

17 July 2024

<b>Committee</b>	Licensing
<b>Date</b>	Thursday, 25 July 2024
<b>Time of Meeting</b>	2:30 pm
<b>Venue</b>	Tewkesbury Borough Council Offices, Severn Room

## **ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND**

### **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.

#### **3. DECLARATIONS OF INTEREST**

Pursuant to the adoption by the Council on 24 January 2023 of the Tewkesbury Borough Council Code of Conduct, effective from 1 February 2023, as set out in Minute No. CL.72, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.

	<b>Item</b>	<b>Page(s)</b>
<b>4.</b>	<b>MINUTES</b>	5 - 62
	<p>To approve the Minutes of the Licensing Committee meetings held on 9 November 2023 and 15 May 2024; the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) meetings held on 13 November and 12 December 2023; and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 20 November 2023, 18 December 2023, 16 January 2024, 22 February 2024, 5 March 2024, 21 March 2024, 10 April 2024, 28 May 2024, 18 June 2024 and 20 June 2024.</p>	
<b>5.</b>	<b>REVIEW OF TEWKESBURY BOROUGH COUNCIL'S STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005</b>	63 - 96
	<p>To recommend to Council that the current Statement of Principles under the Gambling Act 2005 be adopted for a further three year period and that the Council agree to continue to adopt a "no casino resolution" for inclusion in the published Gambling Act 2005 Licensing Policy Statement.</p>	
<b>6.</b>	<b>AMENDMENT TO VEHICLE TESTING REQUIREMENTS WITHIN TEWKESBURY BOROUGH COUNCIL'S TAXI AND PRIVATE HIRE LICENSING POLICY</b>	97 - 100
	<p>To agree an extension of the implementation of Council vehicle testing to 1 April 2025 to allow for the work required.</p>	
<b>7.</b>	<b>UPDATE ON THE GLOUCESTERSHIRE COMMON STANDARDS</b>	101 - 104
	<p>To consider the update on the ongoing work being carried out within Gloucestershire in relation to taxi and private hire licensing.</p>	
<b>8.</b>	<b>PAVEMENT LICENSING REGIME</b>	105 - 124
	<p>To consider the draft Pavement Licensing Policy, attached at Appendix A to the report, and to agree the delegations set out at Paragraph 5.1 of the report and the fees for new and renewal applications as set out at Paragraph 6.3 of the report; and to recommend to the Executive Committee that the draft Pavement Policy be adopted.</p>	
<b>9.</b>	<b>SEPARATE BUSINESS</b>	
	<p>The Chair 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>	
<b>10.</b>	<b>SEPARATE MINUTES</b>	125 - 194
	<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 20 November 2023, 18 December 2023, 16 January 2024, 22 February 2024, 5 March 2024, 21 March 2024, 10 April 2024, 28 May 2024 and 20 June 2024.</p>	

**DATE OF NEXT MEETING**  
**THURSDAY, 12 SEPTEMBER 2024**

**COUNCILLORS CONSTITUTING COMMITTEE**

Councillors: N D Adcock, C Agg, C L J Carter, C F Coleman, P A Godwin, S Hands, A Hegenbarth, H C McLain, C E Mills (Vice-Chair), G M Porter (Chair), R J G Smith, H Sundarajoo, M G Sztymiak, R J E Vines and M J Williams

**Substitution Arrangements**

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

**Recording of Meetings**

In accordance with the Openness of Local Government Bodies Regulations 2014, 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, 9 November 2023 commencing  
at 2:30 pm**

### **Present:**

Chair	Councillor G M Porter
Vice Chair	Councillor C E Mills

### **and Councillors:**

C F Coleman, P A Godwin, S Hands, H C McLain, H Sundarajoo, M G Sztymiak, R J E Vines  
and M J Williams

### **LIC.12 ELECTION OF CHAIR**

12.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter be appointed as Chair of the  
Licensing Committee for the remainder of the Municipal Year.

### **LIC.13 ANNOUNCEMENTS**

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

### **LIC.14 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

14.1 Apologies for absence were received from Councillors N D Adcock, C Agg, C L J  
Carter and R J G Smith. There were no substitutes for the meeting.

### **LIC.15 DECLARATIONS OF INTEREST**

16.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct  
which was adopted by the Council on 24 January 2023 and took effect on 1  
February 2023.

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

### **LIC.16 MINUTES**

16.1 The Minutes of the Licensing Committee meeting held on 15 June 2023 and the  
Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire  
Vehicles, Drivers and Operators) meetings held on 29 June, 17 July, 9 August, 4  
September, 12 September and 26 October 2023, copies of which had been  
circulated, were approved as correct records and signed by the Chair.

**LIC.17 REVIEW OF STREET TRADING LICENSING POLICY**

- 17.1 The report of the Licensing Team Leader, circulated at Pages No. 18-106, set out the outcome of the consultation on the revised Street Trading Licensing Policy. Members were asked to endorse the revised policy and recommend to the Executive Committee that it be adopted.
- 17.2 The Licensing Team Leader advised that the draft revised policy was approved by the Licensing Committee on 15 June 2023 for consultation. Four comments had been received during the consultation period as attached at Appendix C to the report. The main changes proposed were removal of the Disclosure and Barring Service (DBS) requirement as Gloucestershire Police undertook Police National Computer (PNC) checks on all applicants; specified consents and durations that could be applied for; addition of inclusive mobility requirements; and standard conditions for markets. It was recommended that the Licensing Committee endorse the revised policy so it could be taken to the Executive Committee on 29 November for adoption.
- 17.3 Accordingly, it was proposed, seconded and
- RESOLVED** That the revised Street Trading Licensing Policy be **ENDORSED** and that it be **RECOMMENDED TO THE EXECUTIVE COMMITTEE** that it be **ADOPTED**.

**LIC.18 REVIEW OF HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE LICENSING POLICY**

- 18.1 Attention was drawn to the report of the Licensing Team Leader, circulated at Pages No. 107-273, which outlined the outcome of the consultation on the revised Hackney Carriage (Taxi) and Private Hire Licensing Policy. Members were asked to endorse the revised policy and recommend to the Executive Committee that it be adopted.
- 18.2 The Licensing Team Leader advised that the draft revised policy was approved by the Licensing Committee on 15 June 2023 for consultation which had run between 3 July and 24 September 2023. Several comments had been received during the consultation period as set out at Appendix B to the report. A further representation from a private hire operator, GO Accessible Transport, was attached at Appendix C to the report. Some of the proposals had been changed based on comments made in the consultation. In terms of the age and emissions policy, a number of comments had been made in relation to the shortage of second hand vehicles and increased cost of vehicles since the pandemic. All new licensed vehicles were required to be Euro 6 compliant from 1 January 2024 in line with the other authorities in Gloucestershire and it had also been intended that vehicles over five years old would not be licensed; however, it was now proposed there would be no age policy. Whilst there would be no age limit, it was intended to introduce a mandatory compliance requirement so that vehicles under five years old would require annual inspection and vehicles over five years would require an inspection every six months to ensure they remained roadworthy and cosmetically suitable. In terms of wheelchair accessible vehicles (WAVs), based on the comments received from GO Accessible Transport in respect of the cost of these vehicles and the need to support the school transport sector, in terms of vehicle renewal applications, it was now proposed that, from 1 January 2024, all WAVs would be renewed until they reached age 15. All other proposals remained unchanged.

- 18.3 Members were informed there had been a negative response from licence holders in relation to use of CCTV and the Department for Transport had published statistics in June which indicated only 6% of licensing authorities in the country currently mandated CCTV in licensed vehicles. A lot of resource would be required to properly assess the introduction of CCTV, particularly in respect of the data protection requirements, which included the licensing authority becoming the data controller, so this would be revisited by the Gloucestershire Licensing Officer Group in spring 2024. It was recommended that the Licensing Committee endorse the revised policy so it could be taken to the Executive Committee on 29 November 2023 for adoption with changes coming into effect on 1 January 2024 and a two year transition period for existing vehicles to comply.
- 18.4 In relation to the age of vehicles, a Member agreed that the cost of second hand vehicles had increased during the pandemic but he did not think that was the case for the last six months and, in his view, that was no reason to stop a new policy being introduced to ensure vehicles were as efficient as possible. In terms of CCTV, he was unsurprised by the consultation responses from licence holders but continued to be of the view that it would be advantageous for both the public and drivers so would like this to be considered urgently. In response, the Licensing Team Leader advised that, from meetings she had attended in the summer, it was reported that second hand vehicles were more costly, particularly six and eight seater vehicles which were used by a lot of operators; however, the Committee could recommend introducing an age policy in addition to the emissions policy if Members so wished. Whilst she was supportive of the introduction of CCTV, both for the benefit of the public and drivers, this did need the support of other licensing authorities across the county which were all at capacity in terms of Officer resource. Several Members expressed the view that second hand car prices were still very high. In response to a query regarding the cost of introducing CCTV, the Licensing Team Leader advised there were resource implications for licensing authorities in terms of carrying out the initial work which included an impact assessment for the Information Commissioner's Office, plus Officer time in terms of managing the data collected. Since the consultation had commenced, there had been a significant increase in the workload of the Licensing team due to private hire driver applications – at the time of writing the report, 695 vehicles had been licensed and that had now increased to 800 vehicles with people submitting applications ahead of the introduction of the new policy.
- 18.5 With regard to Page No. 123 of the report, a Member questioned how it could be known that meters were compliant with the Measuring Instruments (Taximeters) Regulations 2006, and that they remained so. In response, the Licensing Team Leader explained there were currently no physical inspections but with the introduction of the mandatory compliance requirement, when vehicles were brought to the garage for inspection, the meter would be set to a tariff and sealed by the approved testing station. Private hire drivers would be required to adhere to a prescribed table of fares and proof of the fares would be required at the garage. A Member indicated that, from his experience of sitting on Licensing Sub-Committees, English proficiency remained a concern amongst some private hire drivers, despite having a standard test. The Licensing Team Leader explained that the proficiency test was the same across the county. In terms of drivers who already held licences, if complaints were received from members of the public regarding English proficiency, licences could be reviewed by a Licensing Sub-Committee.
- 18.6 It was proposed, seconded and
- RESOLVED** That the revised Hackney Carriage (Taxi) and Private Hire Licensing Policy be **ENDORSED** and that it be **RECOMMENDED TO THE EXECUTIVE COMMITTEE** that it be adopted.

**LIC.19 SEPARATE BUSINESS**

19.1 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.20 SEPARATE MINUTES**

20.1 The separate Minutes of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 29 June, 17 July, 9 August, 4 September, 12 September and 26 October 2023, copies of which had been circulated, were approved as correct records and signed by the Chair.

The meeting closed at 2:47 pm



# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Wednesday, 15 May 2024 commencing  
at 6:45 pm**

**Present:**

Chair	Councillor G M Porter
Vice Chair	Councillor C E Mills

**and Councillors:**

N D Adcock, C Agg, C L J Carter, C F Coleman, S Hands, A Hegenbarth, H C McLain,  
R J G Smith, H Sundarajoo, M G Sztymiak and R J E Vines

**LIC.1 ELECTION OF CHAIR**

- 1.1 The Mayor opened the meeting by seeking nominations for the Chairmanship of the Committee
- 1.2 It was proposed and seconded that Councillor G M Porter be nominated as Chair of the Committee. Upon being put to the vote it was  
**RESOLVED** That Councillor G M Porter be elected as Chair of the Licensing Committee for the ensuing Municipal Year.

**LIC.2 APPOINTMENT OF VICE-CHAIR**

- 2.1 Councillor G M Porter took the chair and invited nominations for Vice-Chair of the Committee.
- 2.2 It was proposed and seconded that Councillor C E Mills be nominated as Vice-Chair of the Committee. Upon being put to the vote it was  
**RESOLVED** That Councillor C E Mills be appointed as Vice-Chair of the Licensing Committee for the ensuing Municipal Year.

The meeting closed at 7:00 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 Monday, 13 November 2023 commencing at 10:30 am**

**Present:**

Chair Councillor G M Porter

**and Councillors:**

S Hands and R J E Vines

**LSB/A.1 ELECTION OF CHAIR**

- 1.1 It was proposed, seconded and **RESOLVED** That Councillor G M Porter be elected 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 Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.
- 3.2 There were no declarations of interest made on this occasion.

**LSB/A.4 PREMISES LICENCE APPLICATION REF: 23/01625/LIQPRM - 35 CHURCH ROAD, BISHOPS CLEEVE, CHELTENHAM, GLOUCESTERSHIRE, GL52 8LP**

- 4.1 The report of the Licensing Officer, circulated at Pages No. 1-47, outlined an application for a premises licence in respect of 35 Church Road, Bishops Cleeve, Cheltenham, Gloucestershire, GL52 8LP. The Licensing Sub-Committee was asked to determine the application by granting the application as applied for; granting the application but with modifications to times or conditions appropriate to promote the licensing objectives; or, rejecting all or part of the application.
- 4.2 The Chair asked all parties present to introduce themselves and explained the procedure that would be followed by the Sub-Committee. The Licensing Officer advised that the application was for a new premises licence at 35 Church Road, Bishops Cleeve. The applicant intended for the ground floor of the premises to trade as a wine bar and restaurant. The applicant had applied for the sale by retail of alcohol for consumption on the premises, and the performance of recorded music indoors, for the hours stated at Page No. 2, Paragraph 1.2 of the report. The application had been subject to a 28 day consultation period and both the Gloucestershire Constabulary and the Environmental Health Authority had agreed conditions with the applicant to be added to any granted licence as set out at Pages No. 3-4, Paragraph 2.2-2.3 of the report. This included an amendment from the original application to the sale of alcohol hours by 30 minutes each day to allow

for a drinking up time. Representations had also been received from three local residents and Bishops Cleeve Parish Council as attached at Appendix F to the report. In the original application plan, attached at Appendix C to the report, the applicant had included an external seating area to the side of the premises, alongside Church Approach. This had since been removed from the application and the updated plan was attached at Appendix D to the report. The applicant had confirmed their intention to provide external seating at the front of the premises on Church Road. In determining the application, the Sub-Committee must have regard to the statutory guidance issued by the Secretary of State, the Council's adopted policy statement, the representations made and the evidence presented at the meeting. The Sub-Committee must take such steps as it considered appropriate for the promotion of the licensing objectives which could include: granting the application as applied for; granting the application but with modifications to times or conditions appropriate to promote the licensing objectives; or, rejecting all or part of the application. It was noted that the applicant's agent had been contacted by telephone today and confirmed the applicant would not be attending the meeting.

- 4.3 In response to a query regarding seating, the Licensing Officer advised that the applicant had stated they intended to provide seating at the front of the premises, not at the side as previously requested, and they would need to go through the relevant channels with County Highways and any other organisations in order to obtain required consents. A local resident sought clarification as to whether the premises included both the building and the outside area and was advised the premises licence would encompass all of the area on the plan at Appendix D to the report and, if granted, would apply to both the inside and outside.
- 4.4 As there were no responsible authorities present at the meeting, the Chair invited the other persons who had made representations to address the Sub-Committee. A local resident indicated that they did not intend to go through all the points raised in their written submission but the overwhelming concern was whether any conditions imposed would be adhered to, and how quickly enforcement action could be taken. He did not feel the applicants had endeared themselves to the community based on what had happened so far in terms of changing the paving outside on the assumption there would be seating, and the various planning issues. He was concerned the applicants asked for forgiveness rather than permission and, if the door was open with music blaring out, he questioned who would go and enforce it at that very moment. The premises was located at the quiet end of the village; although the Royal Oak Public House was across the road, the premises licence holder had respect for the neighbours and the applicant had not shown the same character through their behaviour so far. He was concerned about noise at that end of the village and introducing an eating establishment would mean people having to traverse around the customers spilling out onto the street and crossing the road on a difficult bend. Deliveries had been seen blocking the road causing very difficult traffic situations which was a public safety issue. School children also used the road as a cut through. He was of the opinion that conditions imposed would not be adhered to and people would suffer pending enforcement action. Another local resident indicated that he had not been consulted in any way over the three year period, and he would not have known about the licence if he had not contacted the Council himself. He was under the impression that residents were supposed to be notified but he had heard nothing. The original planning permission had included conditions such as no food, restrictions on building height etc. yet the plans had been changed without consultation and there was now a restaurant in the building. He did not currently experience any interruptions but was now very concerned about public nuisance in the form of noise, light, noxious smells and litter. He requested that alcohol consumption be restricted to inside the building in order to preserve what was a quiet road next to the church entrance. The outdoor seating was originally due to

be part of a separate application at a later date but the plan was now to move the outside seating to the front. The pavement was 15-20ft wide but some had been taken up by the extension of the building meaning it was now only four feet wide excluding the outside eating/drinking area. This was very narrow for pedestrians, children and wheelchair users and would not be practical with the proposed seating. In addition, there was now a roof flue on top of the building which looked to be around six or seven feet high, and he believed that cooking had already been taking place in the kitchen as he could smell food. He understood the Council had objected to the flue and required it to be moved but nothing seemed to have happened as far as he could see. He felt that cooking smells, seven days per week for 12 hours per day, was objectionable given the close proximity of the residential dwellings only a few feet from the building. In terms of public safety, this would be compromised by people crossing the road directly in front of the premises on the bend. He requested that alcohol consumption be restricted to inside the building only.

4.5 The Licensing Officer clarified that the applicant had complied with all legal obligations in terms of notices and advertising etc. The Licensing Team Leader explained there may be some confusion between planning and licensing which had different advertising requirements. A Member noted the local resident had stated the applicant should have consulted local residents and the Licensing Team Leader advised that was recommended but not required. She stressed the application was for consumption of alcohol on the premises only so the outside area was not covered. A Member sought clarification as to whether a new application would be needed to serve drinks outside and was advised that, currently, there was a relaxation of the legislation regarding off sales which had been introduced during the pandemic and was due to end in 2025 - only on-sales had been specified in this application so a variation application would be required to serve drinks outside. The Legal Adviser clarified that, should the application be granted, drinks could be purchased inside the premises and consumed outside until the relaxation of the legislation came to an end in 2025. In response to a query, the Licensing Team Leader advised that the entitlement could be lost if there were issues and the licence was reviewed. A local resident indicated that he was concerned about the impact on the Royal Oak which had agreed to ensure that customers did not sit at the front, despite the relaxation of the legislation, as this could set a precedent for the area. A Member asked whether the relaxation of the legislation applied to seating as well and was informed that was a separate issue which would be dealt with under the temporary pavement licensing regime. As it was private land it did not apply and there was also a relaxation under planning which allowed tables and chairs.

4.6 In response to a query regarding the pavement width, the Licensing Team Leader advised that under inclusive mobility there was a legal requirement to ensure sufficient walkway. In response to a question about the type of enforcement action which could be taken, Members were advised that the enforcement policy advocated a stepped approach - residents were encouraged to contact the Licensing team should there be any breaches and each would be addressed on its own merits with warning letters generally being the first step. A local resident asked what would happen if there were drunk people outside, with music blaring from the open doors, and a warning letter was issued but ignored. The applicant's approach in respect of the planning process had shown they did not adhere and he was concerned something like this could drag on. The Licensing Team Leader explained that noise and disorder may not be a breach of licence conditions; however, in the scenario described, the Environmental Health team would be able to investigate under the Environmental Protection Act – they would send log sheets for completion and install sound equipment to establish if the noise was a statutory nuisance. Any complaints about crime and disorder would need to be referred to the Police. In terms of the length of time it could take, it was noted that the Council

was currently dealing with a review application and it had been three months from the start of the issues to consideration by the Licensing Sub-Committee.

4.7 As there were no final comments from the Licensing Officers, the Chair invited the other parties to make a final statement. A local resident felt that his concerns had been reinforced in that it seemed the licensing authority's hands were tied in certain respects, even if conditions were added to the licence, therefore, he still believed the application should be refused. Another local resident felt that granting the application would turn a quiet area into a commercial one. The third local resident pointed out that the applicant had not attended the meeting today and that was reflective of what had happened over the past three years. Residents thought they were getting three small shops which would be useful to the public but instead would end up with another eatery which was not necessary given the existing establishments in the area.

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

4.9 When the meeting reconvened, the Chair advised that, having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the provisions of the Licensing Act 2003; the obligation to promote the four licencing objectives; the relevant sections of the Council's Statement of Licensing Policy and the Statutory Guidance it was

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

The meeting closed at 11:30 am

## DECISION NOTICE

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

**DATE:** Monday, 13 November 2023

**Premises:** 35 Church Road, Bishops Cleeve, Cheltenham, Gloucestershire, GL52 8LP.

**Applicant:** Mihaela Bodini

Application for a premises licence under the Licensing Act 2003.

**Present:** Councillors S Hands, G M Porter (Chair) and R J E Vines.

**Representatives of applicant:** None

**Responsible Authorities:** None

**Other Persons addressing the Sub-Committee:** Three local residents.

### SUMMARY OF REPRESENTATIONS

1. Two responsible authorities had made representations in relation to the application: Environmental Health Authority and Gloucestershire Constabulary.
2. The Environmental Health Authority and Gloucestershire Constabulary subsequently agreed conditions for inclusion within the Operating Schedule.
3. Three representations had been received from other persons in relation to the application all objecting to the application.

### THE APPLICATION

Relevant licensable activities and hours applied for:

Sale by retail of alcohol for consumption on the premises	Monday to Thursday	12:00 – 21:30
	Friday and Saturday	10:00 – 22:30
	Sunday	12:00 – 19:30
Performance of recorded music indoors	Monday to Thursday	12:00 – 22:00
	Friday and Saturday	10:00 – 23:00
	Sunday	12:00 – 20:00

**DECISION**

Having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the provisions of the Licensing Act 2003, the obligation to promote the four licencing objectives; the relevant sections of the Council's Statement of Licensing Policy and the Statutory Guidance it was resolved that the premises licence be **GRANTED** in accordance with the application set out, subject to additional conditions agreed with Environmental Health and the Gloucestershire Constabulary.

