

30 January 2018

| | |
|------------------------|---------------------------|
| Committee | Licensing |
| Date | Thursday, 8 February 2018 |
| Time of Meeting | 2:30 pm |
| Venue | Committee Room 1 |

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

| |
|---------------|
| Agenda |
|---------------|

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.



| Item | Page(s) |
|--|---------|
| 3. DECLARATIONS OF INTEREST | |
| <p>Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.</p> | |
| 4. MINUTES | 1 - 26 |
| <p>To approve the Minutes of the Licensing Committee meeting held on 15 June 2017, the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) meeting held on 25 July 2017 and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 21 July, 26 October and 16 November 2017.</p> | |
| 5. REVIEW OF STREET TRADING POLICY | 27 - 53 |
| <p>To approve the minor amendment to the Street Trading Policy.</p> | |
| 6. LICENSING AUDIT ACTION PLAN | 54 - 67 |
| <p>To consider the action plan to address the issues identified in the licensing internal audit.</p> | |
| 7. SEPARATE BUSINESS | |
| <p>The Chairman will move the adoption of the following resolution:</p> <p>That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p> | |
| 8. SEPARATE MINUTES | 68 - 76 |
| <p>To approve the separate Minutes of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 21 July, 26 October and 16 November 2017.</p> | |

DATE OF NEXT MEETING
THURSDAY, 14 JUNE 2018

COUNCILLORS CONSTITUTING COMMITTEE

Councillors: K J Berry, G F Blackwell, G J Bocking, J E Day, A J Evans, R Furolo, R E Garnham (Chair), P A Godwin, J Greening (Vice-Chair), R M Hatton, A Hollaway, A S Reece, H A E Turbyfield, M J Williams and P N Workman

Substitution Arrangements

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

Recording of Meetings

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chair will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Thursday, 15 June 2017 commencing at
2:30 pm**

Present:

Chair
Vice Chair

Councillor R E Garnham
Councillor Mrs J Greening

and Councillors:

Mrs K J Berry, Mrs G F Blackwell, G J Bocking, Mrs J E Day, A J Evans, R Furolo,
Mrs P A Godwin, Mrs R M Hatton, Mrs A Hollaway, A S Reece, H A E Turbyfield, M J Williams
and P N Workman

LIC.3 ANNOUNCEMENTS

3.1 The evacuation procedure, as noted on the Agenda, was taken as read.

LIC.4 DECLARATIONS OF INTEREST

4.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

4.2 There were no declarations of interest made on this occasion.

LIC.5 MINUTES

5.1 The Minutes of the Licensing Committee meetings held on 13 October 2016 and 16 May 2017 and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Drivers, Vehicles and Operators) meetings held on 17 October 2016, 15 December 2016, 23 January 2017, 24 January 2017 and 7 March 2017, copies of which had been circulated, were approved as correct records and signed by the Chair.

LIC.6 REVIEW OF HACKNEY CARRIAGE TARIFF

6.1 The report of the Licensing and Systems Officer, circulated at Pages No. 13-17, asked Members to conduct the annual review of the hackney carriage tariff. It was recommended that the current tariff be renewed until 31 July 2018.

6.2 Members were informed of an error at Paragraph 5.1 of the report which should have read 'All licensed proprietors of hackney carriages were contacted in March ~~2016~~ **2017** inviting them to make suggestions...'.
'

- 6.3 The current tariffs were attached at Appendix A to the report and had come into effect on 18 July 2014. The Licensing and Systems Officer confirmed that there had been no significant changes in the last 12 months which would affect the tariff and no complaints from members of the public. All licensed proprietors and drivers of hackney carriages in the Borough had been contacted and invited to make suggestions regarding the amendment of the current tariff; only one response had been received which had asked that the Council take account of inflation when setting the tariff. In that regard Members were advised that the consumer price index, the Government's target measure of inflation, was at 2.3% in April 2017.
- 6.4 A Member noted that the number of hackney carriage drivers had fallen from four to three in the last year and, as no requests had been made to increase the charges, he felt they should remain as they were. Another Member queried why Cheltenham and Gloucester had three rates for mileage whereas Tewkesbury only had two. In response, the Licensing and Systems Officer explained that the third tariff was for Christmas Eve, Christmas Day and New Year's Day which were particularly busy times in those larger towns. As Tewkesbury did not have the same number of hackney carriages, the tariff was kept as simple as possible.
- 6.5 Having considered the information provided, it was
RESOLVED That the current hackney carriage tariff be renewed until 31 July 2018.

LIC.7 SEPARATE BUSINESS

- 7.1 On a proposal from the Chair, it was
RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

LIC.8 SEPARATE MINUTES

- 8.1 The separate Minutes of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 17 October 2016, 15 December 2016, 23 January 2017, 24 January 2017 and 7 March 2017, copies of which had been circulated, were approved as correct records and signed by the Chair.

The meeting closed at 2:40 pm

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) held at the Council Offices, Gloucester Road, Tewkesbury on Tuesday, 25 July 2017 commencing at 2:30 pm

Present:

Chair

Councillor R E Garnham

and Councillors:

Mrs G F Blackwell and Mrs J Greening

LSB/A.1 ELECTION OF CHAIR

1.1 It was proposed, seconded and

RESOLVED That Councillor R E Garnham be appointed as Chair for the meeting.

LSB/A.2 ANNOUNCEMENTS

2.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LSB/A.3 DECLARATIONS OF INTEREST

3.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

3.2 There were no declarations made on this occasion.

LSB/A.4 APPLICATION FOR A PREMISES LICENCE - WITCOMBE CIDER FESTIVAL, PAINSWICK ROAD, BROCKWORTH

4.1 The report of the Licensing and Systems Officer, circulated at Pages No. 1-69, outlined an application for a premises licence in respect of Witcombe Cider Festival, Part Parcel 6568, Painswick Road, Brockworth. The Licensing Sub-Committee was asked to determine the application, taking such steps, if any, as it considered necessary for the promotion of the licensing objectives.

4.2 The Chair asked all parties present to identify themselves and explained the procedure that would be followed by the Sub-Committee. He advised that the Sub-Committee had visited the application site on Monday 24 July 2017 in order to familiarise themselves with the area and he clarified that this was purely a fact-finding exercise with no questions or debate and no opinions had been expressed by the Panel Members. The Licensing and Systems Officer explained that the applicant had applied for a premises licence under Section 17 of the Licensing Act 2003 in respect of Witcombe Cider Festival, Part Parcel 6568, Painswick Road, Brockworth. The application had been received by the licensing authority on 7 June 2017 and was attached at Appendix 1 to the report. A plan of the premises was set

out at Appendix B to the report with the covering letter at Appendix C.

- 4.3 The application had been advertised in accordance with the requirements of the Licensing Act 2003 and during the 28 day consultation period 34 valid representations had been received from members of the public, attached at Appendix E to the report. In addition, representations had been received from three responsible authorities - Gloucestershire Constabulary, Tewkesbury Borough Council's Environmental Health department and Gloucestershire Fire and Rescue Service - and these were shown at Appendix D to the report. Since the publication of the Sub-Committee papers, Gloucestershire Fire and Rescue Service had agreed four conditions with the applicant and subsequently withdrawn its representation, provided that the conditions formed part of the premises licence, if granted: the organiser would ensure that the main access point was no less than 4.5metres wide; the access route for vehicles would be clearly marked by means of posts and tape; the alternative means of escape in the south-west corner of the festival site would remain accessible at all times and be permanently staffed when the festival was open to the public; and the organiser would assess the firmness of all vehicle routes prior to, and during, the festival and would install trackway if necessary. Additional evidence had been submitted by Gloucestershire Constabulary after the consultation period had ended and therefore this was not part of the report; it was for the Sub-Committee to decide whether to accept that submission. The premises had a current and valid licence which was shown at Appendix D to the report and it was stressed that any decision made by the Sub-Committee would have no bearing on the current licence.
- 4.4 The Sub-Committee was reminded of its obligation to determine the application with a view to promoting the licensing objectives of the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. In making its decision, regard must be had to the statutory guidance and the Council's own Licensing Policy, as well as the representations made and the evidence provided at the meeting. The Sub-Committee was advised that it could grant the application as requested; modify the conditions and/or timings of the licensable activities; or reject the application in whole or part. If the application was granted in whole or part, relevant mandatory conditions would be included in the premises licence under Section 19 and 19A of the Licensing Act 2003. The Licensing and Systems Officer drew particular attention to Page No. 3, Paragraph 2.1 of the report and indicated that the hours which the premises was open to the public should read: ~~Monday to~~ Friday 16:00 to 00:30 and Saturday, ~~and~~ Sunday ~~and Monday~~ 09:00 to 00:30.
- 4.5 With regard to the submission from Gloucestershire Constabulary that had been received after the close of the consultation, the Chair clarified that the Sub-Committee had decided it should not be taken into consideration on the basis that it was a late submission and it was clearly a significant amount to read. Gloucestershire Constabulary could make verbal representations in relation to the information and expand upon the points made in its submission but the Sub-Committee did not intend to go through the document.
- 4.6 As there were no questions for the Licensing and Systems Officer, the Chair invited the representatives from Gloucestershire Constabulary to present their case as one of the responsible authorities. The Head of Legal Services at Gloucestershire Constabulary explained that the application before the Sub-Committee was different from those which had been dealt with historically. The covering letter submitted with the application, attached at Appendix 2 to the report, made clear the intention to increase the capacity of the event up to 3,000 patrons and to extend the duration of the event; the suitability of both of these were disputed by the Police. If the event was as it had been previously, with a capacity of 1,500 and over two consecutive days, the Police may have had some representations but they would not have been substantive. In their view, the cider festival should be a modest village event and

the increase in the number of attendees being sought was a significant problem. Whilst some reference had been made to the Monday, it was intended that the festival would now run for three days from Friday to Sunday, with 1,500 patrons on Friday and 3,000 patrons on both Saturday and Sunday, meaning the total number of potential patrons over the event would be 7,500. Furthermore, there would be a maximum of 500 support staff and performers in attendance for the three days – another 1,500 people. The Police felt that this was significant and wished to advise the Sub-Committee of the appropriate and proportionate steps to take to preserve the health and safety of those attending. There was also a responsibility to the local residents, many of whom had submitted representations which were included in the report. He noted the quality of the representations provided by persons in the vicinity of the event and he wished to adopt the representations No. 14-33 within Appendix E on behalf of Gloucestershire Constabulary. He indicated that the residential nature of the location and the venue itself were not suitable for an event of this size; the character of the event was inappropriate for the location and appeared to have changed from a local cider festival to something more akin to a music festival; and the evidence from local residents pointed to trespassing, damage, nuisance, noise, crime and disorder, and disruption which would be exacerbated by an event with twice as many people attending. There were various other factors to take into account including the fact that the festival would take place over the August Bank Holiday weekend and extending its duration would give no respite to local residents. Repeated issues over a number of days would impact significantly on those living in close proximity to the premises. In terms of capacity, it was understood that the applicant had considered a lesser figure of 2,500 at some stage, so the rationale behind the intention to increase this to 3,000 patrons was unclear, and it was questionable whether the area was physically able to cater for that number of people. Furthermore, the application had made reference to children being admitted for free with a paid adult ticket and there were questions around how this would be controlled and whether they would be included in the figures. Gloucestershire Constabulary also had serious concerns as to the proximity of the premises site to the A46 which was a major thoroughfare. There would potentially be 3,000 patrons vacating the premises late at night and directly onto the 'A' road and, whilst he recognised there was some planning in terms of locating stewards along the roadway, whether this was actually feasible, and they had the power to prevent people entering the roadway or adjacent premises, was a real concern. He alluded to the plans for buses to collect people from the festival site but felt it was unclear whether this would be adequate or sufficient on a Bank Holiday and whether it would lead to queuing. He clarified that there would be no Police presence on the site for the duration of the festival. In summary, he stressed that the Police did not object to the cider festival per se and there was no issue with the applicant; however, it was considered that this was not the right venue for an event of the size proposed and the expansion of the duration and capacity was significant. Whilst the applicant's attempt to deal with matters through the operating schedule was laudable, the fundamental issue of the proximity of the site to residential dwellings and the inappropriateness of the site for an event of this size was not discussed and could not be addressed by condition.

- 4.7 The Head of Crime Prevention and Licensing at Gloucestershire Constabulary indicated that the applicant had failed to provide a plan in accordance with the conditions of the existing licence. The Legal Adviser explained that revised guidance under Section 182 of the Licensing Act 2003 had been introduced in April 2017 and Paragraph 8.34 of that guidance set out that plans, for written and electronic applications, would not be required to be submitted in any particular scale, provided that they were in a format which was "clear and legible in all material respects", i.e. they must be accessible and provide sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. There was no requirement for plans to be

professionally drawn as long as they clearly showed all the prescribed information. The Chair confirmed that the plan provided by the applicant met the regulations and was sufficient for determining the application. The Head of Crime Prevention and Licensing at Gloucestershire Constabulary went on to advise that Gloucestershire Constabulary dealt with approximately 200 licensed events each year and the Witcombe Cider Festival was the only one that had been taken to a review and where there were serious safety concerns in respect of the location. The applicant had disengaged with the Police, failing to respond to various emails, and had not produced the monthly bulletin for local residents, which had been recommended by the Sub-Committee at the review hearing in May 2014, or given the residents of Painswick Road 28 days' notice of the event as required by the current licence. Furthermore, there had been no engagement with the Parish Council. A now retired Police Constable had attended the last event in 2016 and had witnessed drunk people walking in the road, urinating in hedges and gathering in large groups on the petrol station forecourt with the two or three stewards in the vicinity doing nothing to address this. This bore no resemblance to what had been promised by the applicant and Gloucestershire Constabulary's concern was not the event itself but the way in which people left the site and the potential danger this could cause to themselves and others. There were other concerns aside from the public safety element and he indicated that advertisements for the event stated that it had been attended by 5,000 people in 2016 yet the existing licence was for 1,500, similarly, it was also being advertised as a three day event but the current licence was for two days. He made reference to 15 incidents connected to the event and pointed out that this was more than any other licensed event in the county, including the much larger 2,000 Trees Festival and Gloucestershire Beer Festival.

