

LICENSING COMMITTEE AGENDA



Wednesday 4th November 2015

at 2.00pm

**in Committee Room B,
Civic Centre, Hartlepool**

MEMBERS: LICENSING COMMITTEE:

Councillors Ainslie, Barclay, Cook, Fleet, Gibbon, Griffin, Hall, Jackson, Lawton, Martin-Wells, Morris and Robinson

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To approve the minutes of the Licensing Sub-Committee meeting held on 2nd July 2015
- 3.2 To approve the minutes of the Licensing Sub-Committee meeting held on 23rd July 2015
- 3.3 To approve the minutes of the Licensing Sub-Committee meeting held on 19th August 2015
- 3.4 To approve the minutes of the Licensing Committee meeting held on 19th August 2015
- 3.5 To approve the minutes of the Licensing Sub-Committee meeting held on 15th September 2015
- 3.6 To approve the minutes of the Licensing Sub-Committee meeting held on 22nd September 2015



4. ITEMS REQUIRING DECISION

4.1 Gambling Act – Statement of Licensing Principles – *Director of Public Health*

4.2 Licensing Act – Statement of Licensing Principles – *Director of Public Health*

5. ITEMS FOR INFORMATION

5.1 Wheelchair Accessible Vehicles – *Director of Public Health*

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT

FOR INFORMATION:

Date of next meeting – Wednesday 24 February at 10.00 am in the Civic Centre, Hartlepool.



LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

2nd July 2015

The meeting commenced at 2.00pm in the Civic Centre, Hartlepool

Present:

Councillor: Ray Martin-Wells (In the Chair)

Councillor: Paul Beck

In accordance with Council Procedure Rule 4.2 Councillor Jim Ainslie was in attendance as substitute for Councillor Mary Fleet

Also Present: Councillor Ged Hall

Officers: Sylvia Pinkney, Head of Public Protection
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

5. Apologies for Absence

Apologies were submitted by Councillor Mary Fleet

6. Declarations of interest by Members

None

7. Application for a new premises licence – Suppa Off Licence Shop, 104 Milton Road, Hartlepool *(Director of Public Health)*

The Public Protection Manager advised members that the applicant's legal advisor was unable to attend due to a sudden illness and had requested that the matter be adjourned to a future date. The Chair indicated that he was very reluctant to adjourn but based on advice from the Solicitor he felt that on the basis of legal justice members had no other option. He apologised to those objectors who had taken time out to attend this meeting and asked that the meeting be reconvened as soon as feasibly possible

Decision

That the meeting be adjourned to a future date.

The meeting adjourned at 2:10pm

The meeting reconvened at 9.00am on Tuesday 4th August in the Civic Centre, Hartlepool

Present:

Councillor: Ray Martin-Wells (In the Chair)

Councillor: Paul Beck

In accordance with Council Procedure Rule 4.2 Councillor Jim Ainslie was in attendance as substitute for Councillor Mary Fleet

Officers: Sylvia Pinkney, Head of Public Protection
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

8. Apologies for Absence

Apologies were submitted by Councillor Mary Fleet

9. Declarations of interest by Members

None

10. Application for a new premises licence – Suppa Off Licence Shop, 104 Milton Road, Hartlepool *(Director of Public Health)*

The Licensing Act Sub-Committee considered an application for a premises licence for the sale of alcohol in respect of premises at 104 Milton Road. Thirteen letters and emails of objection had been received, along with a proforma letter submitted by 5 objectors and a 50 signature petition.

The applicant failed to attend the hearing and the representative who had previously been advising him had contacted the Authority advising that she was no longer representing the applicant. The Sub-Committee therefore considered the application in his absence.

An objector, Saleha Hussain, addressed the sub-committee. She referred to the number of similar premises in the vicinity and the close proximity of a church and retirement home. Cars being damaged was a regular occurrence on Tankerville Street and Milton Road and allowing this application would only exacerbate the problem. Another objector, Audrey Bell, raised concerns at the impact this would have on her daughter who lived nearby and was hard of hearing and on the residents of the nearby retirement home.

The Sub-Committee considered the application and representations put forward by the objectors. They considered that the licensing objectives, in particular the Prevention of Public Nuisance, would not be promoted if the application was granted and further, that they could not impose any conditions which would enable the licensing objectives to be promoted.

The Licensing Act Sub-Committee therefore refused the application as they considered that this is the appropriate step to take for the promotion of the licensing objectives.

Decision

The members of the Licensing Sub-Committee took all the evidence into account that had been brought before them and felt on balance that there were sufficient concerns that the licensing objectives would not be promoted by this application in particular prevention of public nuisance. Therefore the sub-committee unanimously refused the application.

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

23nd July 2015

The meeting commenced at 9.30am in the Civic Centre, Hartlepool

Present:

Councillor: Trisha Lawton (In the Chair)

In accordance with Council Procedure Rule 4.2 Councillor Jim Ainslie was in attendance as substitute for Councillor Peter Jackson and Councillor Rob Cook was in attendance as substitute for Councillor George Morris

Officers: Sylvia Pinkney, Head of Public Protection
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

11. Apologies for Absence

Apologies were submitted by Councillors Peter Jackson and George Morris.

12. Declarations of interest by Members

None

13. Application for the Review of Premises Licence – The Showroom, 2 Victoria Road, Hartlepool *(Director of Public Health)*

Cleveland Police had requested a review of the premises licence for the Showroom, 2 Victoria Road, Hartlepool relating to the licensing objectives for the prevention of crime and disorder, public safety and the protection of children from harm. The review had been requested due to the number of incidents associated with the premises. The same licence had previously been called in for review in 2012 however prior to the review hearing taking place the licence holder and police had reached agreement for measures to be taken to address the police's concerns and as such the licensing sub-committee had imposed 4 conditions on the premises licence. Despite this a number of incidents had taken place and Cleveland Police had felt it necessary to call the licence in for a further review. A representation had also been submitted by the Council's Safeguarding and Review Manager relating to the Protection of Children from Harm. Appended to the report for

consideration by members was the current premises licence, the review application, police witness statements and the representation by the Safeguarding and Review Manager.

The Head of Public Protection informed members that prior to the meeting Cleveland Police and the licence holder had reached agreement concerning the addition of a number of conditions to be attached to the licence and a reduction in the licensable hours and closing time of the premises. As a result of this the Safeguarding and Review Manager had formally withdrawn her objection.

Cleveland Police Sergeant Paul Higgins explained that the police's main concern was the number of serious violent incidents which had occurred at the premises, 38% of which had taken place after 3.00am and some of which had involved 17-year-olds. The licence holder had subsequently agreed to stop the sale of alcohol at 3.00am and close the premises at 3.20am. A number of additional conditions had also been added to the licence including the provision of CCTV in communal toilet areas. Members queried whether the police were satisfied that these measures would be sufficient to prevent the incidents which had been taking place. Sergeant Higgins indicated that he could not say this for sure but a further review could be requested if necessary.

Charles Holland, Counsel for the Licence Holder, addressed the sub-committee. He confirmed the agreement regarding hours of sale and closure and the additional conditions while making some minor amendments to the wording. Mr Holland acknowledged that members could request additional changes to the agreement if they wished but urged them not to do so. In terms of the 3.20am closure Mr Holland advised that while his client was not happy with this requirement he acknowledged the need to take some action given the number of incidents that had taken place in recent months. However to close any earlier would be akin to a revocation of the licence.

Members referred to allegations within the report that management had previously overruled door staff. Mr Holland advised that this had been a problem associated with the previous security firm however T3 Security had recently taken up the contract to provide security at the premises and had been granted full autonomy. In addition the previous manager had left and Mr Wilkinson was now in charge and he was well aware of his responsibilities in regard to the venue. Richard Townsend from T3 Security confirmed that the head doorman had the final word on whether or not patrons could be admitted and if this was not adhered to the company would withdraw their services. There had also previously been some issues with racist abuse against door staff but since T3 Security took over this seemed to have stopped.

The Sub-Committee considered the review request originally submitted by Cleveland Police and evidence given to support it as well as the subsequent agreement which had been reached between the police and

the licence holder. Members were willing to accept this agreement which they felt was appropriate for the promotion of the licensing objectives.

Decision

After careful consideration and having listened to everything that has been said, with the slight amendments, we are pleased to hear that both parties have reached agreement and we are willing to accept this. We shall impose the agreed conditions including a reduction in licensing hours until 3am 7 days a week with the premises closing at 3.20am. We consider that the imposition of the agreed conditions and reduction in hours is appropriate for the promotion of the licensing objectives.

The meeting closed at 11:30am

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

19 August 2015

The meeting commenced at 10.00 am in the Civic Centre, Hartlepool

Present:

Councillor: Ray Martin-Wells (In the Chair)

Councillors: Fleet and Cook

Also Present:

In accordance with Council Procedure Rule 5.2 (ii), Councillor Ainslie was in attendance as substitute for Councillor Robinson

Officers: Ian Harrison, Principal Trading Standards and Licensing Officer
Tony Macnab, Solicitor
Denise Wimpenny

14. Apologies for Absence

An apology for absence was submitted on behalf of Councillor Robinson

15. Declarations of interest by Members

None

16. Local Government (Access to Information) (Variation) Order 2006

Under Section 100 (A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of the Schedule 12A of the Local Government Act 1972 as amended by the local Government (Access to Information)(Variation) Order 2006 namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

Minute 17 Hackney Carriage/Private Hire Driver AJR- This item contains

exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to any individual – Para 1

Minute 18 Hackney Carriage/Private Hire Driver GPM- This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to any individual – Para 1

- 17. Hackney Carriage/Private Hire Driver AJR** – *Director of Public Health*. This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to any individual – Para 1.

Purpose of report

To consider what action if any should be taken against a licensed hackney carriage driver.

Issues for Consideration

This was detailed in the exempt section of the minutes

Decision

This was detailed in the exempt section of the minutes.

- 18. Private Hire Drivers Licence GPM** – *Assistant Director, Regeneration and Planning*. This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to any individual – Para 1.

Purpose of report

To consider what action if any should be taken against a licensed hackney carriage driver.

Issues for Consideration

This was detailed in the exempt section of the minutes

Decision

This was detailed in the exempt section of the minutes.

The meeting concluded at 10.45 am

CHAIR

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

19 AUGUST 2015

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

Present:

Councillor Dr George Morris (In the Chair)

Councillors: Rob Cook, Mary Fleet, Steve Gibbon, Ged Hall, Trisha Lawton,
and Ray Martin-Wells.

Also Present: Mr S Sharp, Taxi Driver and Mr D Mitchell, Hartlepool MS
Support Group.

Officers: Sylvia Pinkney, Head of Public Protection
Ian Harrison, Trading Standards and Licensing Manager
Tony MacNab, Solicitor
David Cosgrove, Democratic Services Team

12. Apologies for Absence

Councillors Sheila Griffin, Peter Jackson and Jean Robinson.

13. Declarations of interest by Members

None.

14. Confirmation of the minutes of the meeting of the Licensing Sub Committee held on 17 June 2015

Confirmed.

15. Confirmation of the minutes of the meeting of the Licensing Committee held on 17 June 2015

Confirmed.

16. Taxi Licensing Policy *(Director of Public Health)*

The Principal Trading Standards and Licensing Officer reported on a proposed amendment to the Council's Taxi Licensing Policy. The Council

has a Taxi Licensing Policy that details the standards that are expected of drivers, vehicles and operators in order to ensure the safety and comfort of the travelling public. As part of the current policy there is a restriction on the type of 'wheelchair accessible vehicle' that may be licensed. The current policy, which has been in place for a number of years, states that wheelchair accessible vehicles must be 'side loading' and that 'rear loading' vehicles are not permitted. This was introduced a number of years ago as a response to potential safety concerns associated with the use of 'rear loaders'.

A number of representations had been received from disability groups and taxi owners/operators asking that the current prohibition on rear loading vehicles be lifted in order to increase the number of wheelchair accessible vehicles on Hartlepool's fleet. Drivers/owners had stated that there was a significant difference in the purchase price and maintenance costs between side loading and rear loading vehicles with side loading costing between £5,000 and £10,000 more to purchase. There was also an indication that allowing rear loading vehicles may result in more wheelchair vehicles being added to the town's fleet of taxis/private hire vehicles.

The Principal Trading Standards and Licensing Officer outlined the relevant sections of the policy and stated that at present there were only six wheelchair accessible hackney carriages and one private hire vehicle on the Hartlepool fleet. Side loading vehicles did offer the advantage that passengers did not have to go on the road to enter the vehicle. A significant disadvantage with modern wheelchairs, was that once loaded, the chair was often too large to turn once inside the vehicle and therefore the passenger must continue to face sideways throughout the journey. Rear loading vehicles allow the passenger to face forward for the journey but have the disadvantage that the passenger must be loaded from the road – rather than the safety of the pavement.

