

AGENDA

LICENSING COMMITTEE MEETING



Date: Thursday 26 November 2015

Time: 6.30 pm

Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Mrs Blackmore, Greer, Mrs Grigg,
Mrs Hinder (Chairman), Mrs Joy (Vice-
Chairman), McLoughlin, B Mortimer,
Naghi, Newton, Mrs Parvin,
Mrs Robertson and Springett

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1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Disclosures by Members and Officers
5. Disclosures of Lobbying

Continued Over/:

Issued on Wednesday 18 November 2015

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**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone Kent ME15 6JQ**

6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
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9. Report of the Head of Housing and Community Services - Street Trading Consent – Mr David Bolesworth 20 - 58
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MAIDSTONE BOROUGH COUNCIL

Licensing Committee

MINUTES OF THE MEETING HELD ON THURSDAY 24 SEPTEMBER 2015

Present: Councillor Mrs Hinder (Chairman), and
Councillors Mrs Blackmore, Daley, Greer, Mrs Hinder,
Mrs Joy, McLoughlin, Naghi, Newton, Mrs Robertson,
Springett and Vizzard

Also Present: Councillor Sargeant

45. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Grigg, Mortimer and Parvin.

46. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor Daley for Councillor Grigg

Councillor Vizzard for Councillor B. Mortimer

47. NOTIFICATION OF VISITING MEMBERS

It was noted that Councillor Sargeant was in attendance as an observer.

48. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures from Members or Officers.

49. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

50. TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE
BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION.

RESOLVED: That all items on the agenda be taken in public as proposed.

51. MINUTES OF THE MEETING HELD ON 11 JUNE 2015

RESOLVED: That the Minutes of the Meeting held on 11 June 2015 be approved as a correct record and signed.

52. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - STREET COLLECTION POLICY

John Littlemore, the Head of Housing and Community Services, presented the Street Collection Policy. It was explained that Members had felt the previous policy was insufficient, and as Tunbridge Wells BC had conducted a review on this area Maidstone BC was able to draw upon this information.

- In response to questions Members heard that the use of the term 'location' in the Policy does not specify the size of the area in which street collection can take place, as this is arranged on a case by case basis.
- A list of three local events had been included in the previous Policy which prioritised street collection by local charities for the duration of those events. These had been omitted in the new Policy as the events had not been scheduled to take place in future years but could apply as they were confirmed.

It was moved and seconded that the weekend that had formerly been reserved for street collections by local charities during the River Festival continue to be reserved and that this be stated in the Street Collection Policy.

For – 2 Against – 5 Abstain - 3

It was moved, seconded and:

RESOLVED:

That the Street Collection Policy attached at Appendix B to the report of the Head of Housing and Community Services be approved, with authority delegated to the Head of Housing and Communities to make minor amendments.

For – 9 Against – 1 Abstain – 1

53. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - TAXI RANK UPDATE REPORT

The Head of Housing and Community Services, John Littlemore, presented an update on the progress of the review of taxi ranks throughout the Borough.

The Committee heard that the Parking Services Manager had advised against implementing a taxi rank in Gabriel's Hill due to its proximity to the junction, obscuring sightlines, and obstructing the emergency access.

It was moved, seconded and:

RESOLVED: That the recommendation listed at paragraph 2.3 of the report of the Head of Housing and Communities to undertake further consultation be agreed.

For – 11 Against – 0 Abstain – 0

54. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - MBC STATEMENT OF GAMBLING POLICY 2016 -2019

The Head of Housing and Community Services, John Littlemore, introduced the Draft Statement of Gambling Policy 2016-2019 and explained that, whilst the current policy was due to expire at the end of the year, new guidance was to be published imminently and therefore major changes would be deferred until guidance was released.

The Committee was advised that the policy had been amended on pages 48 and 49 to reflect updated information on demographics. Members drew attention to the inclusion in the Policy of names of former Officers who were no longer employed by Maidstone BC.

RESOLVED:

1. That the draft Statement of Gambling Policy attached at Appendix A to the report of the Head of Housing and Community Services be approved.
2. That delegated authority be granted to the Head of Housing and Community Services to make minor amendments to the Policy.

For – 9 Against – 0 Abstain – 0

55. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - DRAFT TAXI LICENSING POLICY FOR ADOPTION

The Head of Housing and Community Services presented the draft Taxi and Private Hire Licensing Policy and explained that the Policy had been out to consultation, with specific issues for consideration and remarks from consultees included in the report under paragraph 2.4.

The Committee noted that Mr Neil Cox, a representative of the Maidstone Hackney Carriage Trade and one of the consultees to the Policy, was in attendance.

It was moved, seconded and:

RESOLVED:

That Mr Neil Cox be invited to address the Committee on the draft Taxi and Private Hire Licensing Policy.

For – 11 Against – 0 Abstain – 0

Mr Cox explained that there was industry consensus with the majority of the Policy, but expanded upon some of the consultation responses as follows:

- There was concern that removing the age restriction for private hire vehicles would undermine environmental efficiency, however it was suggested that a restriction on mileage may be more appropriate.
- Some models of hackney carriage were more wheelchair accessible than others, and focus should be given to this issue.
- Vehicle testing was currently undertaken only at one garage, which could be inconvenient for drivers.

The Committee discussed the proposal that proof of medical would be accepted on production of a Group 2 medical certificate of not less than 6 months old. In response to questions Members heard that the Group 2 Certificate was valid indefinitely.

It was moved, seconded and:

RESOLVED:

That the draft Taxi Licensing Policy be amended to state that proof of medical would be accepted on production of a Group 2 medical certificate of not less than 12 months old.

For – 11 Against – 0 Abstain – 0

RESOLVED:

That the proposal for drivers with insulin dependent diabetes to be licensed at C1 standard be approved for inclusion in the draft Taxi and Private Hire Licensing Policy.

For – 11 Against – 0 Abstain – 0

RESOLVED:

That the revised wording as set out on page 90 of the report of the Head of Housing and Community Services relating to the new drivers knowledge test be approved for inclusion in the draft Taxi and Private Hire Licensing Policy.

For – 11 Against – 0 Abstain – 0

RESOLVED: That 'Private hire and Hackney Carriages should not have more than 30,000 miles on the clock or be older than 3 years at first licensing, all vehicles should cease to be licensed at 200,000 miles' be added to the draft Taxi and Private Hire Licensing Policy.

For – 11 Against – 0 Abstain - 0

Councillors further discussed the matter of age and mileage restrictions for vehicles at first licensing, and the following points were made among others:

- Drivers may find it difficult to comply unless a lead in time was provided.
- A restriction on mileage would be difficult to enforce as vehicles were licensed on an annual basis, and hypothetically the restriction could be breached mid journey.
- Adding a restriction to the mileage of cars at first licensing would require a change to process across the board, and would mean that Maidstone BC used different processes to its licensing partners.

Considered more fully, the Committee agreed that the decision made was not a workable solution. It was therefore moved, seconded and:

RESOLVED: That the draft Taxi and Private Hire Licensing Policy be amended to read 'Private hire and Hackney Carriages should not have more than 30,000 miles on the clock or be older than 3 years at first licensing'.

For – 11 Against – 0 Abstain – 0

RESOLVED: That the draft Taxi and Private Hire Licensing Policy include reference to allowing a wider selection of wheelchair accessible vehicles.

For – 11 Against – 0 Abstain – 0

The Head of Housing and Community Services advised that officers would be instructed to confirm the industry standard for wheelchair accessible Hackney Carriages.

RESOLVED: That a second garage to be used for vehicle testing be identified by Officers.

For – 11 Against – 0 Abstain – 0

RESOLVED: That provision be made in the draft Taxi and Private Hire Licensing Policy to discourage drivers from leaving their engines running whilst waiting for fares.

For – 11 Against – 0 Abstain – 0

RESOLVED: That the proposed new system of penalty points be included as proposed in the draft Taxi and Private Hire Licensing Policy.

For – 11 Against – 0 Abstain – 0

RESOLVED: That drivers who accrue seven points on their driving license under the criminal system be referred to the Committee.

For – 11 Against – 0 Abstain – 0

The Committee considered the drivers voluntary dress code. It was moved and seconded that the wearing of baseball caps be deemed unacceptable in the drivers voluntary dress code.

For – 5 Against – 6 Abstain - 0

The proposal was not agreed.

56. DURATION OF MEETING

6.32 p.m. to 8.46 p.m.

MAIDSTONE BOROUGH COUNCIL

Licensing Committee

MINUTES OF THE MEETING HELD ON MONDAY 19 OCTOBER 2015

Present: Councillor Mrs Hinder (Chairman), and Councillors Mrs Blackmore, Greer, Mrs Grigg, Mrs Joy, Naghi, Newton, Mrs Ring, Mrs Robertson, Springett and Vizzard

57. APOLOGIES FOR ABSENCE

Apologies for absence were received from:

- Councillor McLoughlin
- Councillor B Mortimer
- Councillor Mrs Parvin

58. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

- Councillor Ring for Councillor Mrs Parvin
- Councillor Vizzard for Councillor B Mortimer

59. NOTIFICATION OF VISITING MEMBERS

There were no visiting members.

60. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Naghi declared he had visited the premises the subject of the hearing in the past but had not discussed this application with anyone.

61. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

62. TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION.

RESOLVED: That the items on the agenda be taken in public as proposed.

63. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SCHEDULE 3 – APPLICATION FOR SEX ESTABLISHMENT LICENCE – FOR PLAYERS, GENTLEMENS’ CLUB, 57 HIGH STREET, MAIDSTONE, KENT,

The Chairman requested those persons participating in the hearing to identify themselves. Those present included:

- Members of the Committee as listed
- Jayne Bolas, Legal Advisor, Mid Kent Legal Services
- John Littlemore, Head of Housing and Community Services
- Tessa Ware, Democratic Services Officer
- Stephen Thomas, Legal Representative for the Applicant
- Emma Sexton, the Applicant
- Benjamin Williams, Assistant Manager, Players Gentlemen's Club
- Kimberley Jones, House Mother, Players Gentlemen's Club
- Sara Alam, Objector
- Carlos Aguilar, Objector's companion
- Josh Couper, Kent Messenger

The Chairman directed those present to the procedure for the Hearing laid out on pages 91 and 92 of the agenda papers.

The Chairman explained, two sets of supporting information had been received since the publication of the agenda on 8 October 2015. One from the solicitors for the Applicant, distributed to Members via email on 13 October 2015. The second from the Objector, received the on afternoon of 19 October 2015, yet to be circulated to Committee Members.

The Council's Legal Advisor referred to paragraph 11.6 of the Council's policy in respect of the Licensing of Sex Shops, Sex Cinemas and Sexual Entertainment Venues. She advised the Committee they could use their discretion when deciding whether to accept these documents.

The Committee was also informed they could adjourn the hearing for a short period of time to read the representations or they could adjourn the hearing to a future date or they could refuse to take the representations and continue with the hearing.

Both Applicant and the Objector confirmed they were happy for the Committee to accept both representations and for the Committee to adjourn for a short period to read them and then reconvene the hearing, neither preferred a future date.

RESOLVED: That the Committee adjourn from 6:11pm to 6:30pm in order to read the representations received from both the Applicant and the Objector.

The Hearing reconvened at 6:33pm.

The Head of Housing and Community Services presented his report and drew the Committee's attention to the licensing history of the venue. He pointed out that the licence for a Sexual Entertainment Venue in respect of Players, 57 High Street, Maidstone, had been transferred to Emma Sexton from James Pemble at the Licensing Committee meeting on 11 June 2015. The Committee was reminded this hearing was for the

renewal application for this licence, received on 16 April 2015, from Emma Sexton.