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

1. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that gives rise to a nuisance.
2. There must be no deliveries or collections relating to licensable activities at the premises between the hours of 2000 hours and 0800 hours on any day.
3. There must be no emptying of recycling (including bottle bins) or waste bins between the hours of 2000 hours and 0800 hours on any day.
4. The Premises Licence Holder must ensure that all external doors and windows are closed when regulated entertainment is taking place internally, except to allow entry and egress.
5. The premises will operate and enforce a Challenge 25 policy where all persons who appear to be under the age of 25 will be challenged for acceptable identification to prove they are over 18 prior to the purchase of alcohol. The only acceptable forms of identification will be a valid photo driving licence, valid passport or a valid PASS approved proof of age card.
6. Challenge 25 posters will be displayed at the entrance to the premises, all areas where alcohol is displayed and at the cash till payment area. The posters will be displayed prominently and in the sight of customers and staff.
7. A CCTV system with a minimum of 3 cameras will be in operation and recording when the premises is open and licensable activities are taking place. Recorded images shall be retained for a minimum period of 28 days (14 days for digital systems). The CCTV system shall be maintained in good working order. CCTV images will be provided to the Police and other responsible authorities if requested as soon as practicable.
8. The correct time and date will be generated onto both the recording and the real time image screen.
9. Any person left in charge of the premises must be trained in the use of any such CCTV equipment, and be able to produce CCTV images to an officer from a responsible authority upon request.
10. Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
11. The Designated Premises Supervisor (DPS) or other suitably competent person will undertake a risk assessment on an event-by-event basis at times when the premises is being used for hire or events. The risk assessment will identify if SIA door supervisors are required and if deemed necessary the rate employed shall be 1 per 50 of occupancy (or part thereof) and subject to a minimum of 2 door supervisors.
12. Non-alcoholic/Low-alcohol drinks shall be promoted especially to 'designated drivers' of groups.



13. A log shall be kept at the premises to record all refused sales of alcohol for reasons that the person(s) is, or appears to be, under 18 years of age. The log shall record the date and time of the refusal and the name of the member of staff who refused the sale. The DPS will sign and date the book each time it is checked. The book shall be made available for inspection upon the request of a duly authorised officer of the Licensing Authority or Police.
14. An incident log will be kept which will include the date, time and details of incident that has taken place. The DPS shall check the book once a month ensuring that it is up to date. The DPS will sign and date the book each time it is checked. The book shall be made available for inspection upon the request of a duly authorised officer of the Licensing Authority or Police.
15. The DPS shall ensure that all staff concerned in the sale of alcohol are trained in their responsibilities under the Licensing Act 2003, particularly concerning drunk sales, underage sales and proxy sales. Training will include challenging every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification and using the refusal register. Such training (including any refresher training) will be logged and provided not less than every six months. The training log shall be made available for inspection by Police and "authorised persons" immediately upon request.

### **REASON**

The Licensing Sub-Committee considered that it must carry out its functions with a view to promoting the four licensing objectives, as set out in Section 4(2) of the Licensing Act 2003. The Sub-Committee could not take into account representations which did not relate to one or more of those licensing objectives and it was acknowledged that any representations received must be relevant and evidenced-based.

### **CONSIDERATION**

In determining the application, the Licensing Sub-Committee considered the fact that no Responsible Authorities had objected to the application. It also took into account the concerns raised by the Other Persons and the steps put forward by the applicant in their written submission to promote the licensing objectives.

### **APPEAL**

All parties were reminded of their rights of appeal against the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the authority's decision.

### **REVIEW**

All parties were reminded of the procedures contained within the Licensing Act 2003 relating to the potential review of a premises licence. This provision allowed the public, businesses or Responsible Authorities to apply for a review of a premises licence where problems arose, in relation to the licensing objectives: crime and disorder, risks to public safety, public nuisance or failure to protect children from harm.

The Licensing Authority respectfully reminded all parties that, for any review to be successful in restricting a licence, evidence would need to be collected of incidents occurring that demonstrated that the licensing objectives were not being adequately promoted. The Environmental Health team could be contacted out of hours to report complaints of excessive noise nuisance.



# 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, 12 December 2023 commencing at 10:30 am**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

N D Adcock and H C McLain

**LSB/A.5 ELECTION OF CHAIR**

5.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter be appointed as Chair for the meeting.

**LSB/A.6 ANNOUNCEMENTS**

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

**LSB/A.7 DECLARATIONS OF INTEREST**

7.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

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

**LSB/A.8 PREMISES LICENCE REVIEW - 22/02043/LIQVAR YE OLDE BLACK BEAR, HIGH STREET, TEWKESBURY GL20 5BJ**

8.1 The report of the Licensing Team Leader, circulated at Pages No 1-236, outlined an application for a review of the premises licence in respect of Ye Olde Black Bear (Black Bear), High Street, Tewkesbury, GL20 5BJ. The Licensing Sub-Committee was asked to determine the application by making no changes to the current premises licence; modifying the conditions of the premises licence; excluding a licensable activity from the scope of the licence; removing the designated premises supervisor; suspending the licence for a period of not exceeding three months; or, revoking the licence.

8.2 The Chair asked all parties present to identify themselves and explained the procedure that would be followed by the Sub-Committee. The Licensing Team Leader advised that the review application was submitted by Tewkesbury Borough Council's Environmental Health team under the public nuisance objective. Ye Olde Black Bear had reopened in June 2023 after being closed for a considerable amount of time for renovation works. The premises offered wet sales and entertainment and currently had pop-up food traders in the garden area. The

public house was renowned for being the oldest pub in Gloucestershire. The current licensed hours were set out at Page No. 3, Paragraph 1.5 of the report and a copy of the premises licence, showing all non-standard timings and current premises licence conditions, was attached at Appendix A to the report. Prior to reopening, the Licensing Team Leader had visited the premises in August 2022 and met with the premises licence holder where she explained the licence conditions along with the scope of the licensed area and gave advice in relation to music in the outside areas including the need to contact the Environmental Health team. After reopening, the Licensing and Environmental Health teams received complaints regarding use of the outside area, namely music and use of the outside seating area for smoking. The Licensing team conducted various compliance visits as set out in the report and continued to be copied into nuisance complaints to the Environmental Health team. A written warning was issued on 15 August 2023, as set out at Appendix G to the report, and an application to review the premises licence was received from the Environmental Health team on 19 October 2023. The Environmental Health Officer had proposed conditions they would like to see imposed on the premises licence and these were listed at Page No. 5, Paragraph 2.8 of the report. The application had been administered in accordance with the Licensing Act 2003 and was subject to a 28 day consultation in accordance with the regulations. Public notices had been displayed at the premises and on the Council's website. It was noted that the email address for representations to be submitted had been spelt incorrectly; however, following discussion with One Legal, it was determined that the consultation period did not need to be extended as representations were being received and revised notices were displayed on 10 November for the remainder of the consultation. No representations had been made by any other responsible authority, including Gloucestershire Police, and 332 representations had been received during the consultation period, as set out at Appendices J-N of the report. It was noted that, of the 332 representations, 267 were made by parties which were supportive of the operations of the business which were not relevant representations under the Licensing Act 2004. Similarly, the comments in relation to parking and traffic concerns were not relevant to the promotion of the licensing objectives and should not be taken into consideration when determining the application. The Licensing Team Leader advised that a written submission had been received from the licence holder on Friday with proposed conditions, circulated separately, in response to those proposed by Environmental Health. In determining the application, the Sub-Committee must have regard to the statutory guidance issued by the Secretary of State, the Council's adopted policy statement, the representations made and the evidence presented at the meeting. The Sub-Committee must take such steps as it considered appropriate for the promotion of the licensing objectives which could include: making no changes to the current premises licence; modifying the conditions of the premises licence; excluding a licensable activity from the scope of the licence; removing the designated premises supervisor; suspending the licence for a period of not exceeding three months; or, revoking the licence.

- 8.3 As there were no questions for the Licensing Team Leader, the Chair invited the applicant to put their case to the Sub-Committee. The Environmental Health Officer advised that it was unusual for the Environmental Health team to request a review of a premises licence - the last premises licence review called by Tewkesbury Borough Council's Environmental Health team was over 10 years ago. Every year, the team received numerous noise complaints against commercial and licensed premises; however, the majority of these were dealt with informally, so formal action was rarely required. This demonstrated it was not a process that was triggered lightly. Given the number of complaints received regarding noise from the Black Bear, the increasing level of evidence and limited engagement from the Black Bear, the decision was made to call for a licence review under public nuisance grounds. Environmental Health had powers under the Environmental Protection Act 1990 and a statutory nuisance had been established on 6 October

2023. No abatement notice had been served as additional time was given to the designated premises supervisor to abate the statutory nuisance. Whilst, there was an ongoing investigation with respect to noise and statutory nuisance provisions, the purpose of triggering the review process was to bring a higher level of long-term control and management to reduce the negative impact on local residents. The three main areas of concern were internal noise, external noise and people noise. Internal noise was primarily due to the escape of noise from the structure and the volume at which the music was being played; the external noise from music related to the volume and prolonged duration of the music, typically over a weekend; and, the external people noise related to the overall volume and cumulative impact of people's voices coming from the rear garden of the premises. To demonstrate the concerns and impact on local residents, two videos had been included as part of the review application - whilst the videos did not have sound levels associated with them, they helped to provide some context to the issues the local residents had experienced. After playing the videos, he indicated that he would also play some audio clips captured by the team's noise-monitoring equipment, which did give sound levels. The audio clips had been annotated within the report but he would provide an overview before playing the clip. It was worth highlighting, when looking at nuisance, that although volume and sound levels were essential, other key considerations were frequency, duration, timing, nature of the area and reasonability.

- 8.4 The Sub-Committee was shown two video clips followed by three audio clips. The first audio clip was taken at approximately 0444 hours at Bredon Road where a bin lorry could be heard emptying waste, peaking at 66.8 dB(A); the second audio clip was taken at approximately 2118 hours at Bredon Road where a band could be heard playing, with drums and vocals audible, peaking at 56.8 dB(A); and the final audio clip was taken at approximately 1951 hours at Mythe Road where a band could be heard playing with the crowd audible, peaking at between 40 and 45 dB(A) with peaks in noise above 45 dB(A). The impact of these events had been substantial and, when combined over the summer period, the residents had experienced a prolonged disruption to their lives and routines. As demonstrated by the submitted log sheets, this included residents being woken or unable to sleep due to the music levels or people noise and being unable to open windows without being subjected to high noise levels, or having to close windows to be able to hear their own TV. In addition to this, there was a psychological impact in terms of the stress and anxiety of knowing the noise was going to cause disturbance on at least a twice-weekly basis, along with the effects of sleep disturbance and deprivation and its cumulative impact. During the investigation, the Environmental Health Officer had spoken to at least two residents who had started crying on the phone due to the impact and disturbance the noise had on themselves and their lives. Reaching the sound levels that the noise monitoring equipment had captured was considered excessive, especially as that noise level was experienced within a property. As Members were aware, Environmental Health had proposed a number of conditions which Officers believed would substantially assist in reducing the concerns of the team and local residents. Throughout the investigations, and even prior to the opening of the Black Bear, the Environmental Health team had been in communication with the designated premises supervisor and had given advice and guidance on noise control. Up until calling the review there were no significant improvements, or measures put in place to control noise other than monitoring. Unfortunately, this had not proven successful, mainly due to the view of the designated premises supervisor in terms of how much noise the residents should have to put up with living next to a pub. Looking at some of the proposed conditions and considering the primary concerns, internal noise should be easier for the designated premises supervisor to tackle, as the fabric of the building would provide a certain level of attenuation. With effective and careful management, the Environmental Health team believed it was possible for the Black Bear to have regular internal music without having a detrimental effect on the neighbouring

properties. A Noise Management Plan (NMP) had been requested within proposed condition 2, to be produced by a suitably qualified person who was a member of the Institute of Acoustics, covering internal and external noise. The NMP should be completed in agreement with Environmental Health. This would ensure that all the measures implemented within the premises were targeted, effective and clear to all parties, particularly given the unique nature of the structure and overall concerns. An NMP should cover several noise-related aspects, including identified sources of noise, recommended noise limits, where appropriate, staff responsibilities concerning noise, and noise mitigation measures with relevant acoustic data. A noise management plan undertaken by a competent person within acoustics would ensure a higher level of control and assist in reducing noise concerns. Proposed condition 3 recommended a tamperproof noise-limiting device to be used when all live and recorded music was played internally to reduce the impact of excessive internal noise escaping, or travelling through the structure; this was particularly important given the proximity of the neighbouring flats along the High Street. The levels would be set by an Environmental Health Officer within neighbouring properties, the noise limiter would then be sealed so the levels could not be tampered with. This was important because history showed it was not possible to rely on noise monitoring from the pub alone, and the Black Bear had a variety of different bands playing. External noise from the Black Bear would be much harder to attenuate due to the close proximity of residential properties in all directions from the pub. It would be inevitable that music played in the garden would be clearly audible in neighbouring properties, therefore, it was the view of the Environmental Health team that the only way to control the impact of noise from the garden was to limit the frequency and duration of music. Within proposed condition 1, the overall use of external music would be restricted to six times per calendar year which allowed for the fact that the Temporary Events regime permitted licensed premises to apply for additional events - a single premise could have up to 15 temporary events in a calendar year, as long as the total length of the events was not more than 21 days. Therefore, this would allow the Black Bear to have outside music events for 27 days per calendar year - in context this would equate to one event every other weekend. Any more was felt unreasonable by the Environmental Health team given the level of disturbance that had been proven by these events and the lack of ability to attenuate the noise in this location. In terms of external people noise, the Black Bear had licensed opening hours until 0200 hours Thursday to Saturday and until 0100 hours Sunday to Wednesday. The smoking shelter at the rear of the property was causing problems for residents with people shouting and swearing until closing hours. Members would be aware that Wetherspoons had experienced similar problems with its rear garden historically, being in close proximity to neighbouring properties. That premises successfully closed its garden at 2200 hours and any smokers went to the front of the premises where they were not allowed to congregate or cause noise disturbance outside. This had worked very successfully to control patron noise in that location. Condition 5 sought to close the rear garden at 2230 hours and required customers to smoke at the front of the premises under the control of an SIA registered member of staff. Should Members be of the opinion that the smoking area could be controlled at the rear of the property, a condition was requested for the area to be regularly monitored - at least every 10 minutes - and that seating not be provided and no drinks be allowed. Within the last few days, the Environmental Health team had been in communication with the designated premises supervisor and his legal representative to discuss the proposed conditions and had reached some agreement; however, it had not been possible to reach an agreement on several key conditions as outlined. Having reviewed the conditions proposed by the premises licence holder, it was not felt these would protect the residents. Six community events and unlimited numbers of standard events of below 300 people were being requested - this was typical of most external events for the Black Bear

so provided no more protection for residents than was currently in place. The internal noise was only controlled by closing doors and windows and monitoring by the designated premises supervisor which had caused problems and was the reason for the premises licence review. The proposed rear garden condition asked for the garden to be regularly monitored by a SIA registered member of staff; however, during discussions with the designated premises supervisor's legal representative, it was understood they conceived this to be once every hour which was not a suitable control to protect neighbours. In conclusion, the Environmental Health team felt that the impact on residents' lives was significant. All the residents wanted was to be able to enjoy their properties and gardens in the summer, without the substantial impact of noise from the Black Bear and it was requested that the Sub-Committee impose the proposed conditions to ensure adequate controls were put in place.

- 8.5 A Member sought clarification as to whether the premises licence holder received a copy of any complaints received and the Environmental Health Officer advised that they had written to the premises licence holder in relation to the complaints but they did not usually receive a copy of the complaints. The Member noted the suggestion that the premises licence holder kept a log of complaints and asked how he could do that given that he did not receive a copy. The Environmental Health Officer advised that the log was intended for those complaints made directly to the premises and offered another level of control as Officers could request to see the relevant documentation to establish what had been done in relation to particular complaints. A Member asked for context in terms of the decibel levels referenced in respect of the audio clips and was advised that 66dB(A) would be the equivalent of a loud conversation within a metre of someone. It was noted there was a scale of decibels which did not start on zero – complete silence would be around 30dB(A) whereas a washing machine would be about 60dB(A). The audio clips of the music would be similar to what residents were hearing in their properties and Officers had witnessed this could be heard over their televisions. In response to a query as to whether there was a recommended level of decibels, the Principal Environmental Health Officer advised that, unfortunately, there was not – every background noise level was different, for instance, the town centre would have higher background level than the countryside. When setting noise limiters, the Environmental Health team listened to noise levels from within a property and decided what was reasonable – there would be some noise for those living in proximity to a public house but residents should be able to go to sleep at 2200/2300 hours. Noise limiters were set during a real scenario, for instance, when a band or music was playing in a pub, and sealed so they could not be tampered with. If the band or music exceeded the set level, it would cut out. Some noise limiters had a traffic light system to show when the limit was approaching. A Member asked if the noise limiter stopped the music or reduced the volume to a certain level and was advised this would depend on the type of limiter but the majority cut the music off. In response to a query as to whether noise or type was more important, the Principal Environmental Health Officer advised that one was not more important than the other and both were considered when assessing nuisance. The average person was expected to sleep between 2300 hours and 0700 hours; however, clearly there were variations to that and this did not mean that before 2300 hours people could make as much noise as they wanted – people had a right to use their gardens and open their windows without being disturbed. A member noted that the Environmental Health team had referred to a restriction of six events per year plus 15 Temporary Events and asked if this would apply to outside events only. The Principal Environmental Health Officer confirmed that was in relation to external music only as it was considered the internal noise level could be managed effectively so regular events could be held inside without impacting on residents. External noise was much more difficult to attenuate. In response to a query as to whether there had been any improvement since the request for the licence review, the Environmental Health Officer advised

there had been limited improvement since the process was initiated with a lot of mixed feedback from complainants – a number of residents were waiting for the review before making further comment. There had been less noise due to the winter weather but it was expected this would increase in spring and summer. A Member asked whether the Environmental Health team was confident that a noise limiter would address the issue and the Principal Environmental Health Officer advised that a number of conditions had been agreed with the premises licence holder and their solicitor; however, the Environmental Health team was requesting additional conditions 1, 2, 3 and 5, as set out at Page No. 5, Paragraph 2.8 of the report, which had not yet been agreed. It was felt those conditions would strike a balance between the pub being successful alongside the residents. In terms of smoking, a Member noted that it was suggested that people go to the front of the premises rather than using the garden and she asked how that would work in practice. In response, the Principal Environmental Health Officer explained that the noise levels from the garden were excessive and the garden area with its covered seating area provided a nice environment for people to congregate which encouraged them to stay out there. If smokers were required to go to the front, they would have their cigarette and then go back in. If the smoking area was to remain in the garden, it would need adequate controls to prevent people from taking their drinks with them, removal of the seating and regular patrols, albeit discussions were ongoing as to how often 'regular' should be. In response to a query as to where the front smoking area would be, Members were informed it would be next to the front door on the High Street – Wetherspoons had a similar arrangement after having problems in the garden whereby anyone wanting to have a cigarette after 2200 hours went out to the front and this worked well. A Member asked who would have control over this arrangement and was advised that it was for the designated premises supervisor to have control over their patrons.

- 8.6 The Chair invited questions from the other parties present at the meeting. The Gloucestershire County Councillor for the area asked whether an event cancelled due to adverse weather would be credited back to the premises and the Principal Environmental Health Officer confirmed that if an event could not go ahead it could be rescheduled. The Gloucestershire County Councillor raised concern that smoking on the High Street could be an issue for people who lived there so it would just be moving the problem somewhere else and she asked if there would be something to collect the debris. In response, the Principal Environmental Health Officer advised that the reason for moving the smoking area was to ensure the right level of control so it was used just for someone to have a cigarette rather than being a nice environment for them to linger. An alternative had been put forward but it would need to be controlled. Litter was an issue for the designated premises supervisor to control but there should be a receptacle for people to put their cigarettes into. The Gloucestershire County Councillor expressed the view that 2230 hours seemed fair but was also quite late as children, and some adults, went to bed before that. The Principal Environmental Health Officer acknowledged that people had different patterns but, as previously stated, the average person was deemed to sleep between 2300 hours and 0700 hours. People were living in close proximity to a pub so there was a need to strike a balance and 2230 hours was considered to be a time when people would be preparing for bed. The Gloucestershire County Councillor indicated that, even if people were required to leave the garden at 2230 hours, that did not mean they would stop drinking at that time. The Principal Environmental Health Officer clarified that, as part of the review, they were not seeking to control the opening hours but were asking that the garden be clear of patrons by 2230 hours after which time the only people outside would be those going for a cigarette. In response to a query regarding the number of events, the Principal Environmental Health Officer explained that the proposal was for six community events plus 15 Temporary Events – these covered events for up to 21 days. The Licensing Team Leader confirmed there was currently a relaxation which covered events up to 26 days but that was due to end on 31



December 2023. The Gloucestershire County Councillor asked what happened in relation to Christmas Eve and New Years Eve and was advised that a separate condition had been agreed for New Years Eve but Christmas Eve would need to be one of the six community events or 15 Temporary Events. In response to a query as to whether the events were internal or external, the Principal Environmental Health Officer advised that the limits only applied to outside entertainment. The premises licence holder's solicitor asked whether the Environmental Health Officer had attended the noise recordings on 22 and 28 September and was informed the Officer had not been there in person. On that basis, the solicitor asked if the notes of the noise recordings, attached at Appendix I to the report, were an accurate reflection of what was recorded and the Environmental Health Officer confirmed that was the case.

