



WOKINGHAM BOROUGH COUNCIL

A Meeting of the **LICENSING AND APPEALS COMMITTEE**
will be held at the Civic Office, Shute End, Wokingham
RG40 1BN Civic Office, Shute End, Wokingham RG40 1BN
on **WEDNESDAY 7 SEPTEMBER 2016 AT 7.00 PM**

Andy Couldrick
Chief Executive
Published on 30 August 2016

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WOKINGHAM BOROUGH COUNCIL

Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

MEMBERSHIP OF THE LICENSING AND APPEALS COMMITTEE

Councillors

Barrie Patman (Chairman)	Malcolm Richards	Chris Bowring
Richard Dolinski	Michael Firmager	Emma Hobbs
John Jarvis	Abdul Loyes	Ken Miall
Beth Rowland	Chris Singleton	Chris Smith
Wayne Smith	Bill Soane	

ITEM NO.	WARD	SUBJECT	PAGE NO.
7.	None Specific	APPOINTMENT OF VICE-CHAIRMAN To appoint a Vice-Chairman to the Licensing and Appeals Committee for the remainder of the 2016/2017 municipal year.	
8.		APOLOGIES To receive any apologies for absence.	
9.		MINUTES OF PREVIOUS MEETING To confirm the Minutes of the Meeting held on 8 June 2016.	5 - 6
10.		DECLARATION OF INTEREST To receive any declarations of interest.	
11.		PUBLIC QUESTION TIME To answer any public questions A period of 30 minutes will be allowed for members of the public to ask questions submitted under notice. The Council welcomes questions from members of the public about the work of this committee. Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Committee or an item which is on the Agenda for this meeting. For full details of the procedure for submitting questions please contact the Democratic Services Section on the numbers given below or go to www.wokingham.gov.uk/publicquestions	
12.		MEMBER QUESTION TIME To answer any member questions	
13.	None Specific	LICENSING ACT 2003 - POLICY REVIEW The Committee to consider a report proposing a review of the Cumulative Effect Policy.	7 - 12

Appendix 1	13 - 28
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Licensing Policy 2013

Appendix 2	29 - 34
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Minutes of a meeting of the Licensing and Appeals Committee on 6 September 2010.

14.	MEETINGS OF APPEALS HEARINGS	35 - 36
	The Committee to be informed of the meetings of the Licensing and Appeals Hearings Committee since the beginning of the year.	

Any other items which the Chairman decides are urgent.

A Supplementary Agenda will be issued by the Chief Executive if there are any other items to consider under this heading.

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Agenda Item 9.

MINUTES OF A MEETING OF THE LICENSING AND APPEALS COMMITTEE HELD ON 8 JUNE 2016 FROM 7.07 PM TO 7.45 PM

Committee Members Present

Councillors: Barrie Patman (Chairman), Chris Bowring, Richard Dolinski, Michael Firmager, John Jarvis, Abdul Loyes, Ken Miall, Beth Rowland, Chris Singleton, Chris Smith, Wayne Smith and Bill Soane

Officers Present

Luciane Bowker, Democratic Services Officer
Paul Anstey, Joint Service Delivery Manager, West Berkshire and Wokingham Environmental Health and Licensing
Julia O'Brien, Principal Environmental Health Officer

1. APOLOGIES

An apology for absence was submitted from Councillor Malcolm Richards.

2. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 9 November 2015 were confirmed as a correct record and signed by the Chairman, subject to the following correction:

Under item 20 on the second paragraph, where it says Woodley *Parish* Council, it should say Woodley *Town* Council.

3. DECLARATION OF INTEREST

There were no declarations of interest.

4. PUBLIC QUESTION TIME

There were no public questions.

5. MEMBER QUESTION TIME

There were no Member questions.

6. REVIEW OF FILM POLICY

The Committee received a report containing the Film Classification Policy which was set out on Agenda pages 9-17.

Julia O'Brien, Principal Environmental Health Officer explained that the Council as the Licensing Authority had a responsibility to classify unclassified films for streaming. The purpose of this policy was to set out a formal procedure for the Licensing Authority to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions or requests to reclassify films.

Julia stated that films could be classified either by the British Board of Film Classification (the BBFC) or by Licensing Authorities under the powers of the Licensing Act 2003.

Julia pointed out that the classification of films should have regard to the national guidelines and the promotion of the Licensing objectives.

In response to a question Julia stated that even though Wokingham Borough Council and West Berkshire would share the same policy, films to be shown in Wokingham would be classified by WBC separately.

During the discussion of the item the following points were made:

- It was possible to change the classification of previously classified films;
- Some Members felt that more clarity was needed to define what was meant by 'moral harm' in terms of protecting children;
- Members considered that it would be useful to see the BBFC guidelines;
- Julia explained that a Sub-Committee comprising of three Members of the Licensing Committee would be convened as and when a request for classification was received;
- Paul Anstey, Joint Service Delivery Manager West Berkshire and Wokingham Environmental Health and Licensing, pointed out that it was unlikely that Wokingham would receive many such requests;
- Open air showings were subject to an application process and where necessary conditions could be imposed;
- The age specification on paragraph 7 of the policy would vary depending on the film, this was for a Sub-Committee to determine;
- Travelling cinemas were subject to the same procedure as any other films.