The Head of Housing and Community confirmed there was one objector, who was present. He went on to confirm that the Committee should consider the Mandatory and Discretionary grounds listed on page 4 of the agenda when reaching their decision.

He went on to point out the following:

- Mandatory, point 2.12 of the report - none applied to this application;
- Discretionary, point 2.3 of the report, of which:
 - a), b) and d)iii – were not engaged in the case of this application there being no evidence that they applied and they had not been raised by the objector;
 - c) and f) i and ii were engaged relating to the number of premises, if any considered to be appropriate for the locality and whether grant of renewal would be appropriate to the character of the locality or the use to which any premises in the vicinity are put.

The Committee was reminded they were not considering the number of Sexual Entertainment Venues (SEVs) in the Borough or the issue of a nil policy, raised by the objector, this evening. When the current policy was adopted in March 2011 it was agreed not to set a limit or a nil policy for SEVs because each case had to be considered on its merits at the time of the application in any event. If the policy was to be changed any proposal would need to go out to consultation, and following consideration of any responses amendments adopted.

The Committee's attention was drawn to their options when making their decision on page 13 of the agenda, point 3.

The Head of Housing and Community Services ran through the procedure for the hearing and explained the Committee would make the decision at this meeting and the reasons for their decision would be published within seven days of the meeting.

The Chairman invited the Applicant to address the Committee.

Mr Stephen Thomas, legal representative for Players, addressed the hearing and asked that the licence application for Players be considered on its own merits. He explained the negative statements received from the Objector regarding SEVs did not apply to Players. The Police had described the venue as one of the safest, quiet and well run venues of this kind they knew of.

Mr Thomas went on to explain the venue was first granted a SEV licence, unopposed, in 2011. The licence was renewed in 2013. Following hearing

numerous objections it was approved and considered to be in a suitable area with mixed use retail and commercial units where there could be one premises as appropriate. It contributed to the diverse night time economy of the town and had been well run by Ms Sexton, who was House Mother before becoming the licensee in April 2015.

Ms Sexton explained the role of House Mother was to provide support for the dancers, independent from the venue's management, and to help protect the welfare of the dancers.

Ms Sexton went on to explain the Players rules published with the agenda were out of date. The pole for pole dancing had been removed and it was never the case that dancers were fined for not dancing on the pole. She did confirm that dancers were fined for lateness if it became a regular occurrence or they were particularly late. Ms Sexton said she felt the objections raised regarding the renewal of the licence demonstrated the Objector misunderstood how the venue was run. She went on to explain that dancers paid £40 to the venue for performing or 25% of their nightly earnings, whichever was greater. Average nightly earnings for a dancer were around £400-£600, the club could earn just £400 from dancers on a typical Saturday night when 10 dancers were working.

Mr Thomas explained the rules included in the papers were approved by the Council when the licence was last renewed and were provided for best practice, but stated he and his client understood the concerns raised.

Mr Thomas went on to explain the dancers were self-employed and if the licence was not renewed they would lose their income. Mr Thomas and his clients were happy to discuss and clarify any of the points raised by the Objector.

Mr Thomas told the Committee when Ms Sexton received the agenda papers for the Hearing she contacted all the businesses in the area which were open the same hours as Players. Virtually all had written in support of the licence renewal as a result of this contact.

Mr Thomas described Players as a fun night out with clientele which varied from individual men and groups of men, to couples and groups of women. He went on to state the letter of objection demonstrated a substantial misunderstanding of the nature of the business. Mr Thomas pointed out the letters of support from some of the dancers describing their reasons for working as a dancer and how they felt about working at the venue. Mr Thomas explained there were many more letters of support from other dancers but it was decided to just submit a few as an example to avoid repetition.

Mr Thomas said he and his clients were more than happy to meet with the Objector to discuss her experiences when walking past the venue. Her experience was unacceptable and any clients or door staff found behaving in this manner would be barred from the venue. He went on to say this was the one and only time he and his clients were aware of this happening.

Mr Thomas introduced Ms Jones, Dance House Mother and dancer at Players who then went on to explain her role. She explained she and the other dancers found the objection distressing to read. She explained the dancers were independent women who were in control of what they did and did it through choice in a well supported environment.

Ms Sexton confirmed that the venue ran CCTV in every area of the club including the public and private areas. There were 12 to 13 monitors which were monitored by trained security staff at all times.

Ms Sexton went on to explain that only two girls were permitted in the smoking area at one time for safety purposes and to avoid any unnecessary contact with customers.

Mr Thomas summed up by saying the venue attracted a mix of customers in an area of mixed businesses on the peripheral of the town centre. The business was quiet and did not cause any nuisance and asked the Committee to adopt the recommendation to grant the renewed licence.

The Chairman asked if the Objector had any questions for the Applicant.

In response to questions by the Objector Mr Thomas stated the actions of the previous licensee were nothing to do with Ms Sexton and it would be wrong to hold Ms Sexton or the venue responsible for the actions of a third party.

Ms Jones was asked why it was necessary to have a House Mother. In response Ms Jones explained the role and also explained venues such as Players was traditionally run by a male manager. The House Mother role provided an element of independence from the management which focussed on the dancers' welfare.

In response to further questions, from the Objector, Ms Jones re-iterated the Players House rules included in the agenda papers were in need of updating. She went on to explain that dancers were not allowed to bring alcohol onto the premises and were allowed to have a maximum of two alcoholic drinks while on duty. However, most dancers only drank soft drinks.

The Chairman invited questions from Members of the Committee.

Ms Sexton responded to questions by stating the fines outlined in the House Rules and Private Dance Rules provided in the papers were very rarely given out to the dancers. There would be a fine given to a dancer who was extremely or continuously late, but normally nothing else.

Mr Thomas stated that the dancers were self-employed and as such were responsible for their own tax and National Insurance. This is not something Players would be involved in.

Ms Sexton informed the Committee that Players had its own Public Liability Insurance and dancers were responsible for organising and paying for their own self-employed related insurances.

Mr Williams, Assistant Manager at Players, confirmed that all CCTV records are timed and dated. He stated that legally Players were required to keep all CCTV records for 30 days, but they were able to keep them for up to 90 days.

Mr Williams confirmed that during week nights there are usually around 70 customers through the door. At weekends there could be anything up to 150 customers but not all at the same time.

Mr Williams stated he attended meetings with the Police every three weeks and no issues of concern had been raised.

Ms Sexton explained a misunderstanding on page 5 of the Objectors representation. She confirmed there is CCTV in all areas of the venue including the upstairs room. The red light, referred to being outside of the upstairs room, was switched on when there are six people in the room. No further dancers are permitted to enter because the CCTV could not pick up any more than six people at a time in this room.

Ms Sexton stated that all dancers were aged over 18. At the present time one dancer was aged 18. Customers also have to be over the age of 18 to enter the venue.

Ms Sexton stated that there had been no fire inspection in the last nine months, but they had their own fire risk assessment and Maidstone Borough Council Licencing Department had last visited on the evening of 17 October 2015.

The Chairman invited Ms Sara Alam, the Objector to address the Committee.

Ms Alam explained she had objected to the renewal of the licence because every time she had walked past the venue she had been leered and jeered at by men outside. She explained this had happened to her in other places, but never more so than outside this venue.

Ms Alam stated that women should be able to walk past venues such as this without being harassed. Venues such as this encouraged sexual harassment.

Ms Alam informed the Committee she felt that sexual harassment was so much a part of our every-day life, when she saw the Licence Renewal Notice outside the venue, she saw this as her opportunity to do something about it.

The Chairman invited the Applicant to question the Objector.

Mr Thomas stated that he and his clients wanted to deal with the issues raised by Ms Alam and urged her to contact them if she ever experienced harassment outside the venue again. It should not be a normal part of daily life. It would be dealt with by his clients. Customers caught harassing anyone outside of the venue would be banned and staff caught doing it would be dismissed. The Objector confirmed that she would make contact if she experienced further problems. She said that she had not reported the matter to the Police as she felt it was such a part of everyday life it would not be dealt with.

The chairman invited the Committee Members to ask the Objector questions.

Ms Alam responded to questions by stating the harassment had been in the form of shouting, whistling and intimidating behaviour. She had not reported it to the Police as she had felt it would be a waste of time. She stated she should not have to cross the road or change her route to avoid being harassed.

Ms Alam explained she had based her objection statement on the information set out in the agenda papers, her own personal experience and studies of sexual abuse and exploitation. It had been established this evening that the House Rules provided in the papers were out of date and were in need of updating.

Ms Alam told the Committee she had experienced the harassment when she had walked past on her way out in the evening between 8pm and 10pm and on her way home between 12 midnight and 2am. She was mainly on her own at these times. She said she saw not noticed anyone who looked like door security outside of the venue during these times.

The Chairman asked if anyone had any further questions.

In response to a question from a Committee Member Ms Sexton confirmed the venue had no female door security staff but this would be something they would consider for the future.

In response to a further question Mr Williams confirmed there were three door security staff on duty during week night opening and four during weekends. He confirmed that all door staff were Security Industry Authority (SIA) trained by external trainers.

The Council's Legal representative set out the legal advice which clarified the discretionary grounds for refusal of the licence (c) and explained that there could be a decision for nil SEVs appropriate in a locality, but nil SEVs borough wide would need to be consulted on to change the existing policy. She went on to explain that each application should be judged on its own merits. Even if the policy did advocate nil SEVs throughout the borough, the Committee would still have to consider each application on its own merits. The Committee was reminded that this licence had been renewed before, but the Committee did not have to renew it again. However, they would need to have a good reason, not necessarily a change in

circumstances, for a refusal. The Committee would need to consider the locality of the SEV, its character and how many other SEVs were in the locality (if any) and whether granting the licence renewal would be appropriate.

The Chairman asked all to leave the hearing, with the exception of the Committee and their legal representative in order for them to make their deliberations.

The Chairman confirmed that a decision would be made at this meeting and the reasons for the decision would be published within seven days.

RESOLVED:

That the Committee decided the application made by Ms. Emma Louise Sexton, on 16, April 2015, for renewal of a sexual entertainment venue licence for premises at 57, High Street, Maidstone, under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, would be granted on the existing terms and conditions together with additional conditions.

That the Policy remain as it is without predetermining localities and numbers of Sexual Entertainment Venues.

The full decision notice published within seven days of the meeting is attached.

**MAIDSTONE BOROUGH COUNCIL
LICENSING COMMITTEE
19, October 2015.**

Decision on Application for Renewal of a Sexual Entertainment Venue Licence – Players, 57, High Street, Maidstone. (Local Government (Miscellaneous Provisions) Act 1982, Schedule 3.

The Committee decided that the application made by Ms. Emma Louise Sexton, on 16, April 2015, for renewal of a sexual entertainment venue licence for premises at 57, High Street, Maidstone, under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, would be granted on the existing terms and conditions together with additional conditions.

The Committee considered; the report and oral presentation of the Head of Housing and Community Services, the application and all accompanying documents provided by the applicant, the submissions by Mr. Thomas solicitor for the applicant and the evidence of his witnesses; Ms. Sexton, Ms. Jones and Mr. Williams, the objection of Ms Alam at page 36, Appendix C of the agenda and supporting documents dated 19, October 2015 together with her submission at the hearing.

Members found that the nature and content of the relevant entertainment proposed was, lap dancing, performances of dance in a dance area and striptease. The hours applied for were Monday to Sunday 20:30 to 02:00 the following day and New Years Eve 20:30– 03:00.