- 8.7 As there were no other responsible authorities present at the meeting, the Chair invited the other persons who had made representations to address the Sub-Committee. A local resident indicated that they had lived opposite the Black Bear for 25 years and had never felt the need to approach Tewkesbury Borough Council, despite the close proximity. The pub had previously held the odd karaoke night and he had spoken to the licensee without any issues. There had been problems with the now defunct Montells nightclub but they had been dealt with through the appropriate channels and had not involved the Black Bear as such. Since the pub had reopened, it had been a constant source of disturbance throughout the summer with little attempt to address the concerns. He questioned whether the premises licence holder was aware of the licence conditions as these had been breached on numerous occasions, especially in terms of outside music and what should be the designated smoking area – the premises had gone from a public house to a live music venue with residents having to endure loud music every weekend from 2030 hours until midnight and beyond. The local resident had spoken to the premises licence holder who was unaware of the licence conditions which he had needed to explain to him. The premises licence holder had stood in his property and heard the noise but his response had been that if he lived next to a pub he should expect it, that it sounded ok to him, that his customers liked the noise, the traffic was noisier and it depended which way the wind was blowing. The premises licence holder had said he wanted to run a community pub but had turned against that very community at the criticism. In his view the licence was far too open ended and the opening hours did not reflect the pub's location among residential properties. He hoped it would be reviewed and altered accordingly to prevent reoccurrence of disturbance in the summer months. In the premises licence holder's defence, he noted that acoustic curtains had been installed which had proven to be effective and he thanked him for that as it had helped with the issue in terms of internal music. Another local resident indicated that residents recognised the business needed to be successful but, since the pub had reopened, the music had been excessive and had caused more problems than Montells nightclub when that had been open – those issues had been resolved through use of a noise limiter and, whilst there had been antisocial behaviour at that time, it was not due to noise. He agreed with the previous speaker that the measures recently put in place had been effective in terms of the internal music and he did not hear a great deal anymore. He had been upset by the social media campaign which painted local residents as 'moaning Nancys' – he had lived in the town for 23 years and the noise level was far in excess of what he expected from any of the public houses in the area. The problem was the garden and the level of amplification, made worse by people singing along. There needed to be controls and he asked the Sub-Committee to impose them – this would not stop the Black Bear from operating, and he would not want that to be the case, but it should not be at the expense of local residents. A Member noted the suggestion to restrict the duration of music to four hours on a Friday and Saturday and asked it that was per music session or per act. The premises licence holder's solicitor clarified it was four hours on a Saturday and two hours on Friday and Sunday. A Ward Councillor for

the area congratulated the premises licence holder on the restoration of the building which had taken a long time, and no doubt a lot of money; whilst his efforts were appreciated, it did not give him entitlement to make noise which disturbed the lives of people living near the premises. The premises licence holder must abide by the licensing objectives and, in this case, he was not fulfilling the need to prevent public nuisance. In the professional opinion of the Environmental Health team, the level of noise was creating a statutory nuisance and one way of addressing this was through a formal review of the licence with a number of conditions being suggested. At this point he mentioned there had been a certain amount of misinformation, for instance, the Council was not trying to shut down the premises and he had not come across anyone who had suggested that was the case. In his view, the conditions suggested were reasonable and based on common sense which would protect patrons and residents. The playing of music in the garden was having a detrimental impact on residents in terms of their health and wellbeing – some already had medical conditions and required rest and relaxation, not disturbance. They found the noise an oppressive intrusion and their ability to sleep was dictated by what time the performance stopped. Some residents had moved away to avoid the noise and, in his opinion, the number of events should be limited to six, as suggested by Environmental Health. It was suggested that events finish at 2230 hours and he supported the reductions but thought they needed to go further. Wetherspoons restricted rear garden use from 2200 hours and it was similar to the Black Bear in terms of use by patrons so he felt there should be a consistent approach which would allow noise to subside and give residents a period of respite. He noted the late submission from the premises licence holder but could not see how the conditions proposed by Environmental Health would impact on use of the pub. Community spirit should start with concern about the immediate neighbours but the licence holder seemed determined to use the garden as a music venue irrespective of its impact upon them. People were entitled to enjoyment of their property and he felt the Council had a responsibility to impose restrictions to safeguard that. A representative from CAMRA (Campaign for Real Ale) felt that what the premises licence holder had done to promote real ale was commendable and the pub was one of the best in the town. It was difficult for pubs to survive in this day and age and part of the income came from entertainment such as bands and karaoke – music was a popular way to bring in customers. Whilst he accepted the review, he did not feel this necessitated the imposition of harsh restrictions and he wanted the outcome to be balanced and fair for residents and the pub. The recommendations put forward by the premises licence holder seemed to be a reasonable adjustment with more acceptable hours so he recommended that be taken into consideration to allow the premises licence holder to continue with a profitable business.

- 8.8 The Chair invited questions of the other persons and a local resident expressed their disappointment that, although reasonable, the recommendations had come late in the day before they had a chance to assess them properly. The local resident asked how many other pubs in the area had outdoor live music and the CAMRA representative advised that he was aware of The Canterbury and the White Bear, which was a pop-up venue with live music inside in the winter and outside in the summer. The landlord from the Nottingham Arms confirmed they also held live music indoors on a Friday and a Sunday. The local resident expressed the view there was a big difference between indoor and outdoor music. The CAMRA representative noted that some measures had already been implemented, for example, acoustic curtains, and it had been stated these were making a difference. This demonstrated that the premises licence holder was willing to address the problem and he felt it would be sensible to assess the noise situation with those measures in place, rather than placing further restrictions on the pub at this stage. The Gloucestershire County Councillor indicated that she had asked to speak neutrally as she had been contacted by residents both in favour of the review and against it. Notwithstanding this, almost everyone who had

contacted her was supportive of the pub and recognised that they lived in the town centre but it was still a residential area. The vast majority did not want the pub to shut, they just wanted compromise – not too loud, too long or too late. Many of those who had objected to the review did not live in close proximity to the pub so she intended to focus on those who lived nearby. Most people wanted to be in their gardens in the summer, and to open windows in their properties, and she supported the garden being closed at 2200 hours. On the other hand, she agreed it was an excellent restoration and was beneficial for the economy, tourism and musicians, particularly post-COVID. She was pleased to hear that any events which were cancelled could be reapplied for and, if the garden was closed, people could still enjoy themselves inside. The premises licence holder should be commended for wanting to compromise – he had already taken steps to address the issues with the smoking area and had shown he could listen. He was welcoming Age UK etc. to the pub which was demonstrative of his ambition for it to become a community pub rather than just somewhere for people to drink. The restoration was expensive and it was not easy for pubs – particularly independent ones – to survive. The Black Bear had been particularly great during Tewkesbury Live where it had made good use of the amazing garden. It would not be possible to please everyone so it was a question of compromise – residents lived in the town centre which could be difficult and it was important for the business to thrive whilst being mindful of residents, for instance, by making the music slightly quieter and the sets slightly shorter.

- 8.9 The premises licence holder's solicitor advised that Ye Olde Black Bear had operated under a premises licence since the Licensing Act 2003 had come into force. The permitted hours for licensable activities under the current premises licence were the same as granted in 2005. The respondent purchased the freehold of the premises in February 2017 and commenced trading in July 2023. The premises was closed during the intervening period to undertake renovation works. The premises was located on the corner of High Street and Mythe Road, adjacent to the roundabout where High Street, Mythe Road and Bredon Road met. As the premises was located on the High Street, it was in close proximity to many other commercial premises in the area including The White Bear Public House, The Boat House and Panache Indian Restaurant. Local residential properties comprised of houses along Mythe Road, Bredon Road and High Street as well as residential properties situated across the river. The premises was 700 years old and rumoured to be one of the oldest pubs in Gloucestershire with notable past customers including William Shakespeare. The premises was subject to a community order to ensure that the premises would remain a public house; whilst that community order was in place, the premises would only be permitted to be a pub. It was a historic premises, restored by the respondent who had modernised its interior, whilst still retaining its historic character, charm and personality. It was difficult to walk into the premises and not be romanced by the unique characteristics, where each wall, door or wooden beam would no doubt have a story to tell. The premises had 700 years of history, involving battles, wars, the plague and an entourage of monarchs and would have seen many first dates, last dates, birthdays, weddings, anniversaries and celebrations of lives. It was also a place where people would have come to seek support from friends and loved ones at times when comfort was needed. First and foremost, it was a 'community pub', which was reflected in the current clientele. As a community venue, the premises was an asset for the community it served which appears to be recognised by the many local residents who have made representations as part of the review. A community venue, by definition, had a wide offering to all members of the local community including those who enjoyed live music. The premises had made a home for charity events as well as hosting music performances, providing a platform for up-and-coming local music talent. Historically, music entertainment was a big part of the premises' offering, which was commonplace for community pubs generally. Entertainment was provided for customers very regularly for many

years, with either discos or karaoke every Friday and Saturday night from approximately 2000 hours until 0100 hours. Provision of entertainment had therefore been a frequent and significant offering at the premises for many years and an important part of its amenity to its customers and the community. Whilst performances of music were important to the premises, it was not a “music venue” per se; the premises would very much remain a pub, but one that provided entertainment in the form of music. The premises had been undertaking live and recorded music, which was an unregulated activity under the Licensing Act 2003, by way of the Live Music Act 2012. The respondent was the premises licence holder and designated premises supervisor and had lived in the surrounding area of Tewkesbury for 12 years, residing in Tewkesbury for eight of those years. The respondent had been drawn to the local area by its character and historical charm and was planning to remain there for the future. The respondent’s passion for the town of Tewkesbury was infectious and, as a publican, he had accepted responsibility to serve the community of Tewkesbury and promote the town using his own entrepreneurial and innovative strategies. Upon hearing that the previous owners of the premises, Greene King PLC, had turned the premises into a failing business, he had collected his funds together and bought the premises. He then picked up his tool belt and, with the help of local tradesmen, began working away for six years, to give the premises, and the people of Tewkesbury, the old ‘Bear’ back. Armed with a Heritage Statement about the premises and the premises licence, he began brainstorming and blueprinting a premises and a concept that would celebrate the historic features of the premises and bring back to life the key characteristics that made Ye Olde Black Bear last for over 700 years. Through the premises, his vision was to give the local community a venue that was a social hub and supported all things Tewkesbury, including its local grassroots music talent. The respondent currently employed 35 members of staff at the premises, all of which relied on its success to provide them with income. The respondent also undertook some of the restoration works himself - not only was he financially invested in the premises, he had also invested his heart, soul and spirit. This premises, its staff and the local community were the respondents’ pride and passion and he was today representing all three. Since starting trading at the premises midway through this year, the respondent had done many things right: provided local employment for staff; put on community events which raised money for the local community; hosted charity events for Age UK; and supported local music talent. He had a significant community following, many of whom were in attendance today. Through the premises he had drawn more people to the local community and provided a safe space for them; however, he had not gotten everything right, and there were elements of his operation that required some polishing.

- 8.10 On 19 October 2023, an application to review the premises licence was submitted by the Environmental Health Officer of Tewkesbury Borough Council. The review was based on noise complaints received by local residents regarding noise from the premises but did not cite any breaches of conditions. The review was not seeking revocation of the premises licence, but for a set of conditions to be placed on the licence. It was the respondent’s submission that the conditions proposed by the Environmental Health team in the review were inconsistent with the revised guidance issued under Section 182 of the Licensing Act 2003 as they were inconsistent with the current Operating Schedule; disproportionate; inappropriate; and deterred events that were valuable to the community. The review also requested a set of conditions, which were currently contained on the licence, to be removed. The Environmental Health Officer and the respondent had engaged in a dialogue and agreed on a set of measures which had been circulated to the Sub-Committee; however, there were some remaining issues in terms of conditions 1-3 proposed by the Environmental Health Officer - outdoor regulated entertainment to be limited to six days per year with entertainment ceasing at 22:30 hours; an NMP to be agreed with Environmental Health Officer and to be adhered to at all times;

and that a noise limiting device be installed at the premises for internal music. Just under 300 representations had been received from local residents and businesses opposing the review with 30 in support of the review. The premises also circulated a petition in opposition of the review which, as of 8 December 2023, featured 3,000 signatures in support of the premises. Further letters of support had also been received by the premises. Importantly, included within the representations received in opposition of the review, 20 neighbouring residents who lived in very close proximity to the premises stated they had no issues with the noise emanating from the premises. No other responsible authorities had joined in with the review or submitted communications in support of it; however, Tewkesbury Town Council's Planning Committee had submitted a representation opposing the review. Although the review cited different licensing objectives, the evidence submitted appeared to focus upon the prevention of public nuisance. The most commonly referenced issues were noise arising from the premises: from musical entertainment provided from the pub (internal and external sources); and from customers in external areas. The respondent hoped the Sub-Committee would take into consideration what he had done since the review application had been submitted. It was noted that both the residents and respondent had vested interests in this matter - the residents had wanted to protect their home and the environment in which they lived and the respondent was looking to make a commercial business succeed. The only party without a vested interest in the review was the Environmental Health Officer whose role was to promote the licensing objectives. Page No. 87, Appendix I to the report, gave a summary of the noise recordings provided by the Environmental Health Officer who had confirmed this was an accurate reflection of the recordings he had taken; however, he believed that the recordings had been taken in September rather than October as stated. That being the case, the first recording on 22 September 2024 referred to a lorry emptying bins which was a very impactful and loud sound. On 23 September 2023, there were 14 recordings in total with the recording at 2124 hours clearly audible and a second recording at 2146 hours with no reference of noise being impactful. It was therefore clear that the only impactful noise was on 23 September between 2124 hours and 2146 hours. In terms of the second set of recordings in relation to Oktoberfest, there was no reference to the noise being impactful, only that it was audible which was not the test for nuisance. It was stated that the recordings between 2121 hours and 2354 hours included people noise which was 38.5dB(A) – just above the current noise levels being experienced in the meeting room. As such, two weekends had been recorded, with 17 records taken, and only two referencing impactful noise – 0400 hours on 22 September, for which the respondent had apologised and taken remedial action to prevent deliveries at that time, and, on 23 September, 25 minutes of impactful noise at most. In terms of moving forward, since the review had been submitted, the respondent had implemented robust measures to manage the noise that was generated from the premises, many of which were not conditions of the premises licence, including installation of acoustic curtains in the outside area/exits, and displaying notices around exits, as well as ensuring doors and windows were closed ahead of any performance of music. A noise management process had been implemented which involved the respondent and his staff walking the boundary of the premises and taking sound readings with a handheld device at four locations – two on Mythe Road, one across the road from the premises and one on the High Street. This was done regularly throughout the evening and, if they were deemed to be too high, adjustments were made accordingly. This was all documented on an app and a record was included in the solicitor's exhibit which included images of the device. Furthermore, there was close monitoring of the outside area by an SIA door security staff member on Fridays and Saturdays. Guidance had been sought from local acoustic experts regarding a public address system and curtains and an agreement had been reached so there would be no deliveries or bin collections until after 0700 hours. A policy had also been created

to prevent staff from taking empty barrels from the cellar in the evenings. Since the commencement of the review, the premises has put on 32 music events with very few complaints from local residents. When a concern had been communicated to the premises, appropriate action had been undertaken to remedy. Furthermore, after installing the acoustic curtains in the outdoor area, the respondent had received positive feedback from local residents. The respondent was complying with the current enforceable conditions contained on the premises licence and had been operating without further enforcement action being taken. He had offered further and/or enhanced measures as part of the review to manage the noise emanating from the premises such as the rear area now including additional seating, which was its primary function. Customers were not permitted to consume food or drink in the external area after 2300 hours, but smoking was permitted within a designated smoking area after this time. The external area was also the only access to the toilets. Front and rear external areas had appropriate signage leading to them, and between Sundays and Thursdays, regular checks of the rear external areas were undertaken by staff with SIA door staff monitoring the external areas on Fridays and Saturdays and documenting this using the same app which was used for the sound recordings. The solicitor pointed out that this review was primarily about conditions - neither the Environmental Health Officer nor the opposing residents had requested for the licence to be revoked; however, any remaining conditions being proposed by the Environmental Health Officer would create extreme financial hardship if imposed, which could be fatal. Members were reminded that any decision of the Licensing Sub-Committee must be made in the wider public interest for the promotion of the licensing objectives. The general principle of the wider community public benefit was emphasised in the Section 182 guidance which, although in reference to prevention of crime, was also applicable to nuisance. The wider community included the operators of licensed premises, their patrons, and the many neighbours that did not raise objections. It was reiterated that 300 representations were in support of the premises and 3,000 people had signed a petition to that effect. From the earliest iterations of the Section 182 guidance the scope of the Sub-Committee has been clearly defined: *“Licensing functions under the Act are only one means of promoting the delivery of the objectives described. They can make a substantial contribution in relation to licensed premises but are not the panacea for all community problems.”* Section 10.10 of the guidance set out that the 2003 Act required that licensing conditions should be tailored to the size, type, location and characteristics of activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignored those individual aspects should be avoided. Section 1.2 of the guidance indicated that the legislation provided a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions were undertaken; however, section 1.5 set out that the legislation also supported a number of other key aims and purposes which were vitally important and should be principal aims for everyone involved in licensing work. These included recognising the important role which pubs and other licensed premises played in local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises, and encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them. Section 1.16 set out that conditions on a premises licence or club premises certificate were important in setting the parameters within which premises could lawfully operate. Licence conditions must be appropriate for the promotion of the licensing objectives; must be precise and enforceable; must be unambiguous and clear in what they intended to achieve; must be tailored to the individual type, location and characteristics of the premises and events concerned; should not be standardised and may be unlawful when it cannot be demonstrated that they were appropriate for the promotion of the licensing objectives in an individual case; should not replicate offences set out in the 2003 Act or other

legislation; should be proportionate, justifiable and be capable of being met. Section 2.17 stated that conditions relating to noise nuisance would usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows were kept closed after a particular time, or persons not being permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate; however, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself was not licensable. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that were valuable to the community, such as live music. Noise limiters, for example, were expensive to purchase and install and likely to be a considerable burden for smaller venues. In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to the steps that were appropriate to promote the licensing objectives; the representations presented by all the parties; the guidance; and the Council's statement of licensing policy.

- 8.11 In terms of condition 1 as proposed by the Environmental Health Officer, the premises licence holder's solicitor indicated that the current state of play meant the premises could operate live music in the outdoor area 365 days per year. The Environmental Health Officer was proposing a reduction of 98.4%, down to 1.6%, which would have a dramatic - potentially fatal - impact on the summer trade. This was not limited to music and related to all regulated activities including films, boxing and other sporting events. A variety of events of different sizes were held in the outdoor area, which all had different risks in terms of promotion of the licensing objectives and this needed to be proportioned accordingly. 98.4% was a significant reduction and there was no evidence to demonstrate how that had been arrived at. Over 20 local residents who lived in very close proximity had no issues with the noise generated from the premises so this was an excessive measure which did not follow the Section 182 guidance in relation to proportionality and would affect the premises licence holder's ability to put on community events such as Tewkesbury Live. Temporary Events Notices (TENs) would allow the premises to deviate from what the licence specified, on occasion, but if there was a downpour and the event was cancelled, the TEN was lost. In terms of the second condition, he advised that the premises licence holder was not opposed to an NMP but objected to it being produced by an acoustics expert and the Environmental Health Officer. The premises had held 32 music events since the review application had been submitted with no formal complaints and no enforcement action and there had been positive comments from residents to say the measures appeared to be working so the premises licence holder had a good grasp of how to control music from the premises. With regard to condition 3, he made reference to 2.17 of the guidance in terms of disproportionality. The music was set at a certain level and was assessed and adjusted accordingly by staff so a noise limiter was not required to control the music and this had been demonstrated by the 32 events held since 19 October.
- 8.12 The premises licence holder's solicitor referred to the measures proposed by the respondent which had been circulated to the Sub-Committee and confirmed there were 12 in total, several of which had been agreed with the Environmental Health Officer. He explained that different types of event had been risk assessed and broken down into standard performances – those with four or less performers and/or before an audience of less than 300 people – and community events, such as Tewkesbury Live, which would be limited to six per calendar year and would not be held in the same month as each other. An acoustic expert would be enlisted to

assist with community events as there was a higher level of risk than an ordinary outdoor performance. For standard performances, it was still proposed to have sound checks and a NMP prepared by the premises licence holder. There had been further discussions between the Environmental Health Officer and the respondent regarding standard performances being limited to between 1 May and 30 September, a period of 66 days and 22 weekends. There would inevitably be situations where events could not be held outside due to the weather and the framework proposed would allow some to be moved or cancelled, if necessary, without the need to apply for TENs. A reduction of hours was also proposed with amplified music to cease at 2230 hours on Fridays and Saturdays and 2130 hours on Sundays in line with the Environmental Health Officer's proposal. There would be a limit on the duration of performances with this being no more than two hours on Fridays and Sundays, and no more than four hours on Saturdays. They were supportive of the Environmental Health Officer's alternative proposal for the outdoor smoking area to remain in its current location but objected to checks being carried out every 10 minutes and instead proposed checks every 60 minutes to allow flexibility and reduce the chance of breaching the condition. It was felt these conditions were reflective of the 32 occasions the premises had held music events since 19 October and focused on controlling noise and nuisance. In their view, if nuisance did not exist, there was no limit on the number of events which could be held; the music could be controlled, as it had on 32 occasions already, and would continue to be with the measures that had been put in place by the premises licence holder. In summary, the respondent was a responsible operator and community was at the heart of the operation. He had responded to adverse comments made and undertaken measures to mitigate noise and reduce nuisance. No other responsible authorities had made representations and there had been significant representations from the local community in support of the premises. Commitments to addressing the issues raised had been put forward by the respondent to be formalised by way of conditions to be placed on the premises licence; however, the Environmental Health Officer had proposed conditions which were beyond the spirit of the Section 182 guidance, disproportionate, inappropriate and did not promote the licensing objectives. He asked the Sub-Committee to take into consideration the positive feedback from the community and support given to the premises and adopt the conditions put forward by the respondent.