After careful consideration and discussion the Committed decided to adopt the Film Classification Policy as set out in the Agenda.

RESOLVED: That the Film Classification Policy be adopted by Wokingham Borough Council as presented in the Appendix of the Agenda.

Agenda Item 13.

TITLE	Licensing Act 2003 – Policy Review
FOR CONSIDERATION BY	Licensing and Appeals Committee on 7 September 2016
WARD	None Specific
DIRECTOR	Heather Thwaites – Director Environment (Paul Anstey – Joint Service Delivery Manager - West Berkshire and Wokingham Environmental Health and Licensing)

OUTCOME / BENEFITS TO THE COMMUNITY

This report is a first step towards asking the Committee for a decision on whether to include a Cumulative Impact Policy into the main Licensing Act 2003 Policy for the parish of Remenham.

RECOMMENDATION

The Licensing Committee commission an external review of evidence to support the adoption of a Cumulative Impact Policy for the parish of Remenham, subject to agreement from the Executive Member for Resident Services due to the financial implications.

SUMMARY OF REPORT

This report outlines the reasons for Members being requested to consider the addition of a Cumulative Impact Policy to the Licensing Policy for the specific area of Remenham.

1. Background

The Licensing Authority is obliged to have a Licensing Policy in place at all times and the existing Policy was reviewed and found to be suitable for its purpose apart from a few legislative changes in September 2013. The current Policy would be due for a review in 2018. I attach the current policy as Appendix 1.

The original policy was subject to an extensive consultation exercise in 2004, receiving over 700 responses, and has been reviewed every 3 years since, and re-adopted with only legislative amendments.

In the policy review of 2010 the Remenham Parish Council made representation that the draft policy was insufficient for the specific area of Remenham with Councillor Halsall, in his position of Chair of the Remenham Parish Council, outlined the reasons for this opinion. The resolution at the time was that the policy would remain unchanged. I attach the minutes from this meeting as Appendix 2.

2. 2016 Request for a Cumulative Impact Policy

In May 2016 the Licensing service received an email from Mr Dudley, Secretary of the

Remenham Farm Residents Association requesting the consideration of a Cumulative Impact Policy (CIP) relating to future Premises Licence applications on the riverside land in the Parish of Remenham from Henley Bridge to Temple Island.

There are currently 10 premises licenses on this stretch of land, most of which are an ‘event’ and therefore time specific, for example Rewind Festival 3 days on the weekend before August bank holiday and Henley Festival, 5 days after the Henley Royal Regatta in July. Two are for Rowing Clubs, namely Upper Thames and Remenham which have a full Premises Licence and Club premises respectively, along this stretch.

3. Initial Research into Cumulative Impact Policy (CIP)

3.1 Based on government guidance (issued under section 182) on the Licensing Act 2003:

‘Licensing authorities can adopt CIP’s where there is evidence that the concentration of licensed premises in an area is negatively impacting on the licensing objectives that underpin the Licensing Act 2003. The effect of adopting a policy is to “create a rebuttable presumption” against the granting of new premises licences’

3.2 Definition

‘The potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area’.

The 2003 Act’s licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

3.3 Adopting a CIP

After a full public consultation, a licensing authority can include a CIP within the statement of licensing policy that it is required to publish. The effect of adopting a CIP is to “create a rebuttable presumption” that those applications for premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations unless the applicant can demonstrate that there will be no negative impact on the licensing objectives.

Statements of licensing policy should always allow for each licence application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted.

The Home Office guidance summarises the steps that should be followed in considering whether to adopt a CIP; these include:

- Identifying concern and considering whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm – and, if these problems are occurring, identifying whether they are being caused by the customers of licensed premises.
- Identifying the boundaries of the area where problems are occurring.
- Consulting those specified in section 5(3) of the 2003 Act and, subject to the outcome of the consultation, including details of the CIP in the licensing policy statement.

4. Evidence

There must be an evidential basis for the decision to introduce a CIP. Information that licensing authorities can use to demonstrate the cumulative impact of licensed premises on the promotion of the licensing objectives include:

- Local crime and disorder statistics
- Statistics on local anti-social behaviour offences
- Health-related statistics such as alcohol-related emergency attendances and hospital admissions
- Environmental health complaints, particularly in relation to litter and noise
- Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations
- Residents' questionnaires
- Evidence from local councillors

After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not.

4.1 Remenham Specific Issues

It has been the express concern (over many years) of those living and operating in the Remenham area that the gradual increase in levels of visitors to the area as a result of events (with a variety of histories/traditions/commercial interests) has negatively impacted upon quality of life.

Key to this is the ability of the licensing authority to understand how these concerns translate into 'evidence' that can be effectively used in the consideration of a new CIP attached to the main Licensing Act 2003 policy.

5. Potential Risks Associated with Adopting 'Special' Policies' such as CIP's

When making licensing decisions such policies should never be used as a ground for revoking an existing licence when representations are received about problems with those premises. Licence applications should still be considered individually.