In previous years letters of representation had been received from the Spinal Injuries Association and the National Taxi Association - both of whom had asked licensing authorities not to license rear loading hackney carriages for safety reasons. The main cause for concern being that a rear loading hackney carriage, parked on a taxi rank, would have to move forward in order to allow for its ramp to be lowered which may not be safe or, if flagged down in the street, the location may not be appropriate for a passenger to enter the rear of the vehicle from the road.

It was proposed that the potential hazards associated with the use of rear loading hackney carriages could be avoided if conditions were attached to their licences that will ensure passenger loading only takes place where it is safe and appropriate to do so.

Mr S Sharp, a licensed Taxi Driver in Hartlepool and Mr D Mitchell, from Hartlepool MS Support Group were both present at the meeting and spoke in favour of the proposed amendment to the policy.

Members were concerned at the potential for wheelchair passengers being placed in hazardous situations when being loaded into a rear loading vehicle. There had also been an incident where a passenger had died when falling from a rear loading vehicle ramp. The Principal Trading Standards and Licensing Officer stated that drivers had duty of care towards their passengers and finding safe place to load would be a matter of judgement. It had been suggested that on Avenue Road, for example, loading in the taxi rank would be inappropriate but loading in Lucan Street would be an alternative. It also had to be noted that all the Council vehicles capable of transporting people in wheelchairs were rear loading.

It was highlighted that these vehicles would also be able to carry up to 5 passengers when not carrying disabled passengers. In such cases, hackney carriage drivers could charge a £2 surcharge for more than four passengers in their vehicle. Wheel chair users were not, however, subject to any additional charging.

A Member suggested that consideration should be given to reducing the licence fee applicable to vehicles capable of carrying wheelchair passengers in order to encourage more vehicles to be licensed and to offset the higher costs of purchasing such vehicles. The Principal Trading Standards and Licensing Officer stated that the charges applied were required by law to be reflective only of the costs of administering the licensing scheme. If a 'discount' was to be offered, it would need to be met from another budget heading. Members requested a further report on the potential of offering some type of discount be brought to a future meeting.

The following recommendations were approved unanimously by the Committee.

Decision

1. That Licensing Committee approves the following amendments to the Taxi Licensing Policy with effect from 1st October 2015, subject to there being no adverse representations received during the consultation process: -
 - (i) Wheelchair accessible hackney carriage and private hire vehicles may be either side or rear loading.
 - (ii) Rear loading wheelchair accessible hackney carriages may only accept wheelchair bookings if they are arranged in advance.
2. That a further report be brought to Committee setting out the issues around a potential discount for licensing hackney carriage/private hire vehicles capable of transporting wheelchair users.

17. Any Other Items which the Chairman Considers are Urgent

None.

The meeting concluded at 2.25 pm.

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

15th September 2015

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

Present:

Councillor: Jim Ainslie (In the Chair)

Councillors: Allan Barclay and Ged Hall

Officers: Sylvia Pinkney, Head of Public Protection
Ian Harrison, Trading Standards and Licensing Manager
Adrian Hurst, Environmental Health Manager (Environmental Protection)
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

19. Apologies for Absence

None

20. Declarations of interest by Members

None

21. Review of Premises Licence – West Hartlepool Rugby Football Club, Catcote Road, Hartlepool *(Director of Public Health)*

A resident, Mr Lax, had requested a review of the premises licence for West Hartlepool Rugby Football Club (WHRFC), Catcote Road relating to the licensing objectives for the prevention of public nuisance. The review had been requested due to the nuisance experienced at Mr Lax's home caused by loud music emanating from the club on 2 consecutive weekends during the Summer. A copy of the review application was appended to the report. Mr Lax attended the meeting and explained that during the weekends of 26th-28th June and 4th-5th July outdoor events had taken place at the club specifically a children's cinema event in June and a beer festival in July. On both occasions loud music had been played outside the premises and Mr Lax had been able to hear it at his property. Details of the timings had been provided by Mr Lax. On the first weekend Mr Lax had complained directly to the club whilst during the second he had contacted the Council noise

complaints team. A representation in support of the application for review was also submitted by the Council's Environmental Protection Team.

Mr Picken addressed members on behalf of the WHRFC. He advised that during 26th to 28th June Families First had been holding an outdoor cinema event. A beer festival had taken place the following weekend. This was an annual event which had taken place for the previous five years, with no complaints until now. Following complaints by Mr Lax the noise had been turned down during the cinema event and an officer from the Council noise complaints team had attended the beer festival. As a result representatives from WHRFC had decided that two events on consecutive weekends was too much. The decision was taken not to hold the Families First weekend in 2016 but continue the Beer Festival.

Following Mr Lax's application for a review, a meeting was arranged between the Club and Council Officers to discuss remedial measures. The premises licence holder voluntarily agreed to amend the licence so as to reduce the number of outdoor events to only one per year and to introduce control measures to reduce noise disturbance namely:-

- The licence holder shall conduct regular assessments of the noise coming from the premises on every occasion regulated entertainment takes place.
- Steps shall be taken to reduce the level of noise where it is likely to cause a disturbance to local residents
- A written record shall be made of those noise assessments.

As a result of this voluntary amendment of the licence the Council's Environment Protection Team had withdrawn their support of the application for review.

Members considered the points raised by Mr Lax, verbally and within the report, and the subsequent actions taken by WHRFC. They felt that the remedial measures taken were satisfactory and under the circumstances no further action on the part of the club was required.

Decision

Members considered the points raised by Mr and Mrs Lax in connection with the noise complaints. They took into account that the Council's Environmental Protection Team had discussed the complaints with the rugby club and as a result of discussions remedial measures had taken place resulting in the rugby club amending the premises licence so as to reduce noise disturbance. They therefore decided to take no action.

The meeting concluded at 11.20am

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

22 September 2015

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

Present:

Councillors: Allan Barclay, Peter Jackson and Trisha Lawton

Also Present:

In accordance with Council Procedure Rule 5.2 (ii), Councillor Steve Gibbon was in attendance as substitute for Councillor George Morris

Officers: Ian Harrison, Principal Trading Standards and Licensing Officer
Alyson Carman, Legal Services Manager
Jo Stubbs, Democratic Services Officer

22. Apologies for Absence

Apologies were submitted by Councillor Morris

23. Appointment of Chair

Councillor Lawton was appointed as Chair

24. Declarations of interest by Members

None

25. Local Government (Access to Information) (Variation) Order 2006

Under Section 100 (A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of the Schedule 12A of the Local Government Act 1972 as amended by the local Government (Access to Information)(Variation) Order 2006 namely information relating to the financial or business affairs of any particular person (including the authority holding that information)

Minute 26 Private Hire Drivers Licence IL- This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to any individual – Para 1

Minute 27 Hackney Carriage/Private Hire SMS- This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to any individual – Para 1

26. Private Hire Drivers Licence IL – Director of Public Health.

This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to any individual – Para 1.

Purpose of report

To consider what action if any should be taken against a licensed private hire driver.

Issues for Consideration

Detailed in the exempt section of the minutes

Decision

Detailed in the exempt section of the minutes.

27. Hackney Carriage/Private Hire SMS – Director of Public Health. This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely information relating to any individual – Para 1.

Purpose of report

To consider what action if any should be taken against a licensed hackney carriage/private hire driver.

Issues for Consideration

Detailed in the exempt section of the minutes

Decision

Detailed in the exempt section of the minutes.

The meeting concluded at 2.45pm

CHAIR

LICENSING COMMITTEE

4th November 2015



Report of: Director of Public Health

Subject: GAMBLING ACT – STATEMENT OF LICENSING PRINCIPLES

1. PURPOSE OF REPORT

- 1.1 To consider a draft Statement of Licensing Principles for the Gambling Act 2005.

2. BACKGROUND

- 2.1 The Gambling Act 2005 came into force in 2007 and transferred a range of licensing responsibilities from the Gaming Board and local Magistrates Courts to local authorities and the newly formed Gambling Commission.
- 2.2 Licensable activities that fall within local authority control include bingo halls, betting shops, amusement arcades and casinos.
- 2.3 Amongst other things, the Gambling Act 2005 requires licensing authorities to publish, every three years, a statement of the principles that they propose to apply in exercising their functions under the Act – commonly referred to as a licensing policy.
- 2.4 Hartlepool's current licensing policy was published in January 2013 and, as such, a new policy must be published no later than January 2016.
- 2.5 A draft new Statement of Licensing Principles was presented to the Licensing Committee at its meeting on 17th June 2015 and approval was given for a consultation exercise to be undertaken. A copy of this draft is attached as **Appendix 1**.
- 2.6 The consultation period ended on 25th September 2015 and four responses were received which are attached as **Appendix 2**.
- 2.7 Two of the responses refer specifically to 'Fixed Odds Betting Terminals' (FOBT's) and the concern that their ease of use and the maximum stakes permitted (£100) are harmful to gamblers. The other two were from the Gambling industry that made general non specific observations.

- 2.8 Whilst there is a national concern about the proliferation of these machines the Committee should note that by virtue of Section 172 (10) of the Gambling Act licensing authorities are not permitted to control the number or categories of gaming machines on gambling premises.
- 2.9 Members may wish to consider whether the Statement of Licensing Principles should contain a statement supporting further regulatory control of Fixed Odds Betting Terminals or whether the issue should be raised directly with Government.

3. PROPOSALS

- 3.1 Licensing authorities are required to publish a Statement of Licensing Principles (a licensing policy) every three years.
- 3.2 Hartlepool's current policy was published in January 2013 and, as such, a new policy must be published no later than January 2016.
- 3.3 As with previous policies, the draft Statement of Principles contains a 'no casino' resolution and Members are required to consider whether such a resolution should continue.
- 3.4 Formal adoption of the licensing policy must be made by full Council.
- 3.5 It is therefore proposed that the Licensing Committee agree and endorse the proposed Statement of Licensing Principles as detailed in Appendix 1 and recommend its adoption to full Council at its meeting on 10th December 2015. This will ensure that the Council's obligation to have a new Statement in place before 4th January 2016 is discharged.

4. RECOMMENDATIONS

- 4.1 That Members consider the draft Statement of Licensing Principles as detailed in Appendix 1 and, if appropriate, agree to its recommendation to full Council.
- 4.2 That Members consider whether concerns over Fixed Odds Betting Terminals should be detailed in the Statement of Licensing Principles or raised directly with Government.
- 4.3 That Members consider whether a 'No Casino' resolution should be incorporated into the draft Statement of Licensing Principles.

5. BACKGROUND PAPERS

- 5.1 Licensing Committee report and Minutes – 17th June 2015

6. CONTACT OFFICER

Louise Wallace
Director of Public Health
Hartlepool Borough Council
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Louise.wallace@hartlepool.gov.uk

STATEMENT OF PRINCIPLES

Gambling Act 2005

(Published XX January 2016)



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This Statement of Licensing Principles was approved by Hartlepool Borough Council on XXXXX.

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 4th Edition, published September 2012.

PART A

1. The Licensing Objectives

1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

1.3 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the authority’s statement of licensing policy

2. Introduction

2.1 Hartlepool is situated on the North East coast of England. The Borough consists of the town of Hartlepool and a number of small outlying villages. The total area of the Borough is 9,390 hectares.

2.2 Hartlepool is a unitary authority, providing a full range of services. It adjoins Durham to the north, Sedgefield District Council to the west and Stockton on Tees Borough Council to the south. The residential population is 90,161 of which ethnic minorities comprise 1.2% (2001 census).

2.3 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

2.4 Hartlepool Borough Council consulted widely on this statement before it was published. A list of those persons consulted is contained in Appendix I.

2.5 The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;

- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

2.6 Our consultation took place between XXXXX and XXXXX and we followed the Code of Practice on Consultations published by HM Government in 2008 which is available at <http://www.bis.gov.uk/files/file47158.pdf>.

2.7 The policy was approved at a meeting of the Full Council on XXXXX and was published via our website on XXXXX. Hard copies of the policy are available on request from the address detailed below.

2.8 Should you have any comments as regards this policy statement, or the consultation process, please send them via e-mail or letter to the following contact:

Trading Standards & Licensing Manager
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

e-mail: licensing@hartlepool.gov.uk

2.9 It should be noted that this statement of licensing principles will not override the right of any person to make an application (other than for a casino), make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3. Declaration

3.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

4. Responsible Authorities

4.1 **The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:**

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

4.2 Hartlepool Borough Council designates the Local Safeguarding Children Board for this purpose.

- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.hartlepool.gov.uk/licensing.