- 4.8 A Member questioned when the Police Constable had provided the statement on the 2016 event and the Head of Crime Prevention and Licensing at Gloucestershire Constabulary advised that he had noted it in his pocket book; when asked for information on the event, he had sent an email, dated 6 April 2017, setting out his experience. The Member went on to query whether the 15 incidents were recorded crimes and clarification was provided that two offences had been given crime numbers, one in respect of a lost mobile telephone and another in relation to an assault.
- 4.9 In stating her case, the Tewkesbury Borough Council Interim Environmental Health Manager drew attention to Page No. 37 of the report which set out the representation from the Environmental Health department. This indicated that the noise monitoring data historically provided by the applicant had been insufficient and did not allow Officers to establish compliance with noise conditions. The applicant was therefore requested to provide a more detailed noise management plan which would set out the noise monitoring locations; the duration and pattern of the noise monitoring; details of the equipment used, including calibration details; and the credentials of the person undertaking the monitoring who must be considered competent to perform acoustic measurements. She made particular reference to the fact that, if the festival was to become a four day event as applied for, it would be subject to the Noise Council Code of Practice and she stressed that there was a significant difference between how music noise levels were measured for a three day event compared to a four day event, notably that live and recorded music from an outdoor event should be non-existent after 2300 hours. In response to a query, the Tewkesbury Borough Council Interim Environmental Health Manager indicated that she understood the applicant had been made aware of this prior to the meeting. A Member questioned what action the licensing authority would take in the event that a noise complaint was received whilst the event was taking place. She explained that Tewkesbury Borough Council did not have an "on-call" Environmental Health service and was reliant on the monitoring information provided by the acoustic consultant. Officers worked closely with the event organiser in the lead up

to the event so they would be aware of the noise level which could be achieved without breaching the conditions of the licence and could control this at the event. A Member questioned how important it was for the person undertaking the monitoring to have a degree of independence and was advised that this was extremely important as they would have full responsibility for checking the levels and ensuring they did not exceed what had been agreed. Clarification was provided that monitoring took place one metre from the façade of the nearest noise-sensitive premises.

- 4.10 The Chair invited the applicant to ask questions of the responsible authorities. The Licensing Barrister sought clarification as to whether Gloucestershire Constabulary would always have raised an objection to an application seeking an increase in attendees and this was confirmed by the Head of Crime Prevention and Licensing at Gloucestershire Constabulary. The Licensing Barrister understood that there had been four incidents at the event in 2016, which he believed was an incredibly low number; of those, one had been identified as domestic abuse due to a family dispute, the second had related to a group of rowdy youths at the Co-Op which had not been assessed as a crime, the third had occurred at the Twelve Bells Public House which was 0.5 miles from the festival site and could not be attributed to the event; and, the final incident was the lost mobile phone that had been referenced by the Head of Crime Prevention and Licensing at Gloucestershire Constabulary earlier in the meeting. The Licensing Barrister went on to question whether the crime and disorder level had increased since the licence had been reviewed in 2014 and the Head of Crime Prevention and Licensing at Gloucestershire Constabulary accepted that it had not increased as the Police had anticipated.
- 4.11 The Licensing Barrister went on to seek clarification from Tewkesbury Borough Council's Interim Environmental Health Manager on the noise monitoring process that had been agreed and whether the person who had been appointed to carry this out had discussed these requirements with the Environmental Health Team. She confirmed that this was the case; however, the measurements had not been undertaken at the correct time intervals. Unfortunately, she was new to the authority and was not able to confirm whether this had been taken up with the applicant at any of the debriefings. The Licensing Barrister advised that it was his understanding that it had not been and the applicant was under the impression that the Environmental Health department was happy with the monitoring that had been carried out.
- 4.12 The Chair invited the other parties who had attended the Sub-Committee to make representations. A local resident indicated that he lived within 60 metres of the festival site and had attended the festival since it had started. He had four children ranging in age from three to 19 and had attended the festival in the afternoon with them, returning later in the evening with his wife. In his personal experience he had found the festival to be very family-friendly, despite being apprehensive beforehand. The atmosphere was also very friendly both during the day and at night. There had been a notable high security presence in 2016 which had initially been quite intimidating but, having left and returned to the festival on three occasions, he recognised the importance of the stewards lining the route. Speaking from his own experience, he had not witnessed any untoward acts of violence or trouble and there had been no dangerous or excessive car parking in the estates around the site which could be an issue as in the case of the Cheese Roll - an illegal event in Brockworth attracting over 10,000 people. He indicated that there had been a few empty cans in the bus stop and the music could be heard from outside his property but not when he was inside. The music stopped precisely at 2245 hours, however, concerns had been raised last year about the noise from the fairground rides which had related to their positioning and had been addressed during the course of the event. In his view, the cider festival was a well-attended community event which attracted a lot of people from Brockworth and the surrounding villages and it was

professionally organised with an appropriate level of security. He had not experienced any issues to date and saw no reason why the attendance should not be increased.

- 4.13 A local resident indicated that his house overlooked the field where the festival was held and he had a very different impression to the previous speaker. The majority of people had to disperse past his property and this could be very intimidating for him and his neighbours. In his opinion, it was an unsafe location for the event - the A46 was a dangerous road which saw a number of accidents each year - and the applicant had not complied with the safety aspects of his current licence. The festival caused him a great deal of inconvenience and he experienced anxiety, both in the lead up to the event and during the event itself, so much so that he now tried not to be there whilst the event was taking place. If he did stay at his property he had to deal with the light and noise impact - although the music stopped at the prescribed times, noise did not due to the dispersal of the crowds and the generators of the fairground rides – and if he went away he worried about whether his property would be safe. Whilst he did have a steward on his front drive this was only for the duration of the festival. He had reluctantly come to accept the festival in its current guise and had fought to mitigate the anti-social behaviour that had occurred in previous years such as urinating in driveways etc. but the new application to extend the duration and the number of people was a step too far. He pointed out that meetings should have been held with local residents throughout the year to update them on the plans but only one had taken place. He felt that the applicant contradicted himself and created an atmosphere of mistrust. He saw no need for the festival to run for an extra two days, which would further inconvenience normal life for local residents, and he pointed out that the Council's own guidance referred to the Article 8 of the Human Rights Act which stated that everyone had the right to respect for their family life and home.
- 4.14 A local resident sought clarification as to what a "SAG" meeting involved. The Licensing and Systems Officer explained that this was the Safety Advisory Group which was a forum for the responsible authorities and the event organisers to discuss the event management plan and any particular issues. He confirmed that one SAG meeting had been held to date and another was planned for 27 July; it had been considered prudent to wait to have the meeting after the Sub-Committee as this would have an impact on the plan which would be discussed. He stressed that the SAG had no legal value and was separate from the licensing process so was not part of the application or the proceedings at this meeting. The local resident thanked the Licensing and Systems Officer for his explanation. In expressing his view, he felt that security at the event was well managed by Simms Security Solutions; however, the stewards had no jurisdiction on the main road. Another local resident indicated that she had learnt to live with the event, which had improved over the years, and she echoed the sentiments about the security company employed to oversee the event. Notwithstanding this, she felt that two days was enough and the thought of having to endure the festival for an additional two days was unbearable. She was also anxious on dispersal, particularly as people congregated outside her property waiting to be picked up. In the past, people had bounced on her hedge and damaged property, as well urinating on the gate, and the increase in anti-social behaviour made her feel unsafe in her home. In terms of consultation, she had received a letter from the applicant's Licensing Consultant, dated 24 April 2017, outlining the plans to increase numbers. When the applicant had visited her at the start of the year he had been considering increasing the numbers and opening on the Friday to family and friends. She had asked him on several occasions if this would be extended to members of the public and he had said no. On 4 May 2017 she had emailed the Licensing Consultant to say that she would not be able to attend any meetings due to a family bereavement but this had been misinterpreted by the applicant as not wanting to engage. In summary, she

was worried about the increase in numbers and potential anti-social behaviour and she did not welcome the impact it had on the enjoyment of her property as she had to close windows and could not sit in the garden or have grandchildren come to stay.

4.15 It was stated that local residents attending the festival, such as the man who had spoken in favour of the application, had a very different experience to those who did not wish to attend. One local resident was keen to highlight the lack of communication from the applicant - she personally had not been consulted once since the festival began despite living opposite the festival site. The funfair was a particular issue for her as the repetitive noises generated were audible above her television. This was one weekend of the year when her children could come to visit but they could not stay at her house because of the noise. She was scared to go into her garden for fear of what she might find, whether that be people urinating, her fence being broken or cars reversing in her driveway. She had not spoken up much before but felt that four days was too long and she did not have the luxury of being able to go away for the Bank Holiday weekend. Another local resident who lived adjacent to the entrance agreed that this application had gone too far and reiterated that the noise generated by the festival carried on well beyond 2300 hours when the music stopped. He had not suffered any criminal damage but did have a lot of litter thrown over his fence and had experienced people urinating in the side entrance. If the event was only for a few hours he would be more accepting but four days was completely unacceptable to him. A local resident from the same area indicated that she was not affected to the same level as others but she had to "put up" with the festival and strongly objected to the new application. In 2016, she had taken the decision to go away for the duration of the festival but the stress this had caused was considerable. Her biggest issue was the repetitive noise; not just music from the stage but music from the funfair and from the crowd being encouraged to shout and scream. The language used was very colourful and could be heard up and down the road when people were walking to and from the site and they often pushed one another and messed around. The addition of camping would encourage people to party throughout the night and she felt that would occur regardless of whether there was good security in place. Extending the licence to four days would demonstrate a lack of consideration for local residents who would have their entire Bank Holiday weekend ruined.

4.16 The Chair of Brockworth Parish Council, who was also a local resident, explained that everyone was concerned about the event being extended over four days and the number of people who would be there; the field was quite inadequate for that number on one day, let alone four. When he had attended the debriefing following the event in 2016, he had asked the Environmental Health Officer whether any noise readings had been taken during the course of the festival and had been informed that was not possible. Clearly Tewkesbury Borough Council did not have the funding or resources for Officers to attend the event and that was unsatisfactory in the Parish Council's view. If the applicant was responsible for noise monitoring, there was nothing to stop him from making up the readings which was ludicrous. The Parish Council was extremely worried about the safety of the whole area and noted that, if there was a major incident on the site, there was only one entrance/exit and 3,000 would spill out onto a road that was very busy and dangerous. As such, the Parish Council objected strongly to the proposal and had provided a written representation on that basis. He had also submitted a representation as a local resident and indicated that he could hear the music from his property, which was some way from the festival site, even with double glazing.

- 4.17 The Chair sought views from the local residents as to which element of the festival was the most problematic in terms of noise. One local resident indicated that it was variable throughout the day, depending upon the act and their popularity whilst others referred to the constant low level thump from the various bars and DJs; however, the funfair was consistently raised as a particular issue both in terms of the noises the rides generated and people screaming.
- 4.18 The applicant's Licensing Barrister indicated that the issue in respect of a four day event being subject to different noise regulations under the Noise Council Code of Practice had not been raised in writing previously but, having heard from the Council's Interim Environmental Health Manager on that matter, the applicant would be happy to reduce the application to three days i.e. Friday, Saturday and Sunday. The Chair explained that, if the application was granted by the Sub-Committee, the extant licence would still be relevant and that licence could potentially be used to hold the event on the Monday as well so the festival could still end up being four days. On that basis he questioned whether it was the applicant's intention to surrender the existing licence in the event the application was granted. The Licensing Barrister confirmed that the applicant would be happy to surrender the current licence in those circumstances to give assurance that the scenario described could not happen. He clarified that the capacity being sought was for 1,500 on Friday and 3,000 on both Saturday and Sunday.
- 4.19 The Chair invited the applicant to make his case. The Licensing Barrister requested to circulate an A3 plan which was the same as Appendix B to the report but at a larger scale and included measurements. The Chair indicated that this was appropriate and the document was circulated accordingly. The Licensing Barrister explained that the Witcombe Cider Festival was extremely professionally organised and, whilst the applicant was focused on addressing the negative aspects that had been raised through the Sub-Committee, he asked that the positives were not forgotten. It was a fantastic local event and offered a stage for local music acts as well as national performers who attracted music lovers from around the county. The festival was being promoted in that light and he hoped that the licensing authority accepted it that way. Members had heard about the capacity of the site which the applicant had operated the festival from for the past four years, having outgrown its original location. The land was owned by the applicant's family, as were a number of the adjoining fields. Food and drink was widely available at the event and included a number of local ciders which had always been a feature, although it was recognised that the music element had increased over the years. He stressed that the whole site closed at midnight with the winding down process starting at 2330 hours. There were arrangements in place for car parking and he had been told there were no issues whatsoever with parking on the site; the site could accommodate 700 cars but had never been full. On Saturday and Sunday the festival site opened at 0900 hours with music from 1000 hours; this was turned off in the open air at 2300 hours and completely at 0000 hours. The conditions of the existing licence required 20 security guards on site and five patrolling the A46 between 1800 hours and close of the event. A lot of emphasis had been placed on increasing the numbers but he pointed out that 3,000 attendees per day was still very few for a festival and was comparable with the smallest gate at Chelsea Football Club. The whole suite of conditions included in the current licence had been promoted and the covering letter submitted with this application set out a number of additional measures that would add further improvements and protections: the ratio of security would be increased to a minimum of 1 supervisor per 75 patrons in accordance with best practice; the heras fencing between the festival site and the neighbouring properties would be covered with fabric screening material to provide a higher degree of privacy and additional sound attenuation; three double decker buses and one single decker bus would be available on the site

from 2100 hours until close on Saturday and Sunday evenings - two buses on Friday - to provide dedicated transport for festival goers; bus fare would be subsidised to encourage use (£2 per person in 2017) with children under 18 travelling free; stewards would oversee the transport facilities and doorstaff would travel on the buses; the buses would serve two routes – one to Cheltenham Town Centre and one to Gloucester City Centre Bus Station; Stagecoach had agreed to monitor demand and provide additional buses at peak times; a CCTV camera would be installed at the entrance to the site to record visual images of all those attending; temporary signs would be attached to lamp-posts along the Painswick Road asking all patrons to be considerate to residents and keep noise levels low; and the overflow car park would be utilised with extra stewards deployed to this area in order to maintain good traffic flow. Importantly, there was no proposal to extend the festival terms i.e. music and entertainment would continue to cease at 2300 hours and the whole site would close at 0030 hours.

