each side of the entrances to the site.
 - c. Stewards in high-visibility clothing shall be positioned alongside entrances and exits when vehicles are moving onto or off the site at all times the festival is in operation.
 - d. Floodlighting shall be used to illuminate the section of Brockworth Road alongside the site, so as to enhance visibility for motorists during the hours of darkness.
6. A final Event Operating Schedule, Event Safety Plan and Traffic Management Plan shall be submitted to the Council and Police at least six weeks in advance of the event
7. The access route for vehicles entering the site shall be clearly marked by means of posts and tape.
8. The organiser shall assess the firmness of all vehicle routes prior to and during the festival and will install trackway as necessary to permit emergency vehicles access to the main stage area at the rear of the site.

2.2.5 The Prevention of Public Nuisance

1. The festival field shall be protected by the use of heras fencing as necessary, and shall be regularly monitored by stewards/security.
2. A fabric covering shall be attached to the heras fencing, where appropriate, so as to provide privacy.
3. A mobile phone shall be held by the Event Manager or deputy at all times the event is open to the public. This mobile shall be kept in working order at all times and the number shall be made available in advance to the licensing authority, emergency services and residents within a half-mile radius.
4. Music in the open air shall cease by 23:00 at the latest.
5. On days when music is taking place outdoors, Music Noise Levels (MNLs) shall be monitored at such intervals and from such locations as have been agreed in writing with an Environmental Health Officer from Tewkesbury Borough Council.
6. Control limits set at the mixer position shall be adequate to ensure that a maximum MNL of 65dB LAeq (15 minutes) measured at one metre from the façade of noise sensitive properties shall be achieved between the hours of 09:00 to 23:00.

7. In the case of music taking place indoors on the site, and occurring after 23:00, such source sounds shall be virtually not audible or discernible. 'Virtually not audible or discernible' shall be interpreted as the noise being barely audible and discernible at the façade of any noise-sensitive dwelling and, as a consequence, would be inaudible within that dwelling. This will be determined by an Environmental Health Officer employed by, or authorised by, the licensing authority.
8. The premises licence holder will facilitate a follow-up meeting within one month following the last day of the event, to which the Parish Council and interested parties shall be invited.

2.2.6 The Protection of Children from Harm

1. A safeguarding policy shall be implemented to protect children and vulnerable adults.
2. Under 18's shall not be permitted entry to (or exit from) the site unless accompanied by an adult.
3. Under 18's shall be issued with identifiable wristbands.
4. Parents shall be encouraged to have their mobile number written onto wristbands issued to young children, to facilitate children being reunited with their parents should they get lost.
5. The 'Challenge 25' scheme shall be adopted, so that any customer attempting to purchase alcohol (or drink tokens) who appears to be under the age of 25 shall be asked for an accredited photographic proof-of-age (e.g. passport, photo driving licence, or a PASS-approved card) and a sale shall not be made unless this evidence is produced.
6. A 'Lost Child' point will be provided alongside the First Aid facility.
7. Any person who attempts to purchase alcohol for under-18's, or supplies it to under 18's, shall be warned by security staff and shall be escorted off the site if necessary.
8. Marshals and security staff shall be instructed to be on the look-out, during their patrols, for any underage persons consuming alcohol, and shall confiscate any alcohol from persons under the age of 18.
9. A wide range of soft drinks shall be on sale at various locations around the site.

3.0 CONSULTATION

3.1 Responsible Authorities

- 3.1.1 One responsible authority made a representation: Gloucestershire Constabulary. This representation is attached as **Appendix 5**.

3.2 Other Persons

- 3.2.1 14 valid representations have been received from members of the public; two representations support the application and 12 representations object to the application. These representations are shown in **Appendix 6**.
- 3.2.2 The 14 Other Persons have been given notice of the hearing in accordance with the Licensing Act (Hearings) Regulations 2005.

4.0 ADDITIONAL INFORMATION

- 4.1** The applicant has submitted additional information over and above that contained in the original application, by way of a representation to support the application. This information is attached as **Appendix 7**.