Councils should be wary of ‘Quotas’ i.e. restricting the number of licences based on just a geographical areas or the capacity of those premises. Guidance states that these quotas should not be imposed as “they have no regard to the individual characteristics of the premises concerned”.

There is also an inherent problem with adopting such policies as it would be expected that such policies would be reviewed and may lead to future demands on the service to consider further public consultations.

6. Conclusion

Should the Licensing Committee believe that this issue requires more research and a full draft policy written there will be resource implications.

This is a technically complex piece of work and requires full public consultation. The costs associated with carrying out such a piece of work will require approval from the relevant Executive Member.

There is a genuine concern from residents of Remenham that the growth of events in their parish has deteriorated their quality of life and this has been expressed over a number of years.

7. Recommendation

The Licensing Committee commission an external review of evidence to support the adoption of a Cumulative Impact Policy for the parish of Remenham, subject to agreement from the Executive Member for Resident Services due to the financial implications.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Estimated at £5k	No – the full amount would need to be found from the year revenue budgets.	Revenue
Next Financial Year (Year 2)	Nil	N/A	
Following Financial Year (Year 3)	Nil	N/A	

Other financial information relevant to the Recommendation/Decision

There are financial implications to employ licensing and legal experts to progress the Cumulative Impact Policy.

Cross-Council Implications

There are no implications arising from the recommendations in this report.

List of Background Papers

Existing Licensing Act Policy

S182 Licensing Act Home Office Guidance

<https://www.gov.uk/government/uploads.../182-Guidance2015.pdf>

Mr Dudley Chairman of Remenham Residents Association – Email to Licensing

Licensing and Appeals Committee Minutes 6 September 2010

Contact Julia O'Brien	Service Licensing
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Date 25 th August 2016	Version No. 1.0

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**WOKINGHAM
BOROUGH COUNCIL**

Licensing Policy

September 2013

Contents

Section		Page
1	The Four Licensing Objectives	3
2	Terminology	4
3	General Considerations	5
4	Activities Regulated by this Policy	7
	Licensing Objectives	
5	1. The Prevention of Crime and Disorder	8
6	2. Public Safety	8
7	3. The Prevention of Public Nuisance	9
8	4. Protection of Children from Harm	9
9	Operating Hours	11
10	Cumulative Impact	11
11	Licensing and Appeals Committee	12
12	Licensing Decisions	13
13	Licensing Conditions	14
14	Enforcement	14
15	Policy Review	14

The Four Licensing Objectives

All the Council's actions under the Licensing Act 2003 will be carried out in order to achieve the licensing objectives. Only these matters may be taken into consideration, and no others, when determining a course of action. Each objective is of equal importance.

The four licensing objectives are:-

- 1 The prevention of crime and disorder**
- 2 Public safety**
- 3 The prevention of public nuisance, and**
- 4 The protection of children from harm**

2 Terminology

Throughout this Policy the following terms are used which are defined in the Licensing Act 2003. For simplicity, abbreviated meanings are given below; although these meanings should not be used as a replacement for the legal definitions:

Licensable Activity – One or more of:-

- a) The sale by retail of alcohol
- b) The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- c) The provision of regulated entertainment
- d) The provision of late night refreshment

Licence

A Premises Licence, Club Premises Certificate or a Personal Licence

Licensee and Licence Holder

A person or organisation that holds a Premises Licence, Club Premises Certificate or a Personal Licence.

Regulated Entertainment

Entertainment provided for the public, members of a qualifying club and their guests, or for profit; and being:-

- a) A performance of a play
- b) An exhibition of a film
- c) An indoor sporting event
- d) A boxing or wrestling entertainment
- e) A performance of live music
- f) Any playing of recorded music
- g) A performance of dance
- h) Activities similar to e, f or g above

Live unamplified music taking place between 08.00 hours and 23.00 hours and live amplified music taking place between 08.00 hours and 23.00 hours before audiences of no more than 200 people on premises authorised to supply alcohol on the premises or in workplaces is not regulated entertainment by virtue of amendments made to the Licensing Act 2003 by the Live Music Act 2012

Late Night Refreshment

The supply to the public of hot food or drink after 23.00 and before 05.00.

3 General Considerations

3.1 The Council recognises that licensed activities are an important part of the cultural life in our community and they make an important contribution to the economy of the Borough. By regulating activities under this legislation it acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting, positions and all views will be taken into account when making licensing decisions or determining a course of action.

3.2 This policy relates to the provisions of the Licensing Act 2003 and subordinate legislation made under that Act and nothing in this policy is intended to indicate that the requirement of any other enactment is superseded or duplicated.

3.3 It is the responsibility of the applicant to ensure that they comply with all relevant legislation. Examples of other areas where legislation may apply to licence holders and potential licence holders are:-

- Building Regulations
- Disability Discrimination
- Environmental Protection
- Food Safety
- Health and Safety At Work
- Fire Safety Legislation
- Town and Country Planning
- Working Time Legislation

3.4 It is acknowledged that public concern over disorder in particular may be thought to be a result of licensing legislation only. The council can only have regard to the provisions of the Licensing Act 2003 when determining an application. However the Council also realises that other mechanisms exist to control bad and unlawful behaviour, e.g. planning controls, town centre management arrangements, confiscation of alcohol from adults and children in designated areas, and Police enforcement powers.