- 8.13 A Member asked how many people could fit in the venue and was advised it could hold 200 people inside, as governed by the fire risk assessment. Externally there was no limit and the premises licence holder confirmed the maximum outdoor capacity was in the region of 500 people but a limit of 300 was being suggested. The premises licence holder's solicitor indicated that deregulation of live and recorded music was 500 – beyond that it became a regulated activity. The Member sought clarification as to whether the 32 events held since 19 October had been indoor or outdoor and was advised they were all internal events. Another Member asked whether the staff would be patrolling the outdoor area on a routine basis, or as and when, and the premises licence holder's solicitor explained that a common sense approach would be taken – if it was busier then patrols would be more frequent to ensure safety. The premises licence holder indicated that there were times during the week when the premises was very quiet and nobody was outside so it was felt that carrying out checks every 10 minutes would be excessive at such times. In terms of the type of outdoor music events being held, a Member asked if these were acoustic rather than amplified and the premises licence holder explained there was a perception of Ibiza style festivals being held when it could just be one person or a duo performing, although it may be amplified. Generally, events were not of the same scale as Tewkesbury Live or Oktoberfest which was why those had been set apart and would be subject to different measures. He stressed he was not looking to have raucous crowds on Sunday nights and intended to enhance the experience of customers and make it a nice place to be, not to have banging music playing on all nights of the week. The premises licence



holder's solicitor explained that the condition proposed by the Environmental Health Officer did not work for the style and operation of the premises. In relation to the noise, a Member noted the solicitor had talked at length about the recordings taken by the Environmental Health Officer; she felt that 25 minutes was a fair length of time for something to be at an unacceptable level and asked the premises licence holder's solicitor whether he agreed. In response, the premises licence holder's solicitor clarified that the recordings were taken over two weekends for a lengthy period but it was only 25 minutes of the whole period where the noise was deemed to be impactful. A Member sought clarification as to the situation with TENs being cancelled on the day and the Licensing Team Leader explained that, under legislation the entitlement was lost if an event was cancelled but Tewkesbury Borough Council was flexible so, if they received notification of a cancellation, they would allow it to be used on another date, subject to the statutory consultation period.

- 8.14 The Chair invited the other parties present to ask questions of the premises licence holder. A local resident sought clarification as to whether the community events would be in addition to the 66 days between May and September and was advised that the community events would be encapsulated within the 66 days. The local resident asked whether the restrictions referenced in terms of the length of time music could be played related to community events or standard performances and was informed the community events were a different type of event and the restrictions would not apply in terms of the length of performances. Clarification was sought as to how many community events were being asked for and was advised there would be six throughout the year as a maximum – Tewkesbury Live was three days so that would be deducted from the 66 days. The premises licence holder stressed that Tewkesbury Live was held across the whole town – as the Black Bear held this outside, it had one of the earliest finish times as people had to be out of the garden by 2300 hours as standard, with music not going on beyond 2230 hours. He needed an allowance for time to get people out of the garden. The Licensing Team Leader noted that six community events were being requested and that there would be no more than one in any month; however, given the period being requested was 66 days between 1 May and 30 September, that would mean only five community events could be held. In response, the premises licence holder's solicitor confirmed that the community events were subject to the 66 day total but there may be a need to hold one outside of the period 1 May and 30 September. The Gloucestershire County Councillor asked whether the 200 person indoor capacity had been officially assessed and how it was monitored. In response, the premises licence holder advised that the fire regulations legally allowed more than 200 people but that was deemed to be a comfortable level. This was monitored by staff who knew that when it started to reach an uncomfortable level it was getting close to the 200 capacity. The Gloucestershire County Councillor appreciated the pub wanted to hold outdoor events during the summer but raised concern that what was being proposed meant there could be events, and therefore noise, every weekend during the summer. The premises licence holder's solicitor advised that there was a distinction between noise and nuisance; whilst there was no legal entitlement to complete silence, there was an entitlement to not have nuisance and the proposed measures would allow the pub to play music but not at a level to cause nuisance to residents. The Gloucestershire County Councillor found it misleading to refer to a reduction of 98.4% in terms of outdoor events as the reality was there were not outdoor events 364 days per year. A Ward Councillor for the area drew attention to Pages No. 87-88 of the report and pointed out that the recordings had captured a wide range of sounds that were almost all impactful and distinctive. The premises licence holder's solicitor advised that impactful was the test – loud and distinctive was not necessarily a nuisance and the Environmental Health Officer's notes only referred to two instances where the noise was impactful. The Ward Councillor asked for the definition of a community event and was advised there was no legal definition;

the term had been made up to distinguish between the two types of events held at the premises, community events being the larger scale events such as Tewkesbury Live and Oktoberfest. The premises licence holder advised that events such as Oktoberfest were of huge benefit to the town and community but the cost of holding them was significant; the Black Bear did not charge or hold ticketed events, even on Christmas Eve and New Year's Eve. Public access was first and foremost and they offered coffee/water free of charge if people just wanted to enjoy the entertainment – this was what made it a community event. A local resident indicated that Oktoberfest had been run for the first time that year but should not have taken place at all – the premises licence holder had erected a large marquee without planning permission which had remained up for a month or more. In response, the premises licence holder's solicitor advised that planning permission and planning consent was a matter for the Planning Committee and was beyond the scope of this hearing, furthermore, this had not been mentioned in the review. In response to a query as to how the sound would be monitored outside, the premises licence holder's solicitor explained that, following a discussion with the Environmental Health Officer earlier that morning, they would be willing to monitor the sound from five locations, rather than four as originally stated, with an additional monitoring point in the King John's Court area. Measurements were taken using an app and a decibel meter.

8.15 The Chair invited final comments from the parties present. The Licensing Team Leader indicated that whilst she was not acting as a responsible authority, she fully supported the smoking area remaining in its current location rather than bringing it to the front of the premises as there was a duty of care and this would be moving the problem from one area to another. The Environmental Health Officer felt it was important to emphasise that a review would not have been called if there was not considered to be sufficient evidence or a significant impact on local residents. There had rightly been a lot of discussion in relation to his notes on the recordings but the review had not been called based on 25 minutes of excessive noise, it was about the wider picture and the impact on residents. Tewkesbury Live had not been taken into consideration when the review application was compiled as it was a separate event throughout the whole town so it would not be fair to include it. In the lead up to the review there had been little communication from the premises licence holder so he had only heard second hand about the mitigation measures that had been put in place. It had taken the review process to get full engagement from the premises licence holder and although some conditions had now been agreed, he remained concerned there would continue to be a noise issue even with those. A Ward Councillor for the area expressed the view there was little consideration for neighbouring residents by expecting them to put up with events on a Friday, Saturday and Sunday every weekend for five months. In his opinion this was unacceptable and he felt the conditions proposed by the Environmental Health Officer were more appropriate. The Gloucestershire County Councillor indicated that she simply asked for compassion and compromise between a thriving business and the local residents.

8.16 In summing up, the premises licence holder explained he was a proud landlord of the Black Bear and had roots in the town since the age of 16 – he had a deep love of Tewkesbury, and when his family had taken ownership of the premises to restore its place in the town, he was determined not to let history repeat itself. He wanted the Black Bear to be a community pub and a building which people would come to for the product and the atmosphere and live music was an integral part of that; this could not be replicated with a DJ or disco. Live music, and the location next to the river, was what set the pub apart. He admitted that things had not been perfect since opening, particularly in terms of the noise experienced by neighbouring residents, but he had actively sought feedback and visited their homes and his team worked tirelessly to enhance the day to day operation. He reiterated that 32 events had been held without a single complaint since

submission of the review application and he was committed to avoid any future appearance before the Sub-Committee. As a pub there would always be competition, from neighbouring pubs and those in Cheltenham, Gloucester and surrounding areas which had numerous outdoor events. The Black Bear was one of the only outside green spaces in the centre of town and it was not just about the pub but the vision for Tewkesbury as a whole, and the opportunity to demonstrate that the town welcomed the hospitality industry and was open to change. With the Sub-Committee's support, the Black Bear could be a catalyst for positive change which went beyond the pub. The premises licence holder's solicitor reiterated there had been no involvement from other responsible authorities in the review, noise management processes had been implemented and no complaints had been received after the review had been submitted. The premises licence holder was a responsible operator with equal support from residents in close proximity to the premises as well as community support. The proposed measures from the Environmental Health Officer did not follow Section 182 guidance and the measures put forward by the respondent were more appropriate to the different levels of risk associated with the music, whilst allowing for flexibility with the performances and the British weather. The premises licence holder did not wish to be in front of the Sub-Committee again and the current permitted allowance had been reduced by 82% with the hours being reduced to 2230 hours, and 2130 hours on Sundays, as well as enhanced measures being introduced to control music from the premises. He invited the Sub-Committee to continue to support the premises and the local community and to help keep the tunes playing in Tewkesbury.

- 8.17 The Chair thanked everyone for their attendance and contributions. He indicated that the Sub-Committee would now retire to make its decision which would be published within five working days.

[NB - decision notice attached at Appendix 1 to these Minutes].

The meeting closed at 2:00 pm

## DECISION NOTICE

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

**DATE:** Tuesday, 12 December 2023

**Premises:** Ye Olde Black Bear, High Street, Tewkesbury, GL20 5BJ

**Applicant:** Tewkesbury Borough Council's Environmental Health Team

Application for a review of a premises licence under the public nuisance licensing objective.

**Present:** Councillors N D Adcock, H C McLain and G M Porter (Chair).

**Representatives of applicant:** Environmental Health Officer  
Principal Environmental Health Officer

**Representatives of the respondent:** Luke Haynes, Respondent (Premises Licence Holder)  
Leigh Schelvis, Solicitor

**Responsible Authorities:** None

**Other Persons addressing the Sub-Committee:** Six Other Persons speaking in support of the review.  
Two Other Persons speaking in objection to the review.  
Gloucestershire Councillor C M Cody – speaking on behalf of local residents.  
Tewkesbury Borough Councillor M G Sztymiak – speaking on behalf of local residents.

### SUMMARY OF REPRESENTATIONS

1. Aside from the applicant, no Responsible Authorities had made representations in relation to the application.
2. 332 representations were received from Other Persons during the consultation: 32 representations were made by residents living in close proximity and affected by the operations of the premises; 21 representations were received by parties who were against the review and offered relevant information; one neutral representation was from Gloucestershire County Councillor C M Cody; 267 representations were made by parties who were supportive of the operations of the business – these were not relevant representations under the Licensing Act 2003.

**PREMISES LICENCE**

The premises is licensed for the following activities and hours:

Sale by Retail of Alcohol	Friday and Saturday 09:00 - 01:00
Sale by Retail of Alcohol	Sunday to Thursday 10:00 - 00:00
Performance of Live Music	Friday and Saturday 09:00 - 01:00
Performance of Live Music	Sunday to Thursday 10:00 - 00:00
Performance of Recorded Music	Friday and Saturday 09:00 - 01:00
Performance of Recorded Music	Sunday to Thursday 10:00 - 00:00
Entertainment similar to Live Music, Recorded Music	Friday and Saturday 09:00 - 01:00
Entertainment similar to Live Music, Recorded Music	Sunday to Thursday 10:00 - 00:00
Late Night Refreshment	Sunday to Wednesday 23:00 - 01:00
Late Night Refreshment	Thursday to Saturday 23:00 - 02:00
Opening hours to the public	Sunday to Wednesday 07:00 - 01:00
Opening hours to the public	Thursday to Saturday 07:00 - 02:00

**DECISION**

Having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the provisions of the Licensing Act 2003, the obligation to promote the four licencing objectives; the relevant sections of the Council's Statement of Licensing Policy and the Statutory Guidance it was resolved that the conditions of the premises licence be modified as follows:

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

1. The premises licence holder, or an authorised member of staff, must ensure that all public external doors and windows are closed when amplified regulated entertainment in the form of live and recorded music is taking place internally, except to allow entry and egress. The public external doors must be on a self-closure fitting so that they cannot remain open. A plan showing public external doors/windows shall be submitted to the Environmental Health Team and agreed in writing within 14 days of the decision notice being received.
2. There must be no deliveries or collections relating to licensable activities at the premises between 2000 hours and 0700 hours on any day.
3. There must be no emptying of recycling (including bottle bins) or waste bins between 2000 hours and 0700 hours on any day.

4. The premises licence holder, or a responsible person nominated by the premises licence holder, must maintain a log of complaints in respect to nuisance. The log must be kept for a continuous 12-month period and must be made available for inspection by Officers of Tewkesbury Borough Council or the Police. (The complaint log must include the name and address of the complainant, date/ time, nature of complaint and any action to remedy where applicable).
5. All performances of regulated amplified live and recorded music held in the external areas are to cease by 2230 hours on Fridays and Saturdays and by 2130 hours on Sundays.
6. All performances of regulated amplified live and recorded music held in the external areas are not permitted to last longer than 2 hours on Fridays and Sundays and 4 hours on Saturdays.
7. The premises shall be permitted to perform regulated amplified live and recorded music on New Year's Eve until 0030 hours on New Year's Day, in the external areas of the premises.

#### **ADDITIONAL CONDITIONS IMPOSED BY THE LICENSING SUB-COMMITTEE**

1. Amplified music taking place in any outdoor area, including the terrace/patio area, must be limited to 32 days per calendar year and cease at 2230 hours. Local residents, the Licensing Authority and Tewkesbury Borough Council's Environmental Health Department must be given at least 14 days written notice of these events. The local residents must be provided with a contact telephone number in case of any issues.
2. The premises licence holder must submit a written noise management plan (NMP) to include the preventative measures that will be implemented at the premises. The NMP shall be produced by a competent person who is a member of the Institute of Acoustics (IOA). The NMP must be submitted to the Environmental Health Department and must be agreed prior to any regulated entertainment taking place at the premises (internally or externally). The NMP must also state the area of local residents that will be included in any event notification. The NMP must be adhered to at all times.
3. A noise limiting device must be installed and must operate at all times regulated entertainment takes place internally at the premises. This includes the installation of a tamper-proof noise limiting device, set to levels agreed with Tewkesbury Borough Council's Environmental Health Department. All live and recorded music played must be limited by the noise-limiting device. No live or recorded music (except background music) can take place until this device has been fitted and the levels set with Tewkesbury Borough Council's Environmental Health Department.
4. The rear external garden, including the terrace/patio area, must be cleared of customers and secured by 2230 hours each night save for use of the Designated Smoking Areas as identified on the site plan. There is to be no consumption of food or drink after 2230 hours in any external area of the premises. The Designated Smoking Area must be patrolled by a staff member at least every 30 minutes to ensure that customers and staff do not congregate in this area and to ensure there is no food or drink in this area.
5. Signage shall be erected to direct patrons to the Designated Smoking Area, to advise on restrictions on food and alcohol after 2230 hours and to request patrons to have consideration for local residents. All signage to be agreed with the Licensing Officer at Tewkesbury Borough Council.

**CURRENT CONDITIONS REMOVED BY THE LICENSING SUB-COMMITTEE**

1. 12. Additional patrols will take place by members of staff, internally and externally, to limit any noise pollution when entertainment is being offered within the premises.
2. 14. Where currently in use, text/radio pagers will continue to be used for the additional hours of trading and will be monitored by a responsible member of staff.
3. 16. The outside drinking area will not be used by customers consuming food and/or drink after 23:00.
4. 17. The gardens of the public house, except for the Designated Smoking Area identified on the site plan, to be closed at 23:00 with no food or alcohol being consumed outside after this time.
5. 18. That use of external areas after 23:00 shall be restricted to the Designated Smoking Area as identified on the site plan.
6. 19. Access to the Designated Smoking Area shall be monitored to ensure no food or drink is taken into the area after 23:00.
7. 20. The Designated Smoking Area shall be regularly patrolled during opening hours to monitor noise levels from patrons.
8. 31. On any evening when the premises are open for entertainment/music, other than low level background music, beyond 23:00 hours, all windows and doors shall remain closed, other than when persons are actually entering or leaving the premises, in order to reduce noise escape.
9. 32. The designated premises supervisor will ensure the effective overall management of live or recorded entertainment, such as by monitoring noise levels outside the premises to ensure that noise from such activities is effectively inaudible inside neighbouring premises after 23:00 hours.

**REASON**

The Licensing Sub-Committee considered that it must carry out its functions with a view to promoting the four licensing objectives, as set out in Section 4(2) of the Licensing Act 2003. The Sub-Committee could not take into account representations which did not relate to one or more of those licensing objectives and it was acknowledged that any representations received must be relevant and evidenced-based.

**CONSIDERATION**

The Sub-Committee acknowledged the time and effort the respondent had put into restoring the premises and that he would like the premises to be able to foster the musical creativity of the community of Tewkesbury and continue to be a viable and successful business.

In determining the application, the Sub-Committee considered the fact that no other Responsible Authorities had commented on the application. It also considered the steps put forward by the respondent to promote the licensing objectives since the application for the review had been submitted and the fact that there had been 32 internal events in that time without any issues being caused to the residents.

The Sub-Committee was concerned by the lack of engagement from the respondent since the premises had opened and that it had led to the review. The Sub-Committee was grateful he was now working with the applicant and hoped this relationship could continue going forward. The Sub-Committee noted that the applicant had issued warning letters requiring improvement as part of its stepped approach and that these had failed to address the concerns raised by residents. The Sub-Committee therefore took the lack of engagement from the respondent and the relevant warning

letters sent by the applicant into account when making its decision.

On that basis, the Sub-Committee believed it was necessary to modify the conditions of the current licence and that the conditions being imposed were necessary, proportionate (regulating the outdoor amplified music events not all regulated entertainment) and enforceable in order to mitigate the effects the nuisance was having on the residents. The applicant was the relevant statutory body for dealing with the nuisance therefore the Sub-Committee believed that the conditions proposed by the Environmental Health Authority, as amended by the Sub-Committee, would promote the licensing objectives. Furthermore, the Sub-Committee had adopted a number of the conditions proposed by the respondent when looking to modify the conditions of the licence. The Sub-Committee was satisfied that these extra conditions would go a long way to alleviate some of the issues raised in the representations.

#### **APPEAL**

All parties were reminded of their rights of appeal against the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the authority's 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 Monday, 20 November 2023 commencing at 10:30 am**

## **Present:**

Chair

Councillor S Hands

## **and Councillors:**

N D Adcock and R J E Vines

### **LSB/B.43 ELECTION OF CHAIR**

43.1 It was proposed, seconded and

**RESOLVED** That Councillor S Hands be appointed as Chair for the meeting.

### **LSB/B.44 ANNOUNCEMENTS**

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

### **LSB/B.45 DECLARATIONS OF INTEREST**

45.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

45.2 There were no declarations made on this occasion.

### **LSB/B.46 SEPARATE BUSINESS**

46.1 The Chair proposed, and 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.47 REVIEW 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)*

47.1 The Licensing Sub-Committee reviewed a private hire driver licence and resolved to issue a written warning to the private hire driver as to his future conduct.

**LSB/B.48 APPLICATION FOR 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)*

- 48.1 The Licensing Sub-Committee **GRANTED** a private hire driver's licence for a period of one year.

**LSB/B.49 REVIEW 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)*

- 49.1 The Licensing Sub-Committee **REVOKED** the private hire driver's licence as the private hire driver was not a fit and proper person to hold such a licence.

**LSB/B.50 REVIEW 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)*

- 50.1 The Licensing Sub-Committee **REVOKED** a private hire driver's licence with immediate effect on the grounds of public safety.

**LSB/B.51 APPLICATION FOR 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)*

- 51.1 The Licensing Sub-Committee **GRANTED** a private hire driver's licence, subject to a satisfactory Disclosure and Barring Service check, as the applicant was a fit and proper person to hold a licence.

The meeting closed at 12:56 pm

# 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 Monday, 18 December 2023 commencing at 2:30 pm**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

C E Mills and R J G Smith

## **LSB/B.52 ELECTION OF CHAIR**

52.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter be appointed as Chair for the meeting.

## **LSB/B.53 ANNOUNCEMENTS**

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

## **LSB/B.54 DECLARATIONS OF INTEREST**

54.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

54.2 There were no declarations made on this occasion.

## **LSB/B.55 SEPARATE BUSINESS**

55.1 The Chair proposed, and 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.56 REVIEW OF A PRIVATE HIRE OPERATOR'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)*

56.1 The Licensing Sub-Committee **DEFERRED** the review of the private hire operator licence until such time as the appeal against the conviction had been decided.

**LSB/B.57 APPLICATION FOR 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)*

- 57.1 The Licensing Sub-Committee **REFUSED** an application for a private hire driver's licence as the applicant was not a fit and proper person to hold such a licence.

**LSB/B.58 APPLICATION FOR 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)*

- 58.1 The Licensing Sub-Committee **REFUSED** an application for a private hire driver's licence as the applicant was not a fit and proper person to hold such a licence.

**LSB/B.59 REVIEW 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)*

- 59.1 The Licensing Sub-Committee **REVOKED** the private hire driver's licence under Section 61 (2A) of the Local Government (Miscellaneous Provisions) Act 1976 as the private hire driver was not a fit and proper person to hold such a licence.

**LSB/B.60 APPLICATION FOR 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)*

- 60.1 The Licensing Sub-Committee **GRANTED** a private hire driver's licence.

The meeting closed at 5:05 pm

# 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 Tuesday, 16 January 2024 commencing at 10:30 am**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

C L J Carter and R J E Vines

## **LSB/B.61 ELECTION OF CHAIR**

61.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter be appointed as Chair for the meeting.

## **LSB/B.62 ANNOUNCEMENTS**

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

## **LSB/B.63 DECLARATIONS OF INTEREST**

63.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

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

## **LSB/B.64 SEPARATE BUSINESS**

64.1 The Chair proposed, and 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.65 REVIEW 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)*

65.1 The Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** to issue a written warning that would be placed on the private hire driver's record.

#### **LSB/B.66 REVIEW OF A PRIVATE HIRE OPERATOR 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)*

- 66.1 The Licensing Sub-Committee reviewed a private hire operator's licence and **RESOLVED** to take no further action.

#### **LSB/B.67 REVIEW OF 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)*

- 67.1 The Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** to take no further action.