5.0 LOCAL POLICY CONSIDERATIONS

- 5.1** Tewkesbury Borough Council is a licensing authority under this Act and is responsible for the licensing of 'licensable activities'. The licensable activities that are required to be licensed under the Act are as follows:

- the sale by retail of alcohol,
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- the provision of regulated entertainment, and
- the provision of late night refreshment.

- 5.2** The Act is underpinned by four objectives:

- i) the prevention of crime and disorder;
- ii) public safety;
- iii) the prevention of public nuisance; and,
- iv) the protection of children from harm.

The licensing authority must promote these objectives in carrying out its functions.

- 5.3** The Council's adopted Licensing Policy Statement, **attached at Appendix 8**, includes the following:

- 5.3.1** Each objective is of equal importance and the licensing authority's policy relating to each of them is given in this Licensing Policy. These objectives are the only matters to be taken into account in determining an application. The licensing authority will consider attaching conditions to licences to promote the policy objectives as appropriate, but only to achieve the licensing objectives and only if representations are made.

- 5.3.2** The objective of the licensing process is for a unified system of regulation to allow the sale and supply of alcohol, and the provision of regulated entertainment and late night refreshment, to be carried out in a way that ensures public safety but is not to the detriment of residents and does not give rise to the loss of amenity. The licensing authority's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents. To this end, terms and conditions attached to the various permissions granted under the Act will be focused on matters within the control of the individual licensees and others granted relevant permissions.

- 5.3.3** Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. As a matter of policy, however, the licensing authority expects every holder of a licence, certificate or permission to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises. The licensing authority will seek to work with all parties to support and promote the licensing objectives. The licensing authority will only apply terms and conditions to licences that act to promote and support the licensing objectives and are relevant to the individual circumstances of the case. Although the licensing authority may use standardised conditions and forms of wording to cover commonly arising situations and circumstances, “blanket conditions” will not be applied to licenses and specific conditions may be drawn up and applied to meet local need and circumstances. In attaching conditions to a licence, the licensing authority may seek to attach one or more conditions drawn from the pool of conditions contained in Annex D of the Guidance to the ‘Act’. The licensing authority will always seek to ensure that any conditions applied to a licence are necessary, proportionate and reasonable. Conditions will not be used that duplicate any other legal requirements falling on an employer or operator of premises.
- 5.3.4** The licensing authority expects that any conditions that are necessary will, in the first instance, be identifiable from an applicant’s risk assessment. Risk assessments should clearly indicate the measures necessary to be undertaken to support the licensing objectives and these measures must be recorded in the operating schedule. There is no requirement to submit the risk assessments as part of the application. If conditions are to be applied these will only be so applied following a hearing of the Licensing Sub-Committee and the opportunity to make representations to the Sub-Committee has been given to all parties concerned. If the Sub-Committee is satisfied that conditions should be applied it may make such reasonable conditions in any form at its discretion.
- 5.3.5** Every application considered by the licensing authority will be considered on its own merits. The licensing authority will seek to balance the needs of the wider community, local community and commercial premises and activities, against the needs of those who may be adversely affected by the activities. The views of vocal minorities will not usually predominate over the general interests of the community. Where it is necessary to depart from the guidance, either in this policy or at any other time, the licensing authority will give clear and sound reasons for doing so.
- 5.3.6** The four licensing objectives are the only matters to be taken into consideration in determining an application.
- 5.3.7** Where the Policy refers to issues the licensing authority will expect applicants to address in their operating schedule, it also recognises that not all issues are appropriate for all sizes of premises.
- 5.4 Crime and Disorder**
- 5.4.1** Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes be a source of crime and disorder problems.
- 5.4.2** The licensing authority will expect Operating Schedules, where appropriate, to satisfactorily address these issues from the design of the premises through to the daily operation of the business.

5.4.3 Applicants are recommended to seek advice from the Council's Licensing Officers and Gloucestershire Police. In addition when planning and preparing Operating Schedules applicants are advised to take into account local planning and transport policies, tourism, cultural and crime and disorder reduction strategies as appropriate.

5.4.4 In addition to the requirements for the licensing authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it can to prevent crime and disorder in the Borough.