3.5 It is the responsibility of the licence holder to ensure that staff members are sufficiently trained to fulfil their duties and to fully comply with the requirements of the licence.

3.6 Under this policy, each application will be considered on its individual merits.

3.7 In imposing conditions to any licence, the Council recognises that the licensee is only responsible for those matters under the licensee's control and that conditions can only be imposed, as a result of relevant representations.

Any conditions set will be proportionate and appropriate to secure the licensing objectives.

3.8 The Council recognises the need to encourage and promote live music, dancing and theatre and is aware of the need to avoid measures which deter these activities. To this end the Council, as the Licensing Authority, will consider applications for publicly owned land and buildings, to facilitate their use by performers and entertainers, without the need for them to individually apply for a licence or give a temporary event notice.

3.9 The Council is conscious of Race Relations legislation and when considering licensing

matters will give due regard to the elimination of unlawful discrimination, the promotion of equality of opportunity and good relations between persons of different racial groups. In all its work the Council has regard to its race equality scheme.

3.10 For advice on the application of the Licensing Act 2003, or for assistance in determining whether or not an activity requires a licence, please contact the Licensing Team within the Place and Neighbourhoods Service.

Contact details:-

By telephone: 0118 974 6358

By e-mail: Licensing@wokingham.gov.uk

By fax: 0118 974 6401

By letter:
Licensing Service
Wokingham Borough Council
PO Box 155
Shute End
Wokingham
Berks RG40 1WW

Website: www.wokingham.gov.uk

4. Activities Regulated by this Policy

This Policy sets out the Council's position regarding regulation of activities under the Licensing Act 2003. The following are covered by this Policy:-

Premises Licences

i.e. A premises where one or more of the following takes place:-

- The sale of alcohol by retail
- The provision of regulated entertainment
- The provision of late night refreshment

Club Premises Certificates

i.e. A club premises is a premises which is occupied by and habitually used for the purposes of a club, which has met the criteria to become a 'qualifying club'

Permitted Temporary Activities

i.e. Use of premises for licensable activities for:-

- a period of less than 168 hours, and for
- no more than 499 persons

Personal Licences

i.e. A licence which authorises an individual to supply alcohol, or authorise the supply of alcohol

5 Licensing Objective 1

The Prevention of Crime and Disorder

5.1 The Council is committed to work in reducing crime and disorder in the Borough and will consider these matters when fulfilling its functions, as required by the Crime and Disorder Act 1998. When applying conditions, the Council will be mindful of the local Community Safety Strategy.

5.2 The Council acknowledges that its duties, under the Licensing Act 2003, are a key way of reducing crime and disorder in the Borough and through this mechanism, will seek to bring about improvements, with particular emphasis on alcohol-related disorder and anti-social behaviour.

5.3 Licence Holders play a key role in the prevention of crime and disorder and will be expected to address these issues in their Operating Schedule.

5.4 The Council encourages the use of Closed Circuit Television (CCTV) surveillance as a deterrent to crime and disorder. The Council may require the installation of a Digital CCTV system which is capable of retaining recording images for a period of 31 days from the date of an event and to an identifiable standard if it is believed that this will assist in reducing the incidence of crime and disorder.

5.5 The Council encourages the usage of community watch schemes. The active membership of schemes such as 'Pub watch' and the like will be seen as an indicator of attempts to reduce crime and disorder.

5.6 When considering new or proposed premises, the Council will expect the building design to be agreed with the Police Prevention & Design Advisor and/or Crime Prevention and Reduction Advisor with a view to 'designing out' crime.

5.7 The Council supports the establishment and implementation of an enforcement protocol, agreed with the Thames Valley Police, for the reduction of crime and disorder associated with any licensed activities.

6 Licensing Objective 2

Public Safety

6.1 The Council is committed to ensuring public safety in licensed premises by working in partnership with the Royal Berkshire Fire and Rescue Service and other responsible authorities.

6.2 Conditions relating to public safety measures may be attached to a licence in order to meet any requirement identified by the Royal Berkshire Fire and Rescue Service or other responsible authority. These conditions may include an occupancy limit which would enable one or more of the licensing objectives to be met.

6.3 The Council encourages measures to promote anti-drink/driving campaigns.

6.4 Special effects, such as smoke, lasers, or foam may be controlled by the use of conditions.

NB There is an overriding legal duty to comply with the provisions of Health and Safety at Work legislation, including risk-assessment and control.

7 Licensing Objective 3

The Prevention of Public Nuisance

7.1 The Council is committed to minimising the adverse impact of licensable activity, whilst not unduly restricting the reasonable provision of licensed activity. In considering applications the Council will seek to ensure that personal and public amenity are maintained.