In considering their decision Members considered the statutory grounds for refusal of such applications and all other relevant considerations:-

MANDATORY GROUNDS

There was found to be no evidence that any of the mandatory grounds under Schedule 3, paragraph (1) were engaged and none were raised by the Police or objector.

DISCRETIONARY GROUNDS

SUITABILITY OF APPLICANT ETC. AND LAYOUT ETC. OF PREMISES.

No evidence was found to be relevant to engagement of discretionary grounds for refusal in Schedule 3, paragraph 12(3) (a), (b) and d) (iii) and they were not raised by the objector. In relation to (a), the evidence available indicated that the applicant managed the premises well and had not caused issue to the licensing department, there were no Police observations.

THE RELEVANT LOCALITY

The objector referred to the premises as central to Maidstone, in a very prominent position and in the Borough's High Street. She referred to The

locality being characterised by proximity to Jubilee Square with its use for civic and community events and nearby restaurants, cafes and a youth club, and being on a main access route for buses and to regeneration of the High Street.

The applicant submitted that the premises were in the relevant locality decided on the original grant of this licence, with a determination of one SEV as appropriate for that locality, in relation to the specific location of the site and specific operation. The premises were referred to as being at the far end of the High Street and not being at the heart of the town centre. The applicant characterised the locality as predominantly a mixed use area of retail and commercial and different in the daytime to night time. The people using the thoroughfare of the High Street when the premises are open using the night time economy and the premises contributing to the diverse night time economy of Maidstone.

Although Members noted their previous decisions in respect of this premises they nonetheless considered that each application is to be decided on its own merits and at the time it was being heard. Accordingly Members took the view that it was necessary to consider the relevant locality afresh.

Members found that the relevant locality is the High Street area between Mill Street and the bridge area, (Bishops Way/Fairmeadow). This being characterised by being predominantly commercial mixed uses, retail during the day and other commercial, including various licensed uses at the time this premises is open none of which are particularly sensitive in nature. At this time there have been no significant changes of character since their last decision and they note that phase II of the High Street regeneration project was completed in October 2013.

CHARACTER OF THE RELEVANT LOCALITY

Members further considered the character of the relevant locality finding it to be characterised by being predominantly commercial mixed uses, retail during the day and other commercial uses, including various licensed uses at the time this premises is open, none of which are particularly sensitive in nature. At this time there have been no significant changes of character since their last decision and they note that phase II of the High Street regeneration project was completed in October 2013. It is a thoroughfare during the day but at night in this locality it is mainly a thoroughfare for bars and nightclubs and other entertainment for adults, not frequented by children. At this time there have been no significant changes since their last decision but they note that phase II of the High Street regeneration project was completed in October 2013.

An SEV of the type applied for, with an entrance on the highway, would not be inappropriate in this locality out of the heart of the town and of this character. Impact in this particular location, for this operation, together with a commencement hour of 20:30 and little signage would be minimal and not such as to render renewal of the licence inappropriate.

Members sought to carefully limit their consideration to those representations and submissions that directly assisted in the determination of the character of the relevant locality and placed to one side any that were based on matters irrelevant to the statutory grounds engaged.

Members also considered submission that sexual harassment and exploitation and trafficking generally would increase but did not find they had sufficient evidence to support this view, relating to this application and its specific facts independent of perception of increased issues attributable to premises of this type.

However, Members were concerned by the objector's evidence that she had experienced harassment when passing the premises, by way of shouting and jeering, from persons queuing to enter or leaving the premises, on 6 to 7 occasions in the last year. Any such harassment is not considered acceptable behaviour and not condoned at a licensed sexual entertainment venue premises. Whilst not doubting the objector's account Members had no other evidence over the period of the licence for this premises, no Police observations, or complaints to the council or the Police or reports from CCTV indicating the premises as a source of harassment. There are also other night time economy premises in the locality.

The applicant confirmed that she had no knowledge of any such issues and had received no complaints of such behaviour. She would deal with any such complaints robustly and any customer of the premises found to be involved in harassment of anyone in the immediate vicinity of the premises would not have such behaviour tolerated and would be barred from future access to the premises. The applicant also confirmed that contact details, would be provided to the objector, for premises management and their solicitor to provide a mechanism for reporting any issue for investigation by them and any report would be taken seriously.

USE OF PREMISES IN THE VICINITY

Consideration was then given to the vicinity of the premises and it was found that this was a smaller area than relevant locality, being the more immediate area around the premises at the far end of the lower High Street, (Mill Street to the bridge area). The SEV was not considered to be inappropriate to the vicinity at this time. It was noted that phase II of the High Street had been completed in this locality.

Members also considered information in the report about the proximity of, places of worship, schools and other recreational spaces including Jubilee Square but these did not fall within what members considered to be the vicinity of the proposed SEV, being some distance away and unlikely to be directly affected, particularly during the times the premises would be open.

NUMBER OF SEVs APPROPRIATE TO THE RELEVANT LOCALITY

Members, having found that the relevant locality is the High Street area between Mill Street and the bridge area, (Bishops Way/Fairmeadow) then went on to consider what is the number, if any, of appropriate sex establishments in the relevant locality. Members considered specifically whether a sex establishment of the type applied for is appropriate to the relevant locality. The number of SEVs considered appropriate for this locality is one. Members were of the view that one SEV for this locality would be appropriate, at this time, as it was not in the heart of the town centre and there have been no significant changes to the character of the area. No more than one such premise would be appropriate as the locality should not be an area with a concentration of such premises which could have an impact collectively that one would not have alone. They did feel that the current premises had minimal impact on the locality and its current character, as evidenced by their own knowledge and letters from businesses supplied by the applicant.

OTHER CONSIDERATIONS

Human rights issues were considered and the rights of the licence holder as against the objector and the general public interest. Whilst members did not give great weight to the rights of the licence holder as these may be interfered with in the public interest and as allowed by law they did not feel that the public interest generally required refusal of a licence renewal at this time, for all the reasons given.

Members had regard to their public sector equality duty under s149 of the Equality Act 2010 and the need to eliminate sexual harassment and advance equal opportunity between the sexes. Members felt that attaching additional conditions to the renewed licence was appropriate and proportionate to protect those in the immediate vicinity of the premises from any harassment and protect equal use of the area.

Members did not feel it necessary to give consideration to employment issues and effects on employees to reach their decision.

CONCLUSION

FOR ALL THESE REASONS THE APPLICATION WAS GRANTED ON THE TERMS AND CONDITIONS APPLIED FOR WITH ADDITIONAL CONDITIONS SET OUT BELOW.

ADDITIONAL CONDITIONS.

- All premises rules documents must be reviewed and updated to correctly reflect current practice, for example removal of reference to pole shows and dancers being involved in promotions as referred to at the hearing. The revised documents should be submitted, within 28 days of the date of issue of this licence, to the Head of Housing and Community Services to confirm approval and form part of the premises information. Any notices displaying these

documents on the premises or handed to employees should be amended within 7 days of the date of confirmed approval.

- A sign shall be placed in a prominent place at each exit from the premises, where it can be easily read, stating that customers are reminded to leave quietly and consider the impact of their behaviour on those in the locality.
- All current and any new door staff shall be specifically advised by management of the premises that those customers awaiting entry to and leaving the premises should be encouraged to behave appropriately and under no circumstances to harass those in the vicinity. Harassment is not to be tolerated.
- A member of door staff at the entrance/exit must have clear sight of the outside of the premises at all times when there is a queue outside or persons leaving the premises.

Members' reason for the additional conditions is to ensure customers enter and leave the premises responsibly and provide appropriate and proportionate protection from any risk of harassment to those in the immediate vicinity arising from the premises.

INFORMATIVE.

The licence holder should consider whether some use of female door staff would encourage the maintenance of appropriate behaviour in the immediate vicinity of the premises should harassment be found.

64. DURATION OF MEETING

6:00pm to 8:30pm

Agenda Item 9

Licensing Committee

**26 November
2015**

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Street Trading Consent – Mr David Bolesworth

Final Decision-Maker	Licensing Committee
Head of Service	John Littlemore
Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	High Street

This report makes the following recommendations to the final decision-maker:

1. That Members give consideration to the letter from Mr Bolesworth, asking for variation of the terms of his current street trading consent by the addition of types of goods.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Timetable

Meeting	Date
Policy and Resources Committee	N/A
Council	N/A
Other Committee	N/A

Street Trading Consent – Mr David Bolesworth

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 That Members give consideration to the application for additional goods to be added to the existing street trading consent held by Mr D Bolesworth taking into account the consultation representations

2. INTRODUCTION AND BACKGROUND

- 2.1 On the 27 August 2015 a letter was received from Mr David Bolesworth (Appendix A) requesting additional goods be added to their existing consent LN/000005332 (Appendix B) which is valid from 1 April 2015 to 31 March 2016
- 2.2 The consent currently allows for the sale of whippy Ice cream and slush puppies. The additional requested goods are for sausages and hot drinks, in order to allow Mr Bolesworth to trade throughout the year and not be restricted by the seasons.
- 2.3 The usual consultation for the additional items took place for 14 days from 3 September until 17 September 2015 responses were received from the following raising no objections :-

Development Control Planning
Kent Highways
Kent Police
Environmental Health
Town Centre Management
- 2.4 Three representations were received from Gourmet Street Food, Environmental Health Enforcement and Fremlin Walk Centre (Appendix C)
- 2.5 Other businesses/people consulted and no objections received were:-

W H Smith – Week Street
Marks & Spencers – Week Street
Fruit Stall – Junction of Earl/Week Street
Ann Summers – Week Street
Bills – Week Street
Beaverbrooks - Junction of Fremlin Walk/Week Street
Gourmet Street Foods – Stall in Fremlin Walk
Fraser Hart - Junction of Fremlin Walk/Earl Street/Week Street
Carphone Warehouse – Week Street
Mr Bean Coffee House – Week Street
Living Café – Earl Street
Councillor English - Ward Member
Councillor Mrs Wilson - Ward Member

Councillor Mrs Joy- Ward Member

- 2.6 The objection from the Gourmet Street food company was received on 4 September 2015, their main concern is that this would be direct competition for them and they believe that the smell from onions if they are cooked as part of the operation would be an issue. It would be inconsistent to allow frankfurters and sausages which were not permitted for their stall. The objection from Environmental Enforcement was received on 15 September 2015 this refers back to complaints about smells received in 2009 when the stall had consent to sell hotdogs. The objection from Fremlin Walk Centre was received on 16 September 2015 they also believe it to be in direct competition with a traders providing similar products at Fremlin walk.
- 2.7 On the 17 September 2015, the Head of Housing and Community Services wrote to Mr Bolesworth (Appendix D) informing him that he was unable to determine the application due to the objections received and informed him of his right to be heard by Committee if he wished to do so. In a letter from Mr Bolesworth (Appendix E) received on 5 October 2015 he has confirmed that he wishes for the matter to come before the Committee.
- 2.8 Mr Bolesworth has previously operated a hot dog stall at this site and the history of that operation is as follows:-

In June 2008 Mr D Richardson applied for a street trading consent to sell hot dogs from the site as specified for the current application. No objections were received and the consent was granted for the duration 22 July 2008 – 21 July 2009. During the period of July – December 2008 complaints were received regarding smells from the stall and so the Environmental Health Department monitored the situation and the matter was reviewed at Licensing Committee on 5 March 2009, where it was decided to allow the consent to continue until its expiry on 21 July 2009. Environmental Health was asked to continue monitoring the site and that the matter goes back to Licensing Committee at renewal whether objections were received or not. Environmental Health was asked to provide a report and attend at that meeting.