5. Interested parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
- 5.2 "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 applications 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 paragraph (a) or (b)"
- 5.3 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:
- 5.4 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.5 Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this 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.
- 5.6 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. If there are any doubts then please contact the licensing department at the Civic Centre, Hartlepool.

6. Exchange of Information

- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

7. Enforcement

7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority 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.

7.2 This licensing authority's principles are that:

7.3 It will be guided by the Gambling Commission's Guidance to Licensing 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.

7.4 As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.5 This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

7.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

7.7 This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

7.8 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the licensing department, Hartlepool Borough Council, Civic Centre, Hartlepool, TS24 8AY. Our risk methodology is also available upon request.

8. Licensing authority functions

8.1 Licensing authorities are required under the Act 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 (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

8.2 It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

9. General Principles

9.1 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in 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 appropriate.

9.2 (i) Decision-making

9.3 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

9.4 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

9.5 **Definition of "premises"** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But 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. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

9.6 The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

9.7 This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities 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 names on the premises licence.

9.8 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

9.9 This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

9.10 **The Gambling Commission’s relevant access provisions for each premises type are reproduced below:**

9.11 **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

9.12 **Adult Gaming Centre**

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

9.13 **Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- 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.

9.14 Tracks

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

9.15 Bingo Premises

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

9.16 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

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

9.17 Premises “ready for gambling”

9.18 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority 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.

9.19 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

9.20 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, 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.

9.21 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

9.22 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

9.23 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

9.24 **Planning** - The Gambling Commission Guidance to Licensing Authorities states:

7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

9.25 This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

9.26 **Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, 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.

9.27 When dealing with a premises licence application for finished buildings, this authority 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.

9.28 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

9.29 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is

aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should 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 this authority 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. This licensing authority is aware of 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.

- 9.30 Ensuring that gambling is conducted in a fair and open way - **This licensing authority has noted that the Gambling Commission states that it 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.**
- 9.31 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.
- 9.32 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.
- 9.33 As regards the term "vulnerable persons" it is noted that the Gambling 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 gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis.
- 9.34 **Conditions** - Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 9.35 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.
- 9.36 This licensing authority 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 Gambling Commission's Guidance.

9.37 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- 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;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- 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.

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

9.39 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third 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.

9.40 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

9.41 **Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

9.42 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be 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 (as per the Guidance, Part 33).

10. Adult Gaming Centres

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

10.2 This licensing 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.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

11. (Licensed) Family Entertainment Centres:

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

11.2 This licensing authority may consider measures to meet the licensing objectives such as:

- 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.
- Measures / training for staff on how to deal with suspected truant school children on the premises

11.3 This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

11.4 This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering

the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

12. Casinos

- 12.1 This licensing authority has passed a 'no casino' resolution on the basis that whilst it recognises that gambling can be an enjoyable and harmless activity for many, it believes that a casino may provide an environment that may harm vulnerable persons who may gamble beyond their means.
- 12.2 Potential licence applicants should note that as a 'no-casino' resolution has been passed by this authority no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

13. Bingo premises

- 13.1 This licensing authority notes that the Gambling Commission's Guidance states:

18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

- 13.2 This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 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.

14. Betting premises

- 14.1 *Betting machines* - This licensing authority will, as per the Gambling 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.

15. Travelling Fairs

- 15.1 This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is 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.

- 15.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 15.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

16. Provisional Statements

- 16.1 Developers may wish to apply to this authority 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.
- 16.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 16.3 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.
- 16.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling 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.
- 16.5 The holder of a provisional statement may then apply for a premises licence once the premises are 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:
- they concern matters which could not have been addressed at the provisional statement stage, or
 - they reflect a change in the applicant's circumstances.
- 16.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
 - which in the authority's opinion reflect a change in the operator's circumstances; or
 - 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.

17. Reviews:

- 17.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the 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;
 - in accordance with any relevant Code of Practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of principles.
- 17.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 17.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 17.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 17.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 17.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
 - (a) add, remove or amend a licence condition imposed by the licensing authority;
 - (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
 - (c) suspend the premises licence for a period not exceeding three months; and
 - (d) revoke the premises licence.
- 17.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 17.8 In particular, the licensing authority 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.

17.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

PART C

Permits / Temporary & Occasional Use Notice

18. **Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

- 18.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 18.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)
- 18.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to 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. (24.7)
- 18.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 18.5 Statement of Principles This licensing authority will expect the applicant 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 appropriate 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 / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, 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.

19. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1)) - Automatic entitlement: 2 machines

19.1 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.

19.2 The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (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 Gambling 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 Gambling Act has been committed on the premises.

19.3 Permit: 3 or more machines

19.4 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

19.5 This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

19.6 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.

19.7 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

19.8 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

20. Prize Gaming Permits

- 20.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 20.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
 - that the gaming offered is within the law
 - Clear policies that outline the steps to be taken to protect children from harm.
- 20.3 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).
- 20.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

21. Club Gaming and Club Machines Permits

- 21.1 Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 21.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. 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."

21.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

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

21.4 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). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

21.5 There are statutory conditions on club gaming 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.

22. Temporary Use Notices

22.1 Temporary Use Notices 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 Temporary Use Notice, according the Gambling Commission, would include hotels, conference centres and sporting venues.

22.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

22.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices 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 poker tournaments.

22.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling

Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

22.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

22.6 This licensing authority expects to 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 Gambling Commission's Guidance to Licensing Authorities.

23. Occasional Use Notices:

23.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

PART D**SUMMARY OF LICENSING AUTHORITY DELEGATIONS PERMITTED
UNDER THE GAMBLING ACT**

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

CONTACT DETAILS, ADVICE & GUIDANCE

Further details regarding the licensing application process, including application forms, can be obtained from:

The Licensing Team
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Tel No: 01429 523354
Fax No: 01429 523308
Email: licensing@hartlepool.gov.uk
Web Site: www.hartlepool.gov.uk/licensing

CONSULTATION

The following individuals/agencies and organisations were consulted about this Statement of Licensing Principles between June and August 2015: -

The Mayor of Hartlepool
Hartlepool Borough Council councillors
Parish Councils
Chief of Cleveland Police
Cleveland Fire Service
Hartlepool Borough Council Planning Department
Hartlepool Borough Council Trading Standards Service
Hartlepool Borough Council Environmental Health
HMRC
Hartlepool Borough Council Safeguarding Board
Gamblers Anonymous
GamCare
British Beer and Pub Association
Association of British Bookmakers
Bingo Association
Remote Gambling Association
Business in Sport & Leisure
Casino Operators Association
BACTA
British Holiday & Home Parks Association
British Race Courses Association Ltd
British Casino Association

Date: 04 September 2015

Dear Council Leader,

Re: Submission from the Campaign for Fairer Gambling for the review of the Gambling Act 2005 Statement of Principles 2016/19

As leader of the council, you will know that Licensing Authorities are required under the Gambling Act 2005 (the Act) to publish a statement of the principles which they propose to apply when exercising their functions in respect of gambling activity within their borough.

Under the Act, Licensing Authorities are required to consult those who represent the interests of persons who are likely to be affected by the exercise of the authority's functions. The Campaign for Fairer Gambling in conjunction with its more focused Stop the FOBTs campaign has prepared this consultation submission for the consideration of all Local Authority licensing committees with particular regard to dealing with the contentious issue of betting shops and Fixed Odds Betting Terminals (FOBTs/B2 classified gaming machines).

We would appreciate if you could share the important contents of this mailing with your Chief Licensing Officer.

Under the Act, Licensed Betting Offices (LBOs) are allowed a maximum of four B2 category gaming machines offering game content defined as B2 with stakes up to £100 per spin, B3 with stakes up to £2 per spin and category C with stakes up to £1 per spin. Also, the bookmakers have merged two game categories (B2 and B3), so in betting shops you can play a low stake £2 capped slot game that suddenly introduces the player to £10, £20, £30 plus stakes per spin.

Despite increasing evidence of the destructive social impact of high speed, high stake casino gaming in betting shops at stakes up to £100 per spin, the previous coalition government and the current Conservative government have failed to take either decisive or effective action to curb FOBTs.

The recent government response to 93 Councils led by Newham calling for the stakes on FOBTs to be cut to £2 per spin laid the blame for the issue of proliferation of betting shops in town centres and consequently FOBTs, at the door of licencing authorities. Marcus Jones MP, Minister for Local Government, wrote:

"It is perhaps an uncomfortable reality that every one of the betting shops that collectively have given rise to the concern at the heart of the submission relies on a premises licence granted by the local authority itself".

He goes on to advise councils of their existing powers under the licensing process, which many local authorities already recognise as limited in scope.

However, he points to "few" local authorities having so far "made effective use of a provision of the Act that we see as being absolutely critical in managing the local gambling landscape". With this statement he is referring to the three year review of local gambling policy now under way across England, Scotland and Wales by local authorities such as yours.

In his letter to Newham, Marcus Jones MP, criticises councils for drafting "generic" and "template" based statements and that the Gambling Commission "will be placing much greater emphasis on the importance of the statements".

The Campaign for Fairer Gambling has prepared this submission for consideration as part of your review, taking into account the Minister's advice and focusing on the most prominent issue of contention for licensing authorities – licensed betting offices and the Fixed Odds Betting Terminals they operate.

Enforcement

The main enforcement and compliance role for a licensing authority in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. One strategic methodology to measure compliance is to commission test purchasing of premises and staff employed on those premises to transact gambling.

The Gambling Commission (the Commission) notes that *"it is the responsibility of operators to manage the risks to the licensing objectives that their activities may present"*. Licensing authorities are rightly empowered to undertake test purchasing to ensure measures are being implemented effectively. Under guidance from the Commission, test purchasing to evaluate the effectiveness of measures in place on licensed premises concerning self-exclusion, under age controls, anti-money laundering policies and procedures are within the remit of a licensing authority.

However, in the period 2013/2014 across the whole of England, Scotland and Wales, of the two most highly represented licensed premises in high street locations – licensed betting offices (LBO) and adult gaming centres (AGC) - just 825 instances of test purchasing were recorded as being carried out by licensing authorities. To put this in context 599 (6%), of the 9,137 betting shops (to March 2014) and 226 (14%) of the 1,618 AGCs were subject to test purchasing by licensing authorities. Only 37 Councils carried out test purchasing last year.

In most cases, test purchasing focuses on the "protection of the vulnerable" licensing objective and consists of tests for under age access to gambling on licensed premises. However, the Commission is clear that the scope of test purchasing should include the effectiveness of self-exclusion procedures and anti-money laundering controls as well as under age controls. Money laundering in particular has been repeatedly highlighted as a particular area of concern around FOBTs both low level and more highly-organised incidents that revealed serious weaknesses in operator controls.

Premise Licence Conditions

The Minister for Local Government, in his negative response to the Newham-led call for stakes on FOBTs to be cut to £2 per spin, said: *"The licensing process gives authorities considerable scope to attach conditions to licences where that is necessary to achieve the licensing objectives"*.

The tenth betting shop to open in London's China Town was subject to attached conditions by the Licensing Authority following concerns from the local community and representations from the Police. They included:

- A. Seating provided for use by customers whilst playing FOBTs must be secured to the floor – this is viewed as anticipating aggressive behaviour from FOBT players who suffer large losses
- B. a comprehensive CCTV system covering internal and external frontage with immediate availability to the police must be fitted

- C. an incident log of all incidents on the premises must be kept
- D. minimum 11.5 mm thickness security glass must be fitted to the service area
- E. a "behind the counter" attack alarm must be fitted and each member of staff must be issued with and required to carry on their person a personal fob attack alarm
- F. maglocks fitted to entrance and exit points and even toilet doors.
- G. a minimum of two staff to be present post 8 pm in the evening.

Whilst these measures have some merit in addressing the potential incidents that now occur in betting shops, they are indicative of an escalation in anti-social behaviour as a consequence of gambling activity in these licensed premises. In the first nine months of 2014, Police call outs to betting shops were already up by over 20% on the previous year.

The one condition that Licencing Authorities seem hesitant to impose and, when they do - as per Westminster - is done in a relatively lack lustre manner, is requiring an adequate number of staff on the premises. The number of people employed in the betting sector has fallen by 9,700 since 2008. The industry now staffs most LBOs with just one person. This is particularly risky for staff and undermines industry claims to be promoting "responsible gambling" and "player protection measures" when they absolve responsibility for their premises to one person, generally young and female, working for not much more than minimum wage levels.

No other gambling sector employs lone staffing as a standard policy. It is perceived as irresponsible to leave licensed premises, on which gambling is transacted, under the management and operation of one person. It is within the remit of licencing authorities to impose minimum staffing levels as a condition attached to LBO premises licences.