7.2 The nuisances which the Council will seek to control are, amongst others:-

- Noise and vibration
- Light
- Odour
- Litter
- Anti-social behaviour
- Unreasonable disturbance from customers arriving and leaving premises
- Impact of customer parking

8 Licensing Objective 4

Protection of Children from Harm

8.1 For the purposes of this Policy, a child is a person who has not yet reached their 18th birthday.

8.2 'Harm' is taken to mean activities that may damage the moral, psychological or physical wellbeing of a child. Activities that have the potential to cause harm to children include:-

- Entertainment or services of an adult or sexual nature
- Underage sales or drinking of alcohol
- Drug taking or dealing
- A strong element of gambling
- The consumption of alcohol on a premises where this is the exclusive or primary purpose of the premises
- Tobacco smoking
- Excessive noise
- Particular hazards, such as falls from height

8.3 It is expected that any operating schedule will demonstrate how the licensee will ensure that no harm comes to any child by virtue of the licensable activities. These may include:

- Limiting the hours that children may be present
- Excluding children when particular specified activities are taking place
- Limiting the parts of the premises to which children have access
- Age limitations
- Excluding under 18's from the premises when licensable activities are taking place
- Requiring that an accompanying adult be present
- Arrangements for restricting children from viewing age-restricted films

- Arrangements to ensure that sufficient adult staff are present to ensure that the children are protected from harm

8.4 The Council may impose conditions to ensure that no harm comes to any child by virtue of the licensable activities, although conditions cannot require that children be admitted, this is a matter for the licensee to determine.

8.5 To ensure that a licensee complies with this requirement, the Council encourages the use of 'Proof of Age' schemes.

8.6 The Council commends the work done by the Portman Group and supports the application of their Code of Practice which seeks to control the Naming, Packaging and Promotion of Alcoholic Drinks in a manner which may appeal to or attract minors.

8.7 In respect of Licensing matters the Council, as the Licensing Authority, recognises the Wokingham Safeguarding Children Board as the Responsible Authority in relation to the protection of children.

9 Operating Hours

9.1 The Council recognises that one important aspect of the Licensing Act 2003 provisions is the abolition of national operating times for premises selling alcohol. The Council is mindful of the view that longer licensing hours for the sale of alcohol will help ensure that the problems arising when large numbers of customers leave premises simultaneously are avoided.

9.2 With regard to shops, stores and supermarkets selling alcohol, the norm will be that they may sell alcohol at any time they are open for trading, unless there are good reasons for restricting those hours.

9.3 The Council will only determine the operating hours of any licensable activity, if there is the belief that by limiting the operating hours, one or more of the Licensing Objectives will be met.

9.4 The licensing hours for each case will be considered on the individual merits of the application.

10 Cumulative Impact

10.1 The Council recognises that the commercial demand for another premises in an area is not a matter for Licensing considerations. This matter is properly a matter for the planning process and the market.

10.2 The Council also recognises that where there are several premises providing licensable activity in the same vicinity, the cumulative impact may have an adverse effect on the community; in particular from nuisance and disorder. Accordingly, the Council may refuse additional applications if it believes that to grant a licence would undermine one or more of the Licensing Objectives, and/or representations have been received from a responsible authority or other person. In addition, the Council has to be satisfied that the criteria set out in the legislation are met. Reference to the General Considerations section of this Policy will demonstrate that each application will be considered on its own merits.

10.3 If the Council considers that a 'Special Policy' is needed to deal with the cumulative impact of licensed premises, it will only do so following consultation as specified in the Licensing Act 2003 and following the proper process.

10.4 The Council will expect licensees and potential licensees within an area, to communicate with each other and prepare their Operating Schedules so that they complement each other and collectively meet the Licensing Objectives.

11 Licensing and Appeals Committee

11.1 Arrangements will be made for the Licensing and Appeals Committee to receive information on:-

- Crime Prevention
- Planning Strategies
- Transport Strategies and Plans
- Tourism Strategies
- Race Equality Schemes
- Cultural Strategies
- Employment in the Borough
- Arts Development

11.2 In addition the Licensing and Appeals Committee will provide information to the Planning Committee regarding the situation with licensed premises in the Borough, and in particular alcohol related crime and disorder.

11.3 To avoid duplication and inefficiency, the planning, building control and licensing regimes will be properly separated. It is expected that planning consent for a particular undertaking would normally be received prior to consideration of a licence application.

12 Licensing Decisions

12.1 The Council will seek to carry out its responsibilities under the Licensing Act 2003 speedily, efficiently and cost-effectively. To do this, functions are delegated from the Licensing and Appeals Committee to either Sub-Committees or officers, as appropriate. Licensing decisions will be delegated in the following manner; however the definitive delegations are included within the Council's Scheme of Delegations which can be found on the Council's website – www.wokingham.gov.uk:

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Policy Decisions	All cases		
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	

Determination of an objection to a temporary event notice		All cases	
Determination of minor variation application			All cases
Decision whether to consider other responsible authorities on minor variation application			All cases
Determination of application to vary premises licence at community premises to include alternative licence condition		If police objection	All other cases

13 Licensing Conditions

13.1 Many licences are issued subject to conditions. These conditions are applied to a licence to ensure that one or more of the Licensing Objectives are met. The conditions applied to a licence will relate to that particular licence and will not be simply a standard set of conditions.