- 4.20 In addressing some of the points which had been raised, the Licensing Barrister indicated that the applicant intended to liaise closely with local residents to maintain good communications and his Licensing Consultant had many years' experience of licensing and was familiar with the Act so he would expect a professional approach. A number of representatives had attended the debrief following the festival in 2016 and the applicant had invited the Police to discuss the event in January of this year; it was through no fault of the applicant that this had not happened until June but he was not able to comment on why nothing had happened in the intervening period. He wished to point out that the cost of a standard day ticket was £30, or £50 for a weekend ticket; these were discounted for local residents to £27 and £45 respectively and there was no charge for the carers of disabled festival-goers. If this application was successful, the applicant would be able to offer free tickets to the National Star College. It was noted that approximately 50% of those attending the festival were women and a small number of families with children had attended which the applicant hoped would increase going forward. Clarification was provided that anyone under 18 had to be accompanied by an adult. Of the 378 staff currently planned for the event, the vast majority were local people and everything from the food to the stage was locally sourced. In terms of the late objection raised by Environmental Health in relation to noise monitoring, this had been carried out under the direction of the previous Environmental Health Manager and had been done year on year without challenge. If something else was required then this should be put to the applicant. The Licensing Barrister pointed out that the applicant had brought a number of other representatives who specialised in security, transport and health and safety and could address any queries in relation to those particular aspects of the application. The Licensing Barrister asked the representatives from Rugby for Heroes to give a brief outline of their involvement with the festival and Members were subsequently advised that the main focus of the charity was helping armed forces personnel with the transition to civilian life. The charity was very much reliant on goodwill and the festival offered a significant fundraising opportunity, as well as a platform for raising awareness. The festival had raised £4,500 for the charity in 2016 and aimed to raise £8,000-10,000 this year.
- 4.21 In terms of the capacity of the event, a Member sought clarification as to whether children were included within the 3,000 patrons given the incentive for them to attend for free with an adult ticket. The applicant confirmed that the application was for 3,000 patrons and 500 staff; 50 children had attended the event in 2016 which was expected to rise by 25% so 200 tickets were being set aside for that purpose. The Member understood that tickets for the event were sold in advance and he questioned how the applicant would ensure that he was not in a situation where he had to turn away local people from the event. The applicant advised that he had real-time ticket information so he knew exactly how many tickets had been sold. The Licensing Consultant confirmed that children would be monitored on the door so

that security knew how many were on site at any one time. A Member felt that the information provided regarding the close-down of the site had been unclear and sought clarification as to the timings in the current application and how it would work in practice. The Licensing Consultant explained that amplified music would finish at 2300 hours as it had in previous years. There was a small stage in the beer tent which was used by local acts with acoustic guitars and that tended to continue until the crowd dissipated as it helped with dispersal; this was very low level and would be inaudible to noise sensitive properties but the cut off for this was 2330 hours in any case. The site would be empty by 0000 hours although the licence was until 0030 hours.

- 4.22 A Member noted that the applicant had invited the Police to a meeting in January and he questioned whether the Police had responded. He also queried why this application had been made at such a late stage, having been submitted in June, less than two months before the event. The Licensing Consultant advised that a meeting had been held with the Gloucestershire Constabulary Licensing Manager in January where the plans had been outlined in terms of expanding the capacity and extending the duration. He had been open to discussion and further meetings and had undertaken to engage a SAG meeting which had not happened until five months later; he stressed that this had been set up by the Police, not the applicant. The applicant had met with the two closest neighbours to the site in January and April and the Licensing Consultant had been involved in email conversations with them and other residents prior to the application being submitted. He had offered to meet with them to discuss the details but one of the neighbours had been working away and the other had not wished to meet without the Police being present.
- 4.23 A Member sought further information regarding the buses which would be operating at the festival. The representative for John Dix Transport explained that it was a family owned minibus and coach hire company based in Gloucester carrying out school contract work, corporate work, travel for sports events and concerts and stag and hen parties. The applicant had contacted him several months ago regarding transport provision for the event following which he had carried out a site visit and recommended the services which could be provided. Safety was paramount and he required a Security Industry Authority (SIA) qualified security guard on board each bus to protect the passengers and the driver. Taking into account load and despatch times, he felt that three double decker buses and a single decker bus would be necessary to ensure that the first bus was back as the last one was leaving and he indicated that there was scope for bus stops to be incorporated on route. The arrangement he had with the applicant was fluid in that if there were five passengers left on the site the bus would still come back for them. With regard to the involvement of Stagecoach, the applicant advised that he had spoken to the Operations Manager at Stagecoach Gloucester who would monitor the numbers using the No. 61 service and would have a driver on standby if needed. A Member questioned whether three buses would be on site at any one time and was advised by the representative for John Dix Transport that this was what the applicant anticipated would be needed; however, it was unclear how many people would actually require transport home. The buses could all enter the field at the same time and wait, or despatch from the yard could be staggered if there was a need to reduce the number of vehicles on site. Access to the site and the exit road would need to be fully marshalled and areas must be coned off so that the vehicles could enter the site in non-pedestrian areas until the engines were turned off. This would need to be managed by fully qualified staff in high-visibility jackets in order to ensure that buses entering or exiting the site caused no danger to pedestrians and motorists.

- 4.24 A Member sought further detail of how a clash between the buses and pedestrians would be avoided, particularly given that people would have been drinking at the event and may not be as careful as usual. The representative from John Dix Transport provided assurance that he operated at numerous events where people were intoxicated and where buses had to be driven onto fields; the crucial factor was how it was managed by the people on the ground. He would not do the job unless there was a team of people on the site to manage the flow of pedestrian traffic. He reiterated that he had visited the site and there was more than enough room for the buses to access the site, turn around responsibly and park up, provided that there were coned off areas exclusively for the buses. He was otherwise satisfied that the site was suitable and that his staff could get in and out of the site safely. The applicant's Health and Safety Adviser confirmed that the traffic management plan for the event stated that an area would be cordoned off with heras fencing and stewards and security staff wearing high visibility jackets would be fully briefed on how to control the flow of pedestrians. The lampposts along the main road illuminated the site so lighting was sufficient and he was of the view that the transport requirements that had been outlined could be comfortably achieved with minimal risk to pedestrians on the road or entering/leaving the site.
- 4.25 A Member questioned how it was intended to deal with "pre-loading" whereby people drank alcohol before they got to the event. The representative from Sims Security Solutions advised that this had been an issue with a handful of people the previous year and they had been turned away as they would at any licensed premises. Another Member noted that several local residents had raised concern about people urinating in hedges and she questioned how that would be addressed. He explained that during the festival there would be five or six security guards situated along the A46 with a further 10 at 2300 hours. The whole team along the road made sure that people stayed out of the houses and he pointed out that urinating in hedges had not been raised as an issue at the residents' meeting following the festival in 2016. Whilst he could not comment on what happened beyond the A46, he provided assurance that there were more than enough security staff on that road and they were very vigilant. In response to a query as to whether any Police naturally patrolled the area around the festival site, the Head of Crime Prevention and Licensing at Gloucestershire Constabulary clarified that there was no Police involvement in the event and no Officers would attend the site, although some may be positioned at the Cross Hands at midnight.
- 4.26 A Member questioned whether camping was still required and the applicant confirmed that he had reluctantly agreed to remove this element of the festival at the licence review in 2014 but it was something he would very much like to reintroduce. He clarified that this would be luxury camping e.g. yurts, hot showers etc. but, due to availability, he had no intention of introducing it this year. The Member queried whether people would be able to bring their own tents as well and the proximity of the proposed campsite to the residential housing. The applicant explained that it would be located as far from neighbouring properties as possible. The luxury camping he wished to offer would be priced accordingly so it was unlikely that people would buy a camping ticket to erect their own tents. In response to a query as to how behaviour on the campsite would be monitored, the applicant indicated that he currently had a very strong overnight team, even without the camping element, so he was confident that any bad behaviour could be controlled. The representative from Sims Security Solutions advised that security dogs had been present on the site over the last few years - fortunately they had not been used but they would be on site 24 hours per day and could be a useful back-up if incidents arose overnight.

- 4.27 A Member sought clarification as to who currently carried out noise monitoring for the festival. The applicant indicated that this was carried out by an SIA badged security guard, although he stressed that he was employed solely to undertake noise monitoring at the festival and not in a security capacity. Both himself and the person responsible for the noise monitoring had been trained by a Tewkesbury Borough Council Environmental Health Officer who had since left the authority and, in the first year, he had accompanied them to ensure it was done correctly. He confirmed that the same guidance had been applied every year since with the meter readings taken as they had been shown and recorded on the form designed by the Environmental Health Officer. Another Member questioned whether it was possible to buy noise limitation equipment for the stage which would cut-off the music if it became too loud. The applicant's Licensing Consultant recognised that this could be useful in certain circumstances but, unfortunately, it would pick up all noise including the funfair, crowd etc. as opposed to just the speakers. The applicant confirmed that the staging system used state of the art technology and the noise could be inaudible when stood at the side; however, fairground music was unlicensable. The Sub-Committee recognised that noise monitoring must be carried out by an independent, accredited professional and sought assurance that this would be addressed going forward. The Licensing Barrister indicated that, whilst the person currently undertaking the noise monitoring was not a member of the Institute of Acoustics, he was SIA badged and a responsible person; employing someone from the Institute of Acoustics would be an additional cost which the Sub-Committee may or may not consider to be reasonable to introduce as a condition of the licence.
- 4.28 A Member noted the strength of feeling amongst the local residents in respect of extending the duration and capacity of the event and questioned the justification for doing so. The Licensing Barrister explained that the event had reached capacity in 2016 and had resulted in people being admitted on a "one-in/one out" basis. It was unclear how popular the festival would be this year but it seemed sensible to build in additional capacity to allow for growth in future years to prevent the need to apply for a new licence, or a variation, each year. The applicant indicated that he had felt terrible having to turn away families from the local community and he did not want to be in that position again. Demand for tickets this year had been outstanding, with people asking about the event as early as Christmas 2016, and he was confident that the 3,000 capacity would be reached; he confirmed that 1,700 tickets had been sold online to date and those were a combination of day and weekend tickets. In response to a query, Members were informed that the festival tended to peak at around 1600 hours on the Saturday.
- 4.29 The Chair invited the local residents to ask questions of the applicant. In response to a query as to whether the position of the stage had been changed, the applicant confirmed that it would be in the same location it had always been. The position of the fairground had been tweaked over the years and this would be reviewed going forward to see if it could be further improved. A local resident sought clarification as to the number of households within 500 metres of the festival site that the applicant had approached directly. The applicant's Licensing Consultant explained that a newsletter had been circulated by the applicant to every household up and down the main road and there had been email correspondence with at least three households most affected and one other resident. The local resident confirmed that he had met with the Police in January; the applicant had indicated that he would meet with him but this had not happened until April. His notes showed that completely different figures and assurances had been given at that meeting to those given today. He had specifically asked to be kept informed, which the applicant had undertaken to do, but he had not heard about the new application in its totality until the papers had been published. In his view the communications had been muddled, confused and indirect which led to discontent and mistrust; whilst his intentions may be good, the applicant's actions came across very differently. The Licensing Consultant pointed

out that the local resident had made it very clear that he would object to any increase in capacity and that there was no room for dialogue. He reiterated that a face to face meeting had been offered but the local residents invited had been unable to attend.

- 4.30 A local resident sought further detail as to where the buses would be parked and where they would turn in the field. The applicant confirmed that they would enter the field through the seven metre opening at the entrance and would turn in the designated 50 metre exclusion zone before parking outside the area in a safe place as directed by the SIA stewards. He stressed that the exclusion zone would remain in place but would open and close to let the buses through. A plan showing the proposed bus route into the site was circulated for information and the representative from John Dix Transport confirmed that there would be substantially more room than needed in his professional opinion. The local resident raised concern that people would be loaded into the buses in the exclusion zone and clarification was provided that this was absolutely not the case; the buses would only go into the exclusion zone to turn.
- 4.31 Another local resident noted that the applicant intended to provide security staff at a ratio of 1:75 and he questioned whether they would all be supplied by Sims Security Solutions. The representative from Sims Security Solutions explained that, in 2016, it had initially been intended to have 25 security guards in accordance with the condition of the licence but in the weeks leading up to the event this had been increased to 35 purely as a precaution. He had spoken briefly to the applicant about further increasing this to 45-50 if the licence was extended. He provided assurance that the applicant did not scrimp on security and he would only undertake the work if he felt that the levels were adequate. He confirmed that official guidelines would be followed in terms of working hours and rest breaks etc.
- 4.32 The Chair invited the responsible authorities to ask questions of the applicant. The Head of Crime Prevention and Licensing from Gloucestershire Constabulary queried why the festival had been advertised as a three day event when the licence was currently for two days and whether this was based on an assumption that the application would be granted. The applicant explained that the number of tickets sold was in accordance with the conditions of the existing licence. Whilst the festival did have pages on Facebook and Twitter, he had full control and had never posted anything about the Friday night - he certainly did not take for granted that a licence would be approved on that basis. Notwithstanding this, he did need to promote the festival in order to attract high quality caterers and suppliers who would not be willing to provide their services for an event akin to a village fete. The Head of Crime Prevention and Licensing went on to indicate that he had spoken to the representative from John Dix Transport prior to the meeting and he had agreed that it would be necessary to approach the site from the Painswick direction in order to ensure safety. The representative from John Dix Transport clarified that the Head of Crime Prevention and Licensing had arrived at his depot unannounced, when he had not been fully briefed on the proposals, and he had therefore advised him that he would look into the safety aspects. Since that time he had visited the application site and was satisfied that there would be safe access from either direction. He reiterated that safety was paramount and if he had any concerns in that regard he would not accept the job. In response to a query as to whether he had been instructed to follow the No. 10 bus route, the representative from John Dix Transport felt that this was of no particular consequence as the specifics of the route could be amended to suit all parties – if the buses were required to follow that route then they would do so. The primary objective was to get the buses to the centre of Gloucester, and into Cheltenham, so that people could make use of the ongoing transport network. It had been suggested that a couple of drop-offs could be made in the proximity of the bus station and he was happy for additional stops to be incorporated on route. It was noted that the Head of Crime Prevention and

Licensing had questioned what action would be taken in the case of the site being waterlogged and the representative from John Dix Transport had advised that, if there was a substantial period of heavy rainfall in the lead up to the event, it may not be safe to take a 12 tonne vehicle onto that surface; however, there was a wide range of temporary tracking available which would overcome that. He pointed out that, if there was substantial rainfall, this would also create difficulties for the rest of the event as heavy vehicles were required to transport and erect the staging, lighting, funfair etc. so that provision would be needed for all entrances to the site. In response to a query as to what research had been done to suggest that the buses would be required, the Licensing Consultant explained that this was the first year the buses would be used so demand was unknown but the applicant was trying his best to ensure that the event was a success and that those attending the event were able to get home safely. It was hoped that there would be a good take-up as this would reduce the number of pedestrians leaving the site.