Locally determined conditions are recommended by the Commission who says: *"Where there are specific, evidenced risks or problems associated with a particular locality, or specific premises or class of premises, a licencing authority will be able to attach individual conditions to address this. That will be a matter for them in the light of local circumstances."*

However, unlike the conditions attached to the new Soho betting shop that deal with issues that predominantly occur inside the premises, often disturbances occur outside the premises, causing a nuisance for other businesses or residential occupiers. Acts of vandalism against betting premises, youths gathering outside and anti-social behaviour upon leaving betting shops are common cause for concern and complaint. However, Licensing Authorities are unable deal with these issues under their licensing responsibilities. As the Commission notes: *"Unlike the Licensing Act, the Gambling Act does not include, as a specific licencing objective, the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant legislation."* Hence the imposition of conditions to deal with problems emanating from betting shops but occurring outside of the premises is limited in scope.

It is estimated over 100 betting shops per week suffer attacks on FOBTs with very few instances being reported to the Police. These are criminal acts of vandalism always occurring as a consequence of heavy cash losses from FOBT usage. As Licensing Authorities are responsible for gambling activity that takes place on the premises it is perfectly warranted for a condition to be attached to individual or all licensed premises under the licencing authorities' remit, for the recording and reporting of all such incidents. This would not be considered a regulatory burden and is in keeping with the LA responsibility of keeping crime out of gambling.

Despite the Minister for Local Government pointing to conditions as providing “considerable scope”, in the area of greatest concern, that of high stake, high speed FOBTs, a Licencing Authority has no control or powers. Section 172(10) of the Act provides that conditions may not relate to gaming machine categories, numbers, or method of operation and section 171 prevents an authority imposing conditions in relation to stakes, fees, winnings or prizes.

Section 181 of the Act however contains an express power for licencing authorities to restrict the number of *betting machines*, their nature and circumstances in which they are made available for, by attaching a licence condition to a betting premises licence. These are not defined under the act as FOBTs. Section 181 of the Act refers to these machines as “accepting bets on real events” and betting operators now refer to them as Self Service Betting Terminals (SSBTs). Like the introduction of FOBTs, no controls over numbers per premises have been agreed and it is left to Licencing Authorities, if they see fit, to control their numbers under guidance pertaining to floor space, service counter positions and ability of staff to monitor their use.

There are now estimated to be in excess of 5,000 SSBTs sited in betting shops and this is increasing each month. As with FOBTs, SSBTs are contributing to the further erosion of jobs in betting shops (down 9,700 since 2008) with one operator, Trafalgar Leisure, providing five SSBTs and four FOBTs at each of its licensed premises but they did not offer any human facing over-the-counter betting facilities.

The Gambling Commission lost in their attempt to declare these betting premises as providing “insufficient facilities for betting” and the consequence is that a betting shop will still be a betting shop even if it is used for no other purpose than making machines available for use on premises.

It is essential that Licensing Authorities have particular concern to the development of SSBTs in betting premises and in particular the content made available on what have been deemed “betting machines” and use their powers under section 181 of the Act to control and monitor their proliferation.

Closing note

It is clear to Councils and Councillors that their ability to deal with and curb the proliferation of betting shops in town centres and high streets, as well as controlling the quantity of FOBTs available is severely restricted under the 2005 Gambling Act. Despite the Minister for Local Government’s view that licencing authorities are not making sufficient use of existing powers.

It is proposed to give Scotland the power to vary the number of FOBTs in new betting premises and, subject to amendments in the Scotland Bill, this could be extended as a retrospective power. No such power for Licensing Authorities in England and Wales is proposed just a continual reference to “existing powers”.

The view of the Campaign for Fairer Gambling is that the power to vary the number of FOBTs should be devolved to all Local Authorities and their Licensing Committees as is proposed for Scotland. However, it is not the quantity of machines that essentially creates the problem as can be seen from the latest Gambling Commission statistics.

Sector/Machines	Terminals	Yield (millions)	Yield Share
Betting Shops/B2	34,874	£1,613.60	68%

Bingo B3/4/C/D	52,506	£292.24	12%
Casino B1/2/3	2,925	£166.26	7%
AGC B3/4/C/D	50,530	£306.09	13%
Totals	140,835	£2,378.19	

Figures from the Gambling Commission Industry Statistics to September 2014

All gaming machines other than B2/FOBTs are capped at £2 and under per spin. It is the capacity for large losses that is facilitated by such a high staking capacity (£1 to £100 rather than 25 pence up to £2 as on most other gaming machines) that is the core of the problem regarding the B2 casino content.

As part of your Council's gambling policy over the next three years, we recommend you contain a statement supporting further regulatory action against FOBTs, with greater powers of control devolved to councils.

We urge all councils to support Newham in their action under the Sustainable Communities Act calling for the stakes on FOBTs to be brought in line with all other high street gaming machines at £2 per spin.

If you would like further information, please visit www.stopthefobts.org or contact us at info@stopthefobts.org to discuss in more detail.

Yours sincerely,

Derek Webb

Adrian Parkinson

Matt Zarb-Cousin

The Campaign for Fairer Gambling



GOSSCHALKS
SOLICITORS

Gambling Act 2005 Policy Statement Consultation
Letter to

Hartlepool Borough Council
Ian Harrison
Trading Standards and Licensing Manager
Licensing Team
Civic Centre, Victoria Road
Hartlepool
TS24 8AY

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / LHK / 097505.00004
#GS371796
Your ref:
Date: 17 September 2015

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said:
"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review

should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

Local Area Profiles – Need for an evidence based approach

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

Concerns around increases in the regulatory burden on operators

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

Employing additional licence conditions

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

Specific Policy Comments

Paragraph 9.4 of the statement of principles recognises that moral objections and unmet demand are not criteria for the licensing authority to take into account. The statement of principles recognises elsewhere that nuisance and the likelihood of the grant of planning permission/building regulations are also criteria which cannot be taken into account. This paragraph should be amended to reflect this.

Paragraph 9.23 – Location

The final two sentences of this paragraph cause the ABB concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licensing regime under Licensing Act 2003. Such a policy is contrary to the overriding principles of “aim to permit” contained within s153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle earlier in the policy that each case will be determined on its own merits.

Paragraph 9.34 – Conditions

The ABB welcomes the fact that any conditions to be attached to licences will be proportionate, relevant, directly related to the premises and fair and reasonable. The policy would be assisted by a greater explanation of when conditions can be imposed. The policy should acknowledge that Gambling Act 2005 premises licences are already subject to mandatory and default conditions. In the vast majority of applications, there will be no need to impose additional conditions. It is only where there is evidence of a specific risk that the mandatory and default conditions should be supplemented.

Paragraph 9.41 – Door Supervisors

There is a typographical error in this paragraph. We believe that the intention of the statement of policy is to state “...and is entitled to impose a condition on a premises licence to this effect.” The paragraph indicates that a condition may be imposed if there are concerns about a premise. We respectfully submit that “concerns” are not enough. Any concerns will be addressed in the risk assessment submitted with the application. Additional conditions (on top of the mandatory and default conditions) should only be imposed where there is evidence that what is proposed needs to be supplemented.

Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



GOSSCHALKS

Trading Standards & Licensing Manager
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

24th September 2015

Dear Sir,

Consultation on Hartlepool Borough Council's Statement of Principles – Gambling Act 2005

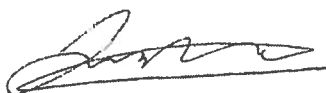
Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited are supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives', additionally noting that it should not take into account of any moral objections to gambling.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications, variations as well as local changes, following the consultation completion – effective date is from the 6th April 2016. The document does not include any information about this at the current time. However, when the Council amends its policy to include risk assessments, Coral Racing would be happy to contribute.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. If we can provide any further information, we would be pleased to do so.

Yours faithfully,



John Liddle
Director of Development – Coral Retail



Coral Racing Limited
One Stratford Place, Montfichet Road, London E20 1EJ
Registered Office: New Castle House, Castle Boulevard, Nottingham NG7 1FT
Registered in England No. 541600
Tel: 020 3288 7000 Fax: 020 3288 7050



1700+ shops



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coral.co.uk



0800 242 232

a  company

I am writing to you today because of my concerns over the proliferation of gambling establishments and fixed odds betting terminals (FOBTs), within Hartlepool. Nationwide, FOBTs yield £1.4bn a year and machine income generates half of betting shop profits, up from 40% in 2008. Termed the 'crack cocaine' of the gambling world; these machines have shown to be targeted at the most deprived and poorest areas of society. Figures released by the Campaign for Fairer Gambling show that, in 2014, in the 55 most deprived areas of the country, there are a total of 2,691 betting shops, in which £13bn was staked on fixed odds betting terminals (FOBTs), with losses of £470 million. Whereas in the richer areas of the country with the same population, there were only 1,258 bookmakers and betting shops where gamblers spent £6.5 billion, with losses of £231 million in the same 12 month period. This shows that gambling has been made a class issue due to the coordinated attacks from bookmakers on the poorest in society. Gambling addiction is not a singular issue and has a domino effect on other aspects of individual and communal life. The debts incurred through gambling trigger the proliferation of pay-day lenders on extortionate credit rates. Councils need to be pro-active before the situation gets any worse than it already is. Early on in 2014 Sheffield Council members backed a motion calling for action as fixed-odds betting terminals in betting shops were reportedly being targeted at some of the poorest areas of Sheffield. There are other precedents of proactive councils aiming to protect its citizens where mine has hitherto failed. Newham council elected to reject an application for a new Paddy Power betting shop on the grounds that it would make more money from gaming machines than from traditional betting on horses and sports results. This was on the grounds that it did not meet the licensing conditions of the 2005 Gambling Act. An act, which according to Hartlepool Council's website, 'transfers all responsibility for the licensing of gambling premises from the Magistrates Court to the Council'. I implore my council to be more stringent in its approach to the licensing of gambling establishments and restrictions on FOBTs. Revealed in a Hartlepool Mail piece written March of last year; more than '£82.5m was wagered on FOBTs in bookies in the last 12 months' – 'a rise of £4m on the previous year'. This 'equates to an average of £226,000 being gambled every day on 74 machines in Hartlepool's 20 betting shops'. The house always wins and last year punters lost £2.9m a year in the town, up from £2.4m the previous year. This is despite Hartlepool being ranked the 29th most deprived local authority borough in the UK. The Campaign for Fairer Gambling wants the maximum stake on FOBTs cut to £2 a spin, which I would wholeheartedly support and beseech my council to support too. The Hartlepool Mail has thrown its weight behind the campaign in addition to five of the North's councils. The alliance of Durham, Middlesbrough, Newcastle, Stockton and Sunderland are using a "localism" law to pressure the government to crack down on the FOBT machines with maximum stakes on FOBTs reduced to £2. The limited authority each council has is strengthened by the cross-council alliance, which I implore my council to join. The cross-council alliance aims to give English local authorities the same powers as Scotland is set to enjoy: to introduce a "cumulative impact test" – 'allowing councils to reject applications for new betting shops where there are already existing clusters'. This subjective process rather than a blanket coverage approach to licensing permits is what I hope our council will push for in the near future to ensure that the most vulnerable in our society aren't the object of targeted attacks at the hands of bookmakers.

LICENSING COMMITTEE

4th November 2015



Report of: Director of Public Health

Subject: LICENSING ACT – STATEMENT OF LICENSING PRINCIPLES

1. PURPOSE OF REPORT

- 1.1 To provide Members with an opportunity to consider the adoption of a revised Licensing Policy as required by the Licensing Act 2003.

2. BACKGROUND

- 2.1 Section 5 of the Licensing Act 2003 states that each licensing authority must determine and publish a licensing policy every five years.
- 2.2 The current licensing policy became effective as of 1st January 2011 and, as such, a new or revised policy must be published no later than 1st January 2016.
- 2.3 A licensing policy details how the licensing authority intends to discharge its licensing functions and also details how it expects licence holders to contribute towards the promotion of the Act's four licensing objectives which are: -
- Prevention of public nuisance
 - Public safety
 - Prevention of crime and disorder
 - Protection of children from harm
- 2.4 A licensing policy does not create new obligations for existing licence holders but can be referred to when considering new applications or variations to existing licences.
- 2.5 A draft new policy was presented to the Licensing Committee at its meeting on 17th June 2015 and approval was given for a consultation exercise to be undertaken. A copy of this draft is attached as **Appendix 1**.

- 2.6 A consultation document was widely circulated between July and September 2015 and no responses were received.

3. ISSUES FOR CONSIDERATION

- 3.1 The proposed policy does not differ significantly from the policy that has been in place since 2003 and which, in general terms, follows national guidance.