On 26 June 2009, the renewal application for the hot dog stall was received and the matter went to Licensing Committee on 16 July 2009 where the grant was refused on the grounds that the hot dog stand “detracts from the overall shopping purpose of the area and experience for all of the Town Centre as a whole and should not continue”

On 5 April 2012, Mr D Bolesworth applied for a street trading consent to sell hot dogs from the same site. Objections were received and the matter went to Licensing Committee on 16 October 2012, where the decision to grant was refused on the grounds “that street trading of the nature applied for at this location would be inappropriate as it would detract from the general ambience and openness for pedestrians of one of the busiest areas of the town centre as a shopping experience, by the barrow and its customers”.

3. AVAILABLE OPTIONS

- 3.1 To grant the consent
 - 3.2 To grant the consent with additional/specific conditions attached
 - 3.3 To refuse grant
-

4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The application for consent should be determined as to fail to do so would not meet legal requirements and could be challenged.
-

5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 14 day consultation with all relevant parties and local business for the additional items took place from 3 September until 17 September 2015 in accordance with MBC Policy on Street Trading and three representations were received as a result of that consultation.
-

6 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities		[Head of Service or Manager]
Risk Management		[Head of Service or Manager]
Financial	None	[Section 151 Officer & Finance Team]
Staffing		[Head of Service]
Legal	Contained within the body of the report	[Legal Team]
Equality Impact Needs Assessment		[Policy & Information Manager]
Environmental/Sustainable Development		[Head of Service or Manager]
Community Safety		[Head of Service or Manager]

Human Rights Act		[Head of Service or Manager]
Procurement		[Head of Service & Section 151 Officer]
Asset Management		[Head of Service & Manager]

7 REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A Application form
- Appendix B Current Street Trading Consent
- Appendix C Copy of objections
- Appendix D Head of Housing and Community Service letter
- Appendix E Mr Bolesworth Appeal letter
- Appendix F Street Trading Policy
- Appendix G Hearing Procedure

8 BACKGROUND PAPERS

None

19, Keston Showmen's Park
Hayhams Rd,
Keston Kent BR2 6AR

26th August 2015



To Whom it may concern,

I already have a licence to trade in Wheel St. Maidstone with my icecream & slush cart. I would like to add to this licence, sausages & hot drinks, to run concurrently, so I am able to trade all year round & am not restricted by the weather conditions & seasons,

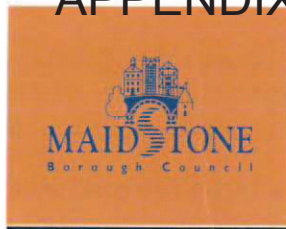
Yours sincerely
Daniel Bdeswatt

BZ 8340 6531 1GB

BZ 8340 6531 1GB



APPENDIX B



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SECTION 3 AND SCHEDULE 4 – STREET TRADING

CONSENT TO TRADE NUMBER: LN/000005332

I HEREBY AUTHORISE **Mr David Bolesworth** (see also note 1 on page 3)

Of: **19 Keston Showman's Park, Layhams Road, Keston, Kent BR2 6AR**

To sell: **Whippy Ice Cream & Slush Puppies**

From one: **Ice Cream Barrow** measuring approx: **6ft x 3ft**

Situated at: **Week Street, Maidstone - adjacent to phone box outside Marks & Spencer/Ann Summers and in line with granted planning permission for this site and Special Conditions**

On the following days of the week and between the following hours:-

Permitted Days of Trading: **Monday to Sunday**

Permitted Hours of Trading: **Monday to Saturday 10.30 am - 5.30 pm and Sundays 11.00 am - 4.30 pm**

Valid from: **1st April 2015 to: 31st March 2016**

Street Trading Consent Holder	Assistant
	
David Bolesworth	Margaret Bolesworth

This Consent is granted subject to the conditions that:-

1. the Consent holder must ensure that he/she comply strictly with all traffic regulations;
2. the Consent holder will ensure that his/her street trading activities do not create any obstruction to the flow of pedestrians or other traffic using the street or part of the street to which his/her Consent relates, nor creates any danger to persons using it;

3. the Consent holder will ensure that his/her street trading activities do not cause any nuisance or annoyance, whether to persons using the street or part of the street to which his/her Consent relates or otherwise;
4. no signs advertising the trade are placed on the highway (or abutting the highway);
5. the Consent form must be available for inspection at all times during the hours of trading at the place of trading;
6. a Consent number is displayed in an appropriate place;
7. the Consent holder will ensure that his/her vehicle is removed from the site at the end of each working day;
8. the Consent holder will not deposit trade refuse or litter of any kind on the street or part of the street to which his/her Consent relates;
9. the Consent excludes trading on the day of the Maidstone River Festival and any other special events;
10. the Consent holder will ensure that permission has been obtained for the use of land adjacent to the highway from the landowner and adjoining landowners when appropriate. The granting of a Consent does not imply that landowner permission has been granted;
11. Consent to trade in a certain location does not imply the grant of planning permission and applicants are strongly recommended to consult the Director of Development Services prior to commencement of trading;
12. Where food is sold the consent holder must comply at all times with ALL current hygiene legislation including EU hygiene regulations and the Food Hygiene (England) Regulations 2006, as applicable.

Special Conditions:

1. The holder must obtain permission from the Kent County Council Highways Department and Head of Housing & Community Services, if they wish to utilise electrical power taken from the mains or a generator.
2. All electrical connections should comply with the current edition of the IEE Wiring Regulations. Licence holders are responsible for any equipment connected to an electrical supply point and should ensure, through a system of regular checks and testing that it continues to be safe.
3. All electrical equipment must be approved by the Council in writing before being used at a Stall. All electrical equipment must be tested by a suitably qualified electrician at the Licensed Street Trader's expense and copies of electrical safety test certificates must be deposited with the Council before written approval will be given by the Council.
4. Licensed Street Traders shall produce the original safety certificate for all electrical equipment approved for use on the Stall to an Authorised Officer on request.

APPENDIX C

Louise Davis

From: Gourmet Street Food Company - [REDACTED]
Sent: 04 September 2015 14:42
To: Louise Davis
Subject: License objection

Hi Louise

With regards to the proposal from David I would like to object for the reasons being -A direct conflict of interest of my current business
- I understand he will be frying onions and selling frankfurter sausages which the licensing committee at the time of my application put strict conditions that I was not allowed to sell these or fry onions and that my sausages had to be locally sourced and oven cooked.

I believe Fremlin walk will also be putting in an objection shortly.

Many thanks
[REDACTED]

Sent from my iPhone



Julie Wolfe

From: Lorraine Neale
Sent: 16 September 2015 09:32
To: Julie Wolfe
Subject: FW: Mr Bowlesworth - Variation for selling cooked food
Attachments: E Appendix Environmental Health Report.pdf

From: Michael Swoffer
Sent: 15 September 2015 21:04
To: Lorraine Neale; Louise Davis
Cc: Terry OBrien
Subject: Mr Bowlesworth - Variation for selling cooked food

Good evening

Environmental Enforcement would like to raise their objections for the variation application for the selling of hot/cooked sausages on Week Street/Earl Street.

During a trial period of cooking hotdogs in April 2009 Environmental Enforcement investigated complaints that was associated with the trial. Evidence gathered by Terry O'Brien (Pollution Technical Officer) showed that the location was inappropriate as odours from the cooking process were effecting staff and customers within establishments in the vicinity.

I have attached the report provided by Mr O'Brien that show his conclusions in 2009. As this is the same position and cooking processes then we would expect complaints from establishments if this application is granted. We may also consider this to pose a Statutory Nuisance if the frequency and duration is deemed to be unreasonable.

If you require further information please let me know.

Many thanks

Michael Swoffer

Environmental Enforcement Manager
Environmental Enforcement

Maidstone Borough Council, Maidstone House, King Street, Maidstone, Kent, ME15 6JQ
t 01622 602458 w www.maidstone.gov.uk

Hot Dog Street Trader (Week Street)

1. Introduction:

The Hot Dog seller located in Week Street, Maidstone emits a strong pungent onion odour during its cooking operation. The perception of smell consists not only of the sensation of the odours themselves but of the experiences and emotions associated with these sensations. Smells can evoke strong emotional reactions. In surveys on reactions to odours, responses show that many of our olfactory likes and dislikes are based purely on emotional associations.

This being the case, the positioning of the Hot Dog Seller in Week Street really needs to be re-assessed. The food seller is currently located close to both Ann Summers Retail and Marks & Spencer's facing west along Fremlin Walk, usually between 11:00 am and 17:00 hrs Monday to Saturday.

I have actively monitored the mobile food outlet since April 2009 until 2nd June 2009 and have interviewed staff members from both Ann Summers Retail and Marks and Spencer, who are both the main retail premises effected by the onion odour. All staff members complained that the odour was very unpleasant and at times could be quite nauseous and cause headaches. Also both sets of staff spoke about customers complaining about the smell inside the shop itself. And the Manager of Ann Summers said that a major concern for her was the fact that the odour was attaching itself to some of her clothing products.

Monitoring Record: M3 - WK/200903877

Date: 30th April 2009 Time: 13:30 hrs

Conditions: Cloudy with sunny intervals and a slight breeze.

Locations: Carphone Warehouse-No Smell, Fremlin Walk Entrance-No Smell,

Ann Summers-Pungent Onion Smell, M&S - Slight Smell.

Date: 6th May 2009 Time: 14:00 hrs

Conditions: Sunny & Warm, slight breeze. Strong smell of onions in all directions up to 20m from the Hot Dog Stand and very pungent outside Ann Summers and M&S.

Date: 15th May 2009 Time: 11:40 hrs

Conditions: Cloudy with Sunny Intervals, Slight Breeze, significant onion smells in all directions approx 10m from the Hot Dog Seller.

Date: 20th May 2009 Time: 11:50 hrs

Conditions: Sunny and Warm, Calm, Onion smell could be detected at least 10-12m from the Hot Dog Seller in all directions, but the smell was much stronger at the Ann Summers Shop.

Date: 29th May 2009 Time: 11:50 hrs

Conditions: Sunny Intervals and Very warm: Strong Smell of onions within a 20m radius of the Hot Dog Stand.

Date: 2nd June 2009 Time: 13:45 hrs

Conditions: Sunny, Very Warm, slight breeze. No smell until approx 2-3m of the Hot Dog Seller, very pungent outside Anne Summers.

Diary Sheets:

Diary sheets for the month of March 2009 have been returned by both Ann Summers and Marks and Spencer: Located at M3 - WK/200903877

See Attached:

*Hard Copies of Diary Sheets



Terry O'Brien

Environmental Enforcement

Maidstone Borough Council

MAIDSTONE BOROUGH COUNCIL - ENVIRONMENTAL HEALTH SECTION

NUISANCE INCIDENT RECORD SHEET

(PLEASE READ GUIDANCE NOTES ON REVERSE BEFORE COMPLETING THIS)

DATE	TIME OF INCIDENT START	FINISH	DESCRIPTION OF PROBLEM	HOW IT AFFECTED YOU
3/4/09	11.00		Smell of onion from the Burger man.	onion smell at in office
13/04/09	1130.		Smell of onions from hot dog/burger stand outside	Smell of onions in General Office and Sales
16/04/09	16:25		Smell of onions from hot dog/burger stand outside	Smell was very unpleasant made us feel
20.4.09	11.45		Smell of onions from hot dog/burger stand. Customer entered store & complaining about the smell of onions	Very strong odour in office made me feel nauseous
20/4/09	10:46			
22.4.09	12.10.		Very strong smell nauseous	made me feel nauseous.