- 4.33 In summing up for Gloucestershire Constabulary, the Head of Legal Services indicated that he had listened carefully to the debate and still had a number of concerns which he wished to reiterate. Increasing the capacity from 1,500 to 3,000 and holding it across three days as opposed to two was still a significant increase compared to previous years and this did not seem to be based on any established need. The festival had been pitched as a community event but now seemed to be growing into something rather different in nature. The location was inappropriate for the number of people who would potentially be attending, given the residential surroundings, and it was the view of Gloucestershire Constabulary that an alternative site should be found for the event. In terms of the duration of the event, it was noted that the applicant had offered to reduce this from four to three days on the basis of the advice given regarding noise constraints; it was felt that the applicant should have been aware of this in advance of the meeting. There was real concern about people vacating the site which would not be mitigated by the buses; as people from the local area would walk, as they had done in previous years, and the security staff had no power to intervene if there were any issues. For all of those reasons, the application should be refused.
- 4.34 The Licensing and Systems Officer clarified that, if the licence was granted in full or in part, relevant mandatory conditions would be included in the premises licence. Any conditions in the operating schedule which were superseded by conditions imposed by the Sub-Committee would be replaced by the new conditions. In addition, it should be borne in mind that, whilst the SAG was not a statutory part of the process, it was very important for the organiser of the event to attend any debriefing relating to the event. He sought clarification as to the maximum alcoholic volume of the ciders which were sold at the event and was advised that the majority were between 4-5% with the strongest at 6.5%.
- 4.35 In his final statement, the applicant's Licensing Barrister emphasised that the festival took place over a single weekend leaving plenty more for local residents to enjoy the tranquillity of the fields owned by the applicant's family; on this particular weekend, the applicant was providing a range of entertainment for the local community which he hoped would be welcomed. The Sub-Committee had heard from the experts brought in by the applicant and he hoped that they had given the correct impression in terms of how seriously the licensing objectives were taken, particularly in respect of public safety. The applicant himself was a professional in another field and organised the event well with the assistance of the Licensing Consultant who was more than happy to speak to the local residents at any time. He understood the concerns of those living close to the event but the role of the Sub-Committee was to balance those views against the unheard majority who attended and thoroughly enjoyed it year on year. The applicant hoped that the event would continue to grow and he did not wish to come back for a new licence time and time again. He recognised that the noise guidelines were more stringent for a four day event and

this was something which the applicant needed to be aware of; however, he accepted that it was unwise to pursue that and was happy to reduce the application to three days. In terms of noise monitoring, the applicant had understood this to be in accordance with the requirements of the existing licence. Whilst he recognised that it must be regulated, he reiterated that a condition to employ a qualified professional to undertake this job would be another cost imposed upon the applicant. The Licensing Barrister indicated that he had difficulty reconciling the strong Police objection given the lack of crime and disorder generated by the event - the Sub-Committee had heard about the circumstances around the four incidents at the festival in 2016, half of which had been proven to be unrelated to the event itself - and pointed out that their focus had been on other issues, such as traffic. He reiterated that the event was well-managed, organised and professional and was an opportunity for the community to listen to live music, performed by national and local acts, with their families and friends. For all of these reasons he hoped that the application would be granted, subject to the modification that had been offered.

4.36 The Chair indicated that the Sub-Committee would retire to make its decision.

4.37 When the meeting reconvened, the Chair advised that, having considered the application, all of the evidence presented, the representations made by all parties, the licensing objectives, the national guidance and the Council's own licensing policy, it was

RESOLVED That the premises licence be **GRANTED** as set out in the attached Decision Notice.

The meeting closed at 8:05 pm

DECISION NOTICE

COMMITTEE: Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005)

DATE: Tuesday, 25 July 2017

| | |
|---|---|
| Premises: | Witcombe Cider Festival, Part Parcel 6568, Painswick Road, Brockworth. |
| Applicant: | Joseph Pointon. |
| Application for a premises licence. | |
| Present: | Councillors Mrs G F Blackwell, Mrs J Greening and R E Garnham (Chair). |
| Representatives of the Applicant: | Andrew Cook – Independent Licensing Consultant for Easy Licensing. Thinus Delpont - Rugby for Heroes. John Dix – John Dix Transport. Alan Lamb - Rugby for Heroes. Jeremy Phillips - Licensing Barrister. Joseph Pointon – Applicant. Dewi Scourfield – Health and Safety Adviser. Darren Simms –Simms Security Solutions. |
| Responsible Authorities: | Michael Griffiths – Head of Legal Services at Gloucestershire Constabulary. Yvonne Hope – Interim Environmental Health Manager at Tewkesbury Borough Council. David McFarlane – Head of Crime Prevention and Licensing at Gloucestershire Constabulary. Emma McMillan – Licensing Unit, Harm Reduction Department at Gloucestershire Constabulary. Clare Morgan – Community Neighbourhood Policing Sergeant for Gloucestershire Constabulary. |
| Other Parties Addressing the Sub-Committee: | Mr Jim Hunt – Chair of Brockworth Parish Council and resident of Shurdington Road. Four residents of Abbotswood Road. Three residents of Painswick Road. |

SUMMARY OF REPRESENTATIONS

1. Three responsible authorities had made representations in relation to the application: Gloucestershire Constabulary, Tewkesbury Borough Council's Environmental Health Department and Gloucestershire Fire and Rescue Service.
2. Gloucestershire Fire and Rescue Service subsequently agreed four conditions with the applicant for inclusion within the Operating Schedule.
3. 34 valid representations had been received from members of the public: 13 representations in support of the application and 21 representations in objection to the application.

THE APPLICATION

Relevant licensable activities and hours applied for:

| | | |
|--|-------------------------------------|----------------|
| Live music or similar activity | Friday | 17:00 to 00:00 |
| | Saturday, Sunday and Monday | 10:00 to 00:00 |
| Recorded music or similar activity | Friday | 17:00 to 00:00 |
| | Saturday, Sunday and Monday | 10:00 to 00:00 |
| Performance of dance or similar activity | Friday | 17:00 to 00:00 |
| | Saturday, Sunday and Monday | 10:00 to 00:00 |
| Late night refreshment | Friday, Saturday, Sunday and Monday | 23:00 to 00:00 |
| Supply of alcohol | Friday | 17:00 to 00:00 |
| | Saturday, Sunday and Monday | 10:00 to 00:00 |
| Hours premises open to public | Friday | 16:00 to 00:30 |
| | Saturday, Sunday and Monday | 09:00 to 00:30 |

AMENDMENT TO THE APPLICATION BY THE APPLICANT

| | | |
|--|-----------------------------|----------------|
| Live music or similar activity | Friday | 17:00 to 00:00 |
| | Saturday and Sunday | 10:00 to 00:00 |
| Recorded music or similar activity | Friday | 17:00 to 00:00 |
| | Saturday and Sunday | 10:00 to 00:00 |
| Performance of dance or similar activity | Friday | 17:00 to 00:00 |
| | Saturday and Sunday | 10:00 to 00:00 |
| Late night refreshment | Friday, Saturday and Sunday | 23:00 to 00:00 |
| Supply of alcohol | Friday | 17:00 to 00:00 |
| | Saturday and Sunday | 10:00 to 00:00 |
| Hours premises open to public | Friday | 16:00 to 00:30 |
| | Saturday and Sunday | 09:00 to 00:30 |

DECISION

Having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the four licencing objectives; the National Guidance; and the Council's Statement of Licensing Policy, it was resolved that the premises licence be **GRANTED** in accordance with the application set out, subject to the following amendments and conditions:

AMENDMENTS AND ADDITIONAL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AS AMENDED BY THE SUB-COMMTTEE**General**

1. All mandatory conditions to be added to the licence.
2. The hours of the event will be Friday 16:00 to 00:30, Saturday and Sunday 09:00 to 00:30 of the August Bank Holiday weekend.
3. No private camping is to be provided on the site itself, save for pre-booked yurts, or equivalent. Campers must be included within the total number of patrons allowed on the site.

Public Safety

1. There shall be a capacity of 1,500 attendees at the event at any one time (which includes staff and performers) on Friday. On Saturday and Sunday no more than 2,250 patrons shall be permitted at the event at any one time; additionally total staff and performers shall not exceed 500.

Prevention of Crime and Disorder

1. A minimum ratio of 1 door supervisor per 75 customers shall be employed on the site between the hours of 20:00 and 00:00 on all event days.
2. There must be a 24 hour security presence on the site; this is extended to the camping site for the duration of the event.

Prevention of Public Nuisance

1. A detailed noise management plan must be provided which will set out how the applicant is going to ensure that throughout the event the Music Noise Levels (MNL) does not exceed 65dB(A) over a 15 minute period at 1 metre from the façade of any noise sensitive premises. This includes inaudibility of music noise between the hours of 23:00 and 09:00 (as detailed in section 3 of The Noise Council Code of Practice on Environmental Noise Control at Concerts). The plan must identify the noise monitoring locations; the duration and pattern of the noise monitoring throughout the event; details of the noise monitoring equipment, including calibration details; and the credentials of the persons undertaking the monitoring – this must be a member of the Institute of Acoustics, or equivalent body.
2. There will be no operating fun fair on the Friday night and no dodgems on any day.

CONDITIONS CONSISTENT WITH THOSE RECOMMENDED BY THE RESPONSIBLE AUTHORITIES AND AGREED WITH THE APPLICANT

1. The organiser will ensure that the main access point is no less than 4.5 metres wide.
2. The access route for vehicles will be clearly marked by means of posts and tape.
3. The alternative means of escape in the south-west corner of the festival site will remain accessible at all times and be permanently staffed when the festival is open to the public.
4. The organiser will assess the firmness of all vehicle routes prior to and during the festival and will install trackway if necessary.

The Sub-Committee also sought the following undertakings from the premises licence holder:

1. That, if this licence is accepted, the premises licence holder will surrender his existing premises licence.
2. That the premises licence holder will hold a public engagement exercise, to which the Parish Council should be formally invited, to brief the community on plans for the subsequent festival at least three months prior to the event.
3. That the premises licence holder will facilitate a follow-up meeting with all interested parties within one month following the last day of the event.

REASON

The Sub-Committee recognised that the applicant had the benefit of a good track record for the operating of the event over the last few years and that the residents themselves were happy with the security measures provided at the event by Mr Simms and his team. The Sub-Committee noted that Mr Simms stated that there was always a 24 hour security presence at the site but, when looking at the conditions, the Sub-Committee noted that this was not a condition of the licence and they decided that it should be added to reassure residents.

The Sub-Committee noted that the Police raised a lot of issues of public safety in relation to the proposed use of buses by the applicant; however, Gloucestershire Highways had had the opportunity to register an objection and attend the meeting and had chosen not to do so. The Sub-Committee had heard from Mr Dix, a transport manager, about how he proposed to deal with the buses at the event and it was satisfied that he would take every precaution necessary to ensure the safety of the public; therefore the relevant licensing objective would be adhered to.

The Sub-Committee had also heard from Yvonne Hope, Interim Environmental Health Manager at Tewkesbury Borough Council, in relation to the necessity for the condition that an independent competent acoustic consultant, who is accredited by a relevant professional body, should undertake the noise level readings due to the fact that, historically, the data provided had been insufficient. The Sub-Committee believed that this condition was a requirement due not only to the representations of Ms Hope, but also those of the residents living within the immediate vicinity of the event and therefore impacted by the noise levels.

The Sub-Committee believed that the introduction of "glamping" would be a positive addition to the festival but was concerned that private camping could get out of hand and should not be allowed. Further camping should only be from the patrons of the event, therefore the numbers should be included with the number of patrons attending the event and there should be a 24 hour security presence on site for protection of the patrons and the residents.

The Sub-Committee was happy to agree to the amendment offered and accept Friday night with 1,500 patrons, including staff, but was concerned about the addition of another evening with a funfair and the associated noise impact on residents. On that basis it decided to impose a condition that there be no operating funfair on the Friday night but otherwise the applicant could operate as applied for. As suggested by the applicant the use of "dodgems" would not be allowed.