13.2 The Council will apply conditions following the guidance issued by the Secretary of State in addition to the mandatory conditions as laid down in the legislation and associated guidance. Notwithstanding this, other conditions may also be applied to specific licences.

13.3 It must however be noted that the attachment of conditions, or the compliance with them, will not relieve anyone of their statutory duties under other legislation, see section 3 – General Considerations.

14 Enforcement

14.1 Enforcement by the Council will be in accordance with the West Berkshire Enforcement Policy and West Berkshire Enforcement Concordat.

14.2 The West Berkshire Enforcement Policy is available at the Council offices and can be found on the Council's website at www.westberks.gov.uk

14.3 The Enforcement Concordat is based on the principles that businesses should:

- Receive clear explanations from enforcers on what they need to do and by when;
- Have opportunities to resolve differences before enforcement action is taken – unless immediate action is needed;
- Receive an explanation of their rights of appeal.

15 Policy Review

15.1 The Council's Statement of Licensing Policy will be published every five years.

15.2 During this period, the Policy will be kept under review and the Council may make such revisions as it considers appropriate. The Policy, complete with revisions, may be viewed on the Council's website www.wokingham.gov.uk, and is available at the Council's offices.

16.0 Early Morning Restriction Orders (EMROs)

16.1 The Licensing Act sets out powers conferred on licensing authorities to make early morning alcohol restriction orders. These powers are designed to help licensing authorities address specific problems caused by late night supply of alcohol in their areas allowing licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 12 midnight and 6am. Licensing Authorities may make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. At the time of writing this policy the Licensing Authority has no plans to make an EMRO in any part of the Borough of Wokingham.

However, the situation will be kept under review and should evidence emerge that suggests that the sale of alcohol between 12 midnight and 6am is creating specific problems the Council will consider whether the introduction of an EMRO is appropriate. In considering the appropriateness of an EMRO

the licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships or other sources. If a proposal to implement an EMRO arises in the future the Licensing Authority will advertise and consult about its proposal in accordance with legislation and national guidance.

17.0. The Late Night Levy (LNL)

17.1 Late night levy powers will allow licensing authorities to raise a contribution from late opening alcohol retailers (12 midnight to 6am) towards policing the late night economy. This is a power that licensing authorities can choose whether to adopt for their areas. If adopted the powers must apply to the whole of the licensing authority's area. Income from the net levy is to be split between the Police and the Licensing Authority on the basis of a minimum 70% allocated to the Police and a maximum 30% allocated to the licensing authority. At the time of writing this policy the Licensing Authority has no plans to collect a LNL.

However the situation will be kept under review and prior to making a decision to implement a LNL, the licensing authority would have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce a LNL. If a proposal to implement a LNL arises in the future, the licensing authority will consult the PCC, the police, licence holders and others about its proposal.

Agenda Annex

MINUTES OF A MEETING OF THE LICENSING AND APPEALS COMMITTEE HELD ON MONDAY 6 SEPTEMBER 2010 FROM 6PM TO 7.05PM

Present:- *Barrie Patman (Chairman), Chris Bowring (Vice Chairman), Kay Gilder, Mike Gore, Ken Miall, Sam Rahmouni, Chris Singleton, Malcolm Storry, Pam Stubbs (items 19-24) and Bob Wyatt*

Also present:-

Julia O'Brien – Principal Environmental Health Officer (Licensing)

Steve Richardson – Health and Protection Manager

Madeleine Shopland – Senior Democratic Services Officer

Dr Halsall – Chair Remenham Parish Council

PART I

13. MINUTES

The Minutes of the meetings of the Committee held on 3 June 2010 as a correct record and signed by the Chairman.

14. APOLOGIES

Apologies for absence were submitted by Councillors Kate Haines, Pauline Helliar-Symons, Kirsten Miller and Dee Tomlin.

15. DECLARATIONS OF INTEREST

Councillor Rahmouni declared a personal non-prejudicial interest in item 23 Advertising on Hackney Carriage Vehicles on the grounds that he was a part time School & Community Services Driver.

16. PUBLIC QUESTION TIME

There were no public questions.

17. MEMBER QUESTION TIME

There were no Member questions.

18. LICENSING ACT 2003 – POLICY REVIEW

The Committee were informed that the Council's current Licensing Policy was due to expire at the end of September and that the Council was required to review its policy at least every three years.

The Chairman gave permission for Dr Halsall to speak in relation to items 19.00 and 20.00 of the agenda 'Licensing Act 2003 – Policy Review' and 'Consultation Response on the Home Office White Paper on Licensing 'Rebalancing the Licensing Act.'

The main points made by Dr Halsall were:

- The Parish Council believed that the draft policy and proposed response to the White Paper were insufficient.
- The parish of Remenham was very rural and populated by approximately 700 people. The roads were single track. The area hosted the popular Henley Regatta and the Rewind Festival which brought large numbers of people into the area at particular

times of the year. Criminal damage, crime and disorder and noise relating to these events and others such as weddings and parties had increased over the years and the Police struggled to keep order. This had had a substantial cumulative impact on residents. The events did not benefit Remenham and its residents.