SOURCE OF COMPLAINT
YOUR NAME (PRINT)
YOUR ADDRESS
COMPLAINT NO.

Maries And Sienchal
 WK/200903877 DATE SIGNED

PR Correspondence? <input type="checkbox"/>	30 APR 2009
DRAWN BY	T.J. O'Brien

(PLEASE READ GUIDANCE NOTES ON REVERSE BEFORE COMPLETING THIS FORM)

DATE	TIME OF INCIDENT START	FINISH	DESCRIPTION OF PROBLEM	HOW IT AFFECTED YOU
3.4.09	11.00	11.15	Smell from hot dogs	customers in store noticed smell and were put off buy because
3.4.09	15.00	15.15	"	"
6.4.09	11.30	11.50	"	A customer commented on the smell of owners and asked how we put it
14.4.09	10.55	11.45	"	smell wafting through shop
15.4.09	15.30	16.00	"	"
21.4.09	11.25	15.30	Smell from hot dogs	smell in shop + flies in shop

T. J. O'Brien

23/4/2

SOURCE OF COMPLAINT
YOUR NAME (PRINT) _____
YOUR ADDRESS _____
COMPLAINT No. _____

WK/200 **DATE** _____ **SIGNED** _____

Julie Wolfe

From: Louise Davis
Sent: 17 September 2015 09:55
To: Julie Wolfe
Subject: FW: MY Ref:LD/CTFM
Attachments: IMG_0794.jpg

FYI

From: Wright, Lloyd @ [REDACTED]
Sent: 16 September 2015 11:30
To: Louise Davis
Subject: MY Ref:LD/CTFM

Dear Louise,

Please note that whilst I have not officially received notification of this application by Mr David Bolesworth, I am writing to you to formally object to the application for the proposed site and products applied for under the attached Local Government (Miscellaneous Provisions) Act 1982 Application for Grant of a Street Trading Consent Request for Additional goods for Sale.

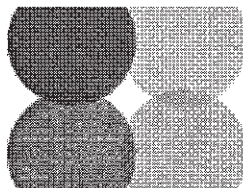
As one of Maidstone's main shopping centres the Landlord M&G we and Fremlin Walk management do not want a trader or kiosk located at the main entrance of Fremlin Walk Shopping Centre and furthermore we don't want a trader selling sausages and hot drinks from the store as these are services and products already sold by retailers who pay considerable amounts of rent to sell similar products within Fremlin Walk Shopping Centre and the Town Centre.

Kind regards,

Lloyd Wright | Centre Manager | Asset Services
CBRE Management Services Ltd | For CBRE Ltd
Fremlin Walk Shopping Centre | 62 Earl Street | Maidstone | Kent | ME14 1PS
Telephone 01622 356582 | Mobile 07966 029075

[REDACTED]
www.fremlinwalk.co.uk

ASSET SERVICES
Delivering intelligent, forward-thinking
property management





Appendix D

Mr D Bolesworth
19 Keston showman's Park
Layhams Road
Keston
Kent
BR2 6AR

Date: 17th September 2015
My ref: LD/L54/Bolesworth

Dear Mr Bolesworth

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SECTION 3 AND SCHEDULE 4 – STREET TRADING
APPLICATION FOR ADDITIONAL ITEMS TO BE SOLD AT STALL IN
WEEK STREET, MAIDSTONE – ADJACENT TO PHONEBOX OUTSIDE
MARKS & SPENCER / ANN SUMMERS.**

With reference to your application dated 27TH August 2015, under the above Act, I regret to inform you that Mr John Littlemore, Head of Housing and Community Services cannot determine your application for a street trading consent due to an objection/s having been received, (see attached).

The Council has decided that if an objection is received, the applicant will have the right to a hearing before a group of Members. If you wish to proceed to a hearing please write to me stating any responses to the objection/s and I will arrange for the matter to be taken to the next Licensing Committee Meeting to discuss your application.

If I do not hear from you within **three weeks from the date of this letter** I will assume that you do not wish to pursue your application further. I will then arrange for a refund of the Consent fee to be sent to you in due course.

According to the Act, a person who engages in street trading in a Consent Street without being authorised to do so is guilty of an offence and is liable to prosecution. **This applies while applications are being considered by the Council. Therefore, if you trade without Consent you are liable to prosecution.**

You should be aware that the Council may refuse to grant Consent if, despite being informed that a Street Trading Consent is required, an applicant continues to trade within the Borough.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Louise Davis', written in a cursive style.

Louise Davis
Licensing Officer
t 01622 602727 f 01622 602978
e louisedavid@maidstone.gov.uk

APPENDIX E

19, Keston Showman's Park
Layhams Rd
Keston Kent BR26AR

2nd October 2015

To whom it may concern,

I wish to inform you that I want to discuss my application before the Licensing Committee regarding the unreasonable objections received,

Yours sincerely

David Balesworth.





STREET TRADING CONSENT POLICY

MARCH 2010

MAIDSTONE BOROUGH COUNCIL STREET TRADING CONSENT POLICY

MARCH 2010

Index

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MAIDSTONE BOROUGH COUNCIL STREET TRADING CONSENT POLICY

MARCH 2010

1. Introduction

- 1.1 Maidstone Borough Council 'the Council' has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Since 1, September 1986, a Consent has been required before trading on any street in the Borough area.
- 1.2 Street trading is the selling, exposing or offering for sale any article in a street subject to some exemptions. The term 'street' includes any road, footway or other area to which the public have access without payment (this can include private land).
- 1.3 This does not include activities such as tables for street café operations from a fixed premises or the siting of 'A' boards on the street as this is not within the remit of this legislation.

2. Aim of Maidstone Borough Council's Street Trading Consent Policy

- 2.1 The aim of this statement of Street Trading Consent Policy is to provide a consistent and transparent approach for the method of determining street trading Consent applications and their ongoing position.
- 2.2 To achieve this aim the Council is committed to partnership working with Kent Police, Kent Highways Services, the trade and local fixed premises businesses.
- 2.3 This policy sets out how we intend to manage the Street Trading Consent function and how we will ensure the process is fair.
- 2.4 The Council has an aim to improve the quality of life in Maidstone.

3. **Scope of the Policy**

3.1 The Council's policy is concerned with the administration of the street trading Consent functions within the Local Government (Miscellaneous Provisions) Act 1982,

- determining first applications
- renewals
- revocation

4. Interpretation

- 4.1 Any words or expressions in this policy have the meanings assigned to them under the 1982 Act. Nothing in the policy should be regarded or interpreted so as to prejudice the 1982 Act.

5. The Maidstone Act 2006

- 5.1 This came into force on 7 September 2006. This removed the exemption for pedlars to act with the authority of a Pedlars Certificate to trade within the Borough. Pedlars must now have a Street Trading Consent to trade on the streets within the Borough of Maidstone.
- 5.2 There is power to seize articles, receptacles and equipment by an officer of the Council or Constable if there is reason to suspect an offence has been committed under this Act.

6. Application Process

- 6.1 Applications must be made in writing on the application form provided by the Council as detailed in Appendix A and be accompanied by a Consent fee. An applicant must be aged 17 or over.
- 6.2 Proposed food business should be registered under the Food Regulations with the Local Authority where their vehicle is based and provide documents as evidence that they are so registered.
- 6.3 Applicants are advised to contact the Development Control section of the Council to check whether planning permission is required.
- 6.4 Determining First Applications – The process on receipt of any application will include a consultation period of 14 days with:-
Ward Members
Parish Council if relevant
Town Centre Management if relevant
Adjacent shops
KCC Highways
MBC Planning and Development Control
MBC Environmental Health Section
MBC Environmental Enforcement
Police

If no objections to a Street Trading application are received the Head of Housing and Community Services be given delegated powers to grant consent, subject to consultation with the Chairman and Vice Chairman of the Licensing Committee who might ask for the application to be referred to a Sub-Committee consisting of three Members of the Licensing Committee for decision.

If objections are received the application will be determined by a Sub-Committee consisting of three Members of the Licensing Committee for decision. A hearing will be held following the procedure at page 18.

6.5 Determining Additional Applications For An Agreed Site

Once the application for a site has been agreed in accordance with 6.4 above, the Licensing Manager will be authorised to issue further Street Trading consents for the same site in the exact terms of the first application subject to a satisfactory Police check being received

which would determine good character and their right to work in the United Kingdom.

- 6.6 Renewals – the process on receipt of a renewal application will be for the Licensing Manager to renew if no complaints have been received following the consultation process the process for first applications will be followed and the matter will be reported to the Licensing Sub Committee (procedure in appendix B).
- 6.7 Revocation – Any consideration for review of a consent including a decision for revocation will be taken by the Sub-Committee consisting of three Members of the Licensing Committee for decision.
- 6.8 Applications for Street Trading Consent in Fremlin Walk - Applications must be made in writing on the application form provided by the Council as detailed in Appendix A and be accompanied by a Consent fee. An applicant must be aged 17 or over.
- 6.9 Proposed food business should be registered under the Food Regulations with the Local Authority where their vehicle is based and provide documents as evidence that they are so registered.
- 6.10 Applicants are advised to contact the Development Control section of the Council to check whether planning permission is required.
- 6.11 Applications for Street Trading Consent will be undertaken in 2 stages comprising an application for the site (which could include more than 1 pitch) and then an application from the Street Trader.
- 6.12 Determining Site Application – An application for a site will be made to the Council and will require a consultation period of 14 days with:-
- Ward Members
 - Parish Council if relevant
 - Town Centre Management if relevant
 - Adjacent shops
 - KCC Highways
 - MBC Planning and Development Control
 - MBC Environmental Health Section
 - MBC Environmental Enforcement
 - Police

If no objections are received the Licensing Manager has delegated power to grant all applications within the Town Centre area subject to consultation with the Chairman and Vice Chairman of the Licensing Committee who can ask that the Application is referred to a Sub-Committee consisting of three Members of the Licensing Committee for decision.

If objections are received the application will be determined by a Sub-Committee consisting of three Members of the Licensing Committee for decision. A hearing will be held following the procedure at page 18. Each agreed site applicant will allocate the pitches in those sites to Traders agreed by the Council.

- 6.13 Determining Site Application from Traders – Traders will apply to the Council to trade in the approved sites and consent will be given subject to the assessment of the site holder and a satisfactory Police check being received which would determine good character and their right to work in the United Kingdom.
- 6.14 Renewals – the process on receipt of a renewal application will be for the Licensing Manager to renew if no complaints have been received following the consultation process the process for first applications will be followed and the matter will be reported to the Licensing Sub Committee (procedure in appendix B).
- 6.15 Revocation – Any consideration for review of a consent including a decision for revocation will be taken by the Licensing Sub Committee.
- 6.16 Any provisions relating to the River Festival will not apply to any agreed sites in Fremlin Walk.

7. Consideration of Applications

7.1 The Council will consider each application on its individual merits and normally grant a Street Trading Consent **unless**, in its opinion, there is:-

- a) not enough space for each applicant to trade in the manner proposed without causing undue interference or inconvenience to persons using the street,
- b) there are already enough traders in the vicinity (from shops or other stalls) in the goods in which the applicant desires to trade,
- c) there is undue concentration of traders trading in the street in which the applicant desires to trade,
- d) the Consent, if granted, will result in nuisance to members of the public, residents or local businesses, due to the likely noise, smell, litter, obstruction, disturbance, or other problems which will be caused by granting the Consent,
- e) the size, nature or appearance of the proposed stall and any associated equipment is inappropriate for the proposed location in terms of amenity or public or highway safety,
- f) the proposed trading hours are outside the usual business hours of shops in the vicinity, except in relation to a trader wishing to sell hot food, which will be considered on a site by site basis,
- g) any additional issues arising from consultation or the particular circumstances of the application.
- h) previous conviction of the applicant (or an assistant) for relevant offences (dishonesty, food safety, health & safety, licensing or other related issues) or unsuitable for other reasonable cause,
- i) failure on a previous occasion to pay Street Trading Consent fees within agreed timescales,
- j) applications for Street Trading Consent on a site where there is already a Consent granted,
- k) there is an earlier application or an application for renewal has been received which will be determined first by the Licensing Sub Committee.