The Sub-Committee deliberated for a long time over the number of patrons that should be allowed to the event. It noted that the license as it currently stood allowed 1,500 persons on site per day including the staff. The applicant had stated that there were 378 staff currently but that this could rise to 500 if the application was successful. The Sub-Committee decided to restrict the number of patrons to 2,250 per day, excluding staff of up to 500, because it felt that a fair amount of the mitigation measures proposed were untried and tested and, to allow the number of patrons to go from below about 1,200 (once staff were excluded) on the current license, up to 3,000 patrons (plus staff and an unknown number of children) was a large increase to deal with when the applicant could not evidence experience of controlling that number of people - especially at closing time. Given the public and Police concerns about how people would disperse from the site, the Sub-Committee was mindful of the licensing objectives and felt that, whilst the mitigation measures - especially the buses - should hopefully prove very successful, there were a number of unknowns and the Licensing Authority needed to control numbers until experience showed the mitigation measures worked. The Sub-Committee acknowledged the considerable efforts of the applicant to put in place all the measures proposed and felt these would help address the concerns raised by both the public and the Police.

The Sub-Committee had regard to the Human Rights Act 1990 and the European Convention on Human Rights as well as its duty under the Crime and Disorder Act 1998; however, it found that it had heard no evidence that any persons human rights would be infringed by granting the application, nor was it sufficient to convince the Panel that any significant crime and disorder would be caused by granting the application.

The Sub-Committee noted that there was disagreement on the amount of engagement between the applicant and local residents, and that this was a matter of contention at the hearing, and wanted to clarify that situation. Therefore the suggestion of two public engagement exercises, in advance of and post the event, was felt prudent and necessary.

The Sub-Committee therefore determined that it was necessary and proportionate to apply these additional conditions to promote the licensing objectives of public safety, the prevention of crime and disorder, and public nuisance. In all other respects, the Sub-Committee found that, despite the recommendations made by other parties, the licensing objectives had been satisfied and the conditions imposed on the licence would ensure that the licence would continue to meet those objectives.

All parties were reminded of their right of appeal to the local Magistrates Court within 21 days of the decision.

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) held at the Council Offices, Gloucester Road, Tewkesbury on Friday, 21 July 2017 commencing at 10:00 am

Present:

Chair

Councillor R E Garnham

and Councillors:

Mrs J E Day and P N Workman

LSB/B.1 ELECTION OF CHAIRMAN

1.1 It was proposed, seconded and

RESOLVED That Councillor R E Garnham be appointed as Chair for the meeting.

LSB/B.2 ANNOUNCEMENTS

2.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LSB/B.3 DECLARATIONS OF INTEREST

3.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

3.2 There were no declarations made on this occasion.

LSB/B.4 SEPARATE BUSINESS

4.1 On a proposal from the Chair, it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

LSB/B.5 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE

(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)

5.1 The Sub-Committee granted an application for a private hire driver's licence.

The meeting closed at 10:30 am

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) held at the Council Offices, Gloucester Road, Tewkesbury on Thursday, 16 November 2017 commencing at 10:00 am

Present:

Chair

Councillor R E Garnham

and Councillors:

A Hollaway and H A E Turbyfield

LSB/B.11 ELECTION OF CHAIR

11.1 It was proposed, seconded and

RESOLVED That Councillor R E Garnham be appointed as Chair for the meeting.

LSB/B.12 ANNOUNCEMENTS

12.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LSB/B.13 DECLARATIONS OF INTEREST

13.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

13.2 There were no declarations made on this occasion.

LSB/B.14 SEPARATE BUSINESS

14.1 On a proposal from the Chair, it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

LSB/B.15 APPLICATION FOR THE GRANT OF A PRIVATE HIRE DRIVER'S LICENCE

15.1 The Sub-Committee granted an application for a private hire driver's licence.

LSB/B.16 REVIEW OF A PRIVATE HIRE DRIVER'S LICENCE

- 16.1 The Sub-Committee noted that the private hire driver had surrendered his private hire driver licence and therefore no further action needed to be taken.

The meeting closed at 10:20 am

TEWKESBURY BOROUGH COUNCIL

| | |
|------------------------------|---|
| Report to: | Licensing Committee |
| Date of Meeting: | 8 February 2018 |
| Subject: | Review of Street Trading Policy |
| Report of: | Chris Butler, Licensing Officer |
| Corporate Lead | Peter Tonge, Head of Community Services |
| Lead Member: | Councillor J R Mason, Lead Member for Clean and Green Environment |
| Number of Appendices: | One |

| |
|---|
| <p>Executive Summary:</p> <p>The Council's current Street Trading Policy has been in place since 2011. Given the length of time that has passed since the current policy was adopted, a review has been carried out. This report seeks approval from the Licensing Committee to approve the reviewed policy.</p> |
| <p>Recommendation:</p> <p>To APPROVE the minor amendment to the Street Trading Policy.</p> |
| <p>Reasons for Recommendation:</p> <p>To ensure that the Council's policy on street trading is up to date and provides clarity and transparency in the way that street trading is controlled in the Borough.</p> |

| |
|--|
| <p>Resource Implications:</p> <p>There are no significant resource implications</p> |
| <p>Legal Implications:</p> <p>The Local Government (Miscellaneous Provisions) Act 1982 ("the Act") as amended allows local authorities to adopt provisions concerning the control of street trading. Under the Act there is no legal requirement for the Council to have a policy on how it proposes to control street trading.</p> <p>It is, however, considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its functions are carried out.</p> |
| <p>Risk Management Implications:</p> <p>None</p> |
| <p>Performance Management Follow-up:</p> <p>Ongoing monitoring of Policy and further review three years from acceptance of this report. .</p> |

Implications for Biodiversity:

None

1.0 INTRODUCTION/BACKGROUND

1.1 The Local Government (Miscellaneous Provisions) Act 1982 allows local authorities to adopt provisions to control street trading in their areas. Tewkesbury Borough Council has adopted provisions to designate a number of streets in the Borough as “prohibited streets”, where street trading cannot take place. All of the other streets in the Borough have been designated as “consent streets.” A number of “prime sites” have also been identified. The designation of streets took place over a number of years between 1985 and 1988.

2.0 STREET TRADING POLICY

2.1 The Council’s Street Trading Policy aims to provide guidance to applicants, officers, Members and the general public on the way in which the Council controls street trading in the Borough. It also aims to ensure consistency and fairness in the Council’s decision making processes.

2.2 The current Street Trading Policy was adopted in 2011. It is considered good practice for all policies to be subject to periodic review to ensure they remain relevant and appropriate to the purposes they seek to achieve. Given that it has been some time since the Council’s current policy was adopted, it is considered that a review is due.

2.3 It is desirable to adopt an approach where all of the relevant information that people need about street trading controls in the Borough are set out within a policy to ensure transparency and clarity. The only proposed change to the policy is the inclusion of the definition of Prime Sites. This definition has been taken from the Street Trading Consent Fees 2013 document and is included in the policy to clarify the definition of “Prime Sites”.

2.4 The draft revised Street Trading Policy is attached at Appendix 1 to this report. The proposed amendment is highlighted in bold type at Paragraph 2.3. Members are asked to approve the minor amendment to the policy.

3.0 OTHER OPTIONS CONSIDERED

3.1 None

4.0 CONSULTATION

4.1 Not required as no major changes are being proposed.

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Environmental Health Enforcement Policy

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 None

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

8.1 The policy seeks to balance the potential economic and environmental implications of street trading activities.

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

9.1 None

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 None

Background Papers: None

Contact Officer: Chris Butler, Licensing Officer
01684 272167 licensing@teWKesbury.gov.uk

Appendices: Appendix 1 – Draft Revised Street Trading Policy



**Tewkesbury
Borough Council**

Street Trading Policy

DRAFT

Implementation Date: 1st March 2018

CONTENTS

| SECTION | Page Number |
|------------------------------|--------------------|
| 1 Introduction | 3 |
| 2 Designation of Streets | 4 |
| 3 Applications | 6 |
| 4 Duration of Consent | 9 |
| 5 Conditions of Consent | 10 |
| 6 Appeals | 10 |
| 7 Complaints and Enforcement | 10 |
| 8 Amendments to Policy | 11 |
| 9 Fees and Charges | 12 |
| 10 Definitions | 12 |
| ANNEXES | |
| A Application Form | 14 |
| B Form of Public Notice | 20 |
| C Hearing Procedure | 21 |
| D Standard Conditions | 22 |

1.0 INTRODUCTION

1.1 The Policy

- 1.1.1. This document states Tewkesbury Borough Council's Policy on Street Trading, as defined by the Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4).
- 1.1.2. In exercising its discretion in carrying out its regulatory functions, Tewkesbury Borough Council will have regard to this Policy document and the principles set out therein.
- 1.1.3. Notwithstanding the existence of this Policy, each application will be considered on its own merits, with reference to the principles and procedures that are detailed in this Policy.

1.2. The Objectives of this Policy

- 1.2.1. This Policy recognises the important service that is provided by street traders and the contribution they make to the local economy.
- 1.2.2. The objective of this Policy is to create a trading environment in which street trading complements existing premises-based retailing activities, is sensitive to the needs and concerns of residents and provides diversity in terms of consumer choice.
- 1.2.3. The Policy aims to ensure that street trading does not undermine safe and efficient passage along public highways.
- 1.2.4. This Policy aims to balance the needs of the wider community, local community and street traders, against the needs of those who may be adversely affected by the street trading activities.
- 1.2.5. The Policy aims to provide consistency and transparency in the way in which the Council deals with street trading and to ensure that street trading is fairly, appropriately and proportionately controlled, in line with the Council's Corporate Enforcement Policy.

1.3. The Law

- 1.3.1. The Local Government (Miscellaneous Provisions) Act 1982 (Section 3 and Schedule 4) provides the legal framework for the control of street trading in England and Wales. This activity is defined as "*the sale and exposing or offering for sale any article, including a living thing, in a street.*" Streets are further defined as to include any road, footway, beach, or other area to which the public have access without payment.
- 1.3.2. The main purpose of this legislation is to establish an appropriate regulatory regime which prevents undue nuisance, interference or inconvenience to the public brought about by street trading. This legislation provides local authorities with the power to designate specific areas within their administrative boundaries as either:

- Prohibited Streets: those which are not open to street traders
- Consent Streets: where street trading is prohibited without Local Authority consent
- Licence Streets: where trading is prohibited without a Local Authority licence

1.4.1 Local authorities can place conditions on any Consent or Licence granted. The Act also creates offences associated with trading in Consent or Licence streets without the necessary authority: the person guilty of such an offence may be liable, on conviction, to a fine of up to £1000.

1.4.2 There are, however a number of exemptions provided in the Act, which are not considered to be street trading. These are detailed in Section 10 below (definition of 'Street Trading'). However it is important to note that exempted traders are still controlled by other regulatory legislation.

1.5 Licensing Act 2003

1.5.1 It should be noted that should a street trader wish to sell alcohol or provide late night refreshment, additional authorisation will be needed under the terms of the Licensing Act 2003.

1.5.2 Late night refreshment is the supply of hot food or drink between the hours of 11pm and 5am on any day of the week.

1.5.3 Licensing Officers will be able to provide further information on the requirements of the Licensing Act 2003.

2.0 DESIGNATION OF STREETS FOR THE PURPOSES OF STREET TRADING

2.1 Prohibited Streets

Listed below are the streets that have been designated by the Council as prohibited streets. These are streets in which street trading is prohibited:-

- The A438 / A46 from its easterly junction with Barton Street and Chance Street, Tewkesbury to the Teddington Hands Roundabout.
- Evesham Road / Cheltenham Road at Bishops Cleeve from the boundary with Cheltenham Borough Council to Anchor Cottage Bend, Bishops Cleeve.
- The A46 from the Teddington Hands roundabout to the County boundary with Worcestershire.
- The A4019 from the boundary with Cheltenham Borough Council at Swindon to the junction with the M5 motorway but to exclude the lay-by at the southern side of this road at Uckington.
- The A40 from the boundary with the Cheltenham Bough Council at Badgeworth Parish Council to Gloucester City Council at Innsworth Parish (i.e. the Golden Valley By-Pass).

- The A40 from the junction with the A48 at Highnam to the boundary with Gloucester City Council.
- The A46 from the boundary with Cheltenham Borough Council to the junction with Ermin Street and Cirencester Road at Brockworth.
- Hucclecote Road / Ermin Street / Cirencester Road, Brockworth from the boundary with Gloucester City Council to the junction between Cirencester Road and Green Lane
- The lay-by at the side of the B4632 at Postlip, Winchcombe.
- The B4063 from its junction with the A40 at the Golden Valley roundabout to the eastern edge of the Churchdown urban areas.
- The B4632 in Winchcombe from its junction with Corndean Lane to its junction with Silk Mill Lane.
- North Street, Winchcombe from its junction with High Street to its junction with Back Lane and Greet Road.
- The A38 Tewkesbury from the High Street and Bredon Road junction to the junction with the A438 at the Mythe.
- High Street, Barton Street, and Church Street, Tewkesbury.
- Oldbury Road, Tewkesbury from its southerly junction with Nelson Street to its northerly junction with Bredon Road.

2.2 Consent Streets

All other streets in the Borough have been designated by the Council as “consent streets”. This means that street trading can only take place in these streets with the consent of the Council.

2.3 Prime Sites

A “Prime Site” category is considered as one where an applicant seeks consent to trade in a street, and regularly occupies the same site for more than 4 hours on any one or more days, and is located within 100 metres of a shopping area as listed below.

- **Lee Road and Northway Lane Shopping Centre, Ashchurch**
- **Church Road, The Green and Tobyfield Road, Bishops Cleeve**
- **Abbottswood Road, Court Road, The Parade, Usk Way, Ermin Park and Ermin Parade, Brockworth**
- **Blacksmith Lane, Brookfield Road, Chosen Drive and St Johns Avenue, Churchdown**
- **Kestrel Parade and Salvia Close, Innsworth**

- **Barton Street, Church Street, High Street, Mitton Way, Oldbury Road and Queens Road, Tewkesbury**
- **High Street, North Street and Station Road, Winchcombe**

3.0 APPLICATIONS FOR A STREET TRADING CONSENT

3.1 Advice for New Applicants

- 3.1.1 New applicants are advised to contact the Council at their earliest opportunity, preferably before an application is made. This allows Officers to provide advice, as well as clarifying any areas of uncertainty.
- 3.1.2 It is the responsibility of the applicant, in the first instance, to identify the location(s) in which they wish to trade as there is no designated list of street trading “pitches” that can be traded from.
- 3.1.3 The Council can also provide advice in relation to other legal requirements of a new Consent Holder, for example, planning permission or food safety requirements.