- Dr Halsall questioned the necessity of night time activities following the Regatta. He commented that a large number of people trying to access the unlit towpath by the river was unsafe, particularly as some of these people were drunk.
- It was not sensible for the community to have to pay for security, policing, monitoring, observation and collateral damage with no payment from the event organisers.
- It was believed that a more proactive approach needed to be taken towards enforcement.
- The proposed policy did not cover cumulative impact and did not reflect the disproportionate impact of a large number of people coming into the parish for various events.
- The Parish Council felt that residents and the Parish Council were not kept sufficiently involved.
- It was suggested that if the draft Licensing policy were agreed, that it be relooked at in six months time.
- Members questioned who organised the various events. Dr Halsall responded that landowners rented out their land and commercial operators ran the events.
- A Member questioned why event organisers were not asked to police the events themselves. Dr Halsall commented that there were numerous premises licences covering the area and that it was difficult for the Police and the authority to determine which premises people had come from.

During the discussion of this item the following main points were made:

- The draft policy had been sent to consultees such as the Police and other Responsible Authorities and the Parish and Town Councils, for comment. The British Board of Film Classification had responded requesting that the mandatory condition relating to film classification be emphasised. The Health and Protection Manager clarified that if premises showed live TV they did not require a licence, however, if recorded television was broadcast, a licence was required. Two specific queries had been received from Town Councils which had been dealt with at the time of receipt. A response had been received from solicitors acting on behalf of Remenham Parish Council and Remenham Farm Residents Association after the Committee agenda had been published. Members had been sent a copy of this response at the solicitors' request.
- Whilst the legislation allowed for Cumulative Impact policies there was none in place for the borough. The Health and Protection Manager believed that the statutory guidance on this matter referred to a number of premises in the same place at the same time. He thought that this was aimed at more urban environments and did not comfortably fit with Remenham's situation of being a rural area. The Health and Protection Manager indicated that he could produce a report on Cumulative Impact Policies if required by the Committee.
- The Chairman reminded the Committee that three years was the maximum period of time which could elapse before the policy was reviewed. It was suggested that the policy be reviewed following any changes to the licensing legislation which might arise as the result of the White Paper and that the information provided by the Parish Council be considered further at this time. He expressed concern at the issues raised by Remenham Parish Council. Members noted that a Scrutiny Review would be carried out in future on the Council's policy and response to major live music and entertainment events.

RESOLVED:- That

- 1) the draft Licensing Act 2003 policy be agreed and;
- 2) that Council be recommended to adopt the policy

19. CONSULTATION RESPONSE ON THE HOME OFFICE WHITE PAPER ON LICENSING 'REBALANCING THE LICENSING ACT'

A White Paper 'Rebalancing the Licensing Act' had been issued on 28 July. Consultees had been asked to respond to the twenty nine questions by 8 September. The Health and Protection Manager had drafted a response and sent it Committee members for their comments. Copies had also been sent to the parish clerks for information. Comments on the borough council's response had not been requested. Parish councils were also able to respond to the consultation should they wish to.

During the discussion of this item the following points were made:

- It was noted that Remenham Parish Council had drafted a response to the consultation. This also commented on Wokingham Borough Council's draft response. The Health and Protection Manager commented that he had a lot of sympathy with many of the Parish Council's concerns. However, the current legislation did not always allow the licensing authority to do exactly what the Parish council and residents wanted them to do. However, any changes as a result of the White Paper consultation might potentially give the licensing authority a freer hand. The Chairman encouraged Remenham Parish Council to submit their consultation response within the timeframe so that their concerns could be taken into consideration.
- Some Members expressed concern in relation to Question 7 'Are there any unintended consequences of designating health bodies as a responsible authority?' They felt that health bodies would be able to provide a general picture regarding health in the area but not regarding people using specific premises. A Member commented that it was often difficult to ascertain which premises a drunken person had come from.
- The Health and Protection Manager suggested that Question 7 was reliant on the outcome of Question 8 'What are the implications in including the prevention of health harm as a licensing objective?' Should health harm be accepted as a licensing objective he felt that it would be necessary to identify health bodies as responsible authorities. However, specific guidelines to clarify roles and to target responses would be required.
- A Member commented on Questions 15 and 16 'Do you agree that the late night levy should be limited to recovery of these additional costs? Do you think that the local authority should be given some discretion on how much they can charge under the levy?' and 'Do you think it would be advantageous to offer such reductions for the late night levy?' The Member believed that it might be difficult to apportion levies on specific properties as it was not always clear which premises experienced problems. The Health and Protection Manager commented that a late night levy would help reduce the burden on the public purse of licensed activity. Nevertheless, the borough did at times experience alcohol induced crime and disorder earlier than midnight, most notably at Henley Regatta where alcohol related crime and disorder often began in the early evening. The Committee were informed that the amount of business rates paid was not affected by the premise's closing times. If there was not a fixed physical premises, for example the licensable activity took place in a marquee, business rates did not apply and the licensee was only required to pay the appropriate licensing fees.

RESOLVED:- That consultation response attached to the report as an appendix be agreed.