5.5 Public Safety

5.5.1 The licensing authority will expect Operating Schedules, where appropriate, to satisfactorily address these public safety issues. Applicants are encouraged to seek advice from the Council's Licensing Officers and the Fire Safety Section of Gloucestershire Fire and Rescue Service.

5.5.2 The Council encourages applicants for premises licences that provide regulated entertainment (or any other premises providing a licensable activity where occupant capacity may be a public safety issue) to seek advice regarding safe occupancy levels from the Fire Safety Section of Gloucestershire Fire and Rescue Service.

5.6 Public Nuisance

5.6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

5.6.2 The licensing authority is keen to protect the amenity of residents and businesses in the vicinity of licensed premises. Whether or not residents and businesses are in the vicinity of licensed premises will be a matter of fact and degree and will be determined on a case by case basis having regard to the likely impact on activities at the licensed premises on the residents and businesses concerned.

6.0 NATIONAL GUIDANCE

6.1 Statutory guidance has been issued under Section 182 of the Licensing Act 2003. The Sub-Committee must have regard to the guidance when determining this application. Below are relevant extracts for the benefit of the Sub-Committee.

6.2 Licensing Objectives and Aims

6.2.1 The legislation provides a clear focus on the promotion of four statutory objectives *which must be addressed when licensing functions are undertaken*.

The licensing objectives are:

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

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

6.2.2 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the Police and licensing authorities the powers they need to effectively manage and Police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

6.2.3 *Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent.* However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

6.3 Licence Conditions – General Principles

6.3.1 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);

- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

6.4 Each Application on its Own Merits

- 6.4.1** *Each application must be considered on its own merits and in accordance with the licensing authority's Statement of Licensing Policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned.* This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

6.5 Public Nuisance

- 6.5.1** The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 6.5.2** Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 6.5.3** Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

- 6.5.4** As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But, as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and, when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 6.5.5** Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.
- 6.5.6** Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

6.6 Crime And Disorder

- 6.6.1** Licensing authorities should look to the Police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 6.6.2** Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 6.6.3** In the context of crime and disorder and public safety, the preservation of order on premises may give rise to genuine concerns about the ability of the management team with responsibility for the maintenance of order. This may occur, for example, on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.
- 6.6.4** Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

- 6.6.5** It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

7.0 DECISION

- 7.1** The Sub-Committee must have regard to the statutory guidance issued by the Secretary of State, the Council's adopted policy statement, the representations made and the evidence it hears when determining this application. In particular, the committee must seek to promote the four licensing objectives when determining the application.
- 7.2** Members should take into consideration only those objections which relate to one or more of the licensing objectives, which are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm

Members should disregard objections which do not relate to the licensing objectives.

- 7.3** The Sub-Committee, having regard to the all of the above, must take such steps as it considers appropriate for the promotion of the licensing objectives which can include:
- Granting the application as requested;
 - Modifying the conditions of the licence; or
 - Rejecting all or part of the application.

- 7.4** If the application is granted whole or in part, relevant mandatory conditions will be included in the premises licence under Section 19 and 19A of the Licensing Act 2003.

8.0 RELEVANT COUNCIL POLICIES/STRATEGIES

- 8.1** The Council's Statement of Licensing Policy.

9.0 RELEVANT GOVERNMENT POLICIES

- 9.1** Statutory Guidance under Section 182 of the Licensing Act 2003.

10.0 RESOURCE IMPLICATIONS (Human/Property)

- 10.1** None

11.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

- 11.1** None

12.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

12.1 No adverse impacts have been identified
The Legal Implications section refers to Human Rights implications

13.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

13.1 None

Background Papers: Guidance Issued Under Section 182 of the Licensing Act 2003
Tewkesbury Borough Council Statement of Licensing Policy

Contact Officer: Pete Tonge, Head of Community Services
01684 272259 Peter.Tonge@tewkesbury.gov.uk

Appendices:

- Appendix 1 - Full Application & Covering Letter
- Appendix 2 - Public Notice
- Appendix 3 - Initial Plan
- Appendix 4 - Amended Plan – *To follow*
- Appendix 5 - Representation from Responsible Authority
- Appendix 6 - Representation from Other Persons
- Appendix 7 - Representation from Applicant
- Appendix 8 - Statement of Licensing Policy