8. Administration, Exercise and Delegation of Function

- 8.1 The powers and duties of the Council with regard to Street Trading Consent may be carried out by the Licensing Sub Committee or Officers acting under delegated authority. Since many of the functions are administrative or compliance monitoring based in nature, in the interest of speed, efficiency and cost effectiveness, the Council supports the principle of delegating routine matters to Officers.
- 8.2 Applications will normally be dealt with by Officers but can be forwarded to the Licensing Sub Committee for determination (see section 6).

9. Conditions applicable to Street Trading Consents

9.1 Conditions will normally be imposed in all cases specifying:-

- a) the place in which the Consent holder is permitted to trade,
- b) the days and times at which the Consent holder is permitted to trade,
- c) description of the types of articles in which the holder is permitted to trade,
- d) the nature, size and type of stall stand etc. which is to be used,
- e) the Street Trading Consent issued by the Council must be conspicuously displayed on the stall/person,
- f) if food is to be sold, the business shall be Food Safety registered,
- g) restrictions on the means the trader may use to attract custom to his stall,
- h) that the suitable receptacle for litter must be provided,
- i) that the location must be left in a clean and tidy condition at the end of the trading hours each day,
- j) that the stall must be removed each day at the end of trading hours unless agreement in writing is obtained from the Council or the owner of the land,
- k) the trader must comply with any reasonable request of a Police Officer or authorised Officer of the Council,
- l) that the trader must produce, to a Police Officer or authorised Officer of the Council, a copy of the Consent on demand,
- m) operators must cease trading immediately upon expiry of Consent.

9.2 The Council considers that each of the above conditions will be reasonably necessary in relation to the majority of Consents granted for the purposes of protecting public safety and the prevention of nuisance and annoyance to local residents, businesses in the locality and members of the public using the street concerned. The Council may also impose such other conditions as it considers reasonably necessary in each particular case and conditions may be varied at any time.

10. Enforcement

- 10.1 Any enforcement action taken by the Council will be in accordance with any adopted enforcement policy, and failure to comply with the conditions may lead to revocation or non-renewal of a Consent. Any person found trading without Consent in the Borough will be subject to enforcement action by the Council.

11. Promotion of Racial Equality

- 11.1 The Council recognises that the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 places an obligation on all Public Authorities to have regard to the need to eliminate unlawful discrimination, and to promote equality of opportunities and good relations between persons and different racial groups.

12. Human Rights Act 1998

12.1 The Council implements the 1982 Act in a manner consistent with the Human Rights Act 1998.

For enquiries regarding this policy in the Council's area, please contact:-

**Licensing Office
Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ**

01622 602028

licensing@maidstone.gov.uk

LICENSING SUB COMMITTEE

ORDER OF PROCEEDINGS

- a) The Chairman will introduce those present and ensure that everyone understands the procedure to be followed.
- b) The Head of Housing and Community Services will briefly describe the application.
- c) The Applicant will then present his case.
- d) The Objector(s) may then ask the Applicant questions.
- e) Members will then ask the Applicant any questions.
- f) The Objector(s) will then be given the opportunity to present his/her case.
- g) The Applicant may then ask the Objector(s) any questions.
- h) Members will then ask the Objector(s) any questions.
- i) Members may then ask any further questions of clarification from any party.
- j) Both parties will then be asked to sum up, the Objector(s) first followed by the Applicant.
- k) Members will then ask the Head of Housing and Community Services if there are any further matters to be raised before the matter is considered.
- l) The Sub Committee will then decide the appeal and may ask the Applicant, the Objector(s), the Head of Housing and Community Services and any other parties to leave, the Committee Clerk will be the only person apart from Members to be allowed to remain. Any representative of Legal Services (if present) may be requested to remain by the Chairman.
- m) After consideration all parties will be invited to return and the Chairman will announce the decision.

ORDER OF PROCEEDINGS

- a) The Chairman will introduce those present and ensure that everyone understands the procedure to be followed.
- b) The Head of Housing and Community Services will briefly describe the application and his reasons for refusal.
- c) The Applicant will then present his case.
- d) The Objector(s) may then ask the Applicant questions.
- e) Members will then ask the Applicant any questions.
- f) The Objector(s) will then be given the opportunity to present his/her case.
- g) The Applicant may then ask the Objector(s) any questions.
- h) Members will then ask the Objector(s) any questions.
- i) Members may then ask any further questions of clarification from any party.
- j) Both parties will then be asked to sum up, the Objector(s) first followed by the Applicant.
- k) Members will then ask the The Head of Housing and Community Services if there are any further matters to be raised before the matter is considered.
- l) The Committee will then decide the appeal and may ask the Applicant, the Objector(s), the The Head of Housing and Community Services and any other parties to leave, the Committee Clerk will be the only person apart from Members to be allowed to remain. Any representative of Legal Services (if present) may be requested to remain by the Chairman.
- m) After consideration all parties will be invited to return and the Chairman will announce the decision.

Agenda Item 10

Licensing Committee		26th November 2015
Is the final decision on the recommendations in this report to be made at this meeting?	No	

Outcome of the consultation on the Draft Statement of Gambling Principles 2005 for 2016 -2019

Final Decision-Maker	Council
Lead Director or Head of Service	John Littlemore
Lead Officer and Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That Licensing Committee approve the draft Statement of Gambling Principles attached as Appendix A for recommendation to full Council for adoption.
2. That Licensing Committee note the suggestions for change to the policy made by Gosschalks and decide whether to incorporate those changes into the policy.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Timetable	
Meeting	Date
Policy and Resources Committee	
Council	9 December 2015
Other Committee	

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 To update the committee on the result of the consultation on the Draft Statement of Licensing Principles (the Principles) under the Gambling Act 2005 ('the Act').

2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council is the Licensing Authority under the provisions of the Gambling Act 2005 (the Act).
- 2.2 The Council is required to produce a Statement of Gambling Principles to demonstrate how applications under the Act will be dealt with.
- 2.3 The Act requires that the Licensing Authority publish its Statement of Licensing Principles at least every three years. The date for publishing is on or before the 31 January 2016.
- 2.4 The draft Policy was forwarded to all the consultees as stated at Appendix 3 of the Policy and all the responsible authorities. The Policy and consultation information was also placed on the Councils website. A copy of the draft Policy can be seen at Appendix A.
- 2.5 The consultation period ran for 6 weeks and ended on the 17 November 2015. Two responses to the consultation were received (Appendix B). These responses were received from:-
1. Coral - who are supportive of the document and who did not make any suggestions that required the amendment of the Draft Statement of Gambling Principles. They confirmed that they recognise the requirement to supply risk assessments with future applications and also noted that we will be consulting with them again once we complete our further review to incorporate these matters within the next 12 months.
 2. Gosschalks on behalf of the Association of British Bookmakers –

The letter largely explains the viewpoint of the Bookmakers in relation to working in conjunction with its partners in the industry and their willingness to cooperate fully in all matters

that ensure that the industry is regulated fairly whilst ensuring Gambling does not become a problem. There are some matters referred to such as Local area risk assessments and local area profiles which will be addressed when the full review of the Statement of Gambling principles is undertaken in 2016. The letter on the whole gives an outline of how the industry will manage its own premises based on each operation and by applying local policy ensuring the three licensing objectives are achieved.

The letter does make four suggestions for change to the policy at the section **Specific Policy Comments**. It is for members to decide whether any changes are made to the policy on consideration of the points made by Gosschalks on behalf of the Association of British Bookmakers.

- 2.6 As the Licensing Authority the Council faced a dilemma as the Gambling Commission had not issued their anticipated revised guidance to licensing authorities in time for it to be incorporated into the document prior to consultation.
- 2.7 It was not known at the stage the policy was being reviewed when we would receive the amended Guidance.
- 2.9 Given the circumstances the current revision to the Statement was kept to a very light touch. An initial review within the Licensing team would indicate that the current statement is 'fit for purpose'.
- 2.10 It is proposed that the revised statement of Gambling Principles attached at Appendix A is agreed by the Committee to be recommended to Full Council for adoption. It should be noted that the only revisions to the current policy relate to the demographic information and the consultation did not produce any responses that needed to be incorporated in the document.
- 2.11 The consultation that took place was on a restricted basis but satisfied the consultation elements of the guidance. As part of the consultation process it indicated that there would be a further review and consultation when the anticipated 5th edition of Guidance was published.
- 2.12 This approach has enabled the publication of a revision in January 2016 to meet statutory requirements and provide certainty before the next revision. This is in essence a holding position until consideration of the new guidance recently published and consultation on a further

revision to the Gambling Policy in 2016 taking into account the new Guidance.

3. AVAILABLE OPTIONS

3.1 No alternatives were considered. It is a legislative requirement that the policy be reviewed at least every three years, and that a public consultation is carried out. Failure to review and adopt the Statement of Gambling Principles would result in the Council failing to comply with legislation and risk of challenge to any decisions made based upon an out dated Statement.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 The authority needs to revise the current policy to meet statutory requirements, ensure coverage of the changes in the legislation and to set out how the Authority intends to approach its licensing responsibilities; in particular what it expects from management of different types of licensed premises in their business activities.

4.2 By being open and transparent in the approach taken in administering the licensing regime the public can see the efficiency of the service and have confidence in the decision making process.

4.3 A comprehensive policy will improve the consistency in delivering the service and will better inform applicants of the licensing process in an open and transparent way. This will contribute towards providing a better customer service. This document will be in place until the further revision is completed which will incorporate the recently published Gambling Commission Guidance.

5. CONSULTATION

5.1 Best practice guidance recommends up to a 12 week period but as the revisions related to demographic information only a six weeks period was considered adequate.

5.2 Letters and copies of the policy were sent to all those at Appendix 3 of the policy and all the responsible authorities.

5.3 Two letters were received in response to the consultation and are attached as Appendix B. The letter received from Gosschalks does

suggest some alteration to the policy and Members consideration is asked for in relation to the amendment of the Policy.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Once Licensing Committee have agreed to recommend adoption the Policy will be presented to Full Council to be formally agreed.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities		[Head of Service or Manager]
Risk Management	None	[Head of Service or Manager]
Financial	None identified at this particular time.	[Section 151 Officer & Finance Team]
Staffing		[Head of Service]
Legal	The Licensing Authority must formally review its adopted Statement of Gambling Principles every three years as required under section 349 of the Gambling act 2005. Without an up to date statement then no decision in relation to gambling issues would be validly made.	[Legal Team]
Equality Impact Needs Assessment	None identified at this stage.	[Policy & Information Manager]
Environmental/Sustainable		[Head of

Development		Service or Manager]
Community Safety		[Head of Service or Manager]
Human Rights Act		[Head of Service or Manager]
Procurement		[Head of Service & Section 151 Officer]
Asset Management		[Head of Service & Manager]

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A Draft Statement of Gambling Principles
- Appendix B Letter received from Corals

9. BACKGROUND PAPERS

None



Maidstone Borough Council

'Gambling Act 2005 Statement of Licensing Principles' 2016 -2019

This Statement of Principles was prepared under Section 349 of the Gambling Act 2005 with regard to Guidance issued by the Gambling Commission. Please note that this Statement is to be regarded as an interim Statement required to meet the Council's statutory obligations. The Council is aware that the Gambling Commission has recently published revised guidance during the consultation period for this document and when this has been considered the Council will undertake a full review of this Statement to ensure that it complies with any revised guidance issued.