20. LICENSING ACT 2003 – EXAMPLE CONDITIONS

A Member had requested that a schedule of conditions be adopted for use by Hearings Sub-Committees. A number of other local authorities follow this practice. Members were provided with example conditions used by Bracknell Forest Council. Officers would produce a Wokingham Schedule, drawing on examples from other authorities and licences granted by Wokingham Sub-Committees if Members agreed that that they would like Wokingham specific Licensing Act 2003 – Example Conditions. Members were reminded that they must always retain discretion over the conditions to apply as each case must be considered on its own merits and that any scheme would purely be guide.

During the discussion of this item the following points were made:

- Some Members felt that a Wokingham Schedule was unnecessary and expressed concern that it would be a 'pick list.' It was noted that the Hearings Sub-Committees received advice from a Legal Officer when determining applications.
- Several Members felt that it would help Sub-Committees select appropriate conditions. It was thought that it could potentially assist applicants in the completion of application forms.
- Members voted on the proposal to develop a Wokingham Schedule of Licensing Act 2003 – Example Conditions. Four Members voted against, three in favour and two abstained. It was therefore agreed that a Wokingham Schedule of Licensing Act 2003 – Example Conditions would not be produced.

RESOLVED:- That a Wokingham Schedule of Licensing Act 2003 – Example Conditions not be produced.

21. POLICING AND CRIME ACT 2009

The Committee noted that the Council was recommended to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 relating to licensing of sexual entertainment venues. The new legislation provided for Councils to control sexual entertainment venues by licence. Members were reminded that if the Council did not make a resolution to adopt the provisions prior to 6 April 2011 (one year after commencement) it would be required to consult local people about whether it should make such a resolution.

RESOLVED:- That Council be recommended to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 relating to licensing of sexual entertainment venues.

22. ADVERTISING ON HACKNEY CARRIAGE VEHICLES

The Principal Environmental Health Officer (Licensing) informed Members that an application had been received from a vehicle advertising company asking that the Council's existing policy on advertising on the outside of a Hackney Carriage licensed vehicle be altered so as to allow it.

During the discussion of this item the following points were made:

- The Council's current policy prevented advertising on Hackney Carriage Vehicles. Vehicles were only permitted to bear the telephone number and name of the operator.

- The Council's Hackney Carriage fleet was made up of a mixture of purpose built wheelchair accessible vehicles, multi purpose vehicles and one black cab. It was noted that advertising was most appropriate for black cab style vehicles.
- Members examined Reading Borough Council's criteria for static and scrolling advert applications inside Hackney Carriages. It was noted that Reading's had a primarily black cab style fleet and that advertising was allowed on their vehicles.
- The Principal Environmental Health Officer (Licensing) commented that drivers could receive up to £1000 a year for having advertisements in their vehicles. Local authorities such Reading and Bracknell Forest Councils charged for checking the advertising. However, this was a small charge.
- A Member suggested that advertising might make Hackney Carriages more identifiable. It was clarified that Private Hire vehicles were not permitted to carry advertising.
- The Principal Environmental Health Officer explained that 'wrap' meant advertising around the whole of the vehicle, 'supaside' meant advertising on the sides of the vehicle and 'seats' meant that advertising was placed on the base of the flip up seats.
- The Committee agreed that advertising should be permitted on Hackney Carriage Vehicles and that Wokingham appropriate guidelines and a schedule of fees be drafted.

RESOLVED:- That Hackney Carriage Vehicles be permitted to carry advertising and that Officers draw up guidelines for such applications to be brought back to the Committee's November meeting, together with a schedule of fees.

23. TIME ALLOWED FOR PARTIES AT LICENSING ACT 2003 APPEAL HEARINGS

The Licensing and Appeals Committee agreed at their meeting on 1 February 2005 that all parties at Hearing Sub-Committees would be allowed up to seven minutes to speak to their representation or application. It was suggested that some flexibility be introduced to the Hearings process to allow parties to speak for longer at the Sub-Committee's discretion should it be considered necessary. All parties would continue to receive equal time to put their case.

RESOLVED:- That the proposed addition to the Hearing Procedures for the various Hearing Sub Committees that can be held under the Licensing Act 2003 be agreed.

24. HEARINGS UPDATE

The Committee received a verbal update on the School Transport Appeals, taxi hearings and hearings held under the Licensing Act 2003 which had been held since the last meeting of the Committee.

RESOLVED:- That the hearings update be noted.

These are the Minutes of a meeting of the Licensing and Appeals Committee

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Agenda Item 14.

Meetings of Licensing and Appeals Hearings

Date of hearing	Title	Decision
5 February 2016	Spin Bar and Nightclub – application to review premises licence	Take no action
14 March 2016	Appeal against a refusal of an application of Private Hire Operator Licence	Uphold decision to refuse application
13 May 2016	Application for licence for open water swim - Henley Swim	Approved subject to amendments
7 June 2016	Application for new premises licence for Marvellous Festival at Dinton Pastures	Approved subject to conditions
19 July 2016	Application for new premises licence for Emmbrook Sports and Social Club	Approved subject to conditions

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