#### **LSB/B.68 REVIEW OF 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)*

- 68.1 The Licensing Sub-Committee **RESOLVED** that the licence holder must complete and pass a test on the Council's Hackney Carriage (Taxi) and Private Hire Policy, including the appendices, within four weeks of the date of the decision; failure to complete and pass the test within this period would result in the licence being revoked with immediate effect in the interests of public safety.

#### **LSB/B.69 APPLICATION FOR 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)*

- 69.1 The Licensing Sub-Committee **REFUSED** an application for a private hire driver's licence on the grounds of public safety.

The meeting closed at 12:40 pm

# 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, 22 February 2024 commencing at 10:00 am**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

H C McLain and H Sundarajoo

## **LSB/B.70 ELECTION OF CHAIR**

70.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter be appointed as Chair for the meeting.

## **LSB/B.71 ANNOUNCEMENTS**

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

## **LSB/B.72 DECLARATIONS OF INTEREST**

72.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

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

## **LSB/B.73 SEPARATE BUSINESS**

73.1 The Chair proposed, and 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.74 APPLICATION FOR 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)*

- 74.1 The Licensing Sub-Committee **GRANTED** a private hire driver's licence subject to the applicant:
- i) attending the Council Offices prior to the licence being issued to prove he had sufficient insurance; and,
  - ii) providing renewal documentation confirming the ongoing insurance to the Council on an annual basis.

**LSB/B.75 APPLICATION FOR A PRIVATE HIRE VEHICLE 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)*

- 75.1 The Licensing Sub-Committee **GRANTED** an application for a private hire vehicle licence.

**LSB/B.76 APPLICATION FOR A PRIVATE HIRE VEHICLE 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)*

- 76.1 The Licensing Sub-Committee **GRANTED** an application for a private hire vehicle licence.

**LSB/B.77 REVIEW 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)*

- 77.1 The Licensing Sub-Committee **RESOLVED** that no further action be taken in relation to the private hire driver's licence; however, the suspension would remain in place until the required satisfactory Disclosure and Barring Service (DBS) certificate was received by the Licensing department.

**LSB/B.78 APPLICATION FOR 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)*

- 78.1 The Licensing Sub-Committee **GRANTED** an application for a private hire driver's licence.

The meeting closed at 11:55 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 Tuesday, 5 March 2024 commencing at 2:00 pm**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

N D Adcock and R J G Smith

## **LSB/B.79 ELECTION OF CHAIR**

79.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter be appointed as Chair for the meeting.

## **LSB/B.80 ANNOUNCEMENTS**

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

80.2 The Chair indicated that Councillor H Sundarajoo was the reserve Member for the meeting and, although not required for the Sub-Committee, would be in attendance to observe.

## **LSB/B.81 DECLARATIONS OF INTEREST**

81.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

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

## **LSB/B.82 SEPARATE BUSINESS**

82.1 The Chair proposed, and 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.83 REVIEW 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)*

- 83.1 The Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** to take no further action.

**LSB/B.84 REVIEW OF A PRIVATE HIRE OPERATOR'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)*

- 84.1 The Licensing Sub-Committee reviewed a private hire operator's licence and **RESOLVED** to take no further action.

**LSB/B.85 REVIEW 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)*

- 85.1 The Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** to take no further action.

The meeting closed at 2:50 pm

# 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, 21 March 2024 commencing at 10:30 am**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

N D Adcock and S Hands

## **LSB/B.86 ELECTION OF CHAIR**

86.1 It was proposed, seconded and

**RESOLVED** That Councillor G F Porter be appointed as Chair for the meeting.

## **LSB/B.87 ANNOUNCEMENTS**

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

## **LSB/B.88 DECLARATIONS OF INTEREST**

88.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

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

## **LSB/B.89 SEPARATE BUSINESS**

89.1 The Chair proposed, and 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.90 APPLICATION FOR 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)*

90.1 The Licensing Sub-Committee **GRANTED** an application for a private hire driver's licence.

**LSB/B.91 APPLICATION FOR 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)*

- 91.1 The Licensing Sub-Committee **GRANTED** an application for a private hire driver's licence.

**LSB/B.92 REVIEW 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)*

- 92.1 The Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** that it be reinstated as the licence holder was a fit and proper person to hold such a licence.

The meeting closed at 11:50 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 Wednesday, 10 April 2024 commencing at 10:30 am**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

P A Godwin and R J G Smith

**LSB/B.93 ELECTION OF CHAIR**

93.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter be appointed as Chair for the meeting.

**LSB/B.94 ANNOUNCEMENTS**

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

**LSB/B.95 DECLARATIONS OF INTEREST**

95.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

95.2 There were no declarations made on this occasion.

**LSB/B.96 SEPARATE BUSINESS**

96.1 The Chair proposed, and 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.97 APPLICATION FOR 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)*

- 97.1 The Licensing Sub-Committee **GRANTED** an application for a private hire driver's licence as the applicant was considered a fit and proper person to hold such a licence.

The meeting closed at 10:46 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 Tuesday, 28 May 2024 commencing at 2:00 pm**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

S Hands and H Sundarajoo

**LSB/B.1 ELECTION OF CHAIR**

1.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter 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.

2.2 The Chair advised that a Member of the Licensing Committee would be observing from the public gallery for training purposes. He would be seeking confirmation from each applicant that they were happy for the Member to remain in the room for consideration of their applications.

**LSB/B.3 DECLARATIONS OF INTEREST**

3.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

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

**LSB/B.4 SEPARATE BUSINESS**

4.1 The Chair proposed, and 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 REVIEW 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 Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** to take no further action and allow the condition on the private hire driver's licence to remain in place.

**LSB/B.6 REVIEW 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)*

- 6.1 The Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** that no further action be taken.

**LSB/B.7 REVIEW 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)*

- 7.1 The Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** that no further action be taken.

**LSB/B.8 REVIEW OF A PRIVATE HIRE OPERATOR 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)*

- 8.1 The Licensing Sub-Committee reviewed a private hire operator licence and **RESOLVED** that no further action be taken.

**LSB/B.9 REVIEW OF A PRIVATE HIRE OPERATOR 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)*

- 9.1 The Licensing Sub-Committee reviewed a private hire operator licence and **RESOLVED** that no further action be taken.

**LSB/B.10 REVIEW 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)*

- 10.1 The Licensing Sub-Committee reviewed a private hire driver's licence and **RESOLVED** that no further action be taken.

The meeting closed at 4:44 pm



# 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 Tuesday, 18 June 2024 commencing at 3:00 pm**

**Present:**

Chair Councillor G M Porter

**and Councillors:**

M G Sztymiak and R J E Vines

**LSB/B.11 ELECTION OF CHAIR**

11.1 It was proposed, seconded and  
**RESOLVED** That Councillor G M Porter 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 Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

13.2 There were no declarations made on this occasion.

**LSB/B.14 APPLICATION FOR A STREET TRADING CONSENT - TIGERS KEBAB, CHELTENHAM RUGBY CLUB, NEWLANDS PARK, SOUTHAM LANE, CHELTENHAM, GL52 3PE**

14.1 The report of the Licensing Team Leader, circulated at Pages No. 3-26, outlined an application for a street trading consent for a kebab van known as Tigers Kebab to be located at Cheltenham Rugby Club, Newlands Park, Southam Lane, Cheltenham, GL52 3PE. The Sub-Committee was asked to determine whether or not to grant the street consent.

14.2 The Licensing Team Leader advised that the application was to serve hot and cold food/drinks seven days per week between 1600 hours and 2300 hours. The application had been subject to a 28 day consultation and the consultees were set out at Page No. 4, Paragraph 3.2 of the report. Whilst there were no objections from the responsible authorities, three objections had been received as set out at Appendix D from the local Ward Councillors and Southam Parish Council with the main concerns relating to litter and also nuisance, traffic and business competition. The options for the Sub-Committee, as set out at Page No. 5, Paragraph 5.1 of the report, were to grant consent to the applicant as applied for; grant consent to the

applicant subject to modifications to: the days on which trading could take place, the times during which trading could take place, the location(s) where trading could take place, the articles that could be traded, the conditions attached to the consent and/or the duration of the consent; or to refuse to grant consent. It was noted that the maximum duration of the licence was 12 months under the legislation.

- 14.3 A Member noted that highways and competition had been mentioned in the representations and sought clarification as to whether these were issues for the Licensing Sub-Committee. In response, the Licensing Team Leader explained that the site was not on a highway so County Highways could not refuse the application but it was a statutory consultee under the Council's policy. In terms of business competition, this was a relevant concern for the Planning department under planning legislation if planning permission was required. The Planning department had been consulted on the application but this was separate to the licensing regime and it was down to the operator of the premises to comply with any planning permission required.
- 14.4 The Chair invited the applicant to address the Sub-Committee. It was noted that the applicant had brought the Chair of Cheltenham Rugby Club with him to the meeting to offer support. The applicant explained that, in relation to litter, he had permission from the Chair of the Rugby Club to use the Rugby Club bins and whilst the application was until 2300 hours, he intended to serve until 2200 hours and use the remaining time for cleaning. He confirmed that he had received an email from County Highways confirming it was not highway land.
- 14.5 A Member asked if the applicant had any experience of running a food trailer and the applicant advised he had been a partner in a kebab shop in Swindon for three years. The Member asked how he had dealt with litter and the applicant confirmed litter had never been an issue before. In response to a query regarding how many staff would be working in the trailer, the applicant advised that he intended to employ one other person initially; if business picked up he may employ another so there could potentially be three members of staff going forward. In terms of the hours requested, a Member asked if these would coincide with the opening of the artificial pitch or whether there was another reason for choosing the times. The Chair of Cheltenham Rugby Club confirmed that the artificial pitch was available for booking from 0900 hours to 2200 hours every day; Sundays were less busy later in the day but in the winter months the pitch tended to be booked from 1700 hours to 2200 hours daily, with 3,500 people using the pitch per week for various sports, and the opening hours of the van had been selected to cater for them. There was a kitchen on site but it was not able to cater for that number of people and was mainly used for bacon baps for the mini and junior sessions on a Sunday morning. In addition, it was not possible to get to the serving point if there was a function in the main club room. A number of large events had been held at the Rugby Club over the last few years including the Cheltenham 7s, inflatable theme parks and music events and the Club had expanded its service with visiting food providers – the Club had opted for a kebab van as this had been the most popular and it was felt it would be a better option in terms of litter. Currently a lot of visitors ordered food to be delivered to the site, using services such as Deliveroo, but they did not tend to be very good at putting wrappers in bins – the club was run by volunteers who spent a lot of time tidying up which was frustrating so that was another reason for the street trading application. A Member asked if the Rugby Club had separate recycling containers and was advised there were four bins - one for glass recycling, one for cardboard recycling and two for general waste. Whilst the Club was keen to recycle other materials such as tins and textiles, its waste collection was managed by Grundon which did not currently offer those services so that was something which would be relooked at in around 18 months to see if it was viable. In response to a query about the food packaging, the applicant advised this would be cardboard packaging and wooden forks. A Member asked if wooden forks could be recycled and was informed these were disposed of in the general waste which was taken

away and sorted by Grundon which recycled what it could. The Member indicated that the Council had declared a climate change emergency and was trying to minimise single use products so it would give some peace of mind if there was confidence that packaging was being recycled. The Chair of the Rugby Club advised there were a number of people at the Club who were very keen on green initiatives – the Club had geothermal heating and was about to install solar panels – so if things could be recycled he doubted the membership would allow them not to. The applicant pointed out that the food boxes did say they were recyclable.

- 14.6 A Member noted that the Rugby Club had a large car park and asked if it was intended to fence off an area for the kebab van. The Chair of the Rugby Club explained that it was anticipated that the people using the van would already be parked there, either playing or supporting, and would buy food whilst they were waiting or as they were leaving. The main car park could accommodate 150 vehicles with space for a further 175/180 down the side of the artificial pitch with more space on the grass for bigger events. As Members may be aware, Gloucestershire County Council was currently occupying some of the site whilst it carried out work on the cycle path, and when they left in January/February 2026 there was an option for the club to retain the hardstanding for additional parking. In his view, the parking provision was improving and when the money was available they would look to resurface.
- 14.7 The Chair invited the other persons to make their submissions. One of the objectors pointed out that there were companies, such as Andigestion, which provided a food recycling service so there were options to resolve that particular issue if the site was willing to engage with it and that was something she would welcome. In terms of litter, nothing had been mentioned about the people who parked at the site, picked up their food and discarded the packaging from their windows, although she acknowledged there was no way to contain that. She was mindful that the planning process may not allow for a food establishment on the premises and felt it would be better to determine the licence application after that had been resolved. In response to the latter, the Chair reiterated that the planning and licensing regimes were separate and the Licensing Sub-Committee was required to determine the application before it today. The Parish Council representative appreciated the Rugby Club was well-used and brought a lot of benefits to the community. He understood the need to supplement the existing facilities at particular times but the Parish Council's concern was the shift from internal to external catering and the potential implications in terms of litter. There were concerns regarding the approach to employment given the applicant had mentioned waiting to see how things went before employing the resource to deal with it which was not what he had understood from reading the report. In terms of traffic, whilst he could not define the impact, there was potential for passing trade as the van would be illuminated so could be seen from the road; this may have a harmful visual impact, particularly in the winter months when there was less cover. As the facility would be open until 2300 hours, there was also potential for it to become a meeting place which could attract antisocial behaviour, particularly as crime incidents were increasing locally. Another objector indicated that whilst the van would not be sited on a highway, it was very close on a busy corner which had recently been remodelled so there were apprehensions in relation to that. He continued to be concerned about litter, having recently dealt with the aftermath of a May Day celebration, which, if contaminated, would go to landfill. He felt that 2300 hours was quite late and questioned whether the applicant's suggestion of finishing serving at 2200 hours and having an hour to clean up would be adequate and expressed concern as to whether the offering would cater for the number of people envisaged to use the van, based on the current users of the Club.

- 14.8 The applicant was invited to make a final statement and the Chair of Cheltenham Rugby Club advised that they had spoken to Andigestion a couple of years ago but the Club had not produced enough waste to be of interest. They would be open to meeting with Andigestion again, given the length of time that had passed, although he noted that the Clubhouse itself did not have much waste. In relation to antisocial behaviour, which was a concern for everyone, he provided reassurance that it was a fenced site with a lot of users so he did not feel it would be a particular issue and having the trailer would bring additional benefits, for example, there had been traveller incursions in the past and having someone on site would be a deterrent. In terms of litter, the site was well-managed so he was confident that would be dealt with properly. With regard to whether the van would be sufficient, he confirmed the Club was happy with one van at this stage and he was sure the users of the artificial pitch, and the grass pitches to some extent, would be grateful for the service.
- 14.9 The Chair asked if there was any scope to reduce the hours from 1600 to 2300 hours to 1600 to 2200 hours and the Chair of the Rugby Club advised that the theory was if people were on the pitch until 2200 hours they would then have time to get changed and buy some food afterwards. The applicant also needed time to clean up by which point it would be approaching 2300 hours.
- 14.10 The Chair asked all parties present to withdraw with the exception of the Legal Adviser and Head of Service: Democratic and Electoral Services whilst the Sub-Committee made its decision.
- 14.11 In accordance with the Local Government (Miscellaneous Provisions) Act 1982 (Schedule 4) and having considered the report, the oral representations made at the meeting, the relevant legislation and Tewkesbury Borough Council's Street Trading Policy, it was

**RESOLVED** That the street trading consent be **GRANTED** as applied for.

The various parties were invited back to hear the decision of the Licensing Sub-Committee. The applicant was advised that the Licensing Sub-Committee made its decision on the basis that there were no objections from the responsible authorities in relation to the application and no evidence of any of the concerns raised coming to fruition at this stage. Cheltenham Rugby Club was very supportive of the application and did not want litter so would ensure the site was well looked after. On that basis, there were no grounds to refuse the application. Should any of the concerns come to fruition, it was recommended that the other persons contact the local authority.

The meeting closed at 3:40 pm

# 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, 20 June 2024 commencing at 2:00 pm**

**Present:**

Chair

Councillor G M Porter

**and Councillors:**

C Agg and H C McLain

## **LSB/B.15 ELECTION OF CHAIR**

15.1 It was proposed, seconded and

**RESOLVED** That Councillor G M Porter be appointed as Chair for the meeting.

## **LSB/B.16 ANNOUNCEMENTS**

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

## **LSB/B.17 DECLARATIONS OF INTEREST**

17.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

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

## **LSB/B.18 SEPARATE BUSINESS**

18.1 The Chair proposed, and 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.19 APPLICATION FOR 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)*

19.1 The Licensing Sub-Committee **GRANTED** a private hire driver's licence.

#### **LSB/B.20 APPLICATION FOR 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)*

- 20.1 The Sub-Committee **RESOLVED** that the private hire driver's application be **DEFERRED** in order to invite the applicant to attend a future meeting of the Licensing Sub-Committee.

#### **LSB/B.21 APPLICATION FOR 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)*

- 21.1 The Licensing Sub-Committee **GRANTED** a private hire driver's licence.

#### **LSB/B.22 APPLICATION FOR 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)*

- 22.1 The Licensing Sub-Committee **GRANTED** a private hire driver's licence.

#### **LSB/B.23 REVIEW 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)*

- 23.1 The Licensing Sub-Committee reviewed a private hire driver licence and **RESOLVED** that the suspension be lifted and the private hire driver's licence reinstated.

The meeting closed at 4:05 pm

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Licensing Committee
<b>Date of Meeting:</b>	25 July 2024
<b>Subject:</b>	Review of Tewkesbury Borough Council’s Statement of Principles under the Gambling Act 2005
<b>Report of:</b>	Licensing Team Leader
<b>Head of Service/Director:</b>	Director: Communities
<b>Lead Member:</b>	Lead Member for Environmental Services
<b>Number of Appendices:</b>	One

<p><b>Executive Summary:</b></p> <p>Members are asked to recommend the current Statement of Principles to the Council for adoption.</p>
<p><b>Recommendation:</b></p> <p><b>That it be RECOMMENDED TO COUNCIL that:</b></p> <ul style="list-style-type: none"> <li>i. the current Statement of Principles under the Gambling Act 2005 be ADOPTED for a further three year period; and</li> <li>ii. the Council AGREE to continues to adopt a “no casino” resolution for inclusion in the published Gambling Act 2005 Licensing Policy Statement.</li> </ul>

<p><b>Financial Implications:</b></p> <p>None arising directly from this report.</p>
<p><b>Legal Implications:</b></p> <p>The Licensing Authority must determine and publish a statement of Licensing Policy under Section 349 (1) of the Gambling Act 2005 (‘the Act’). The Licensing Authority is under a duty under Section 349 (2) of the Act to keep its policy under review and make such revisions as it considers appropriate during each three-year period.</p> <p>Before determining such a policy, Section 349(3) of the Act places a statutory duty on the Licensing Authority to consult with the listed interested parties. Where revisions are made the Licensing Authority must publish a statement of the revisions or the revised licensing statement.</p> <p>Any significant responses to the sharing of the draft policy with the statutory consultees which lead to amendment of the draft policy would therefore need to be brought back to a subsequent Licensing Committee for it to consider any amendments or variations that may have been suggested during the consultation.</p>

**Environmental and Sustainability Implications:**

None arising directly from this report.

**Resource Implications (including impact on equalities):**

None arising directly from this report.

**Safeguarding Implications:**

None arising directly from this report.

**Impact on the Customer:**

None arising directly from this report.

## 1.0 INTRODUCTION

- 1.1 Under the Gambling Act 2005 the Council, as the Licensing Authority, is responsible for issuing and enforcing licences, permits and notifications under the Act. These include:
- Licences for premises where gambling activities take place such as betting shops and gaming arcades.
  - Permits and notifications for gaming machines in pubs and social clubs.
  - Registrations for small society lotteries.
- 1.2 There are only five licensed premises (Betting Shops) under the Gambling Act 2005 within the borough. There are no licensed bingo clubs or casinos within the borough.
- 1.3 Currently the legislation does not allow for a new application to be made for a casino in the borough.
- 1.4 Section 349 of the Gambling Act 2005 requires that the Licensing Authority shall, before each successive period of three years, prepare a policy that they propose to apply in exercising their functions under the Act and they must publish that statement. Tewkesbury Borough Council's current Statement of Principles expires on 30 January 2025.
- 1.5 At present, there have been no amendments to gambling legislation or to the Statutory Guidance published by the Gambling Commission. A revised Guidance to Local Authorities is set to be published in 2025.

## 2.0 STATEMENT OF PRINCIPLES REVIEW

- 2.1 As there are no fundamental changes it is proposed to 're-adopt' the current Statement of Principles attached at **Appendix A** for a further three-year period (or when the revised Guidance to Local Authorities is published, whichever is earliest).
- 2.2 A full review will be carried out once the revised Statutory Guidance has been published.



### **3.0 NO CASINO RESOLUTION**

**3.1** S.166(1) of the Act states that a Licensing Authority may resolve not to issue Casino Premises Licences. Such a recommendation was made by the Licensing Committee in 2012. Notwithstanding all the casinos have been allocated by central government, S.166(3) of the Act states that this resolution expires after three years and the Council needs formally to re-affirm at this time that a “no casino resolution” is still in place. Therefore, the Licensing Committee is asked to recommend to Council that it continues to adopt a “no casino resolution” for inclusion in the published Gambling Act 2005 Licensing Policy Statement.

### **4.0 CONSULTATION**

**4.1** Section 9 (6.63) of the Guidance to Local Authorities states ‘where the policy statement is reviewed and changes proposed, licensing authorities must consult on any revision’.

**4.2** As there are no changes to the current policy, it is proposed that there will be no consultation.

### **5.0 ASSOCIATED RISKS**

**5.1** The local authority must review the policy every three years to comply with its statutory obligations.

### **6.0 MONITORING**

**6.1** Once adopted, the revised document must be published on the Council’s website and a copy sent to the Gambling Commission.