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1. The Licensing Objectives

In exercising their functions under the Gambling Act 2005(the Act), 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

This Licensing Authority is aware that, as per Section 153, in exercising its functions under Part 8 of the Act should aim to permit the use of premises for gambling in so far as it thinks it is:

- 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 Principles

Maidstone Borough Council is a member of the Licensing Partnership which includes Sevenoaks District Council and Tunbridge Wells Borough Council. However this policy relates to Maidstone

2. Introduction

Maidstone Borough Council is situated in the County of Kent and generally speaking lies between the North Downs and the Weald. The County of Kent contains 12 Borough and District Councils and 1 Unitary Authority in total. Each Council is represented on the Kent & Medway Regulatory Licensing Steering Group (K&MRLStGp) whose role includes the identification of issues on which a consistent countywide approach is considered essential and the formulation of recommended policy that establishes a minimum standard on these identified issues.

This policy has been formulated in discussion with the Kent & Medway Regulatory Licensing Steering Group.

The Council area has a population of 159,300 people (*2013 Mid-Year ward estimates ex ONS (via KCC) making it the largest in the County in terms of population. In terms of area it is the largest, covering 97,194 acres. The Council area is mainly rural surrounding the urban area of Maidstone. The Council is partly parished and the parish boundaries are shown on the map below.

Latest population data* is as follows:
Urban Population 119, 450
Rural Population 39, 850

Age Range	Number * based on mid-year 2013 estimates	%
Under 16	30,650	19.3
16 - 19	7,350	4.6
20 - 29	18,550	11.6
30 - 59	64,290	40.4
60 - 74	25,390	15.9
75 and over	13,070	8.2

The Maidstone Borough Council Area

MAIDSTONE BOROUGH COUNCIL
- PARISHES



Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles that they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement can also be reviewed from "time to time" and the amended parts re-consulted upon. The statement must then be re-published.

In determining its policy the Licensing Authority must have regard to Gambling Commission guidance and will give appropriate weight to the views of those who respond to its consultation.

Maidstone Borough Council consulted widely on this Policy Statement before finalising and publishing. A list of the persons we consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

The Gambling Act requires that the following parties be 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

The list of persons consulted when preparing this Policy Statement is deliberately wide. The List of persons this Authority consulted is attached at Appendix 3.

Our consultation took place between 1 August 2012 and 24 October 2012

In determining its Statement of Principles the Licensing Authority must have regard to the Gambling Commission's guidance for local authorities, and having regard to that guidance will give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors to be taken into account included:

- who is making the representations (what is their expertise or interest);
- relevance of the factors to the Licensing Objectives
- how many other people have expressed the same or similar views;
- how far the representations relate to matters that the Licensing Authority should be including in its Statement of Principles.

The full list of comments made and the consideration by the Council of those comments is available by request to John Littlemore – Head of Housing and Community Services at: Licensing Department, Maidstone Borough Council, Maidstone House, King Street, Maidstone, Kent, ME15 6JQ.

- Email: johnlittlemore@maidstone.gov.uk
- Tel: 01622 602207
- Council's website at: www.maidstone.gov.uk

The policy was approved at a meeting of the Full Council on **9 December 2015** and was published via our website on 10 December 2015. Copies have been placed in the public libraries of the area as well as being available in the principal Council Offices.

Should you have any comments as regards this Policy Statement please send them via e-mail or letter to the following contact:

Name: John Littlemore
Head of Housing and Community Services
Address: Maidstone Borough Council
Maidstone House
King Street
Maidstone Kent ME15 6JQ
E-mail: johnlittlemore@maidstone.gov.uk

It should be noted that this Policy Statement will not override the right of any person to make an application, 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

In producing the final Statement of Licensing Principles, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the Policy Statement.

4. Casinos

Proposal for a Casino

This Licensing Authority submitted a proposal for a Premises Licence for a small casino, to the Independent Casinos Advisory Panel. Details regarding this proposal are available via request to Paul Spooner, Interim Director of Planning and Development, on 01622 602364. The submission was not shortlisted for further consideration by the Panel.

No Casinos resolution

This Licensing Authority has NOT passed a 'No Casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this Policy Statement with details of that resolution. Any such decision will be made by the Full Council.

Casinos and Competitive Bidding

This Licensing Authority is aware that where a licensing authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the Local Authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This Licensing Authority will run such a competition in line with any regulations/codes of practice issued under the Gambling Act 2005.

Licence Considerations/Conditions

This Licensing Authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

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.

5. The licensable activities

Some matters in the Act are determined by the Gambling Commission and some by Maidstone Council as Licensing Authority. The table below sets out those matters determined by the Council. The Gambling Commission functions are set out on page 31.

Function	Who deals with it
Issuing of <i>Premises Licences</i> . where gambling activities are to take place.	Licensing Authority
Issue <i>Provisional Statements</i> .	Licensing Authority
Regulate <i>Members' Clubs</i> and <i>Miners' Welfare Institutes</i> who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits.	Licensing Authority
Issue <i>Club Machine Permits to Commercial Clubs</i> .	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at <i>unlicensed Family Entertainment Centres</i> .	Licensing Authority
Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines.	Licensing Authority
Issue <i>Licensed Premises Gaming Machine Permits</i> 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.	Licensing Authority
Register <i>small society lotteries</i> below prescribed thresholds.	Licensing Authority
Issue <i>Prize Gaming Permits</i> .	Licensing Authority

Receive and Endorse <i>Temporary Use Notices</i> .	Licensing Authority
Receive <i>Occasional Use Notices</i> .	Licensing Authority
Provide information to the Gambling Commission regarding details of Licences issued (see Section 8. on Exchange of Information).	Licensing Authority
Maintain registers of the permits and licences that are issued under these functions.	Licensing Authority

Please Note:

The Gambling Commission functions are listed on page 33.

The Licensing Authority is not involved in licensing remote gambling. This will fall to the Gambling Commission via Operating Licences.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

6. **Responsible Authorities**

In exercising this Licensing Authority's 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 following principles have been applied:

- 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

In accordance with the Gambling Commission's draft Guidance for Local Authorities this Authority designates the following for this purpose:

Children, Families and Education
Strategy, Policy and Performance
Sessions House
County Hall
Maidstone
Kent ME14 1XQ

The contact details of all the Responsible Bodies under the Gambling Act 2005 are listed at Appendix 4.

7. **Interested Parties**

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:

“For the purposes of this Part a person is an Interested Party in relation to an application for or in respect of a Premises Licence if, in the opinion of the Licensing Authority which issues the Licence or to which the application is made, the person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy paragraph (a) or (b)”

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:

Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision-making. It will however consider the following as per the Gambling Commission’s Guidance to Local Authorities (paragraphs 8.11 to 8.18):

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults;
- the ‘catchment’ area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

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.

The Gambling Commission has emphasised to Licensing Authorities, that ‘demand’ cannot be a factor in decisions.

Guidance also states that moral objections to gambling are not a valid reason to reject applications for Premises Licences. This is because such objections do not relate to the licensing objectives (Guidance to Licensing Authorities Para 5.28 September 2012 4th Edition Guidance).

The Gambling Commission has recommended that the Licensing Authority state that interested parties include trade associations and trade unions, and residents and tenants’ associations (paragraph 8.17). This Authority will not

however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested Parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward likely to be affected. Likewise, Parish Councils 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.

Care should be taken when approaching Councillors that they are not part of the Licensing Committee dealing with the Licence application as this may put them in a difficult position by giving them an interest and it may even disable them from sitting on the Committee. If there are any doubts then please contact Mr John Littlemore on 01622 602207 and email johnlittlemore@maidstone.gov.uk.

8. Exchange of Information

Licensing Authorities are required to include in their Policy Statement 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.

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 and its duties under the Freedom of Information Act 2000. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

Full details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their full details will be disclosed.

9. Enforcement

The Kent & Medway Licensing Steering Group has formulated an Enforcement Protocol which each Licensing Authority and Responsible Authority has agreed.

The purpose of this Protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of both the Gambling Act 2005 and the Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues. A copy of this can be requested from John Littlemore, Head of Housing and Community Services, 01622 602207 or by email johnlittlemore@maidstone.gov.uk.

In accordance with the Gambling Commission's Guidance for Local Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

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.

This Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and it 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.

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; and
- The principles set out in this statement of licensing Principles .

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which its authorises.

The Gambling Commission will be 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.

This Licensing Authority also keeps itself informed of developments as regards work of the BIS Department for Business Innovation and Skills in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements are available upon request to the licensing department, John Littlemore, Head of Housing and Community Services johnlittlemore@maidstone.gov.uk or licensing@maidstone.gov.uk our risk methodology is also available on request.

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APPENDIX 1

The Gambling Commission's Guidance for Licensing Authorities states the following. The paragraphs below endeavour to meet this requirement:

"The Licensing Authority should set out in its statement what factors it may take into account when considering applications for premises licences, permits and other permission and matters that it will consider when determining whether to review a licence. This is where considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children, should be detailed (where they are relevant). Any such policy must, however, come with the qualification that each case will be decided on its merits, so if an applicant can show how they might overcome licensing objective concerns, that will have to be taken into account." (6.37)

1. PERMITS

(i) **Unlicensed Family Entertainment Centre Gaming Machine Permits**

(Statement of Principles on Permits - Schedule 10 Paragraph 7)

Where a premise does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit.

The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

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 for Local Authorities states:

"In its Licensing Authority Statement of Principles, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to child protection issues."(24.6)

The Guidance also states:

"The licensing authority can grant or refuse an application for a permit, but cannot add conditions. 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. Unlicensed FECs, by definition, will not be subject to

scrutiny by the Commission as no operating (or other) licences will be applied for and issued. Licensing authorities might wish to consider asking applicants 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)*
- *that employees are trained to have a full understanding of the maximum stakes and prizes.”(24.7)*

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.

With regard to **renewals** of these permits, the licensing authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit. (24.17)

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

(ii) (Alcohol) Licensed Premises Gaming Machine Permits– (Schedule 13 Para 4(1))

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The applicant merely needs to notify the Licensing Authority. 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

If a premises wishes to have more than two 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.*"

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 harm 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 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.

It is recognised that some alcohol licensed premises may require 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.

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.

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.

(iii) Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))

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”.

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;
- and that the gaming offered is within the law.
- Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance (Gambling Act 2005, Schedule 14 paragraph 8(3)).

It should be noted that there are conditions in the Gambling Act 2005 that the permit holder must comply with, 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.

(iv) Club Gaming and Club Machines Permits

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 up to three gaming machines in total of categories B4, C or D but only one machine of category B3A, equal chance gaming and games of chance as set-out in Regulations. A Club Machine Permit will enable the premises to provide up to three gaming machines in total of categories B4, C or D but only one machine of category B3A,.

Commercial clubs are not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act) so they should apply for a club machine permit.

Gambling Commission Guidance for Local Authorities 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 such regulations and these cover bridge and whist clubs. A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations. They may apply for club gaming or club machine permits."

This Licensing Authority is aware 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"(25.40)

When considering whether the applicant fulfils the requirements for a members' or commercial club or miners' welfare institute it will take account of the factors listed in section 25 of the Commission's Guidance

There is also a 'fast-track' procedure available under the Act for premises that hold a Club Premises Certificate under the Licensing Act 2003 Schedule 12 paragraph 10.