3.2 Applications

- 3.2.1 All applications for grant or renewal of a Street Trading Consent must be made on the Council’s prescribed application form. A copy of the prescribed form is attached to this Policy at **Annex A**.
- 3.2.2 Each application must be accompanied by the prescribed application fee. An application will not be considered as duly made until the prescribed application fee has been received.
- 3.2.3 The following will also be required to be submitted with the application:-
- Where the proposed trading is from a fixed location, a copy of a plan at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.
 - Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place providing details where possible about specific areas.
 - Confirmation that an adequate level of third party public liability insurance is, or will be, in place during street trading activity.
 - Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land.
 - Two passport sized photographs of the applicant and any person who will be assisting with the trading on a regular basis. One of the

photographs of each person must be endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, a person of standing in the community or any individual with a professional qualification.

3.2.4 Applications cannot be considered from anyone under the age of 17.

3.3 Processing an Application

3.3.1 Applications for grant or renewal of a Street Trading Consent will be notified by the Council to the following:-

- Gloucestershire Constabulary.
- Gloucestershire Highways.
- The relevant Town/Parish Council(s).
- The Borough Councillor(s) for the Ward(s) concerned.
- Environmental Health Officers at Tewkesbury Borough Council.
- The Planning Authority.

3.3.2 Additionally, where the application is for grant of a new Consent in respect of a fixed location, the applicant must also advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 14 days beginning with the day after the application for Consent is made to the Council. The form of the Public Notice required is shown at **Annex B** to this Policy.

3.3.3 The Council will allow 28 days from the date that the application is received for people to make representations or objections in relation to the application.

3.3.4 Representations or objections will be accepted from any of the bodies listed at 3.3.1 and any other individual or business that can demonstrate that they would be materially affected by the proposed street trading activities.

3.4 Determining Applications with no Representations or Objections

3.4.1 Where no representations or objections are received within 28 days of the application being received, Officers will grant Consent to the applicant in the terms that it was applied for.

3.5 Determining Applications through Mediation

3.5.1 Where a representation or objection is received in respect of an application, a Licensing Officer will, in the first instance, attempt to mediate between the relevant parties.

3.5.2 For example, it may be possible to find a compromise position in one of the following ways:-

- amending the times during which trading will take place;

- amending the days on which trading will take place;
- adding conditions to the Consent to address specific concerns;
- granting Consent for a trial period to assess the impact; or
- amending the list of articles to be sold.

3.5.3 Where all relevant parties agree to a compromise position, the Consent will be granted by Officers, subject to the agreed amendments.

3.6 Determining Applications Where Mediation Is Not Possible

3.6.1 Where representations or objections are received and it is not possible to reach an agreed compromise, the application can be referred, at the applicant's request, to a Licensing Sub-Committee for determination.

3.6.2 The Licensing Sub-Committee will be conducted in accordance with the procedure attached at **Annex C** of this Policy.

3.7 Key Considerations

3.7.1 Each application will be considered on its own merits.

3.7.2 The Council will have regard to all of the circumstances and all of the representations and objections that it receives. The Council will normally grant or renew a Street Trading Consent unless, in its opinion,:-

- a significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site; or
- there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited; or
- there would be a significant loss of amenity caused by traffic, noise (whether from trading unit or its customers), light pollution, rubbish, air quality, potential for the harbourage of vermin; or
- there is already adequate like provision in the vicinity of the site to be used for street trading purposes; or
- there is a conflict with Traffic Orders such as waiting restrictions; or
- the site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes; or
- street trading activities would undermine the safe and efficient passage along public highways and cause congestion; or
- the pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities; or
- the site does not allow the Consent Holder, staff and customers to park in a safe manner; or
- the trading activity would detract from the visual or other attractions of the area in which it takes place, particularly designated Conservation Areas, Areas of Outstanding Natural Beauty and Sites of Special or Scientific Interest; or
- street trading activities would conflict with the solemnity and tranquillity that can reasonably be expected at sensitive locations, such as close to a place of worship, cemetery, crematorium etc; or

- the street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff; or
- a Consent has already been granted to another person to trade similar articles in the immediate vicinity.

3.8 Options Available to Licensing Sub-Committee

3.8.1 When determining an application for grant or renewal of a Street Trading Consent, a Licensing Sub-Committee can take any of the following steps as is considered desirable with a view to meeting the objectives of this Policy:-

- (a) grant consent to the applicant as applied for;
- (b) grant consent to the applicant subject to modifications to any of the following matters:
 - (i) the days on which trading can take place;
 - (ii) the times during which trading can take place;
 - (iii) the location(s) where trading can take place;
 - (iv) the articles that can be traded;
 - (v) the conditions attached to the Consent;
 - (vi) the duration of the Consent.
- (c) refuse to grant Consent.

3.8.2 In the interests of transparency, reasons will be given for any decision taken by a Licensing Sub-Committee.

4.0 DURATION OF STREET TRADING CONSENTS

4.1 Duration

4.1.1 A Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.

4.1.2 The holder of a Street Trading Consent may at any time surrender their Consent to the Council, and it shall then cease to be valid

4.1.3 A Street Trading Consent will normally be granted for 6 or 12 months, in accordance with the applicant's wishes, and will then expire.

4.1.4 The Council will consider granting a Street Trading Consent for a shorter duration than 6 months on application.

4.1.4 A Street Trading Consent may be granted for a shorter period as determined either through the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee. Consents lasting less than 6 months may be granted to provide a "trial period" during which any adverse impact of the trading can be assessed.

4.2 Renewal

- 4.2.1 Applications to renew an existing Street Trading Consent must be made at least 28 days prior to the expiry of the existing Consent.
- 4.2.2 If applications for renewal are not received at least 28 days prior to the expiry of the existing Consent, applications from other prospective traders wishing to trade at the relevant location will be considered.

5.0 CONDITIONS ATTACHED TO CONSENTS

5.1 Standard Conditions

- 5.1.1 When granting or renewing a Street Trading Consent, the Council may attach such conditions to it as they consider reasonably necessary.
- 5.1.2 Street Trading Consents will usually be granted subject to the standard conditions detailed in **Annex D** to this Policy.

5.2 Additional Conditions

- 5.2.1 Additional conditions, over and above the standard conditions, may be imposed on a Street Trading Consent on a case by case basis. Additional conditions may be attached either as a result of the mediation process described at Paragraph 3.5 or by a Licensing Sub-Committee when granting Consent.

6.0 APPEALS

6.1 Refusals / Attached Conditions

- 6.1.1 The Act does not provide an applicant with any direct right of appeal against a decision to refuse the grant or renewal of a Street Trading Consent, the revocation of a Street Trading Consent, or against any restrictions or conditions imposed on a Street Trading Consent.

7.0 COMPLAINTS AND ENFORCEMENT

7.1 General Principles

- 7.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.
- 7.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

7.2 Offences

7.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982:-

- engaging in street trading in a prohibited street;
- engaging in street trading in a consent street without Consent;
- contravention of a condition in relation to trading location; and
- contravention of a condition in relation as to the times between which or periods for which a Consent Holder can trade.

7.3 Complaints

7.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

7.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:-

- verbal warning;
- written warning;
- simple caution;
- prosecution; or
- referral of the Consent Holder to a Licensing Sub-Committee.

7.3.3 If an existing Consent Holder is referred to a Licensing Sub-Committee, the Licensing Sub-Committee may take any of the following steps as are deemed desirable to meet the objectives of this Policy:-

- take no further action;
- give a warning to the Consent Holder;
- amend the days on which trading can take place;
- amend the times during which trading can take place;
- amend the location(s) where trading can take place;
- amend the articles that can be traded;
- amend the conditions attached to the Consent;
- amend the duration of the Consent; or
- revoke the Consent.
-

8.0 AMENDMENTS TO THIS POLICY

8.1 Any significant amendment to this Policy will only be implemented after further consultation with the trade and the public.

For the purpose of this section, any significant amendment is defined as one that:-

- a) is likely to have a significant financial effect on licence holders;
- b) is likely to have a significant procedural effect on licence holders; or
- c) is likely to have a significant effect on the community.

9.0 FEES AND CHARGES

- 9.1 The fees charged by the Authority for Consents to trade should at least cover the cost of administering and enforcing the service.
- 9.2 The fees will be reviewed at least on an annual basis and published on the Council's website.
- 9.3 It is possible for the Authority to charge different fees for Consents that are for different durations or locations. Different fees can also be charged depending on the nature of the articles being sold and depending on whether the trading takes place at a single location or on a mobile basis.
- 9.4 Street trading fees may be waived at the discretion of the relevant Corporate Head of Service, acting in consultation with the Chairman and Vice-Chairman of the Licensing Committee. Fees may only be waived in relation to charitable or community events, or events of a similar nature. Each event will be judged on its own merits.

10.0 DEFINITIONS

| TERM | DEFINITION |
|--------------------|--|
| Authorised Officer | An Officer of the Council authorised by it to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982. |
| Consent | A Consent to trade on a street granted by the Council, pursuant to Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. |
| Consent Holder | The person or company to whom the consent to trade has been granted by the Council. |
| Consent Street | A street in which street trading is prohibited without the consent of the Council. |
| Council | Tewkesbury Borough Council |
| Days | Refers to consecutive or calendar days unless specified otherwise. |
| Prohibited Street | A street in which street trading is prohibited |
| Prime Site | A "Prime Site" category is one where an applicant seeks consent to trade in a street, and regularly occupies the same site for more than 4 hours on any one or more days, and is located within 100 metres of a shopping area as listed. |
| Street | Any road, footway or other area to which the public have access without payment, or any part of a street, including all roads, footways and areas open as a matter of fact to the |

public without payment, within the distance of 30 metres from the centre of those streets which are part of the public highway.

Street Trading

The selling or exposing, or offering for sale of any article (including a living thing) in any street. The following are not street trading for the purposes of this Policy:-

- a pedlar with a Pedlar's Certificate;
- anything done in a Market or Fair the right to hold which was acquired by virtue of a grant (including a presumed grant) or acquired or established by virtue of an Enactment or Order;
- trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980;
- trading as a newsvendor selling only newspapers/magazines;
- trading which is carried out at premises used as a petrol filling station, or at premises used as a shop, or in a street adjoining premises so used, and as part of the business of the shop;
- selling things, or offering or exposing them for sale, as a rounds man;
- the use for trading, under Part VIIA of the Highways Act 1980, of an object or structure placed on, in or over a highway;
- the operation of facilities for recreation or refreshment under Part VIIA of the Highways Act 1980;
- the doing of anything authorised by regulations made under Section 5 of the Police, Factories etc (Miscellaneous Provisions) Act 1916.

Street Trading Assistant

A person engaged by the Consent Holder to assist them with their trading.

A street trading assistant will be deemed to be assisting a Consent Holder on a regular basis if they will be engaged to assist them on more than 14 days per calendar year.

ANNEX A



**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT
1982**

SCHEDULE 4

TEWKESBURY BOROUGH COUNCIL

Licensing Section, Council Offices, Gloucester Road, Tewkesbury, GL20 5TT

APPLICATION FOR A STREET TRADING CONSENT

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

1. Type of Application

| | | | |
|--------------------------------------|--|------------------------|--|
| Grant | | Renewal | |
| 12 Month Consent | | 6 Month Consent | |
| Other period (please specify) | | | |

2. Personal Details of Applicant

| | | | | | |
|--------------------------|--|----------------------|--|------------------|--|
| Full Name | | | | | |
| Permanent Address | | | | | |
| Age | | Date of Birth | | NI Number | |
| | | | | | |

| | |
|--------------------------|--|
| Contact Telephone Number | |
|--------------------------|--|

Are you eligible to work in the United Kingdom?

YES / NO

3. Details of any person(s) who will be assisting with the street trading on a regular basis?

| | | | | | |
|-------------------|--|---------------|--|-----------|--|
| Full Name | | | | | |
| Permanent Address | | | | | |
| Age | | Date of Birth | | NI Number | |

Is this person eligible to work in the United Kingdom?

YES / NO

| | | | | | |
|-------------------|--|---------------|--|-----------|--|
| Full Name | | | | | |
| Permanent Address | | | | | |
| Age | | Date of Birth | | NI Number | |

Is this person eligible to work in the United Kingdom?

YES / NO

5. **Will the trading be carried out:**

| | |
|------------------------------|--|
| From a single fixed location | From a number of locations on a “mobile” basis |
|------------------------------|--|

6. **Where is it proposed that the trading will take place? (see Guidance Notes)**

If this location is on private land, can you provide documentary evidence that you have the landowners' permission to trade from their land?

YES / NO

7. **Trading Hours**

During which hours do you wish to trade on the following days?

| | | | |
|------------------|--|-----------------|--|
| Monday | | Tuesday | |
| Wednesday | | Thursday | |
| Friday | | Saturday | |
| Sunday | | | |

8. **Description of the articles to be sold or offered for sale**

[Empty rectangular box]

If selling foodstuffs, are you registered with the relevant Local Authority to carry on a food business? **YES / NO**

9. Description of any van, cart, barrow, portable stall of other vehicle used for trading including (if applicable) the vehicle registration number

[Empty rectangular box for description of vehicle]

10. Address where any van, cart, barrow, portable stall of other vehicle used for trading will be kept when not being traded from

[Empty rectangular box for address]

12. Previous Applications / Licences / Consents

Have you ever been refused a Street Trading Licence or Consent or had such a Licence or Consent revoked? **YES / NO**

If yes give details (continue on a separate sheet if necessary)

[Empty rectangular box for details]

| |
|--|
| |
|--|

13. Declaration (See Guidance Notes at the end of this form)

I declare that I have checked the information given on this application form and to the best of my knowledge and believe it is correct.