### **7.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES**

**7.1** [Tewkesbury Borough Council Plan](#)

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**Background Papers:** [Gambling Commission Guidance to Local Authorities](#)

[Gambling Act 2005](#)

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**Appendices:** Appendix A – [Current Statement of Principles](#)



# Tewkesbury Borough Council

## Statement of Principles

### 2022 - 2025



Gambling Act 2005  
Revised December 2022

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## **PART A**

### **1. Introduction**

- 1.1 Tewkesbury Borough Council (the Council) is a licensing authority under the Gambling Act 2005 (the Act) and therefore has responsibilities for the administration and enforcement of the Act within the borough of Tewkesbury. We are required by the Act to publish a statement of the principles that governs how we exercise functions under the Act. This statement must be published at least every three years. The statement may be amended from time to time and any amended parts will be consulted upon.

### **2. Consultation**

In accordance with the Gambling Act 2005, and prior to the publication of this Policy, the Licensing Authority consulted with the persons and organisations stipulated in Appendix A of the policy.

### **3. Duration and Review**

The policy takes effect in December 2022 and will remain in force for a period of no more than three years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.

### **4. Promotion of Equality**

The Equality Act 2010 places a legal obligation on the Licensing Authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

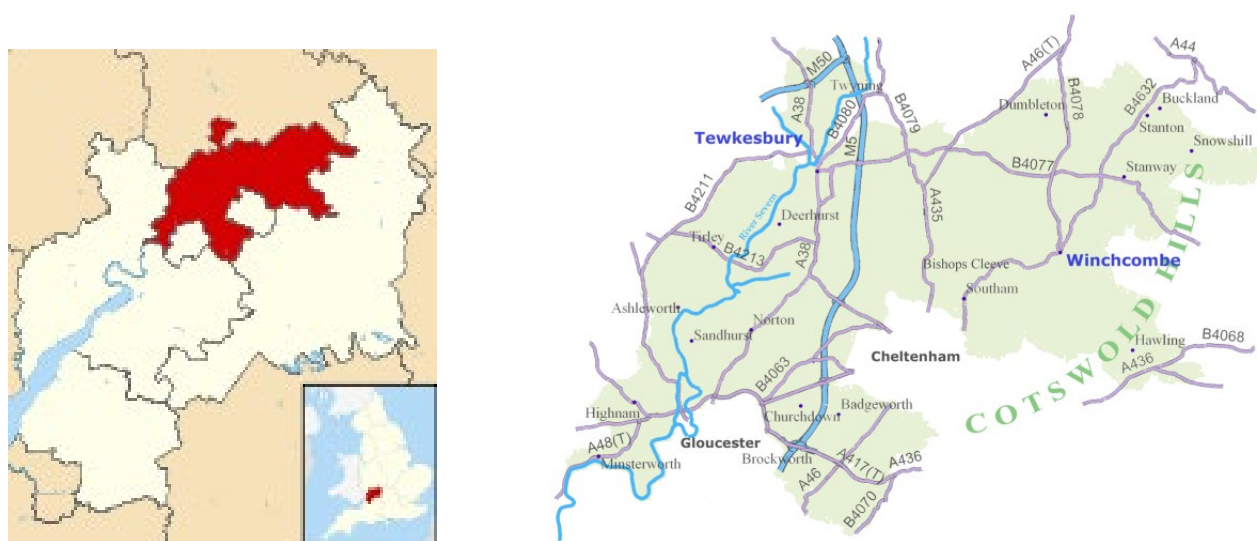
The Licensing Authority will look to discharge this duty by making arrangements where appropriate to provide information in a format that meets the requirements of those with special needs such as large type, audio information and information in foreign languages upon request. Specific needs will be dealt with on an individual basis.

### **5. The Licensing Objectives**

- 6.1 In exercising most of the functions under the Act, we must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are;
- a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - b) Ensuring that gambling is conducted in a fair and open way;
  - c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 6.2 In making decisions about premises licences and temporary use notices, we will aim to permit the use of premises for gambling if they are;
- a) in accordance with any relevant code of practice issued by the Gambling Commission (“the Commission”) under section 24 of the Act;
  - b) in accordance with any relevant guidance issued by the Commission under section 25 of the Act;
  - c) reasonably consistent with the licensing objectives; and
  - d) in accordance with the authority’s statement of licensing policy.

## 6. Local Area profile

- 6.1 Tewkesbury Borough covers an area of 160 square miles in north Gloucestershire. The borough is situated within the Severn vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.
- 6.2 The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishop's Cleeve and Churchdown.
- 6.3 Gambling is not a significant industry or activity within the borough. Therefore, any new gambling proposal which seeks to intensify gambling activities will be very carefully considered and reviewed to ensure it does not significantly alter, adversely affect or otherwise impact upon the current level of gambling activity across the borough.
- 6.4 The borough has a population of approximately 95,000.
- 6.5 At the time of writing in 2021, the borough had 7 licensed betting premises.



## 7. Local Risk Assessments

- 7.1 The Commission has introduced provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks<sup>1</sup>.
- 7.2 Social Responsibility (SR) code 10.1.1 requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.
- 7.3 Licensees must review (and update as necessary) their local risk assessments;
- a) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;

<sup>1</sup> <http://www.gamblingcommission.gov.uk/Publications-consultations/LCCP.aspx>

- b) when there are significant changes at a licensed premises that may affect their mitigation of local risks;
- c) when applying for a variation of a premises licence; and in any case, undertake a local risk assessment when applying for a new premises licence.
- 7.4 The SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with the licensing authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the Licensing Authority. Both provisions took effect from 6 April 2016.
- 7.5 It is expected that licensees will refer to the Licensing Authority's Local Area Profile when completing their risk assessments.
- 7.6 This authority will also expect local risk assessments to include, specifically, any relevant information about:
- Self exclusion details
  - Attempts to gamble by under 18s
  - Outcome(s) of test purchase results
  - Anti-Social Behaviour issues on incident logs
  - Police reports and call outs
  - Sharing information with nearby agencies e.g. treatment centres
  - Any protections in place when footfall is the highest
  - Details of any best practise schemes such as Betwatch or similar
- 7.7 Where concerns do exist, perhaps prompted by new or existing risks, the licensing authority will request that the licensee shares a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of licence conditions are required.

## 8. Declaration

- 8.1 In producing this statement, we have had regard to the licensing objectives, the Guidance to Licensing Authorities issued by the Commission<sup>2</sup>, and any responses from those consulted with on the statement.

## 9. Responsible Authorities

- 9.1 Responsible authorities are identified in the legislation and have to be notified about licence applications to enable them to identify any risk.
- 9.2 We are required by statute to confirm the principles that we will apply in exercising our powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise us about the protection of children from harm. These principles are;
- a) the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - b) the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 9.3 In accordance with the suggestion in the Commission's Guidance to Licensing Authorities, we designate this to Gloucestershire Safeguarding Children Partnership (GSCP), comprising Gloucestershire Clinical

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<sup>2</sup> [Guidance to licensing authorities - Gambling Commission](#)



Commissioning Group, Gloucestershire County Council and Gloucestershire Constabulary. The GSCP Executive will review and delegate its duties as Responsible Authority to the most suitable safeguarding partner for this purpose every three years setting out its arrangements in its own 'Published Arrangements' document. The contact details of all Responsible Authorities are attached as Appendix B.

## 10. Interested parties

- 10.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows;
- 10.2 "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence, or to which the application is made, the person –
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - b) has business interests that might be affected by the authorised activities, or
  - c) represents persons who satisfy paragraphs (a) or (b) above."
- 10.3 We are required by statute to state the principles we will apply to determine whether a person or a body is an interested party. These principles are;
- a) Each case will be decided upon its merits
  - b) We will not apply a rigid rule to its decision making
  - c) We will use the examples of considerations provided in the Commission's Guidance to Licensing Authorities.
- 10.4 Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils and councillors likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 10.5 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application.

## 11. Exchange of Information

- 11.1 We are required to include in our statements the principles with respect to the exchange of information between us and the Commission, and the functions under section 350 of the Act with respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.

We will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. We will also have regard to any guidance issued by the Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act. Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 12. Enforcement

- 12.1 We will carry out enforcement in accordance with the Council's Corporate Enforcement Policy; having regard to the Regulator's Code as well as any future amendments to this policy.
- 12.2 The Gambling Commission will be the enforcement body for operating and personal licences. The Commission will also deal with any concerns about manufacture, supply or repair of gaming machines. We are not involved in licensing remote gambling; remote gambling is regulated by the Commission<sup>3</sup>.
- 12.3 The Licensing Authority will follow the relevant principles set out in the Regulator's code together with any relevant guidance from the Gambling Commission and legislation. The Licensing Authority will adopt and adhere to the principles of better regulation.
- 12.4 The Licensing Authority is required by regulation under The Act to state the principles to be applied by it in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 12.5 This Licensing Authority's principles are that:
- It will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:
- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
  - Consistent: rules and standards must be joined up and implemented fairly;
  - Transparent: regulators should be open, and keep regulations simple and user friendly; and
  - Targeted: regulation should be focused on the problem and minimise side effects.
- 12.6 This Licensing Authority will adopt a risk-based inspection programme, based on:
- The licensing objectives;
  - Relevant codes of practice;
  - Guidance issued by the Gambling Commission;
  - The principles set out in this statement of licensing policy
- 12.7 The aim is to target high-risk premises whilst adopting a "light touch" approach to lower-risk premises. The authority will seek to give advice to licence holders that wish to comply but will take a firm stance against irresponsible licence holders.
- 12.8 Where the Licensing Authority seeks to bring a prosecution, it will have regard to the principles of the Crown Prosecution Service Code for Crown Prosecutors.
- 12.9 The Licensing Authority will seek to work actively with the Gambling Commission and the Gloucestershire Constabulary in enforcing licensing legislation, and where appropriate it will establish protocols with those partner agencies on enforcement issues to ensure an efficient use of resources.

<sup>3</sup> <http://www.gamblingcommission.gov.uk/Gambling-sectors/Online/Remote.aspx>

### 13. Licensing Authority Functions

13.1 The Act requires this Licensing Authority to:

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

13.2 A table outlining how the authority will delegate its functions under this Act is attached at Appendix B.

## PART B

### PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

#### 1. General Principles

- 1.1 Premises licences are subject to the requirements set out in the Act and accompanying regulations, as well as specific mandatory and default conditions which are detailed in the regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be necessary.
- 1.2 In making decisions about premises licences, we shall consider;
- a) relevant code of practice issued by the Commission;
  - b) relevant guidance issued by the Commission;
  - c) the licensing objectives; and
  - d) our statement of licensing policy.
- 1.3 Moral or ethical objections to gambling are not a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section 2.14).

**Meaning of “premises”** – In the Act, “premises” is defined as including “any place”.

- 1.4 Section 152 prevents more than one premises licence applying to any place. However, a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall, to obtain discrete premises licences where appropriate safeguards are in place.
- 1.5 The authority will however pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.
- 1.6 The authority takes particular note of the Commission’s guidance which states that: “Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice, that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling, where they are prohibited from participating.
  - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable, so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context, it should normally be possible to access the premises without going through another licensed premises, or premises with a permit.
  - Customers should be able to participate in the activity named on the premises licence.

## The relevant access provisions for each premises type are reproduced below:

### Casinos

- The principal access entrance to the premises must be from a ‘street’ (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage whether a thoroughfare or not);
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons; and
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

### Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises.

### Betting Shops

- Access must be from a street, or from another premises with a betting premises licence.
- There must be no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect, there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### Tracks

- No customer should be able to access the premises directly from: - a casino - an adult gaming centre

### Bingo Premises

- No customer must be able to access the premises directly from: - a casino - an adult gaming centre - a betting premises, other than a track

### Family Entertainment Centre

- No customer must be able to access the premises directly from: - a casino - an adult gaming centre - a betting premises, other than a track

1.7 Part 7 of the Commission’s guidance contains further guidance on this issue, which this authority will also take into account in its decision making.

### 1.8 Premises “ready for gambling”

A licence to use premises for gambling should only be issued in relation to premises that we are satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if it needs alteration, or if the applicant does not yet have a right to occupy it, then an application for a provisional statement should be made instead.

- 1.9 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, we will determine applications on their merits, applying a two stage consideration process;
- a) whether the premises ought to be permitted to be used for gambling, and then
  - b) whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

- 1.10 Applicants should note that we are entitled to decide that it is appropriate to grant a licence subject to conditions, but we are not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found on the Gambling Commission's Guidance.

## 1.9 Location

We cannot consider demand issues with regard to the location of premises. We will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling and issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, we will update this statement.

## 1.10 Planning

In determining applications, we will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Once a premises licence comes into effect, it authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that we can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

## 1.11 Duplication with other regulatory regimes

We seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. When determining a licence application, we will not consider whether it is likely to be awarded planning permission, building regulations approval, or any other type of permit, grant or licence. We will however, listen to and consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

- 1.12 When dealing with a premises licence application for finished buildings, we will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

## 1.13 Licensing objectives

Premises licences granted must be consistent with the licensing objectives.

- a) **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**

We will pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime we will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable, such as the provision of door supervisors. We will make the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

**b) Ensuring that gambling is conducted in a fair and open way**

The Commission generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

**c) Protecting children and other vulnerable persons from being harmed or exploited by gambling**

We will consider whether specific measures are required at particular premises, with regard to this licensing objective. Necessary measures may include supervision of entrances/machines, segregation of areas etc. We will regard Commission codes of practice in relation to specific premises.

1.14 As regards the term “vulnerable persons”, the Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental health impairment, alcohol or drugs.” We will consider this licensing objective on a case by case basis.

**1.15 Conditions**

Any conditions attached to licences will be proportionate and will be;

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

1.16 Decisions upon individual conditions will be made on a case by case basis, though there will be a number of measures we will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. We also expect the applicants to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

1.17 We will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's Guidance.

1.18 We will also ensure that where category C or above machines<sup>4</sup> are on offer in premises to which children are admitted;

- a) all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- b) only adults are admitted to the area where these machines are located;
- c) access to the area where the machines are located is supervised;
- d) the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- e) at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

1.19 These considerations will apply to premises including buildings where multiple premises licences are applicable.

<sup>4</sup> <http://www.legislation.gov.uk/uksi/2014/45/made>

- 1.20 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

There are conditions which we cannot attach to premises licences, these are;

- a) any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- b) conditions relating to gaming machine categories, numbers, or method of operation;
- c) conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- d) conditions in relation to stakes, fees, winning or prizes.

### 1.21 **Door Supervisors**

If there are concerns that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then we may require that the entrances to the premises are controlled by a door supervisor, and we are entitled to impose a condition on the premises licence to this effect.

- 1.22 Where it is decided that supervision of entrances and/or machines is necessary for particular cases, a consideration of whether the door supervisors need to be Security Industry Authority (SIA) licensed or not, will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

## 2. **Betting premises**

- 2.1 We are responsible for issuing and monitoring premises licences for all betting premises.
- 2.2 Betting machines - The authority will, in accordance with the Commission's guidance take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people when considering the number/nature/circumstances of betting machines an operator wants to offer.

## 3. **Adult Gaming Centres and (Licensed) Family Entertainment Centres**

- 3.1 We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy us that there will be sufficient measures to address these matters.
- 3.2 We may consider measures to meet the licensing objectives such as;
- a) Proof of age schemes
  - b) Closed-circuit television (CCTV)
  - c) Supervision of entrances and/or machine areas
  - d) Physical separation of areas
  - e) Location of entry
  - f) Notices and/or signage
  - g) Specific opening hours
  - h) Self-exclusion schemes
  - i) Provision of information leaflets and/or helpline numbers for organisations such as GamCare<sup>5</sup> and/or GambleAware<sup>6</sup>.

<sup>5</sup> <http://www.gamcare.org.uk/>

<sup>6</sup> <http://www.gambleaware.co.uk/>



j) Measures and/or training for staff on how to deal with suspected truant school children on the premises (for licensed FECs)

3.3 This list is neither mandatory nor exhaustive, and is merely indicative of example measures.

3.4 We will refer to the Commission to see how any conditions that apply to operating licences covering the way in which the area containing the Category C machines should be delineated. We may keep a record of any mandatory or default conditions on these premises licences, when they have been published.

#### **4. Casinos**

There are no existing casino premises licences in force in the Borough.

On 17<sup>th</sup> April 2012 the Council resolved under section 166(1) of the Act, not to issue casino premises licences. This resolution took effect from 28<sup>th</sup> July 2012.

Should we decide in the future to pass such a resolution, we will update this policy statement with details of that resolution. Any such decision will be made at a meeting of the full Council.

#### **5. Bingo premises**

5.1 We will ensure that the premises is suitable for playing bingo when deciding on a premises application for bingo. From 13<sup>th</sup> July 2011 holders of bingo premises licences are also able to make available for use a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. A licence variation must be applied for if operators wish to take advantage of this change to the legislation.

5.2 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if Category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility code provision 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

#### **6. Tracks**

6.1 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objectives and we will ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

6.2 We also expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons may be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but they are prevented from entering areas where gaming machines (other than Category D machines) are provided.

6.3 The authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours

- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare

- 6.4 Gaming Machines: Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, they shall be located in areas from which children are excluded.
- 6.5 Betting machines: We will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature and circumstances of betting machines an operator proposes to offer.

### **Applications and plans**

- 6.6 Section 51 of the Act requires applicants to submit plans of the premises with their application, in order to ensure that we have necessary information to make an informed judgement about whether the premises is fit for gambling. The plan will also be used to plan premises inspections.
- 6.7 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by the statutory regulations.
- 6.8 We are aware that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track.
- 6.9 We will not accept plans if they fail to provide sufficient information to enable us to assess an application.
- 6.10 Applications for gaming machines in premises which includes any type of take-away, shop, cafe, taxi office or similar business are not permitted under the Gambling Act 2005.

## **7. Travelling Fairs**

- 7.1 Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Current stakes and prizes can be found at Appendix B of the Commission guidance.
- 7.2 Higher stake Category B and C machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.
- 7.3 We are responsible for deciding whether, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 7.4 We will also consider whether the applicant falls within the statutory definition of a travelling fair and we will work with our neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **8. Provisional Statements**

- 8.1 Developers may wish to apply to us for provisional statements before entering into a contract to buy or lease property or land, to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

- 8.2 Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that are;
- a) expected to be constructed;
  - b) expected to be altered; or
  - c) expected that they will acquire a right to occupy.
- 8.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 8.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 8.5 The holder of a provisional statement may then apply for a premises licence once the premises is constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless;
- a) they concern matters which could not have been addressed at the provisional statement stage; or
  - b) they reflect a change in the applicant's circumstances.
- 8.6 We may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters;
- a) which could not have been raised by objectors at the provisional statement stage;
  - b) which in the authority's opinion reflect a change in the operator's circumstances; or;
  - c) where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 9. Reviews

- 9.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for us to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;
- a) in accordance with any relevant code of practice issued by the Commission;
  - b) in accordance with any relevant guidance issued by the Commission;
  - c) reasonably consistent with the licensing objectives; and
  - d) in accordance with the authority's statement of licensing policy.
- 9.2 The request for the review will also be subject to the consideration as to whether the request is frivolous or vexatious.
- 9.3 We can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which is necessary to uphold the licensing objectives.
- 9.4 Once we receive a valid application for a review, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after we receive the application, we will also publish notice of the application within that period.
- 9.5 We will carry out the review as soon as possible after the 28 day period for making representations has passed.

- 9.6 The purpose of the review will be to determine whether we should take any action in relation to the licence. If action is justified, we may;
- a) add, remove or amend a licence condition imposed by the licensing authority;
  - b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - c) suspend the premises licence for a period not exceeding three months; or
  - d) revoke the premises licence.
- 9.7 In determining what action, if any, should be taken following a review, we will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 9.8 We may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 9.9 Once the review has been completed, we will notify our decision to;
- a) the licence holder
  - b) the applicant for review (if any)
  - c) the Commission
  - d) any person who made representations
  - e) the chief officer of police or chief constable; and
  - f) Her Majesty's Commissioners for Revenue and Customs

**PART C****PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE****1. Unlicensed Family Entertainment Centre gaming machine permits**

- 1.1 Where a premises does not benefit from a premises licence but the operators wish to provide gaming machines, they may apply to us for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use.
- 1.2 We expect the applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits; however, they may include measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.
- 1.3 We also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

**2. (Alcohol) Licensed premises gaming machines****Automatic entitlement: 2 machines**

- 2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.
- 2.2 We can remove the automatic authorisation in respect of any particular premises if;
- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - Gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Commission about the location and operation of the machine has been complied with);
  - The premises are mainly used for gaming; or
  - An offence under the Act has been committed on the premises.

**Permit: 3 or more machines**

- 2.3 If a premises wishes to have more than 2 machines, then it needs to apply for a permit. We will consider such applications based upon the licensing objectives, any guidance issued by the Commission issued under Section 25 of the Act, and any other relevant matters. Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Applicants are expected to demonstrate that these machines will be in sight of the bar or in the sight of staff that will monitor the machines. Notices and signage showing age restrictions for these machines may also be displayed. As regards the protection of vulnerable persons, applicants are expected to provide information leaflets and helpline numbers for organisations such as GamCare.

- 2.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an adult gaming centre premises licence.
- 2.5 We may decide to grant the application with a smaller number of machines and/or a different category of machine than that applied for, if it is necessary to uphold the licensing objectives.
- 2.6 Holders of such permits must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

### 3. Prize Gaming Permits

3.1 Gaming is “prize gaming” if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. A prize gaming permit can be issued by us to authorise the provision of prize gaming on a commercial basis on specified premises.

3.2 Applicants should set out the types of gaming that they intend to offer. Applicants should be able to demonstrate;

- That they understand the limits to stakes and prizes that are set out in the Gambling Act Regulations 2007.
- That the gaming offered is within the law.
- Clear policies that outline the steps to be taken to protect children from harm.