- 3.2 There are however, three proposed amendments to the current policy which are: -

- i. The introduction of an expectation that 'vertical drinking establishments' will use plastic glasses after midnight
- ii. The introduction of an expectation that all licensed premises will not sell alcohol below 50p per unit of alcohol
- iii. An amendment to the 'cumulative impact area' which has been part of the Council's licensing policy since 2004

3.3 Plastic Glasses

- 3.4 Members will be aware that broken glasses and bottles can, in the wrong hands, sometimes be used as a stabbing weapon that can cause very serious injury.

- 3.5 Whilst 'glassings' are thankfully very rare, their potential consequences can be so severe that it is appropriate to consider whether more steps can be taken to reduce the risks involved.

- 3.6 The draft policy contains an expectation that 'vertical drinking establishments' would use plastic glasses after midnight. A 'vertical drinking establishment' is a well known term within the licensed trade and relates to premises where all, or the significant majority, of customers are expected to stand whilst drinking.

- 3.7 Most late night premises in Hartlepool could be defined as being 'vertical drinking establishments'.

- 3.8 The proposed condition specifically refers to plastic and not toughened glass as toughened glass can be extremely hard meaning that whilst it cannot be broken to create a stabbing weapon, it can still cause serious blunt force injuries if thrown.

- 3.9 The proposed condition will not require all licensed premises to introduce plastic glasses. It will however create an expectation for new licensees and could also be referred to if an existing premises licence is called in for review.

- 3.10 As with all matters contained in the licensing policy it would be for the applicant (or licence holder in the event of a review) to satisfy a licensing sub-committee that the plastic glasses condition should not be applied to them.

3.11 Minimum Unit Pricing

3.12 A minimum unit price of alcohol refers to the allocation of a fixed minimum price for each unit of alcohol contained within an alcoholic drink.

3.13 In the UK a unit of alcohol is defined as 10ml of pure alcohol.

3.14 A 440ml can of 5% strength lager contains 22ml of pure alcohol – equating to 2.2 units.

A 700ml bottle of 37.5% strength vodka contains 262ml of pure alcohol – equating to 26.2 units.

A 175ml glass of 11% strength wine contains 19ml of pure alcohol – equating to 1.9 units.

3.15 A minimum unit price of 50p per unit of alcohol would result in a product that contained 2 units of alcohol costing a minimum of £1. A drink containing 10 units of alcohol would cost a least £5 and so on.

3.16 The draft licensing policy states that the Council recognises the link between cheap prices and higher alcohol consumption and creates an expectation that licensees will price their products responsibly. The policy refers to a minimum price of 50p per unit which is the figure generally accepted as one that would have a significant impact on those with harmful drinking habits whilst having minimal impact on responsible, casual drinkers.

3.17 The introduction of a minimum pricing expectation within the licensing policy does not make it a criminal offence to supply alcohol below 50p per unit but it will provide licensing sub-committees with the opportunity to consider whether a licensee is pricing their products responsibly.

3.18 Cumulative Impact Area (CIA)

3.19 The statutory guidance that accompanies the Licensing Act states that licensing authorities can designate specific areas as being saturated where the promotion of the licensing objectives may be affected by a significant number of licensed premises concentrated in one area. There is an expectation that CIA's will be regularly reviewed.

3.20 The adoption of a CIA creates a rebuttable presumption that any further applications for licences within the designated area will be refused unless the applicant can demonstrate to the licensing authority that the granting of a licence will not determinately impact on the licensing objectives.

3.21 Hartlepool has included a CIA in its licensing policy since the Licensing Act was first introduced and, during that time, the area has always remained the same. The current CIA is attached as **Appendix 2**.

- 3.22 As a significant number of licensed premises have closed over recent years it has become necessary to re-visit and redefine the current CIA.
- 3.23 The proposed new area which no longer includes the area West of Park Road, North of Errol Street and South of Park Road is attached as **Appendix 3**.
- 3.24 Whilst a CIA effectively makes it more difficult for a new licence to be granted, Members may wish to ensure that the policy does not deter applications for licences that would be beneficial to the area – for example, restaurants or other premises that intend to close early.
- 3.25 As a result, paragraph 6.15 of the proposed policy states that the Special Policy shall only apply to applications to operate after midnight.
- 3.26 Members must decide whether the CIA should remain and, if so, whether it's scope, both in terms of time and location, are appropriate.
- 3.27 Formal adoption of the licensing policy must be made by full Council.
- 3.28 It is therefore proposed that the Licensing Committee agree and endorse the proposed policy as detailed in Appendix 1 and recommend its adoption to full Council at its meeting on 10th December 2015. This will ensure that the Council's obligation to have a new Licensing Policy in place before 1st January 2016 is discharged.

4. **RECOMMENDATIONS**

- 4.1 That Members endorse the proposed Licensing Policy as detailed in Appendix 1 and recommend it to full Council for approval and adoption.

5. **BACKGROUND PAPERS**

- 5.1 Licensing Committee report and Minutes – 17th June 2015

6. **CONTACT OFFICER**

Louise Wallace
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Hartlepool Borough Council
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HARTLEPOOL BOROUGH COUNCIL

STATEMENT OF LICENSING POLICY

2016

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APPENDIX ONE

APPENDIX TWO

1. INTRODUCTION

- 1.1 This policy statement is based on the provisions of the Licensing Act 2003 and has taken full account of the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for the Department of Culture, Media and Sport (DCMS).
- 1.2 This policy will apply for a period of five years from 1st January 2016. It will be kept under review and revised/amended if considered appropriate to support the licensing objectives. Any policy changes or revisions will be subject to consultation.

The Borough of Hartlepool

- 1.3 Hartlepool Borough Council, acting as the licensing authority for the Licensing Act, recognises the benefits to Hartlepool of a thriving service economy and wishes to promote, wherever possible, a town that meets and exceeds the requirements of its residents and visitors. However, the licensing authority recognises that certain types of licensed premises, particularly those offering alcohol and/or music, may have a detrimental impact on those who live nearby through the escape of noise or the actions of patrons both on and off the premises.
- 1.4 The licensing authority intends to seek a balance between the needs of residents and local businesses by using this Licensing Policy, and other strategies, to promote and encourage well-managed, neighbour friendly licensed premises that represent a positive addition to life in Hartlepool.

Legal Background to this Policy Statement

- 1.5 Hartlepool Borough Council, acting as the licensing authority, is able to grant or reject applications for the sale of alcohol, the provision of regulated entertainment or late night refreshment. Conditions designed to ensure safety, protect children from harm, prevent crime, disorder and public nuisance will be attached to licences where appropriate. However, the ability of licensing authorities to grant licences and attach conditions is limited by provisions in the Act, Regulations made under the Act and by guidance from the Secretary of State. The licensing authority must have regard to the guidance and will deviate only where there are justifiable reasons for doing so.
- 1.6 In formulating this policy document the licensing authority has had regard to the provisions of the European Convention on Human Rights, recognising that everyone has the right to respect for his/her home and private life and that every person is entitled to the peaceful enjoyment of his/her possessions (including a licence).

4.2 Appendix 1

- 1.7 The Human Rights Act 1998 makes it unlawful for a public authority to act in a way which will be incompatible with a convention right. The licensing authority will endeavour to ensure that any licensing decision does not cause a breach of a convention right.
- 1.8 The licensing authority in taking into account the provisions of the Crime & Disorder Act 1998 will also have regard to the likely effect of the exercise of their functions on crime and order in their area and do all they can to prevent such crime and disorder.

2. PURPOSE AND SCOPE OF THE LICENSING POLICY

Purpose

- 2.1 The licensing policy has four main purposes:
- To reinforce to elected Members on the Licensing Committee, the boundaries and powers of the local authority, and to provide them with parameters under which to make their decisions.
 - To inform the licence applicants of the parameters under which the authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within the area. (Note however that each case will be examined on an individual basis.)
 - To inform residents and businesses of the parameters under which the authority will make licence decisions, and therefore how their needs will be addressed.
 - To support decisions made by the licensing authority when these decisions are challenged in a court of law.

Scope

- 2.2 The Act is concerned about the supply and sale of alcohol, the provision of certain entertainment and late night refreshment.
- 2.3 Activities that require a licence under the Licensing Act 2003 and covered by this policy include:
- Retail sale of alcohol
 - Supply of hot food or drink from a premises from 23.00 to 05.00 hours
 - Supply of alcohol or provision of regulated entertainment to club members or guests
 - Provision of entertainment listed below (known as regulated entertainment) to the public or section of the public or club members or with a view to profit:

- Performances of a play
- Exhibition of a film
- Indoor sporting events
- A boxing or wrestling entertainment
- Live music performances
- Playing of recorded music
- Dance performances
- Provision of facilities for making music
- Provision of dancing facilities

- 2.4 The scope of the policy covers new applications, renewals where appropriate, transfers and variations of licences and certificates including where applicable temporary events notices. It will also include review of licences and certificates which may lead to the revocation of a licence or certificate.

3. TYPES OF LICENCES

Personal Licences

- 3.1 A personal licence will be granted where an applicant:
- is aged 18 or over
 - possesses an accredited licensing qualification
 - has not forfeited a personal licence in the last 5 years
 - has not been convicted of a relevant offence
- 3.2 The licensing authority will, however, reject any application where the applicant fails to meet a), b) or c).
- 3.3 Where an applicant has an “unspent” relevant conviction, the police may oppose the application. If such an objection is lodged a licensing hearing will be held. Where no such application is received from the police, the licensing authority will grant the licence.
- 3.4 At a hearing the licensing authority will consider carefully whether the granting of a licence will be in keeping with the promotion of the crime and disorder objective. Considerations will include the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The licensing authority will only grant the application if it is satisfied that doing so will promote this objective.
- 3.5 Reason(s): Prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. The holder of a personal licence should be a person who is not only properly qualified but a person who will assist the fight against crime. Granting a licence to a known criminal will, in many cases, undermine rather than promote the crime and disorder objective.

Premises Licences and Club Premises Certificates

- 3.6 An application for a premises licence or club premises certificate must consist of: -
- an application form, in the prescribed format, detailing the licensable activities and proposed operating hours
 - an operating schedule
 - a plan of the premises to which the application relates
 - the appropriate fee
- 3.7 If the licensable activities include the sale of alcohol a consent form from the individual agreeing to be the designated premises supervisor will also be required (not required for club premises certificates).
- 3.8 The application must be advertised in the prescribed manner.

4. LICENSING PRINCIPLES

General

- 4.1 In carrying out its licensing functions the authority will promote the licensing objectives set out in the Act. These are:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance; and
 - the protection of children from harm
- 4.2 To achieve these objectives the authority will use its full range of powers and consider all relevant responsibilities including its planning controls, transport controls and crime and disorder policies. The authority will enter into appropriate partnership arrangements, working closely with the police, the fire authority, local businesses, community representatives and local people in meeting these objectives.
- 4.3 In determining a licence application the overriding principle adopted by the licensing authority will be that each application will be determined on its individual merits.
- 4.4 The Act covers the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (premises licences), the supply of alcohol and/or the provision of regulated entertainment from certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notices).

- 4.5 In general a reference in this policy to a licence will include a club premises certificate.

Duplication

- 4.7 So far as possible, this Policy is not intended to duplicate existing legislation and regulatory regimes that are already placed on employers and operators, e.g. Health and Safety at Work etc. Act 1974. Conditions in respect of public safety will be attached to licences only if they are considered necessary for the promotion of the licensing objectives. However, it is likely that there may be duplication with regard to the imposition of some planning conditions.

Licence Conditions

- 4.8 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others granted relevant authorisations.

Conditions will be specifically tailored to the premises and activities to be undertaken, with a view to ensuring the licensing objectives are achieved.

- 4.9 Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 4.10 The licensing authority will not impose blanket standard conditions. Licence conditions will be tailored to the individual application to help promote the licensing objectives. Where appropriate, conditions from the DCMS standard “pool” of conditions will be used. Licence conditions will not be imposed where it is considered that other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
- 4.11 In the spirit of openness, transparency and reasonableness, licensing authority officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives.

Alcohol Harm Reduction

- 4.12 The licensing authority recognises that for most people alcohol represents an enjoyable addition to well-balanced social activities. However, there is increasing concern that for some people alcohol misuse is leading to self harm and social nuisance.
- 4.13 In determining licence applications, the licensing authority will have regard to the Government's Alcohol Harm Reduction Strategy and commends to all applicants the Portman Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.