I understand that I must now advertise my application in accordance with Tewkesbury Borough Council's Street Trading Policy.

I have enclosed all of the following:-

- The relevant fee.
- A plan (where necessary) showing the location where I wish to trade.
- Two passport sized photographs of myself and any regular assistant.
- A copy of my third party public liability insurance.
- Documentary evidence of the landowners permission to trade from their land (where necessary)

I understand that if I fail to comply with the above, my application will be rejected.

Signed _____ **Date** _____

Print Name _____

| | |
|----------------------------|--|
| For Office Use Only | |
| Police response received | |

Application Form - Guidance Notes

False Statements in Connection with Applications

Any person who, in connection with an application for the grant or renewal of a Consent under this Schedule, makes a false statement which they know to be false in any material respect, or which they do not believe to be true, shall be guilty of an offence. This offence carries a maximum penalty of £1000

Giving Public Notice of the Application

Where the application is for grant of a new Consent in respect of a fixed location, the applicant must advertise their application by displaying the prescribed Public Notice at the relevant location for not less than 14 days beginning with the day after the application for Consent is made to the Council.

Plans / List of Parishes

Where the proposed trading is from a fixed location, a copy of a plan must be provided at a minimum scale of 1:2000, unless an alternative scale has been specified by a Licensing Officer. This plan should clearly identify the proposed site location by marking the site boundary with a red line.

Where the trading is proposed to take place on a mobile basis, a list of the relevant Towns/Parishes in which trading is proposed to take place must be provided along with details where possible about the specific areas in which the trading will take place.

Trading from Private Land

Where the trading is to take place from private land, documentary evidence that the landowner has given their consent to the applicant to trade from their land must be provided.

Prevention and Detection of Fraud

This Authority is under a duty to protect the public funds it administers and to this end, may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information see www.tewkesbury.gov.uk/NFI.

ANNEX B

NOTICE OF APPLICATION FOR GRANT OF A STREET TRADING CONSENT

| | |
|---|--|
| Name of Applicant | |
| Location | |
| Summary of application (hours of trading, articles to be sold, etc): | |
| <p>NOTICE IS HEREBY GIVEN that an application has been made to Tewkesbury Borough Council for a Consent to carry out street trading at the above location</p> <p>Copies of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 (which defines the type of activity that may be carried on under a Consent) and of the application may be inspected at Tewkesbury Borough Council, Council Offices, Gloucester Road, Tewkesbury, GL20 5TT between 9.00 am and 4.00 pm (Monday to Friday except public holidays).</p> <p>Any representations or objections in respect of the above application must be made in writing to the council at the above address by</p> <p>_____</p> <p>(28 days after the date of the application)</p> | |

ANNEX C – HEARINGS PROCEDURE

TEWKESBURY BOROUGH COUNCIL

Licensing Sub-Committee (Street Trading)

Procedure

1. The Chairman will ask everyone present to introduce themselves.
2. The Chairman will briefly explain the procedure to members of the public.
3. The Licensing Officer will open the hearing with an outline of the relevant details of the application.
4. The applicant or his/her representative will be invited to present his/her case, at the conclusion of which he/she, together with any witnesses he/she may have called, may be questioned by Members of the Sub-Committee.
5. The Sub-Committee may then invite comments from Officers and, if appropriate, representatives of such bodies as the Police and Fire Authority, following which any objectors, and others wishing to make representations in respect of the application, will be invited to make their submissions. Members of the Sub-Committee may ask questions of all those present.
6. The applicant will then be allowed to make a final statement in response to any objections that have been raised.
7. At the conclusion of the hearing, the stage at which the Sub-Committee will wish to deliberate upon the application, the applicant will be asked to withdraw together with all other parties present. If it is necessary to recall any party to provide further information or clarification all parties at the hearing must be invited to return.
8. When the Sub-Committee has reached its conclusions the parties will be recalled and its decision will be announced to the applicant, accompanied by, as appropriate, a description of any conditions which are to be attached to the grant of a Licence/Consent.

ANNEX D

STREET TRADING CONSENT **STANDARD CONDITIONS**

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Street Trading Consents are issued by this Council subject to the following Standard Conditions, in so far as they do not conflict with, or are amended by, any special conditions imposed on the grant of a Consent:-

- The Consent shall be valid for the period specified in the Consent, but this period shall not exceed 12 months.
- The Consent may be revoked by the Council at any time.
- A Consent shall be required for each trading unit (e.g. each vehicle or stall).
- A Consent shall not be assigned or transferred.
- Street trading must only be carried on by the Consent Holder or by a person engaged by the Consent Holder to assist in their trading.
- The Consent Holder must provide the name, address and date of birth of any person assisting them with their trading on a regular basis.
- Consent Holders, and any person assisting them on a regular basis, shall at all times, clearly and visibly display a valid identification badge. The badge is to be issued by the Council.
- The Council may vary or make additions to the Conditions or a Consent at any time.
- The Consent shall be limited to the days of the week, and between the hours each day, as stated on the Consent.
- The Consent Holder and/or his assistants shall only sell, or offer for sale, those goods specified in the Consent granted to the Consent Holder.
- The Consent Holder, and/or his assistants, shall only trade at the location(s) specified in the Consent.
- The Consent Holder, and/or his assistants, must not cause an obstruction of any street or endanger any person using it.
- The Consent Holder, and/or his assistants, must not cause nuisance (whether from noise, smell, litter or light) or annoyance by reason of the street trading activity, whether to persons using or living in the street or otherwise. In particular, but without prejudice to the generality of the foregoing, the Consent Holder shall ensure that his customers or patrons conduct themselves in an orderly manner.

- Where a trader trades from a fixed location, at least one refuse container must be provided for use by customers.
- When leaving a site the trader shall ensure that the locations in the immediate vicinity of where he has been trading are clear of refuse and waste arising from the trading.
- Traders must arrange the removal and disposal of waste arising from their trading in a lawful manner.
- No waste matter shall be discharged onto a street or be allowed to enter a highway drain.
- The use and storage of liquefied petroleum gas shall comply with all current, relevant legislation and Codes of Practice.
- No television, radio, tape player or other device used for the entertainment of the Operator, shall be audible outside, or beyond, the trading unit.
- All signs advertising the business must be no more than 50 metres from the trading unit.

NOTE: The requirements as to signs advertising the business do not imply the right to display such signs which may require a necessary planning permission.

- At the end of each trading period the trader shall remove any signs advertising the business, with the exception of those attached to the vehicle or stall used for the purposes of the Street Trading Consent.
- No television, radio, tape player or other device used for the reproduction or amplification of sound during trading shall be at a level which causes nuisance or annoyance to persons using or living in the street.
- Any vehicle, stall or container used by the Consent Holder in the course of street trading shall be constructed and maintained to the satisfaction of all reasonable requirements of the Council, the Police and Highway Authorities as to its construction, safety and appearance.
- The Consent Holder shall, at all times, maintain a valid Third Party Public Liability Insurance Policy to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised Officer of the Council.
- The Consent Holder, and/or assistants, shall not trade whilst intoxicated and should behave in a civil and orderly manner at all times when trading.
- Consent holders, and any/or assistants, should wear clean and appropriate clothing.
- The Consent Holder must notify the Council within 7 days if any of the information provided when applying for the consent changes.

A Street Trading Consent does not operate as a consent for any purpose other than to permit the holder to trade on a Consent Street in accordance with any conditions imposed. The Consent Holder must ensure that he has obtained any other consent, approval or registration required under any other statutory provision relevant to his trade.

In these conditions "Consent" means a consent issued under Paragraph 7 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982; "Consent Holder" means the person named on the Street Trading Consent issued by the Council and any person employed by him to assist in his trading; "Council" means the Tewkesbury Borough Council.

ADDITIONAL CONDITIONS APPLICABLE TO MOBILE FOOD VENDORS

USE OF LOUDSPEAKERS TO ATTRACT BUSINESS¹

Chimes should not be sounded:

1. For longer than 4 SECONDS at a time.
2. More often than ONCE every 3 MINUTES.
3. When the vehicle is stationary.
4. Except on approach to a selling point.
5. When in sight of another ice-cream van which is trading.
6. When within 50m of schools (during school hours), hospitals, and places of worship (on Sundays and any other recognised days of worship).
7. More often than ONCE every 2 HOURS in the same street.
8. Louder than 80 dB(A) at 7.5m (Contact your Local Authority for advice).
9. As loudly in quiet areas or narrow streets as elsewhere.

REMEMBER - IT IS AN OFFENCE TO SOUND YOUR CHIMES

1. Before 12 noon and after 1900 hours.
2. At any time in a way which gives reasonable cause of annoyance.

¹ Based on the Control of Noise (Code of Practice on Noise From Ice-Cream Van Chimes etc.) Order 1982

TEWKESBURY BOROUGH COUNCIL

| | |
|------------------------------|---|
| Report to: | Licensing Committee |
| Date of Meeting: | 8 February 2018 |
| Subject: | Licensing Audit Action Plan |
| Report of: | Gordon Buchanan, Environmental Health Manager |
| Corporate Lead: | Peter Tonge, Head of Community Services |
| Lead Member: | Councillor J R Mason, Lead Member for Clean and Green Environment |
| Number of Appendices: | Two |

| |
|---|
| <p>Executive Summary:</p> <p>This report provides an update on the internal audit of how the Council delivers its licensing function, carried out in October 2017. Recommendations of report are attached at appendix A.</p> |
| <p>Recommendation:</p> <p>To CONSIDER the action plan, attached at Appendix B, to address the issues identified in licensing internal audit.</p> |
| <p>Reasons for Recommendation:</p> <p>To confirm how and when the recommendations of the October 2017 Licensing Audit will be implemented.</p> |

| |
|---|
| <p>Resource Implications:</p> <p>None</p> |
| <p>Legal Implications:</p> <p>None</p> |
| <p>Risk Management Implications:</p> <p>The recommendations contained in the licensing report relate to general procedural improvements that when implemented would reduce risk.</p> |
| <p>Performance Management Follow-up:</p> <p>Progress against the Action Plan contained in Appendix B, will be reported at subsequent Licensing Committees.</p> |
| <p>Environmental Implications:</p> <p>None</p> |

1.0 INTRODUCTION/BACKGROUND

1.1 In October 2017, an internal audit of the Council's licensing function was carried out. The scope of the audit was defined by the following control objectives:

1. Licence applications - both new and renewals - are appropriately processed in a timely manner, approved and the correct fee received.
2. Licence conditions are enforced in accordance with the Council's policy and legislative requirements, and complaints and breaches of conditions are investigated in a timely manner.
3. The public have access, via the Council's website, to its licensing policies and up to date statutory licence registers

1.2 Tewkesbury Borough Council is the relevant authority in relation to a wide range of licences, designated to be administered and enforced by the Council through a number of distinct Statutory Instruments. Areas covered by this Audit were:

- Taxi Licensing
- Sale of Alcohol
- Regulated Entertainment
- Tattooing and Skin Piercing
- Animal Breeding/Boarding
- Street Trading
- Gambling
- Pet Shops
- Sex Establishments

2.0 INTERNAL AUDIT REPORT FINDINGS

2.1 The internal audit report made a number of recommendations, attached at Appendix A, predominantly relating to procedural improvements to the administration of the various licensing regimes. An action plan was subsequently put in place to deliver the relevant recommendations and this is attached at Appendix B.

2.2 Members are asked to consider the actions proposed to address the issues identified in the internal audit and the progress made to date.

3.0 OTHER OPTIONS CONSIDERED

3.1 None

4.0 CONSULTATION

4.1 None

5.0 RELEVANT COUNCIL POLICIES/STRATEGIES

5.1 Environmental Health Enforcement Policy

Street Trading Policy

Hackney Carriage (Taxi) and Private Hire Licensing Policy

Policy on relevance of convictions for hackney carriage and private hire drivers

Policy on the suspension, revocation and refusal to renew driver licences

Licensing Policy 2014-2019

Gambling Policy 2016-2019

Sex Establishment Licensing Policy

6.0 RELEVANT GOVERNMENT POLICIES

6.1 None

7.0 RESOURCE IMPLICATIONS (Human/Property)

7.1 No significant resource implications

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

8.1 No significant sustainability implications

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

9.1 To be completed as appropriate (if none please state 'none')

10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

10.1 Details of any other decisions made that may be related to the report. (If none please state 'none')

Background Papers: Audit Committee Report – 13 December 2017

Contact Officer: Gordon Buchanan, Environmental Health Manager
01684 272117 Gordon.Buchanan@teWKesbury.gov.uk

Appendices: Appendix A – Internal Audit Report Recommendations
Appendix B – Licensing Audit Action Plan

APPENDIX A: RECOMMENDATIONS

| | | | | | |
|-------|------------------------|-------|---------------|----------|---------|
| AUDIT | Licences Audit 2017-18 | DATE: | November 2017 | AUDITOR: | D Vince |
|-------|------------------------|-------|---------------|----------|---------|

| CO No | Rec No | Risk (of non implementation) | Recommendation | Action to be taken | Officer Responsible | Implementation Date | Priority |
|-------|--------|--|---|---|------------------------------|---------------------|----------|
| 1 & 3 | 1 | <p>Legislative – non-compliance with the relevant legislation</p> <p>Financial – Loss of income</p> <p>Reputational – information available to the public is out of date</p> | A review should be undertaken in respect of licences processes operating under the licensing act 2003 | <p><u>Licensing Act in General</u> Copies of licences issued should be retained</p> <p><u>Premises Licences</u> -A review of current premises licences and debtors should be undertaken to ensure that all annual payments have been raised</p> <p>-The debtor report issued to Licence's should be issued at least 28 days prior to the debt invoice being raised, amendments to this report by licences should be undertaken promptly and reported back with the relevant licence application reference within this timescale.</p> <p>-Debtors invoices (included annual invoices) raised in connection with Licences should clearly demonstrate the licence application reference</p> <p><u>Personal Licences:</u> -A review of personal licence information of the councils website should be undertaken to ensure that it is up to date with current practices and additional information is provided in relation to notifiable offences</p> <p><u>Temporary Event Notices</u> -The website and online forms should be updated to provide definition on what is a premises user</p> <p>-A process should be established to monitor the</p> | Environmental Health Manager | April 2018 | N |