3.3 In making its decision on an application for this permit, we will have regard to Commission guidance.

We cannot attach conditions but there are conditions in the Act which the permit holder must comply. These conditions are;

- The limits on participation fees, as set out in the statutory regulations, must be complied with.
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.
- The prize for which the game is played must not exceed the amount set out in the Gambling Act Regulations 2007 (if a money prize), or the prescribed value (if non-monetary prize).
- Participation in the gaming must not entitle the player to take part in any other gambling.

### 4. Club Gaming and Club Machines Permits

4.1 Members clubs and miners’ welfare institutes (but not commercial clubs) may apply for a club gaming permit. A club gaming permit enables the premises to provide gaming machines in accordance with the relevant regulations, equal chance gaming and games of chance as set-out in the relevant regulations.

4.2 Members clubs, miners’ welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit enables the premises to provide gaming machines in accordance with the relevant statutory regulations.

4.3 Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members’ club must be permanent in nature, not established to make

commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

- 4.4 We may refuse an application on the grounds that;
- for a club gaming permit: the applicant is not a members' club or miners' welfare institute
  - for a club machine permit: the applicant is not a members' club, miners' welfare institute or commercial club
  - the premises are used by children or young persons
  - an offence or a breach of a condition of the permit has been committed by an applicant
  - a permit held by an applicant has been cancelled during the last ten years
  - an objection has been made by the Commission or local chief officer of police.
- 4.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).
- 4.6 Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which we can refuse a permit are reduced.
- 4.7 We may refuse an application on the following grounds;
- the club is established primarily for gaming, other than gaming prescribed under schedule 12.
  - in addition to the prescribed gaming, the applicant provides facilities for other gaming.
  - a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 4.8 There are statutory conditions on club gaming permits and club machine permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **5. Temporary Use Notices**

- 5.1 Temporary use notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a TUN would include hotels, conference centres and sporting venues.
- 5.2 We can only grant a TUN to a person or a company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by TUNs, and at the time of writing this statement the relevant regulations state that TUNs can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means events such as poker tournaments.
- 5.4 There are a number of statutory limits as regards TUNs. We will also consider amongst other things, the ownership, occupation and control of the premises.
- 5.5 We may object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Commission's guidance to licensing authorities.

## **6. Occasional Use Notices**

- 6.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. We will however, consider the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.
- 6.2 We will share information with the Commission in respect of occasional use notices served in respect of tracks in our area.

## **7. Registration of Small Society Lotteries**

- 7.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Commission or it is an "exempt" lottery as defined by the Act.
- 7.2 One of those exemptions is in respect of what are termed "small society lotteries" and the council is responsible for registering these "small" lotteries.
- 7.3 A society will be allowed to register with us if it is a 'non-commercial lottery', in other words, it is established and conducted;
- a) for charitable purposes.
  - b) for the purpose of enabling participation in, or of supporting, sport, athletic or cultural activity.
  - c) for any other non-commercial purpose other than private gain.
- 7.4 We will maintain a register of small society lotteries.



**APPENDIX A – CONSULTEES**

- Current Licence Holders
- Responsible Authorities
- Ward Members
- Town and Parish Councils
- Director of Public Health
- Casino Operators' Association
- British Amusement Catering Trade Association (BACTA)
- British Casino Association (BCA)
- Association of British Bookmakers Ltd (ABB)
- The Bingo Association
- Lotteries Council
- Hospice Lotteries Association
- Citizens Advice Bureau
- Chamber of Commerce
- GamCare, 2&3 Baden Place, Crosby Row, London, SE1 1YW
- Gamblers Anonymous, PO Box 5382, London, W1A 6SA
- Independent Betting Arbitration Service, PO Box 44781, London, SW1W 0WR

## APPENDIX B – COMMITTEE DECISIONS AND SCHEME OF DELEGATION

We are involved in a wide range of licensing decisions and functions and have established a licensing committee to administer them.

Licensing sub-committees made up of three councillors from the main licensing committee will sit to hear applications where representations have been received from interested parties and responsible authorities.

Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

Officers will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is decided that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will generally be made by the officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or sub-committee. Where representations are taken no further, the person or organisation making that representation will be given written reasons for doing so. There is no right of appeal against a determination that representations will not be heard.

The table shown below sets out the agreed delegation of decisions and functions to licensing committee, sub-committee and officers.

This form of delegation is without prejudice to officers referring an application to a sub-committee or full committee if considered appropriate in the circumstances of any particular case.

### TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

	<b>Full Council</b>	<b>Licensing Sub-Committee (Licensing Panel)</b>	<b>Officers</b>
<b>Licensing Policy</b>	✓		
<b>Policy not to issue casino premises licences</b>	✓		
<b>Fee setting – when appropriate</b>			✓ To be approved by the Licensing Committee
<b>Application for premises licences</b>		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
<b>Application for a variation to a licence</b>		Where representations have been received and not withdrawn	Where no representations received or have been withdrawn
<b>Application for the transfer of a licence</b>		Where representations have been received from the Commission	Where no representations have been received from the Commission
<b>Application for a provisional statement</b>		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
<b>Request to review a premises licence</b>			✓ (in consultation with the Council Solicitor)

	<b>Full Council</b>	<b>Licensing Sub-Committee (Licensing Panel)</b>	<b>Officers</b>
<b>Review of a premises licence</b>		✓	
<b>Application for club gaming / club machine permits</b>		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
<b>Cancellation of club gaming/club machine permits</b>		✓	
<b>Applications for other permits</b>			✓
<b>Cancellation of licensed prize gaming machine permits</b>			✓
<b>Consideration of temporary use notice</b>			✓
<b>Decision to give a counter notice to a temporary use notice</b>			✓

**APPENDIX C – RESPONSIBLE AUTHORITY CONTACT DETAILS****COUNCIL LICENSING**

Licensing Team  
Tewkesbury Borough Council  
Gloucester Road  
Tewkesbury  
GL20 5TT  
Telephone: 01684 272271  
Email: [licensing@tewkesbury.gov.uk](mailto:licensing@tewkesbury.gov.uk)

**LOCAL PLANNING AUTHORITY**

Planning Department  
Tewkesbury Borough Council  
Council Offices  
Gloucester Road  
Tewkesbury  
GL20 5TT

Tel: 01684 272151 or 272152  
Email: [developmentapplications@tewkesburybc.gov.uk](mailto:developmentapplications@tewkesburybc.gov.uk)

**THE GAMBLING COMMISSION**

Victoria Square House  
Victoria Square  
BIRMINGHAM  
B2 4BP

Telephone: 0121 230 6500  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

**GLOUCESTERSHIRE CONSTABULARY**

Licensing Unit  
Community Engagement Dept.  
Police HQ  
No1 Waterwells  
Quedgeley  
Gloucester  
GL2 2AN

Telephone: 01452 754482  
Email: [Licensing@Gloucestershire.pnn.police.uk](mailto:Licensing@Gloucestershire.pnn.police.uk)

The main Police switchboard number is 101.

## **GLOUCESTERSHIRE FIRE AND RESCUE**

Chief Fire Officer  
Fire Service Headquarters  
Statement of Principles - Gambling Act 2005 (2021)  
28  
Waterwells Drive  
Quedgeley  
Gloucester  
GL2 2AX

Telephone: 01452 753333

Email: [fire@glosfire.gov.uk](mailto:fire@glosfire.gov.uk)

## **GLOUCESTERSHIRE ACPC**

Safeguarding Children's Partnership  
Room 128  
1st Floor, Block 4  
Gloucestershire County Council  
Shire Hall  
Westgate Street  
Gloucester GL1 2TG

Email: [gscb@gloucestershire.gov.uk](mailto:gscb@gloucestershire.gov.uk)

## **HM REVENUE & CUSTOMS**

HM Revenue and Customs  
Excise Processing Teams  
BX9 1GL

Telephone 0300 322 7072 Option 7

Email: [nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)

## APPENDIX D – LIST OF ORGANISATIONS THAT GIVE HELP AND ADVICE ABOUT PROBLEM GAMBLING

The following organisations are working to tackle problem gambling and may be able to help individuals and/or organisations.

### Responsibility in Gambling Trust (RIGT)

10 Brick Street  
London  
W1J 7HQ  
Tel: 207 518 0023  
Fax: 207 518 0174  
Email: [enquiries@rigt.org.uk](mailto:enquiries@rigt.org.uk)

### Citizens Advice

Gloucester and District Citizens Advice Bureau  
75 - 81 Eastgate Street  
Gloucester  
GL1 1PN  
Tel: 01452 527202

### Gam Anon

PO Box 5382  
London  
W1A 6SA  
National Help Line: 08700 50 88 80  
Midlands 0121 233 1335

### Gamblers Anonymous (UK)

Birmingham 0121 233 1335  
Gam Care  
2nd Floor  
7-11 St John's Hill  
London  
SW11 1TR  
Tel: 020 7801 7000  
Fax: 020 7801 7033  
Email: [info@gamcare.org.uk](mailto:info@gamcare.org.uk)

### Gordon House Association

43-47 Maughan Street  
Dudley  
West Midlands  
DY1 2BA  
Tel: 01384 241 292  
Email: [help@gordonhouse.org.uk](mailto:help@gordonhouse.org.uk)

**NCH Children's Charity**

85 Highbury Park  
London  
N5 1UD  
Tel: 020 7704 9037  
Fax: 020 7704 7134

**NHC South West**

Horner Court  
637 Gloucester Road  
Horfield  
Bristol  
BA7 0BJ  
Tel: 01179 354 440  
Fax: 01179 512 470

**National Debt Line**

Tel: 0808 808 4000





## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Licensing Committee
<b>Date of Meeting:</b>	25 July 2024
<b>Subject:</b>	Amendment to Vehicle Testing Requirements Within Tewkesbury Borough Council's Taxi and Private Hire Licensing Policy
<b>Report of:</b>	Licensing Team Leader
<b>Head of Service/Director:</b>	Director: Communities
<b>Lead Member:</b>	Lead Member for Environmental Services
<b>Number of Appendices:</b>	None

<b>Executive Summary:</b>	To consider an amendment to the current vehicle testing requirements for taxi and private hire vehicles.
<b>Recommendation:</b>	<b>To AGREE an extension of the implementation of Council vehicle testing to 1 April 2025 to allow for the work required.</b>

<b>Financial Implications:</b>	None arising directly from this report.
<b>Legal Implications:</b>	There is a statutory annual requirement in the UK for all motor vehicles over the age of three years old to undertake a Ministry of Transport (MOT) annual test. The Council should only licence vehicles that are safe, comfortable and suitable for use of the carriage of passengers. Further specifications into the criteria for vehicles and any testing should be specified in the Council's licensing policy.
<b>Environmental and Sustainability Implications:</b>	None arising directly from this report.
<b>Resource Implications (including impact on equalities):</b>	None arising directly from this report.
<b>Safeguarding Implications:</b>	None arising directly from this report.

## Impact on the Customer:

None arising directly from this report.

### 1.0 INTRODUCTION

1.1 Tewkesbury Borough Council's Taxi and Private Hire Licensing Policy was last reviewed and adopted on 1 January 2024. This review introduced a range of measures including an emissions policy, vehicle testing by appointed garages and tighter operator requirements.

1.2 Historically, vehicle testing would require vehicles over 5,000 miles to obtain a MOT certificate every year. Once a vehicle reached six years of age, this would increase to six monthly testing.

1.3 The policy review amended this requirement to:

*'All new vehicle applications (for vehicles over 12 months from date of first registration) must be accompanied by a satisfactory MOT certificate that is no more than 1 month old.*

*All renewal applications must be accompanied by a satisfactory MOT certificate.*

*Licensing Officers retain the right to request that any advisories or minor defects on an MOT are rectified prior to licensing if there is a potential risk to public safety (for example tyre close to legal limit). Proof of payment (showing the vehicle registration number and works carried out) or a MOT retest certificate will be required as proof that the work has been carried out.*

*From 01.06.24, a taxi or private hire vehicle is required to have at least 1 Council Vehicle Test a year. Vehicles aged 5 years and over are required to have a Council Vehicle Test every 6 months.*

*A list of authorised garages that can complete this test is available at [www.tewkesbury-taxi-and-private-hire.gov.uk](http://www.tewkesbury-taxi-and-private-hire.gov.uk)*

*The vehicle test certificate must be submitted with the application for the vehicle licence and must be no more than 1 month old. This timescale is for all new and renewal vehicle applications.*

*Any vehicles that fail the Council Vehicle Test will be suspended until they have received a pass. Licence holders are liable for all costs involved.*

*A Licensing Officer can request a Council Vehicle Test at any time to satisfy themselves that the vehicle is safe and suitable for the use of carrying passengers'.*

1.4 The Department for Transport (DfT) states that 'licensing authorities must only licence vehicles that are safe. It is therefore appropriate and proportionate that authorities require vehicles to pass rigorous safety checks' and 'the legal requirement is that private hire vehicles which are at least three years old, and all taxis, must be subject to an MOT test or its equivalent at least once a year. Local authorities may obtain a designation from the Secretary of State for Transport to issue 'Certificates of Compliance'. The requirements of the test normally include those in an MOT test but may also include another inspection by a licensing officer to ensure the vehicle meets the relevant local requirements for issuing a taxi or private hire vehicle licence e.g. cleanliness of the vehicle inside and outside, correct plates displayed etc'.

## **2.0 EXISTING CIRCUMSTANCES**

2.1 Members are asked to permit an extension to the 1 June 2024 policy date and extend this to 1 April 2025. If this work can be delivered prior to this, it will be.

2.2 It is proposed to revert back to the previous MOT testing requirements in the meantime.

## **3.0 CONSULTATION**

3.1 None.

## **4.0 ASSOCIATED RISKS**

4.1 The Council should be committed to ensuring that all statutory requirements and best practice guidance is in place to ensure the promotion of public safety.

## **5.0 MONITORING**

5.1 The Licensing team will send correspondence to all licence holders to update them on the delay and interim requirements.

## **6.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES**

6.1 [Tewkesbury Borough Council Plan](#)

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**Background Papers:** [DfT Best Practice Guidance for Taxi and Private Hire Licensing November 2023](#)

**Contact Officer:** Michelle Bignell, Licensing Team Leader  
[michelle.bignell@tewkesbury.gov.uk](mailto:michelle.bignell@tewkesbury.gov.uk)  
(01684) 272143

**Appendices:** None



## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Licensing Committee
<b>Date of Meeting:</b>	25 July 2024
<b>Subject:</b>	Update on the Gloucestershire Common Standards
<b>Report of:</b>	Licensing Team Leader
<b>Head of Service/Director:</b>	Director: Communities
<b>Lead Member:</b>	Lead Member for Environmental Services
<b>Number of Appendices:</b>	None

**Executive Summary:**

This report sets out ongoing work being carried out by the Gloucestershire Licensing Officers Group (GLOG) with regards to outstanding work in relation to a common licensing approach across the county.

**Recommendation:**

**To CONSIDER the update on the ongoing work being carried out within Gloucestershire in relation to taxi and private hire licensing.**

**Financial Implications:**

None arising directly from this report.

**Legal Implications:**

The Statutory Taxi and Private Hire Standards were published by the Department for Transport under the powers set out in section 177 of the Policing and Crime Act 2017. Section 177(4) of the Policing and Crime Act 2017 states that any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section. Failure to adopt these Standards could leave the Council open to legal challenge.

The Department for Transport Best Practice Guidance for Taxi and Private Hire licensing was updated and published in November 2023 and sets out recommendations in relation to these regimes.

**Environmental and Sustainability Implications:**

None arising directly from this report.

**Resource Implications (including impact on equalities):**

None arising directly from this report.

**Safeguarding Implications:**

None arising directly from this report.

**Impact on the Customer:**

None arising directly from this report.

**1.0 INTRODUCTION**

- 1.1** The Department for Transport (DfT) published its Statutory Taxi and Private Hire Vehicle Standards in July 2020 with a strong focus to protect all passengers and users of taxis and private hire transport services.
- 1.2** After these standards were published, GLOG worked closely together to create the Common Standards. This document ensures that all the licensing authorities in Gloucestershire work to the same standard in relation to driver applications. The document was incorporated into Tewkesbury Borough Council's Taxi and Private Hire Licensing Policy.
- 1.3** Tewkesbury Borough Council's Licensing team has successfully implemented the Common Standards with the final requirement being six monthly Disclosure and Barring Service (DBS) checks on all licensed drivers which commenced from 1 January 2024.
- 1.4** The DfT also updated the best practice guidance for taxi and private hire licensing, and this was published in November 2023. This provides advice on best practice for taxi and private hire licensing standards.
- 1.5** GLOG has now formed a working group that is meeting bi-monthly to pick up these outstanding pieces of work:
- CCTV
  - Joint authorisations
  - Immediate suspension and revocation policy
  - Safeguarding and Equality Awareness training
  - DfT Best Practice

**2.0 CCTV**

- 2.1** One of exceptions to local licensing standards covered by the DfT statutory guidance is CCTV. The standards state:
- 'All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues'.
- 2.2** Cheltenham Borough, Gloucester City, Stroud District and Tewkesbury Borough Councils all carried out a consultation in 2022/23. The response rate was very poor, although responses were balanced in terms of the benefits of CCTV both for the passenger and the driver.
- 2.3** Due to the magnitude of the piece of work, it was decided to revisit this piece of work due to service capacity.
- 2.4** On 4 June 2024, a working group was held, and an industry expert attended. This was a useful meeting to understand the technical aspects of CCTV, case law and data controller requirements.

- 2.5 Three options came from the meeting, those being to stay as we are, update policy wording and promote CCTV or to mandate CCTV.
- 2.6 There are mixed views, but the group recognises the benefits of CCTV. Members are also keen to keep standards the same across the county due to historical issues with varying standards in districts.
- 2.7 The next working group will be held in August and a further conversation will be held.

### **3.0 JOINT AUTHORISATIONS**

- 3.1 Section 9.1 of DfT Statutory Standards states ‘Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries.’
- 3.2 Currently, joint authorisations are agreed for joint operations such as Cheltenham Festival.
- 3.3 The working group will look at implementing a more permanent agreement in place to assist in compliance issues across the county.

### **4.0 IMMEDIATE SUSPENSION AND REVOCATION POLICY**

- 4.1 Our current taxi and private hire policy sets out our enforcement and complaints policy and procedure. This sets out a clear expectation for scenarios such as an arrest or breach of licence conditions.
- 4.2 To be more transparent for suspension and revocation purposes, an immediate suspension and revocation policy will be written and included in the policy and on Council websites in the county.

### **5.0 SAFEGUARDING AND EQUALITY AWARENESS TRAINING**

- 5.1 There have been two providers for this training in the county:
- Cheltenham Borough Council licensing team
  - DW Pact Limited (a mix of ex-police and also the current LADO (Local Authority Designated Officer) – this provider was the original training provider in 2018 when the County first implemented safeguarding training
- 5.2 From May 2024, all training will be delivered by DW Pact Limited.
- 5.3 The training content has been updated by the working group to include equality awareness and a short assessment at the end.
- 5.4 Following on from the DfT Best Practice guidance being published, the working group will also look at including disability awareness training.

## **6.0 DFT BEST PRACTICE GUIDANCE**

**6.1** The working group has assessed the guidance document against our existing policies. The standards across the county are high and the majority of the recommendations are already in place within the county.

**6.2** From the DfT guidance, the following needs to be addressed:

- Accessibility – assessing if the fleet is accessible to all customers.
- Disability awareness training – including the requirements of accepting assistance dogs.
- Inclusive service plan (ISP) – this has been raised with the DfT as to what expectations there are and whether there is a template to follow.

## **7.0 CONSULTATION**

**7.1** None.

## **8.0 ASSOCIATED RISKS**

**8.1** The Council should be committed to ensuring that all statutory requirements and best practice guidance is in place to ensure the promotion of public safety.

## **9.0 MONITORING**

**9.1** The Licensing Team Leader will continue to appraise the Chair and Vice-Chair of the Licensing Committee on a monthly basis and report any progress to the Licensing Committee.

**9.2** Any policy amendments will follow normal Committee and consultation requirements.

## **10.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES**

**10.1** [Tewkesbury Borough Council Plan](#)

**10.2** [Tewkesbury Borough Council's Taxi and Private Hire Licensing Policy January 2024](#)

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**Background Papers:** [Licensing Committee – 14 October 2021 – adoption of Gloucestershire Common Standards](#)

[DfT Statutory Taxi and Private Hire Vehicle Standards July 2020](#)

[DfT Best Practice Guidance for Taxi and Private Hire Licensing November 2023](#)

**Contact Officer:** Michelle Bignell, Licensing Team Leader  
[michelle.bignell@tewkesbury.gov.uk](mailto:michelle.bignell@tewkesbury.gov.uk)  
(01684) 272143

**Appendices:** None



## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Licensing Committee
<b>Date of Meeting:</b>	25 July 2024
<b>Subject:</b>	Pavement Licensing Policy
<b>Report of:</b>	Licensing Team Leader
<b>Head of Service/Director:</b>	Director: Communities
<b>Lead Member:</b>	Lead Member for Environmental Services
<b>Number of Appendices:</b>	One

<p><b>Executive Summary:</b></p> <p>Members are asked to recommend the draft pavement licensing policy for approval and to approve delegations and set the application fees for pavement licences.</p>
<p><b>Recommendation:</b></p> <ol style="list-style-type: none"> <li>1. To <b>CONSIDER</b> the draft Pavement Licensing Policy, attached at Appendix A, and:             <ol style="list-style-type: none"> <li>i. agree the delegations set out at Paragraph 5.1 of the report; and</li> <li>ii. set the fees for new and renewal applications as set out at Paragraph 6.3 of the report.</li> </ol> </li> <li>2. To <b>RECOMMEND TO THE EXECUTIVE COMMITTEE</b> that the draft Pavement Licensing Policy be <b>ADOPTED</b>.</li> </ol>

<p><b>Financial Implications:</b></p> <p>The licensing service should set fees on a cost recovery basis.</p> <p>The fees for licence applications have been calculated and set out in Paragraph 6.3 of the report.</p>
<p><b>Legal Implications:</b></p> <p>The legal implications are contained within the body of this report.</p>
<p><b>Environmental and Sustainability Implications:</b></p> <p>None arising directly from this report.</p>
<p><b>Resource Implications (including impact on equalities):</b></p> <p>The increased workload arising from this regime will be monitored by the Licensing Team Leader.</p>

**Safeguarding Implications:**

None arising directly from this report.