Protection of Children

- 4.14 Whilst the protection of children from harm is a primary licensing objective, the licensing authority will not normally impose conditions restricting or prohibiting the admission of children to licensed premises, believing this should remain a matter of discretion for the licence holder and has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However, conditions designed to protect children will be imposed where necessary.
- 4.15 The licensing authority will not impose any licence conditions requiring the admission of children to licensed premises.
- 4.16 Examples of premises where the introduction of additional controls are likely to be necessary are:
- Where entertainment or services of an adult or sexual nature are commonly provided.
 - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking.
 - Where there is a known association with drug taking or dealing.
 - Where there is a strong element of gambling on the premises.
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
 - Where entertaining or providing facilities for the entertainment of children is a significant part of the premises' operation.
- 4.17 In such circumstances, additional conditions may be imposed where considered necessary for the prevention of harm to children. These may include: -
- Limitations on the hours when children may be present
 - Age limitations
 - Limitations on the parts of premises to which children will be given access

4.2 Appendix 1

- Requirements for accompanying adults
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 4.18 Where the exhibition of films is permitted, the licensing authority will impose a condition requiring the exhibition of films to be limited to only those age groups recommended by either the British Board of Film Classification or the licensing authority. For such films, licensees must indicate in their operating schedules how such action will be assured. Only in exceptional cases will variations of this general rule be granted by the licensing authority and then only with appropriate safeguards.
- 4.19 In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Licensing authority will, provided adequate notice has been given, classify the films concerned. Information regarding such classifications will be available for inspection at the Civic Centre, Victoria Road, Hartlepool. To achieve consistency and the protection of children the licensing authority will use the guidelines published by the BBFC.
- 4.20 In connection with the protection of children from harm, the licensing authority will provide details of which body is responsible for such matters. Details of licence applications, where relevant, should be forwarded to this nominated body for examination.
- 4.21 Where there is provision of entertainment specifically for children (e.g. a children's disco) the licensing authority will require the presence of sufficient adults to control the entertainment and the access and egress of the children to ensure their safety.
- 4.22 Where it is the intention of the licensee to offer responsibility for the supervision of children as part of a licensable activity, the licensing authority may require licensees to take appropriate measures to ensure the suitability of employees for such purposes – this may involve employees providing a Criminal Records Bureau Disclosure. Even where not specifically required by the licensing authority, all licensees are encouraged to ensure that only suitable staff are allowed to work with children.

Designated Premises Supervisors

- 4.23 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment.
- 4.24 Because of this the licensing authority expects that the designated premises supervisor (DPS) for a licensed premises will be able to demonstrate that they are in day to day control of the premises, playing an active role in its operation through a regular personal presence.

Licensing Hours

- 4.25 The licensing authority does not accept that longer opening hours have been a benefit to Hartlepool but rather that they place an undue and unnecessary strain on the local transport infrastructure, Accident & Emergency services and law enforcement agencies and creates a nuisance for those residents who are affected by the general operation of a premises or from revellers returning home during the early hours.

Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping but licences for before 9:00 a.m. or after 10:00 p.m. in residential areas will generally be refused. In addition, licence applications for the supply of alcohol for consumption on the premises for before 9:00 a.m. or after 11:30 p.m. in residential areas will generally be refused.

In non residential areas applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 2:00 a.m. will normally be refused subject to relevant representations being received.

- 4.26 Whilst zoning will not be adopted, the licensing authority will impose stricter conditions with regard to noise control in areas which have denser residential accommodation.

Live Music, Dancing & Theatre

- 4.27 The licensing authority recognises that traditional cultural activities such as music and dancing should be encouraged as part of a wider cultural strategy. Account should be taken of the need to encourage and promote entertainment such as live music, dancing and theatre for the wider cultural benefits of communities generally.
- 4.28 Only conditions considered necessary, proportionate and reasonable for the promotion of the licensing objectives will be attached to licences for activities of this nature. The authority will avoid measures that may deter live music, dancing and theatre by imposing unjustified indirect substantial costs. The licensing authority will closely monitor the impact of licensing on such activities and, where a negative impact can be identified, will re-visit the Licensing Policy with a view to investigating how the situation might be reversed.

Enforcement

- 4.29 Where necessary, enforcement action will be taken in accordance with the principles of the Regulators Code and the Council's Licensing Enforcement Policy.

4.2 Appendix 1

- 4.30 In particular, regard will be had to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:
- Targeting - i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled.
 - Consistency - i.e. similar approaches in similar circumstances to achieve similar ends.
 - Transparency - i.e. helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance.
 - Proportionality - i.e. action taken should be proportional to the risk presented.
- 4.31 The authority will establish protocols with the local police and the fire brigade on enforcement issues to avoid duplication and to provide for the most efficient deployment of council, police and fire officers in respect of inspection of licensed premises and the enforcement of licensing law.
- 4.32 Furthermore the policy of the Council will be a light touch inspection regime for well managed and maintained premises with a targeted and increased inspection and enforcement regime for “high-risk” premises and those suspected of not being operated within the terms and conditions of the licence.

Integration of Strategies and Other Policies

- 4.33 Hartlepool Borough Council fully recognises and endorses the value of good relations between persons of different racial groups. The licensing authority recognises the obligations placed upon it by the Equality Act 2010 and will ensure that this Policy promotes race equality and the elimination of unlawful discrimination.
- 4.34 The Council will integrate its various strategies to achieve consistency and transparency in the achievement of the licensing objectives.
- 4.35 Arrangements for reporting to local authority transport committees will be made to ensure transport strategies take account of the need to quickly disperse people from busy town centre areas to reduce the potential for nuisance and disturbance.
- 4.36 Arrangements will be made for the reporting of Hartlepool’s employment situation and the needs of the local tourist economy to the licensing committee to ensure that these issues are taken into account when licensing matters are being considered.
- 4.37 Licence conditions will reflect local crime prevention strategies and input from the Safer Hartlepool Partnership.

5. CONSIDERATIONS

General Requirements

- 5.1 The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule, (as required under the Act). The operating schedule will have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, the times during which it is proposed that relevant licensable activities are to take place and details of other times during which it is proposed that the premises are to be open to the public.
- 5.2 In many cases it may be helpful to all concerned for Council officers to discuss with applicants and/or their advisers a draft operating schedule before it is formally submitted, e.g. as happens with the existing One Stop Shop approach. This will help ensure it properly addresses all the issues of concern to the council. Where licensable activities include the supply of alcohol, specified information on the individual identified as premises supervisor shall be supplied as well as whether the supply of alcohol is proposed for consumption on and/or off the premises and operational procedures.

Nuisance

- 5.3 The licensing authority will expect the operating schedule to clearly demonstrate actions intended to ensure the operation will be “neighbour friendly”. In particular, the applicant shall propose adequate practical steps to prevent disturbance to local residents.
- 5.4 The licensing authority does not accept that longer opening hours have been a benefit to Hartlepool but rather that they place an undue and unnecessary strain on the local transport infrastructure, Accident & Emergency services and law enforcement agencies and creates a nuisance for those residents who are affected by the general operation of a premises or from revellers returning home during the early hours.
- 5.5 Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping but licences for before 9:00 a.m. or after 10:00 p.m. in residential areas will generally be refused. In addition, licence applications for the supply of alcohol for consumption on the premises for before 9:00 a.m. or after 11:30 p.m. in residential areas will generally be refused.
- 5.6 In non residential areas applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 2:00 a.m. will normally be refused subject to relevant representations being received.

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- 5.7 In relation to noise from within the building the licensing authority will expect the applicant to have carried out acoustic tests to ascertain whether there is sound leakage. This noise could relate not only to entertainment but also from air handling equipment or patrons. The licensing authority will expect potential noise breakout to have been addressed in practical ways such as:
- Keeping doors and windows closed and providing suitable mechanical ventilation
 - Reducing sound levels and installing a suitable noise limiting device, calibrated and set at a limit approved by Council officers, to prevent sound exceeding an appropriate level
 - Installing soundproofing measures to control noise breakout and vibration to a level acceptable to the Council.
- 5.8 The licensing authority will expect venues that attract queues to formulate a scheme to avoid disturbance to nearby residents. In some cases this may be achieved by simply ensuring that the direction of the queue is away from residential accommodation.
- 5.9 However, possible excessive noise generated by customers and/or disorder requires more rigorous action. It is important that queues formed later in the evening or in early morning are adequately supervised to keep noise/disorder to a minimum. Such action can also help stop drug dealing during the queuing process but the prime purpose will be to prevent noise and disturbance. Door supervisors will generally be expected to carry out this role, but they must be adequately trained and given clear instructions as to their duties and responsibilities – where necessary they should be adequately supervised by a suitably nominated person or persons.
- 5.10 In terms of patrons leaving the premises, particularly late at night or early in the morning, the licensing authority will expect the applicant to indicate in their operating schedule that consideration has been given to, and included where appropriate, such practical steps as:
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors, etc
 - At appropriate times making announcements to the same effect.
 - Instructing door staff to ask customers leaving the premises to leave the area quietly
 - Reducing the volume of music towards closing time and where appropriate playing quieter, more soothing music.
 - The availability of licensed taxis or private hire vehicles to take patrons from the premises
 - In appropriate cases door supervisors or a premises manager patrolling nearby streets periodically to assess for themselves whether there is a noise or disorder problem and how best to deal with it
 - Banning from the premises people who regularly leave in a noisy fashion.
 - Increasing outside lighting levels

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- Where there is a private forecourt, yard, etc, preventing patrons from using it for eating and drinking etc after a certain time. Planning conditions are usually imposed to restrict use after 8.00 pm or at sunset where adjacent to residential properties.
- 5.11 Reason(s): It is extremely irritating to residents disturbed by the sound of music escaping from licensed premises. Noise breakout may preclude the grant of a licence or if one has already been granted, for it to be reviewed with a view to possible revocation. It may also lead to a noise abatement notice being issued under the Environmental Protection Act. Responsible applicants and licensees will be expected to avoid the need for such action and promote the licensing objective of preventing public nuisance.
- 5.12 There can be little doubt that a well-managed licensed venue can benefit the local community. However, there is clearly a risk of local residents being disturbed particularly if the venue is open late at night. People leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Customers may be less inhibited about their behaviour and may be unaware of the noise they are creating.
- 5.13 A responsible applicant or licensee will wish to further the licensing objective of preventing public nuisance by introducing practical measures such as those referred to above to prevent such nuisance.

Prevention of Crime and Disorder

- 5.14 The licensing authority does not accept that longer opening hours have been a benefit to Hartlepool but rather that they place an undue and unnecessary strain on the local transport infrastructure, Accident & Emergency services and law enforcement agencies and creates a nuisance for those residents who are affected by the general operation of a premises or from revellers returning home during the early hours.

Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping but licences for before 9:00 a.m. or after 10:00 p.m. in residential areas will generally be refused. In addition, licence applications for the supply of alcohol for consumption on the premises for before 9:00 a.m. or after 11:30 p.m. in residential areas will generally be refused.

In non residential areas applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 2:00 a.m. will normally be refused subject to relevant representations being received.

- 5.15 The licensing authority will expect an applicant to indicate in their operating schedule the steps proposed to prevent crime and disorder such as:
- Use of CCTV both within and outside the premises
 - Procedures to prevent the supply of alcohol to those already drunk
 - Metal detection and search facilities

4.2 Appendix 1

- Procedures for risk assessing promotions and events such as “happy hours” for the potential to cause crime and disorder, and plans for minimising such risks
 - Measures to prevent the use or supply of illegal drugs
 - Employment of licensed door supervisors and other appropriately trained staff
 - Participation in an appropriate scheme designed to ensure effective liaison with the local community
- 5.16 Reason(s): Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. It is important, therefore, that the applicant is able to demonstrate to the licensing authority the practical steps that will be taken to further this objective.
- 5.17 Premises that are supplying alcohol for consumption on the premises after midnight and whose operation, at that time, is primarily or significantly of the ‘vertical drinking’ format, shall provide all drinks in plastic glasses.
- 5.18 Reason: Standard drinking glasses are made of annealed glass that, when broken, can create long shards which can be used as a stabbing weapon. Toughened glass will shatter completely when broken but, due to its manufacturing process, is extremely hard and may cause blunt force injuries if thrown or used as a weapon.
- 5.19 Rigid or flexible plastic glasses will not shatter when broken and will not cause blunt force injuries. As such, the licensing authority believes such a condition is a reasonable and proportionate requirement that will prevent those serious injuries that occur when drinking glasses are used as weapons.

Construction/Maintenance and Safety

- 5.20 The licensing authority will expect licensed premises to meet all legal safety requirements, but in addition wishes to promote the highest possible standards of safety for patrons and others who may be affected by a licensed premises. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, other technical standards that may be appropriate for the premises concerned.
- 5.21 The licensing authority will also expect the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times.
- 5.22 The licensing authority expects licensed premises to be a safe environment and applicants will be expected to consider how customers can be kept safe from foreseeable risks.

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- 5.23 For those premises that operate 'vertical drinking' applicants will be expected to consider the introduction of plastic drinking glasses after midnight.
- 5.24 Reason: There are many incidents of people being seriously injured when a glass, or bottle, has been used as a weapon on licensed premises. Whilst the use of toughened glass can prevent a glass being broken and used as a stabbing weapon, the toughening process makes it extremely hard and, if thrown, it can still cause serious blunt force injuries. Plastic glasses will not pose any stabbing or blunt force injury risks.