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

APPENDIX A: RECOMMENDATIONS

| | | | | | |
|-------|------------------------|-------|---------------|----------|---------|
| AUDIT | Licences Audit 2017-18 | DATE: | November 2017 | AUDITOR: | D Vince |
|-------|------------------------|-------|---------------|----------|---------|

| | | | | | | | |
|---|---|--|--|--|--|----------------|---|
| | | | | number of events operated by a premises user. In this connection the TENs submitted via Cotswolds Markets should be reviewed in order to ensure compliance with this requirement. | | | |
| 1 | 2 | Financial – Loss of income Operational – lack of transparency | A review of street trading processes should be undertaken to give consideration to prime sites. | A proximity check should be demonstrated for street traders operating close to prime site. | | January 2018 | N |
| 1 | 3 | Health and Safety – faulty equipment not identified | A review of taxi/private hire licences should be undertaken in particular the receipt of LOLER certificates | -the 6 monthly LOLER certificates needs to be provided to the council on a regular basis. -the safeguarding policy requirements should be implemented (see safeguarding audit 2016/17) -Payments receipted should be at the current fee rate | | April 2018 | N |
| 1 | 4 | Financial – possible loss of income and possibility that fees charged do not cover the service | A review of the animal boarding application process should be undertaken in particular verification of fees through home visits, prompt renewal of licences and a cost review of the service | -The website information should be updated to provide details on the home visits undertaken by the EHOs and the change in the veterinary procedures. -To update the home visit check sheet to include confirmation of the number of units to ensure the correct fee has been received -To check that all animal licences are renewed at the beginning of each year and undertake the appropriate enforcement action for non-renewals - A review of the fees to ensure full cost of the service including the home visits has been taken | | September 2018 | N |

58

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

APPENDIX A: RECOMMENDATIONS

| | | | | | |
|-------|------------------------|-------|---------------|----------|---------|
| AUDIT | Licences Audit 2017-18 | DATE: | November 2017 | AUDITOR: | D Vince |
|-------|------------------------|-------|---------------|----------|---------|

| | | | | | | | |
|---|---|---|---|---|------------------------------|--------------|---|
| | | | | into consideration. | | | |
| 1 | 5 | Operational – processing times of licences in correctly stated | Data entry within uniform should accurately reflect the licence process | <p>-The receipt date of the application for all licence types should be correctly reflected within the Uniform system</p> <p>-All consultees should be listed for each licence type</p> <p>-In respect of animal boarding visit dates and officer details should be recorded within Uniform</p> <p>-Outstanding balances should be reviewed to ensure that these are not error entry lines</p> <p>-the trading times of a Street trader should be correctly entered into Uniform.</p> | | January 2018 | N |
| 1 | 6 | Financial – possible loss of income | A regular reconciliation is undertaken between licences and the general ledger to ensure non-payments, part payments and miscoding errors are identified. | A staged approach will be adopted to the reconciliation process. Initially annual licence's will be checked against the general ledger and then further licences will be added once the format of the reconciliation process and officers understanding of the general ledger have been established. | Environmental Health Manager | April 2018 | N |
| 2 | 7 | Legislative and operational – possibility of premises are not abiding to the licensing objective and conditions | A risk assessment of licensed premises has not been carried out – this is required in order to establish a pro-active approach to enforcement | <p>-A programme of inspections for licenced premises will be carried out in the 2018 calendar year.</p> <p>-Based on the inspections, a risk assessment will then be performed and entered into the uniform system.</p> | Environmental Health Manager | April 2019 | N |
| 2 | 8 | Legislative and operational – possibility of | Service requests such as noise complaints that can be associated with a licenced | Agreed | Environmental Health Manager | April 2018 | N |

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

APPENDIX A: RECOMMENDATIONS

| | | | | | |
|-------|------------------------|-------|---------------|----------|---------|
| AUDIT | Licences Audit 2017-18 | DATE: | November 2017 | AUDITOR: | D Vince |
|-------|------------------------|-------|---------------|----------|---------|

| | | | | | | | |
|---|---|---|---|--------|------------------------------|-----------|---|
| | | premises are not abiding to the licensing objective and conditions | premises should be dealt with through the licencing module. | | | | |
| 2 | 9 | Legislative and operational – possibility of premises are not abiding to the licensing objective and conditions | An online facility for the public to report licensable complaints should be provided. | Agreed | Environmental Health Manager | June 2018 | N |

NB: The implementation of recommendations are reported to audit committee and any non-implementation by the agreed date may result in the committee requesting an update from the responsible officer

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

Licensing Audit Action Plan

| CO No | Rec No | Risk (of non implementation) | Recommendation | Action to be taken | Officer Responsible | Implementation Date | Priority | Proposed action |
|-------|--------|--|---|--|------------------------------------|---------------------|----------|---|
| 1 & 3 | 1 | <p>Legislative – non-compliance with the relevant legislation</p> <p>Financial – Loss of income</p> <p>Reputational – information available to the public is out of date</p> | A review should be undertaken in respect of licences processes operating under the licensing act 2003 | <p><u>Licensing Act in General</u> Copies of licences issued should be retained</p> <p><u>Premises Licences</u> -A review of current premises licences and debtors should be undertaken to ensure that all annual payments have been raised</p> <p>-The debtor report issued to Licence's should be issued at least 28 days prior to the debt invoice being raised, amendments to this report by licences should be undertaken promptly and reported back with the relevant licence application reference within this timescale.</p> <p>-Debtors invoices (included annual invoices) raised in connection with Licences should clearly demonstrate the licence application reference</p> | Environmental Health Manager (EHM) | April 2018 | N | <p>An action plan has been adopted to ensure that all records are checked and updated by April 2018.</p> <p>EHM to discuss billing system with finance. Will confirm what has been raised and what has been paid and what system in place for letting EH know when paid. end of February 2018</p> <p>EHM to produce procedure by end of February 2018.</p> <p>This will form part of procedure referred to above.</p> |

| | | | | | | | | |
|---|---|---|---|--|------------------------------|--------------|---|---|
| | | | | <p><u>Personal Licences:</u> -A review of personal licence information of the councils website should be undertaken to ensure that it is up to date with current practices and additional information is provided in relation to notifiable offences</p> <p><u>Temporary Event Notices</u> -The website and online forms should be updated to provide definition on what is a premises user</p> <p>-A process should be established to monitor the number of events operated by a premises user. In this connection the TENS submitted via Cotswolds Markets should be reviewed in order to ensure compliance with this requirement.</p> | | | | <p>Review of all information relating to licences will be undertaken by end of Feb, all information rationalised and updated by April 2018.</p> <p>As above</p> <p>A procedure will be produced ensuring information entered correctly onto the IT system will automatically flag the number of TENS that have been applied for and a check on applicant carried out to confirm number of applications to date that year. To date no TENS have been issued to businesses exceeding the legal limit.</p> |
| 1 | 2 | <p>Financial – Loss of income</p> <p>Operational – lack of transparency</p> | A review of street trading processes should be undertaken to give consideration to prime sites. | A proximity check should be demonstrated for street traders operating close to prime site. | Environmental Health Manager | January 2018 | N | Procedure will be amended to consider Prime Sites as defined in Street Trading Fees. End Jan 2018 |

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

| | | | | | | | | |
|---|---|--|--|---|------------------------------|----------------|---|--|
| 1 | 3 | Health and Safety – faulty equipment not identified | A review of taxi/private hire licences should be undertaken in particular the receipt of LOLER certificates | <p>-the 6 monthly LOLER certificates needs to be provided to the council on a regular basis.</p> <p>-the safeguarding policy requirements should be implemented (see safeguarding audit 2016/17)</p> <p>-Payments receipted should be at the current fee rate</p> | Environmental Health Manager | April 2018 | N | <p>Submission of LOLER certificates currently not in Taxi Policy. Taxi Policy to be reviewed early 2018 to align with neighbouring authorities. As part of this review submission of LOLER certificates will become part of the application and renewal process. Review to be completed by April 2018.</p> <p>Safeguarding training to be provided to all taxi drivers. A program of training to be put in place for March/April 2018 or as soon as possible thereafter when trainers are available. Fees will be reviewed to reflect requirement training costs.</p> <p>Any uplift to the annual fees will be agreed in line with the policy and all payments will be in line with the fees and charges at that appropriate time.</p> |
| 1 | 4 | Financial – possible loss of income and possibility that fees charged do not cover the service | A review of the animal boarding application process should be undertaken in particular verification of fees through home visits, prompt renewal of licences and a cost review of the service | -The website information should be updated to provide details on the home visits undertaken by the EHOs and the change in the veterinary procedures. | Environmental Health Manager | September 2018 | N | <p>New Animal Welfare legislation due out imminently. When this is released a complete review of processes and procedures relating to animal boarding establishments will be carried out early to mid-2018.</p> <p>Website will be amended to reflect current procedure. End of Jan 2018.</p> |

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

| | | | | | | | |
|--|--|--|--|---|--|--|--|
| | | | | <p>-To update the home visit check sheet to include confirmation of the number of units to ensure the correct fee has been received</p> <p>-To check that all animal licences are renewed at the beginning of each year and undertake the appropriate enforcement action for non-renewals</p> <p>- A review of the fees to ensure full cost of the service including the home visits has been taken into consideration.</p> | | | <p>The home visit check sheet will be updated to reflect this</p> <p>A procedure will be adopted setting out what steps will be taken with regards to recovering fees or determining if establishment is operating without being registered. End Jan 2018.</p> <p>Fees will be benchmarked against other authorities and this used to confirm charges for 2018/19. When new Animal Welfare regulations come into force and procedures amended to take account of regulations then analysis of costs will be made and used for future charging.</p> |
|--|--|--|--|---|--|--|--|

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

| | | | | | | | | |
|---|---|--|---|---|------------------------------|--------------|---|---|
| 1 | 5 | Operational – processing times of licences in correctly stated | Data entry within uniform should accurately reflect the licence process | <p>-The receipt date of the application for all licence types should be correctly reflected within the Uniform system</p> <p>-All consultees should be listed for each licence type</p> <p>-In respect of animal boarding visit dates and officer details should be recorded within Uniform</p> <p>-Outstanding balances should be reviewed to ensure that these are not error entry lines</p> <p>-the trading times of a Street trader should be correctly entered into Uniform.</p> | Environmental Health Manager | January 2018 | N | <p>A Procedure will be produced for each work stream. All relevant staff will be trained to ensure competence. Random sampling of data entry will be carried out through beginning of 2018 and randomly thereafter to ensure data being entered correctly.</p> <p>EHM will carry out review of all outstanding balances as part of overall review of the charging scheme and debt recovery procedure. End Jan 2018</p> <p>Uniform entries relating to street traders will be reviewed and all entries updated. End Jan 2018</p> |
| 1 | 6 | Financial – possible loss of income | A regular reconciliation is undertaken between licences and the general ledger to ensure non-payments, part payments and miscoding errors are identified. | A staged approach will be adopted to the reconciliation process. Initially annual licence's will be checked against the general ledger and then further licences will be added once the format of the reconciliation process and officers understanding of the general ledger have been established. | Environmental Health Manager | April 2018 | N | A procedure will be adopted for this element. April 2018 |

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

| | | | | | | | | |
|---|---|---|---|--|------------------------------|------------|---|---|
| 2 | 7 | Legislative and operational – possibility of premises are not abiding to the licensing objective and conditions | A risk assessment of licensed premises has not been carried out – this is required in order to establish a pro-active approach to enforcement | -A programme of inspections for licenced premises will be carried out in the 2018 calendar year. -Based on the inspections, a risk assessment will then be performed and entered into the uniform system. | Environmental Health Manager | April 2019 | N | All premises will be visited and risk assessed by April 2019 and an ongoing programme of inspection based on the risk will be implemented. |
| 2 | 8 | Legislative and operational – possibility of premises are not abiding to the licensing objective and conditions | Service requests such as noise complaints that can be associated with a licenced premises should be dealt with through the licencing module. | Agreed | Environmental Health Manager | April 2018 | N | All service requests relating to licensed premises are attached to that premises through the service request module or logged on as standard service requests. When risk assessments carried out history of complaints will be readily available to be considered when scoring. The risk scoring will be on the licencing module. It is useful to log noise complaints onto Uniform under the service requests module as this allows noise complaints to be broken down using existing codes. To add these complaints to the licensing module is to add another procedure for no real benefit. A random sample of licensed premises will be audited to confirm that complaints are registered against them and this information is readily available for risk assessing. |

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

| | | | | | | | | |
|---|---|---|---|--------|------------------------------|-----------|---|---|
| 2 | 9 | Legislative and operational – possibility of premises are not abiding to the licensing objective and conditions | An online facility for the public to report licensable complaints should be provided. | Agreed | Environmental Health Manager | June 2018 | N | Include option on website End Jun 2018 |
|---|---|---|---|--------|------------------------------|-----------|---|---|

NB: The implementation of recommendations are reported to audit committee and any non-implementation by the agreed date may result in the committee requesting an update from the responsible officer

DRAFT

E= Essential – Necessary due to statutory obligation, legal requirement, Council policy or major risk of loss or damage to Council assets, information or reputation. Where possible it should be addressed as a matter of urgency.

N= Necessary - Could cause limited loss of assets or information or adverse publicity or embarrassment. Necessary for sound internal control and confidence in the system to exist and should be pursued in the short term, ideally within 6 months.

Agenda Item 8

Document is Restricted

Document is Restricted

Document is Restricted