**Impact on the Customer:**

There may be businesses that already have tables and chairs on Highway land and will need to apply for a licence to be able to continue with this. In these cases, the licensing team will work together and support businesses through the application process.

**1.0 INTRODUCTION**

- 1.1** The Business and Planning Act 2020 (“the Act”) was introduced in 2020 to support various business sectors including hospitality. This Act included numerous temporary relaxations to existing legislations including the introduction of the Pavement Licensing regime which permitted businesses to apply to the Local Authority for a licence to use outside space to extend the trading area available for consumption of food and drink during the pandemic.
- 1.2** The Levelling Up and Regeneration Act now makes permanent the Pavement Licensing regime under the Business and Planning Act 2020. This came into force on 1 April 2024.
- 1.3** A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.
- 1.4** A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.
- 1.5** A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for the consumption of food or drink supplied from, or in connection with the use of the premises.
- 1.6** Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt.
- 1.7** A copy of the draft policy is attached at **Appendix A**.
- 1.8** It is proposed that the policy will come into effect on 1 October 2024.

**2.0 TEWKESBURY BOROUGH REGIME**

- 2.1** The temporary regime was not implemented in the Tewkesbury Borough due to the pressures that the Licensing service was under at the time during the pandemic. Any businesses with tables and chairs on the highway were permitted to trade within the government’s social distancing requirements and ensuring that access was not compromised to highway users.

**2.2** The temporary regime was initially permitted for one year (until 30 September 2021) and then extended for a further year (until 30 September 2022). During this time, it was anticipated that the regime would become permanent under the Levelling Up and Regeneration Bill. For this reason, it was decided to wait until the Bill was enacted to commence work on the regime.

**2.3** Due to the regime only impacting Highways owned land, it is not anticipated that there will a large volume of businesses that are required to apply.

#### **4.0 CONSULTATION**

**4.1** All food registered businesses will be written to and informed of the licensing regime and the application process should they wish to apply.

**4.2** The legislation states the Licensing Authority must consult with the Highways Authority. It is up to the Licensing Authority to specify any other consultees. These have been proposed as:

- Tewkesbury Borough Council Environmental Protection team
- Tewkesbury Borough Council Food, Health and Safety team
- Gloucestershire Police

**4.3** All applications will be subject to a 14-day consultation period followed by a 14-day determination period (excluding public holidays).

#### **5.0 DELEGATIONS**

**5.1** The Licensing Committee are asked to agree delegations for decision making as follows:

<b>Decision</b>	<b>Delegated to</b>
Grant of an application where no objections have been received during the consultation period	All Officers within the Licensing Team
Grant or refusal of an application where objections have been received during the consultation period	Licensing Team Leader in consultation with the Director of Communities and Chair of the Licensing Committee
Revocation of a licence	Licensing Sub-Committee  Where there is an immediate impact on public safety, Licensing Team Leader in consultation with the Director of Communities and Chair of the Licensing Committee

#### **6.0 FEES**

**6.1** The legislation permits the maximum fee for a new application at £500 and a renewal application at £350.

**6.2** Licensing fees are set on a cost recovery basis.

6.3 A calculation exercise has been carried out and it is proposed to set the fees as:

- New application - £200
- Renewal application - £150

6.4 These fees will be reviewed annually as part of the annual fees and charges review.

## 5.0 ASSOCIATED RISKS

5.1 To not implement this regime would result in the Council not complying with statutory requirements. Any businesses with furniture on the highway will not have been assessed and may impact on public safety.

## 6.0 MONITORING

6.1 All food registered business will receive correspondence.

6.2 The Licensing Team Leader will work with the communications team to update social media.

6.3 An online application route is currently being built.

6.4 Officer time spent on applications and enforcement will be recorded to ensure that future fees and charges are set accurately.

## 7.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

7.1 [Tewkesbury Borough Council Plan](#)

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**Background Papers:** [Business and Planning Act 2020](#)

[Levelling Up and Regeneration Act 2023](#)

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**Appendices:** Appendix A – Draft Pavement Licensing Policy



# **Tewkesbury Borough Council**

## **Pavement Licensing Policy**

October 2024

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## 1. Introduction

The Business and Planning Act 2020 ('the Act') introduced provisions designed to make it easier for premises serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors, maximising their ability to trade, assisting them to operate safely and promoting economic recovery in response to the impact of the global COVID-19 pandemic.

The Act created a regime for processing applications for 'pavement licences' to authorise businesses such as cafes, restaurants and bars to place furniture on the highway. This is a fast-track procedure to get the same permissions a business would previously have had from a Part 7A Highways Act permit, street trading consent and planning permission (change of use).

The Levelling Up and Regeneration Act 2023 made the provisions of the Business and Planning Act permanent with effect from 31 March 2024.

This guidance will be kept under review and may be amended periodically as required. The government has also published their own [guidance on pavement licences](#).

The council must also have regard to its wider duties, including those under the Public Sector Equality Duty, Equality Act 2010, Human Rights Act 1998, Environmental Protection Act 1990, and the Crime and Disorder Act 1998.

Any businesses which apply for a pavement licence will also need to have regard to their own duties under the Equality Act 2010, such as their duty under section 29 of the Act not to discriminate in providing their service and the duty to make reasonable adjustments.

## 2. Scope

### 2.1 Definition of pavement licence

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

### 2.2 Eligible Businesses

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for the consumption of food or drink supplied from, or in connection with the use of the premises.

### 2.3 Eligible Locations

Licences can only be granted in respect of highways listed in section 115A(1) Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or

over the Crown land are exempt (so a licence cannot be granted). A map showing the extent of the highway can be found [here \(link to be included\)](#).

A licence is not required for furniture sited on private land.

The licensed area is normally expected to be an area directly in front of and visible from the premises. The area should not extend beyond the width of its frontage unless there are exceptional circumstances.

## 2.4 Type of furniture permitted

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and
- other articles used in connection with the outdoor consumption of food or drink.

his furniture is required to be removable, which in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away when not in use. Furniture should also be of a type that is not likely to cause damage to the highway surface. Furniture should be non-reflective and of reasonable substance such that it cannot easily be pushed or blown over by the wind, and thereby cause obstruction or a safety hazard.

The council would also expect the type of furniture to be 'in keeping' with the local area.

## 2.5 Planning Permission

If a pavement licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid and remains in force.

# 3. Application and Determination of Pavement Licences

## 3.1 How to make an Application

An application for a pavement licence (either grant or renewal) must be made electronically (either by email or through the online applications portal) on the council's application form and accompanied by the following:

- Public liability insurance to a minimum value of £5 million
- Site plan to a suitable scale or with clear measurements showing:
  - property boundary and proposed boundary of area to be covered by the pavement licence (with a red line to indicate the area to be licensed)
  - building and kerb lines o measurements of the clear space between the licensed area and any obstacles or the edge of the pavement/road
  - furniture layout
  - location and type of barriers to separate the licensed areas from the rest of the highway



- position of any lighting columns, litter bins, road signs or other existing street furniture

There is no provision to vary a licence and therefore any changes will require a new application.

An application will not be considered complete until the application form, all required documents and the application fee have all been received. The consultation period will commence the day after a complete application has been made.

### 3.2 Fees

The fee for applying for a licence is £200. This charge covers administration and compliance costs. This is not refundable in the event that an application is deemed invalid, rejected, or a licence subsequently surrendered, suspended or revoked.

The fee for the renewal of a licence is £150. A renewal application is defined as one made before expiry of the previous licence by the same holder, for the same premises and in the same terms.

### 3.3 Consultation

The consultation period is 14 days (excluding public holidays), starting with the day after the day on which a valid application was made to the council.

The council will aim to publish details of the application on its website.

The Council is required by law to consult with the Highway Authority. In addition, the Council will consult with:

- Tewkesbury Borough Council Environmental Protection team
- Tewkesbury Borough Council Food, Health and Safety team
- Gloucestershire Police

Members of the public and others listed above can contact the Council to make representations.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

The Council has a further 14 days (excluding public holidays) once the consultation has ended to determine the application.

If the Council fails to determine the application within 28 days (excluding public holidays), the licence is deemed granted.

### 3.4 Site Notice

The applicant has to post a notice of the application the premises to which it relates, on the same day that they submit the application. The notice must be easily visible and legible to the public and the applicant must ensure the notice remains in place for the whole of the public consultation period as detailed above.

Applicants should record and retain evidence that they have complied with all requirements, including posting the notice at their premises. It is recommended that you take a photo of the notice on a mobile phone each day during the consultation period so that you can prove the notice was there for the required period.

A template Site Notice is shown as Appendix 1.

### 3.5 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposal:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter? and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:
  - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
  - whether there are other permanent street furniture or structures in place on the footway that already reduce access;
  - the impact on any neighbouring premises;
  - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), and
  - other users of the space, for example, if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the Council, and so take any issues around noise, and nuisance into consideration as part of the proposal. Discussions with neighbours should consider any plans neighbouring businesses have also to place tables and chairs on the highway and plans for customers to queue outside.

### 3.6 Determination

At the end of the consultation period, the council has 14 days (excluding public holidays) to determine the application.

- If the council determines the application before the end of the determination period the council can:
  - grant the licence in respect of any or all of the purposes specified in the application,
  - grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
  - reject the application.

If the council does not determine the application within the determination period, the application will be deemed to have been granted subject to any local conditions published by the council at the time the application is submitted.

The following are authorised to grant, refuse or revoke a licence:

<b>Decision</b>	<b>Delegated to</b>
Grant of an application where no objections have been received during the consultation period	All Officers within the Licensing Team
Grant or refusal of an application where objections have been received during the consultation period	Licensing Team Leader in consultation with the Director of Communities and Chair of the Licensing Committee
Revocation of a licence	Licensing Sub-Committee  Where there is an immediate impact on public safety, Licensing Team Leader in consultation with the Director of Communities and Chair of the Licensing Committee

### 3.7 Approval of Applications

If the council chooses to approve the application, a pavement licence will be issued to which conditions will be attached. The licence will also contain specific details such as days and hours when furniture is permitted for use, and a copy of the plan to confirm the authorised positions for furniture.

Licences will be granted for two years unless there are good reasons for granting a licence for a shorter period, such as plans for future changes to the highway in that area.

If the council does not decide the application within the determination period, the licence which was applied for is deemed to be granted for two years with the standard conditions.

The council will generally only grant pavement licences to operate between 08:00 and 21:00.

Applicants wishing to operate outside these hours may wish to include additional information as to how they will prevent nuisance affecting nearby residents. The council also retains the right to specify permitted hours on the licence that are reduced from those specified above in appropriate circumstances.

Licences are not transferable, so a new application would be required to issue a licence to a new licence holder.

### 3.8 Refusal of Applications

If the site is deemed unsuitable for a Pavement Café, or if relevant representations are made which cannot be mitigated by conditions, then the application may be refused.

There is no statutory appeal process against a decision to refuse an application.

A business may apply again after refusal but will have to make a new application with an additional fee and address the concerns raised in the original application.

If an applicant or objector does not believe due process has been followed when determining an application, they are entitled to use the council's complaints procedure.

### 3.9 Variations

There is no provision in the legislation to apply for a variation of a pavement licence. Should the licence holder wish to vary the licence, they would need to submit a new application.

## 4. Conditions

The Council's standard conditions can be found at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case-by-case basis, and the Council will confirm the reasons why any additional conditions have been imposed.

The Act contains two national conditions that all granted and deemed granted licences must adhere to if the Council fails to publish their own conditions, or the published conditions fail to make provision for observing the national conditions. The two conditions are:

- a no-obstruction condition
- a smoke free seating condition

The Council's published conditions make provision for these conditions, but for the sake of transparency, the national conditions are detailed in Appendix 3 to this document.

The Act also allows for the Secretary of State to produce, via Regulations, conditions for pavement licences, and to stipulate whether these conditions have effect as well as, or instead of, the conditions placed on a licence by the Council. If such conditions are created, this guidance will be amended to reflect them, and all licence holders will be notified of any changes this may create.

Where a Council sets a local condition that covers the same matter as set out in national conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

## 5. Enforcement

The highway authority retains the power under s.149 of the Highways Act 1980 to remove items on the highway which are a nuisance – whether they are licensed or not. This power is exercisable immediately in cases where the furniture causes a danger.

Where a business sites furniture for use by customers to consume food or drink without a licence, a notice may be served under 7A of the Act requiring the business to remove the furniture before a specified date, and to refrain from putting furniture on the highway without a licence. If furniture continues to be sited without permission, the council can remove the

furniture and store it. The business will be liable for any costs associated with removal and storage, and the furniture will not be removed until such costs are paid in full. After 3 months of serving of the notice, the furniture can be disposed of as the council sees fit, which may include sale of the furniture with the proceeds applied towards the costs of storage.

Obtaining a licence does not confer the holder immunity in regard to other legislation that may apply, such as health and safety legislation, nuisance, food hygiene requirements and premises licence conditions under the Licensing Act 2003.

All enforcement activity by the council will be undertaken in line with our Enforcement Policy. Periodic inspections of premises with pavement licences will be made by the council to ensure compliance with the licence and conditions.

If there is a breach of a licence condition, the council may either revoke the licence, or serve a notice on the licence holder requiring them to take steps to remedy the breach within a specified time. If the licence holder fails to comply with a notice, the council may revoke the notice or take the steps itself and recover the costs of doing so from the licence holder.

The council may also revoke a licence where:

- (a) all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted - for example, the licensed area (or road adjacent) is no longer to be pedestrianised.
- (b) there are risks to health or safety – for example by placing tables and chairs too close together
- (c) the use of the highway is causing an unacceptable obstruction – for example the furniture preventing a wheelchair user from passing along the highway
- (d) there is anti-social behaviour or public nuisance
- (e) it comes to light that the applicant provided false or misleading statements in their application, or
- (f) the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period.

Where a licence is revoked, full notice with reasons will be given.

In addition, licences can be amended (with the agreement of the licence holder) to remedy any concerns in respect of items (a) to (d) above.

The usual procedure for a breach of conditions will be a warning to comply and that further contravention will result in revocation of the licence. The licensee will be allowed reasonable time to comply. If the contravention continues or is repeated within the licence period, the licence is likely to be revoked. If any breaches of conditions are serious enough in nature, the licence may be revoked without the warning letter stage.

## **6. Review Procedures**

This Policy will be reviewed every 5 years or when changes occur in relevant legislation, the nature of Pavement Cafés change generally or as a result of local considerations within the Tewkesbury Borough.

**Appendix 1**

**BUSINESS AND PLANNING ACT 2020**

**NOTICE OF APPLICATION FOR GRANT OF A PAVEMENT LICENCE**

I / We .....(1)

Do hereby give notice that on ..... (2)

I / we have applied to Tewkesbury Borough Council for a pavement licence at:

.....  
..... (3)

Known as..... (4)

The application is for:

.....  
..... (5)

To be used during the following periods (6):

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
Start	:	:	:	:	:	:	:
Finish	:	:	:	:	:	:	:

Any person wishing to make representations to this application must send these to the Licensing Team at Tewkesbury Borough Council at [licensing@tewkesbury.gov.uk](mailto:licensing@tewkesbury.gov.uk) by:

..... (7)

Details of the application can be viewed at [www.tewkesbury.gov.uk](http://www.tewkesbury.gov.uk)

Date ..... (8)

## Guidance notes on completing this notice of application

Complete the notice by putting the following information in the numbered spaces:

- (1) Name of the applicant
- (2) Date the application is made (submitted)
- (3) Postal address of the premises
- (4) Name the premises is known by
- (5) Brief description of application (e.g outdoor seating to the front of the premises for serving of food and drink).
- (6) Using 24 hour clock, enter proposed start and end times for the use of the furniture (use N/A for any days when furniture will not be used – please do not leave any of this section blank)
- (7) Last date for representations being the date 14 days after the date the application is submitted to the local authority (excluding public holidays)
- (8) The date the notice was placed (must be the same date as (2) above)

On the same day that the application is made, a completed copy of this notice must be fixed to the premises so that it is readily visible to, and can be read easily by, members of the public who are not on the premises. It should be secured so that the notice remains in place until the end of the 14 day public consultation period.

**Failure to comply with this requirement may lead to the revocation of any licence granted or deemed granted.**

## Appendix 2

### Standard Pavement Licence Conditions

Please note that these conditions are not an exhaustive list. Each application will be considered on its own merits and individual, specific conditions may be attached where deemed appropriate.

Where a licence is deemed granted, the applicant is deemed to be a 'licence holder' and is required to comply with all of the below conditions. In such circumstances, references to 'licensed area' should be understood to mean the area proposed for licensing within the application.

1. The licence holder must ensure that no activity undertaken by them by the placing of furniture on the highway will:
  - (a) prevent traffic, other than vehicular traffic, from:
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway,
  - (b) prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - (c) prevent statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
  - (d) prevent the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.
2. The licence holder must ensure clear routes of access are maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in the Department for Transport's [Inclusive Mobility](#) document.
3. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence holder must make reasonable provision for seating where smoking (including vaping) is not permitted.
4. Furniture placed on the highway must be in accordance with the details and plans provided at the time of the application. No changes are permitted without prior approval from the council.
5. The licence may be suspended where necessary to allow highway maintenance, any other necessary remedial work and special events to take place. In addition the licence holder must comply with any request to remove the furniture due to an emergency situation. A reasonable period of notice will be given to the licence holder where possible.



The Highway Authority and/or council will not be liable for any loss of earnings arising out of the suspension of a licence.

6. Furniture must not be set out on the highway before 07:30 for a 08:00 trading start, and the area must be closed by 21:00 and all furniture removed from the highway by 21:30. When not in use, all furniture must be stored securely inside a premises away from the highway.
7. If the furniture is (a) not removed outside the permitted hours or (b) located in breach of the licence, conditions or other regulatory requirements, the Highway Authority may remove and store or dispose furniture, at the cost of the licence holder and with no responsibility for safekeeping.
8. A clear route of access shall fall equally either side of the centre line of the highway to ensure the space available for tables and chairs is shared equally between premises on each side of the street. A clear pathway of at least 1 metre wide shall also be maintained to allow entry and exit from the premises.
9. Furniture must not protrude beyond the designated boundary of the licensed area or interfere with required vision lines for traffic and pedestrians.
10. The licensed area should be separated from the rest of the highway (for example, with a barrier or planters) to guide persons with a visual impairment around the area.
11. The licence holder shall ensure that the footway is not obstructed by patrons waiting to be seated, or by any other items of furniture or personal possessions of patrons.
12. The placement of furniture must not obstruct any emergency exits from the premises or any adjacent buildings, and emergency service vehicles must have access along all streets at all times, even in pedestrianised streets.
13. Any furniture shall be kept in a clean, safe and well-maintained condition. Any canopies or umbrellas must be adequately secured.
14. The licensed area must be kept clean and tidy at all times. This will include washing down the area and removing any refuse and litter on the highway in the immediate vicinity of the furniture.
15. No forms of musical entertainment (i.e. live music, recorded music and background music) are permitted in the area.
16. The licence holder must ensure that the licensed area is monitored regularly by staff to ensure compliance with the licence conditions and to ensure that the area operates in a safe and orderly manner to reduce the risk of nuisance.
17. The licence holder shall not allow their customers to cause any form of nuisance or annoyance to: (a) any other users of the highway (b) any neighbouring residents, or (c) any neighbouring businesses.
18. During hours of use, the licence holder or a nominated representative shall be available to receive and respond to nuisance-related complaints. A contact number shall be readily available to neighbouring residents and businesses upon request.

19. During the hours of darkness, suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed area must be approved in writing by the Highway Authority.
20. When the licensed area is in use, the licence holder shall make toilets and hand washing facilities available for customers, including to wheelchair accessible standards where it is practicable and reasonable to do so.
21. The licence holder shall ensure that disabled persons and wheelchair users can be adequately served.
22. The licence holder is not permitted to make any fixtures or excavations of any kind to the surface of the highway without prior written approval from the Highway Authority. Any costs incurred as a result of damage to the highway or council property, due to the use of the area under this licence, will be recovered in full from the licence holder by the Highway Authority.
23. If the premises does not hold a licence under the Licensing Act 2003 which authorises the sale of alcohol, the licence holder must not allow the consumption of alcoholic liquor within the licensed area. Only alcohol purchased from the connected premises may be consumed within the licensed area.
24. The front page of the licence and the approved plan must be prominently displayed on the premises so that it may be easily viewed.
25. The licence holder shall maintain a policy of public liability insurance indemnifying the council and Highway Authority against any injury or damage to any person or property and against any claim, liability, expense or damage arising by reason or in consequence of the use of the area under this licence. The policy shall provide cover of not less than £5 million in respect of any one incident.
26. At the end of the licence period or on revocation of the licence the licence holder must remove any tables, chairs and other furniture immediately and reinstate the highway to its former state and condition. If they fail to do so, the Highway Authority will be empowered to carry out such work of reinstatement and recover the costs of such work from the licence holder.
27. These conditions may be varied where necessary and the new conditions will come into effect upon written notification by the council.

**Appendix 3****National Conditions**

[All section references are to the Business and Planning Act 2020]

**No-obstruction condition**

Section 5(5)

A “no-obstruction condition” is a condition that anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6):

Section 3(6)

The effects referred to in subsection (5) are-

- a) preventing traffic, other than vehicular traffic, from—
  - i. entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
  - ii. passing along the relevant highway, or
  - iii. having normal access to premises adjoining the relevant highway,
- b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
- c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
- d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

**Smoke-free seating condition:**

Section 5(6)

A “smoke-free seating condition” is a condition that, where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.



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