Pricing of Alcohol

- 5.25 The Licensing Authority will encourage all licensed premises to apply a minimum price of 50p per unit of alcohol to all products sold under their premises licence. (The unit pricing will be reviewed in line with national Guidance.)
- 5.26 Where licensed premises are found to be selling alcohol below this price, and problems associated with that premises are in breach of the licensing objectives, a responsible authority or interested party may bring a review. Following the review, the Licensing Committee may impose a condition in relation to the pricing of alcohol, in order to uphold the licensing objectives.
- 5.27 The Licensing Authority will expect applicants to demonstrate in their operating schedule how the pricing of alcohol products on sale in their premises will not negatively impact on the licensing objectives.
- 5.28 **Reason:** The licensing authority believes the price of a product influences its demand and, where alcohol is sold cheaply, consumers may be encouraged to buy, and consume, more of it.
- 5.29 The expectation that licensees will not sell alcohol below the stated minimum unit price does not create a legally binding obligation but it does place a duty on licensees to take into account the price of the alcohol they sell and the effect that price may have on levels of alcohol consumption.
- 5.30 If a licence is reviewed and the Licensing Authority believes that one or more of the licensing objectives has been undermined because of the price that alcohol has been sold at, it may impose a condition on the licence to prevent irresponsible pricing in future.

Access for Persons with Disabilities

- 5.31 All premises are expected to provide adequate facilities and access for people with disabilities. The needs of disabled people must therefore be addressed in the operating schedule.

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- 5.32 Reason(s): Wherever practicable, persons with disabilities should not be treated in a less advantageous way. In addition, responsibilities under the Disability Discrimination Act 1995 will need to be considered and adequate facilities provided in premises where necessary.

Publicity

- 5.33 All those affected by an application should be made aware of its existence and of the opportunity to make representations. In an attempt to ensure this is achieved, applications for a premises licence will be advertised in accordance with statutory requirements.
- 5.34 Reason(s): The grant of a licence can have a significant impact on the lives or businesses of those living or working in the vicinity of premises for which a licence is sought. Therefore, all those likely to be affected by an application have the right to be made aware of it and of the opportunity to make representations.

Other Policies, Objectives and Guidance

- 5.35 Applicants for licences will be expected to have taken into account relevant strategies and policies such as the local crime prevention strategies, planning and transportation policies, tourism and cultural strategies in determining their operating schedules.
- 5.36 In addition to the above, applicants will also be expected to address the impact of their premises on the local community and demonstrate that matters such as the prevention and clearance of litter and other waste materials arising from the use of their premises have been considered.

Planning

- 5.37 Premises for which a licence is required must have a suitable, appropriate authorised use under planning legislation.
- 5.38 The licensing authority will not normally entertain an application for a licence unless the applicant can demonstrate that the premises have either an appropriate (in terms of the activity and hours sought) planning consent, or an appropriate certificate of lawful use or development. Exceptions may be made where the applicant can demonstrate compelling reasons why the application should not be refused and the planning status of the premises has not yet been finalised.
- 5.39 Reason(s): Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority Planning Committee or following appeals against decisions taken by that committee. Proper integration will be assured by the Licensing Committees,

4.2 Appendix 1

where appropriate, by providing regular reports to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This will enable the Planning Committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

- 5.40 There is effective consultation between licensing and planning authorities with regard to their respective applications. It is important that there is consistency of approach.

Drug Awareness

- 5.41 The licensing authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises. However, it is recognised that special conditions may need to be imposed on certain venues where drug use is, or has been, taking place in order to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. Such conditions, if imposed, will take account of those issues discussed in the 'Safer Clubbing Guide' issued by the Home Office. Advice will be taken from the Police and the local drugs action team before any action is taken under this paragraph.
- 5.42 The licensing authority will expect licensees of venues to take all reasonable steps to prevent the entry of drugs into their premises, to take appropriate steps to prevent drugs changing hands within the premises and to otherwise adopt precautionary measures to address the consequences of drug misuse.
- 5.43 In particular the licensing authority will expect licensees of such venues to be familiar with the contents of Chapter 4 (drug awareness) of the British Institute of Inn-keeping Awarding Body (BIAB) Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook.
- 5.44 It is hoped that licensees will follow these recommendations on a voluntary basis as failure to do so could lead to the licence being reviewed with the possibility of revocation. In appropriate cases the licensing authority will consider imposing licence conditions to address these recommendations.
- 5.45 Reason: The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing a tragic loss of life caused by drug abuse, overheating and other factors.

Door Supervisors

- 5.46 Whenever any persons are employed at licensed premises to carry out any regulated security activity, all such persons must be licensed with the Security Industry Authority.

4.2 Appendix 1

- 5.47 The licensing authority may consider that certain premises require stricter supervision for the purpose of promoting the reduction of crime and disorder or other licensing objectives. In such cases, the licensing authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 5.48 Reason: Door supervisors, and others placed in a similar position, are often those first called upon to respond to issues of safety and disorder on licensed premises. The licensing authority intends to ensure that such people are equipped with the skills necessary for the discharge of this important role.

6. SPECIAL POLICY

6.1 Cumulative Impact

- 6.2 'Need' which concerns the commercial demand for another premises such as a pub, restaurant or hotel, is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. However, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority and its licensing committee to consider.
- 6.3 In determining an application the licensing authority will take into account, in the interests of public safety and the avoidance of nuisance, the cumulative effect that the existence of a saturation of premises in one area may have. A saturation of licensed premises can attract customers to the area that has an impact on the surrounding area beyond the control of individual licence holders. In this respect, the DCMS advocates consideration of a Cumulative Impact Policy to respond to the unique circumstances that can be caused by a concentration of licensed premises.

6.4 The Adoption of a Cumulative Impact Policy

- 6.5 The licensing authority has carefully considered the issues of alcohol related crime, disorder and nuisance in Hartlepool and is committed to working with licensees, responsible authorities and residents to reduce these incidents wherever possible. This licensing policy indicates a number of ways in which relevant bodies can work together to promote a safe and 'neighbour friendly' night time economy.
- 6.6 The licensing authority does recognise however, that there may be instances where problems of crime, disorder and nuisance do not arise because of the failings of one particular premises but rather are caused by the cumulative effect of a number of licensed premises operating within a small area.
- 6.7 Guidance published by the Secretary of State for Culture, Media and Sport allows licensing authorities to consider the issue of 'cumulative impact' and,

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where appropriate, to introduce a Cumulative Impact Policy to control such matters.

- 6.8 A Cumulative Impact Policy creates a rebuttable presumption that applications for new premises licences, club premises certificates or material variations will normally be refused, if relevant representations are received.
- 6.9 Such a presumption would only apply if one or more responsible authorities or interested parties made relevant representations to the licensing authority regarding a new application.
- 6.10 Applications for premises licences or club certificates for premises situated within the identified Cumulative Impact Policy area will be required to demonstrate in their operating schedules how the operation of their business will not add to the cumulative impact already being experienced in this area.
- 6.11 In all circumstances the licensing authority will consider each application on its own merits and such a policy should not be considered as absolute. A Cumulative Impact Policy will not be used to control general opening hours in a particular area.
- 6.12 For the authority to introduce a Cumulative Impact Policy for any area, the following steps will be considered:-
- Identification of serious and chronic concerns from a responsible authority or representatives of residents about crime and disorder or nuisance taking account of the Crime & Disorder Act 1998.
 - Assessment of the causes.
 - Consideration of whether it can be demonstrated that crime and disorder and nuisance is arising and is caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area.
- 6.13 Following the receipt of evidence of crime, disorder and nuisance from Cleveland Police the licensing authority has chosen to adopt a Cumulative Impact Policy to ensure the promotion of the licensing objectives in a specific designated area.
- 6.14 The area to which the Cumulative Impact Policy applies can be found detailed in Appendix One.
- 6.15 The Cumulative Impact Policy shall only apply to the operation of premises between midnight and 5:00 a.m. each day.
- 6.16 The authority believes that there is sufficient relevant evidence to support the adoption of a Cumulative Impact Policy that is both appropriate and proportionate for the promotion of the licensing objectives in the area concerned.

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- 6.17 This Cumulative Impact Policy must not be regarded as absolute and the licensing authority will consider every licence application on its own merits.
- 6.18 The licensing authority will regularly review the effect of this Cumulative Impact Policy and will amend or remove it where considered necessary.
- 6.19 Anyone considering making an application for either a premises licence or a club premises certificate for a premises situated within the area identified in Appendix One is advised to contact the Licensing Team at Hartlepool Borough Council for advice before making an application.
- 6.20 **Additional Measures to Tackle Cumulative Effect**
- 6.21 The licensing authority recognises that, in addition to the adoption of a Cumulative Impact Policy there are a number of other mechanisms for addressing anti-social behaviour and nuisance once customers are away from the vicinity of licensed premises. These include:
- Planning Controls
 - Positive measures to create a safe and clean town centre environment in partnerships with local businesses, transport operators and other departments of the local authority.
 - Powers of local authorities to designate parts of the local authority areas as places where alcohol may not be consumed publicly.
 - Police enforcement of the normal law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices and Directions to Leave.
 - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
 - The confiscation of alcohol from adults and children in designated areas.
 - Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
 - The power of the Police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- 6.22 The authority supports and encourages the implementation of all such measures to help reduce anti-social and nuisance behaviour.

7. ADMINISTRATION, EXERCISE & DELEGATION OF FUNCTIONS

- 7.1 The licensing authority has delegated its decision-making functions to the Licensing Committee, Sub-Committees and officers in accordance with the guidance issued by the Secretary of State.

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- 7.2 Many decisions and functions are purely administrative in nature and these will be delegated to officers in the interests of speed, efficiency and cost-effectiveness.
- 7.3 Detailed information regarding the delegation of functions can be found in Appendix Two.

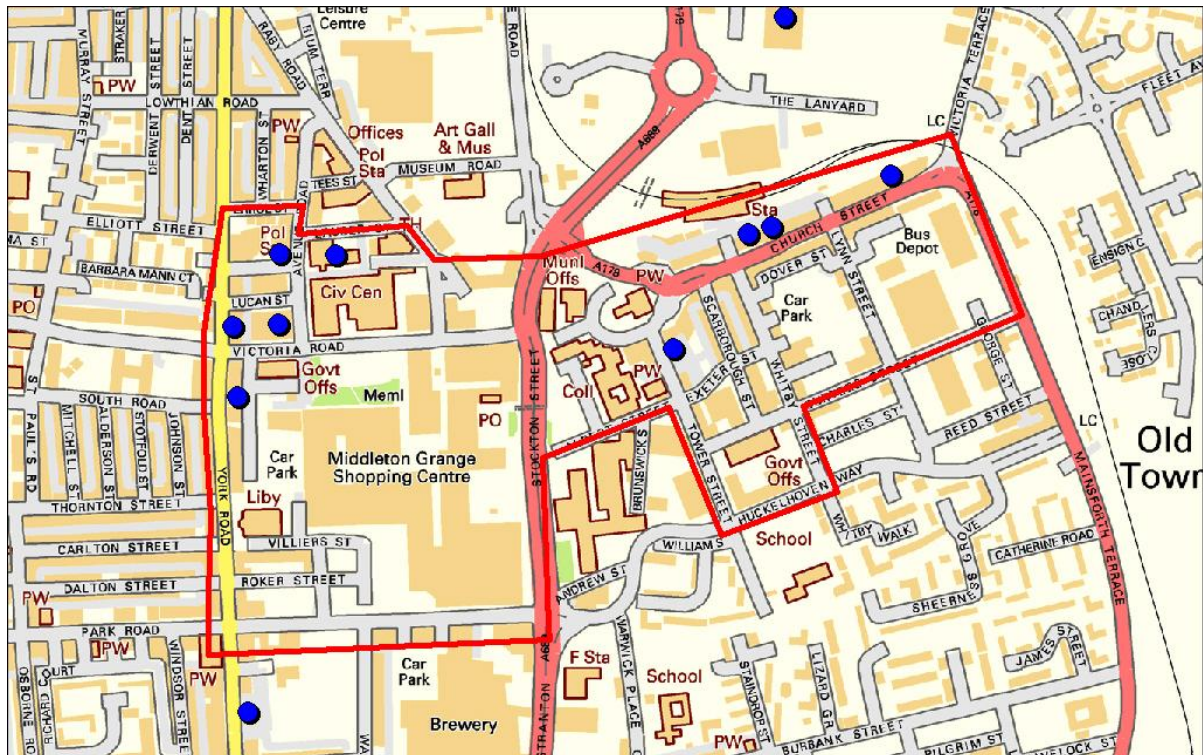
8. CONTACT DETAILS

- 8.1 Further details regarding the licensing application process, including application forms can be obtained from:

The Licensing Team
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Tel No: 01429 523354
Fax No: 01429 523308
Email: licensing@hartlepool.gov.uk

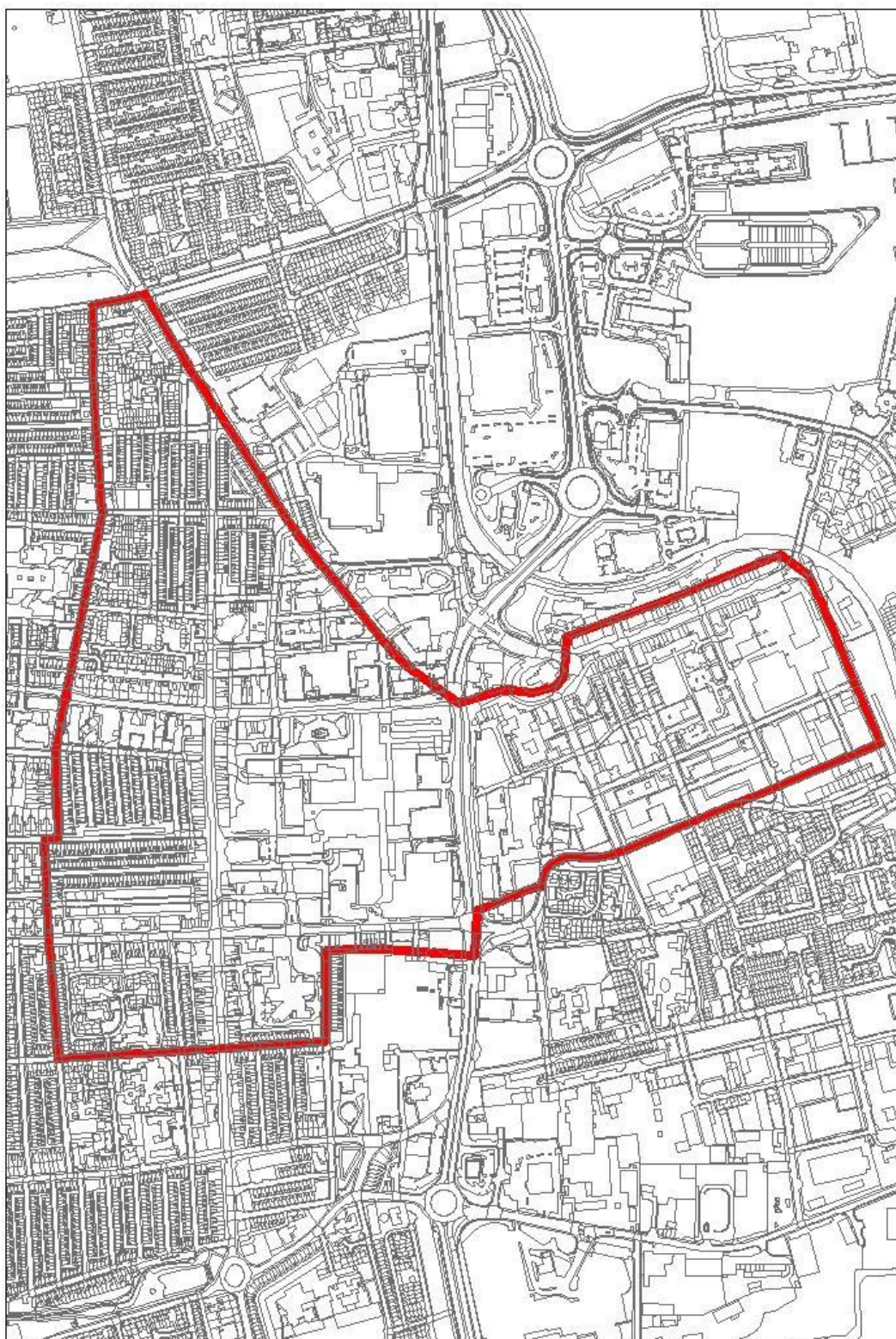
APPENDIX ONE – Designated Area for Special Policy

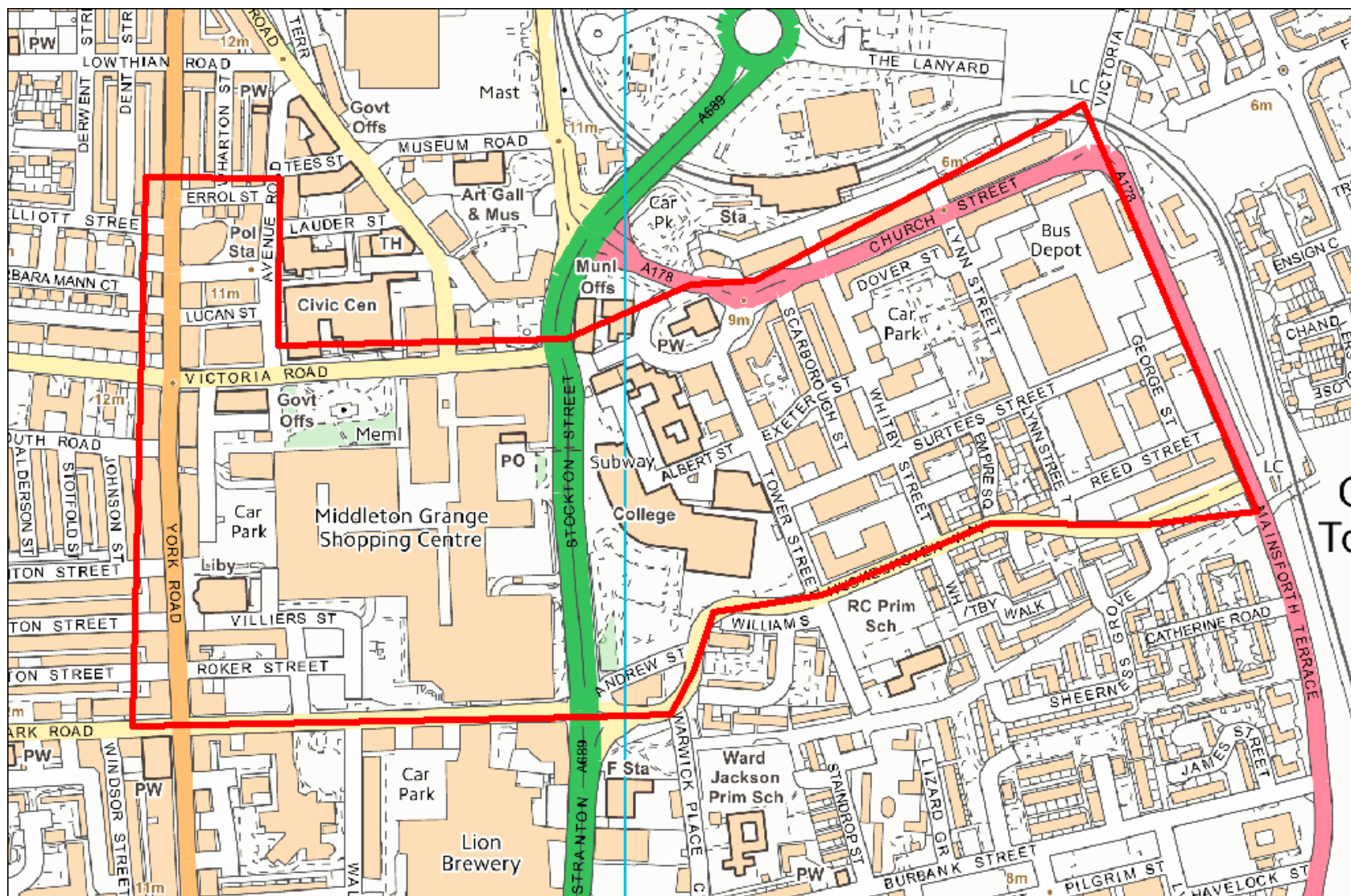


APPENDIX TWO

Delegation of Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If an objection made	If no objection made
Application for premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no 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
Application 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 relevant frivolous vexatious etc.			All cases
Decision to make representations on behalf of the licensing authority acting as a Responsible Authority			All cases
Determination of a police objection to a temporary event notice		All cases	





LICENSING COMMITTEE

4th November 2015



Report of: Director of Public Health

Subject: WHEELCHAIR ACCESSIBLE VEHICLES

1. PURPOSE OF REPORT

- 1.1 To inform Members of the options available for funding of wheelchair accessible hackney carriage and private hire vehicles.

2. BACKGROUND

- 2.1 At its meeting on 19th August 2015 the licensing committee was advised of the low numbers of wheelchair accessible hackney carriages and private hire vehicles currently licensed by the Council and was asked for approval to amend the current Taxi Licensing Policy so as to allow cheaper rear loading vehicles to be licensable.
- 2.2 Members were advised that the cost of purchasing and maintaining such specialist vehicles was much higher than standard saloons and that these additional costs could not be recovered directly from wheelchair users because, to do so, would be discriminatory and unlawful.
- 2.3 Members approved an amendment of the Council's Taxi Licensing Policy so as to allow cheaper rear loading vehicles to be licensed but asked that a further report be brought to the committee detailing what options were available to support the provision of wheelchair accessible vehicles.

3. ISSUES FOR CONSIDERATION

- 3.1 Meetings have been held with the Council's Passenger Transport Team and representatives of the taxi trade.
- 3.2 It is apparent from the taxi trade that wheelchair accessible vehicles are not frequently purchased, or operated, both because of the expense of buying

and maintaining them but also that undertaking wheelchair bookings takes longer than non-wheelchair jobs but for no additional income.

- 3.3 Drivers advised that time is lost through the additional loading and unloading required but also that they are required to travel longer distances to pick up their fare. This is because wheelchair jobs are relatively infrequent and it would be most unlikely that dropping one passenger off at a location would be followed by another passenger wanting a lift in the opposite direction.
- 3.4 Time spent travelling to a location to collect a passenger is unproductive time for taxi drivers as they prefer to have fare paying passengers in the vehicle as often as possible.
- 3.5 It was clear from speaking to the taxi representatives that financial assistance to purchase wheelchair accessible vehicles would not, in itself, be sufficient to bring about any significant increase in their numbers.
- 3.6 This is because most drivers would still be reluctant to drive such vehicles due to the fact that they could generate more fares per hour by carrying out non-wheelchair jobs.
- 3.7 It was therefore thought that the most likely incentive to promote the purchase and use of wheelchair accessible vehicles was if the driver was able to charge a higher fare for such work.
- 3.8 As the Equality Act prevents disabled passengers from being charged a higher fare than non-disabled passengers any additional payment to a driver would have to be paid by someone other than the passenger.
- 3.9 Whilst the actual mechanism for the payment of an additional charge has not been discussed in detail the main issue is, of course, where any additional funding would come from.
- 3.10 The additional charge to be paid to a driver to carryout wheelchair bookings must be significant enough to cover any potential 'loss' of income from other, more profitable jobs, and the higher costs of purchasing and maintaining the vehicle. £2 per journey was considered to be the lowest possible figure that may achieve the aims required.
- 3.11 It is anticipated that there may be 8000 wheelchair bookings per year but this figure is an estimate based on very limited data.
- 3.12 The payment of a £2 additional charge to a driver undertaking a wheelchair booking would therefore equate to an annual cost of £16,000 but, as stated earlier, this is an estimate based on very limited data.
- 3.13 If a commitment was made to the taxi trade to pay them £2 per wheelchair journey and the actual number was far greater than the estimated 8000 per year, the additional payments would still have to be made. The final cost could therefore be greater, or far greater, than £16,000 per annum.

- 3.14 Members will also appreciate that a scheme to incentivise the purchase of expensive purpose built vehicles will only succeed if the additional payments are guaranteed for a reasonable period of time in order for costs to be recovered. Drivers will not make long term commitments based on the promise of only one year's additional funding.
- 3.15 If a funding source was to be identified it would therefore be essential for a commitment to be made that funding was guaranteed for at least a three or five year period.
- 3.16 Licensing income cannot be used to subsidise passenger transport and the Passenger Transport Team has not been able to identify a sustainable fund.
- 3.17 In the current economic climate it is highly unlikely that any funding stream could be identified that could guarantee £16,000 - £20,000 per year for three to five years for a non-statutory initiative.

4. RECOMMENDATIONS

- 4.1 That Members note the contents of this report.

5. BACKGROUND PAPERS

- 5.1 Licensing Committee report and Minutes – 17th June 2015

6. CONTACT OFFICER

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