As the Gambling Commission's Guidance for Local Authorities states:

"Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the grounds upon which an Authority can refuse a permit are reduced"; and

"The grounds on which an application under the process may be refused are that:

- (a) *the Club is established primarily for gaming, other than gaming prescribed under section 266 of the Act*
- (b) *in addition to the prescribed gaming, the applicant provides facilities for other gaming; or*
- (c) *a Club Gaming Permit or Club Machine Permit issued to the applicant in the last ten years has been cancelled.” (25.45)*

When considering whether the club is established primarily for gaming the Licensing Authority will take account of the factors listed in section 25 of the Commission’s Guidance

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.

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2. PREMISES LICENCES

(i) Decision Making - General:

Premises Licences will be subject to the requirements set-out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions which will be 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.

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 is:

- 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 Principles .

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.

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 applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

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.

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.

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

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.

There are also 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.

(ii) Premises including "split premises"

"Premises" is defined in the Act as "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 are advised to 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.

The Gambling Commission states in 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." (7.14)

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 named on the premises licence. (7.18)

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?

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

The Gambling Commission's relevant access provisions for each premises type are reproduced below from paragraph 7.25 of the Guidance.

(iii) 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 can. As per the Gambling Commission's Guidance for Local 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.

(iv) Primary Activity

By distinguishing between premises types the Act makes it clear that the primary gambling activity of the premises should be that described. Thus, in a bingo premises, the primary activity should be bingo. Subject to the gaming machine entitlements which various types of licence bring with them (and except in the case of tracks), the Act does not permit premises to be licensed for more than one of the above activities. The Licensing Authority will take account of the Commission's document setting out the indicators that are used to assess as to whether the requirements for betting being the primary gambling activity in any particular premises are being met.

(v) Planning

Planning and Licensing are different regulatory systems and will be dealt with separately.

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.

(vi) Duplication

As stated in Section 9. on Enforcement, as per the Gambling Commission's Guidance for Local Authorities, this Licensing Authority will seek to avoid duplication with other regulatory regimes so far as possible.

(vii) Door Supervisors

The Gambling Commission advises in its Guidance for Local Authorities that Licensing Authorities may consider whether there is a need for Door Supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the Door Supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA). This Licensing Authority therefore has specific requirements for Door Supervisors working at casinos or bingo premises which are that they provide a CRB check with no relevant current convictions. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

For premises other than casinos and bingo premises, operators and Licensing Authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA Licensed or not. It will not be automatically assumed that they need to be.

(viii) Licensing Objectives

This Licensing Authority has considered the Gambling Commission's Guidance to Local Authorities and some comments are provided with regard to the licensing objectives.

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 will be taking 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 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 such as whether Police assistance was required and how threatening the behaviour was to those who witnessed it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

Ensuring that gambling is conducted in a fair and open way

This Licensing Authority has noted that the Gambling Commission in its Guidance for Local Authorities has noted that:

“Generally the Commission would not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence.”

This Licensing Authority also notes, however, that the Gambling Commission also states:

“In relating to the licensing tracks the Licensing Authorities’ role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.”

This Licensing Authority understands that there may be further guidance from the Gambling Commission on this issue which it will have regard to, when available.

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

This Licensing Authority has noted the Gambling Commission's Guidance for Local Authorities states 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.

This Licensing Authority will also take into account the Codes of Practice which the Gambling Commission issues as regards this Licensing objective, in relation to specific premises such as casinos.

As regards the term *“vulnerable persons”* it is noted that the Gambling Commission is not seeking to offer a definition but states that:

“It will be for regulatory purposes to assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”

This Licensing Authority will consider the objective on a case-by-case basis. Should a practical definition prove possible in future then this Policy Statement will be updated with it, by way of a revision.

(ix) Reviews

Interested parties or Responsible Authorities can make requests for a review of a Premises Licence; 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 following matters:

- it is in accordance with any relevant Code of Practice issued by the Gambling Commission;
- it is in accordance with any relevant guidance issued by the Gambling Commission;
- it is reasonably consistent with the Licensing objectives; and
- it is in accordance with the Authority's Statement of Licensing Principles .

As well as consideration as to whether the request is frivolous, vexatious, or 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.

The Licensing Authority can also initiate a review of a Licence on the basis of any reason that it thinks is appropriate.

Review will be determined by the Licensing Committee.

(x) Provisional Statements

Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered
- expects to acquire a right to occupy

This Licensing Authority notes the Guidance for the Gambling Commission which states that:

"It is a question of fact and degree whether premises are finished to a degree that they can be considered for a Premises Licence"; and that

"Requiring the building to be complete ensures that the Authority can inspect it fully".

In terms of representations about Premises Licence applications, following 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. 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:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which in the Authority's opinion reflects a change in the operator's circumstances.
- (c) Where the premises has not been constructed (11.9 Guidance)

This Licensing Authority has noted the Gambling Commission's Guidance that:

"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 way of representations at the provisional licence stage*
- *which, in the authority's opinion, reflect a change in the operator's circumstances*
- *where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision."*(11.7, 11.8 & 11.9)

(xi) Adult Gaming Centres

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.

This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues 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-barring 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.

The question of sub-division of such premises has been the subject of further Gambling Commission Guidance. This Licensing Authority will have regard to any relevant additional guidance that may be issued by the Gambling Commission in respect to such applications any decision-making.

This Authority accepts that there must be no direct entry from one adult gaming centre into another and will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications.

(xii) (Licensed) Family Entertainment Centres

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.

This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring 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

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

This Licensing Authority will, as per the Gambling Commission's Guidance refer to the Commission's website to see any conditions that apply to Operator 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 as published in the 3rd Edition Guidance May 2009.

(xiii) Tracks

This Licensing Authority is aware that tracks may be subject to 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 especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) 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.

This Licensing Authority will therefore expect the Premises Licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.

It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues 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-baring 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.

Gaming machines

Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This Licensing Authority notes the Commission's Guidance that Licensing Authorities therefore need to consider the location of gaming machines at tracks, and applications for track Premises Licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting machines

This Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. (16.34)

It will also take note of the Gambling Commission's suggestion that Licensing Authorities will want to consider restricting the number and

location of such machines in respect of applications for track betting premises licences.

Condition on rules being displayed

The Gambling Commission has advised in its Guidance for Local Authorities that "... *Licensing Authorities should attach a condition to track Premises Licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.*"

Applications and plans

This Licensing Authority awaits regulations setting out any specific requirements for applications for Premises Licences but is in accordance with the Gambling Commission's suggestion:

"To ensure that Licensing Authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities; and that

Plans should make clear what is being sought for authorisation under the track betting Premises Licence and what, if any, other areas are to be subject to a separate application for a different type of Premises Licence."

This Licensing Authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate Premises Licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

(xiv) Bingo

The Gambling Commission's Guidance states:

"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."

This Licensing 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.

In these cases this Licensing Authority will have particular regard to the Gambling Commission Guidance on the 'meaning of premises' (7.12 – 7.20) and how it relates to the primary gambling activity.

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.

(xv) Premises “ready for gambling”

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.

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.

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.

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.

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.

(xvi) Temporary Use Notices

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 to the Gambling Commission, would include hotels, conference centres and sporting venues.

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.

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, e.g. backgammon, mah-jongg ,rummy kalooki, dominoes, cribbage, bingo and poker.

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".

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.

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.

(xvii) Occasional Use Notices

The Licensing Authority has very little discretion as regards these Notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. The Licensing Authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the Notice.

(xviii) Travelling Fairs

The Act defined a travelling fair as "wholly or principally" providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.

It will fall to this Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27-day statutory maximum for the land being used as a fair is per calendar year, 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.

**(ixx) Betting Premises
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.

The Licensing Authority recognises that the design and layout of betting premises (or any other premises including tracks) will vary so will have particular regard to the siting of age restricted gaming machines within each individual premises to ensure, so far as is reasonably practicable, that staff properly monitor the use of these machines by children and young persons.

This Licensing Authority reserve the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so.

Factors to be taken into consideration will include the following:

- _ CCTV
- _ Re-location of the machines
- _ Door buzzers
- _ Remote cut off switches
- _ Training provision
- _ Any other factor considered relevant

GAMBLING COMMISSION FUNCTIONS

Function	Who deals with it
Issue and renewal of <i>Operating Licences</i>	Gambling Commission
Review <i>Operating Licences</i>	Gambling Commission
Issue <i>Personal Licences</i>	Gambling Commission
Issue <i>Codes of Practice</i>	Gambling Commission
Issue <i>Guidance to Licensing Authorities</i>	Gambling Commission
Licence remote gambling through Operating Licences	Gambling Commission
Issue licences in relation to the <i>manufacture, supply, installation, adaptation, maintenance or repair of gaming machines</i>	Gambling Commission
Deal with appeals against Commission decisions	Gambling Appeals Tribunal

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LIST OF PERSONS CONSULTED

All Maidstone Borough Councillors

All Parish Councillors

All premises currently licensed to sell or supply alcohol

All premises currently licensed for regulated entertainment

All premises currently licensed for late night refreshments

Any other prescribed in regulations by Secretary of State

Town Centre Management

Environment Agency

British Waterways Board

GamCare

2 & 3 Baden Place

Crosby Row

London SE1 1YW

Tel: 020 7378 5200

Website: www.gamcare.org.uk

The Bingo Association

Lexham House

75 High Street (North)

Dunstable

Bedfordshire LU6 1JF

Tel: 01582 860921

Website: www.bingo_association.co.uk

British Casino Association

38 Grosvenor Gardens

London SW1W 0EB

Tel: 020 7730 1055

Website: www.britishcasinoassociation.org.uk

This list is not finite and other persons or organisations may be added.

RESPONSIBLE AUTHORITIES CONTACT DETAILS**Licensing Authority**

Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent ME15 6JQ

Gambling Commission

Victoria Square House
Victoria Square
Birmingham B2 4BP

Chief Officer of Police for the area in which the premises is wholly or partially situated.

Maidstone Police Station
Palace Avenue
Maidstone
Kent ME15 6NF

Kent Fire & Rescue Service

The Godlands
Tovil
Maidstone
Kent
ME15 6XB

Local Planning Authority

Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent ME15 6JQ

Environmental protection/Health & Safety

Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent ME15 6JQ

Kent Social Services

Children, Families and Education
Strategy, Policy and Performance
Sessions House
County Hall
Maidstone
Kent
ME14 1XQ

HM Revenue and Customs

National Registration Unit

Portcullis House

21 Indian Street

Glasgow

G2 4PZ

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TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

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		
Fee Setting (when appropriate)	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authorities	Where no representations received from the Commission or responsible authorities
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations 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	

John Littlemore
 Head of Housing and Community Services
 Maidstone Borough Council
 Maidstone House
 King Street
 Maidstone Kent ME15 6JQ

16th November 2015

Dear Sir,

Consultation on Maidstone 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 following the consultation completion (requirement is from 6th April 2016) and it is noted that within the letter accompanying the consultation invitation, you will be consulting again on this requirement within the next 12 months.

Coral's experience is that through all it does, it achieves an exemplary degree of compliance already, 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.

We would caution against the council providing a long list of locations which must be risk assessed and instructions / templates for completion. Through reading and responding to over 200 different council consultation documents at the current time, we are aware that different councils have approached this requirement in many ways and 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



Maidstone Borough Council
Licensing Partnership
PO Box 182
Sevenoaks
Kent
TN13 1GP

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / LHK / 097505.00004
#GS475677
Your ref:
Date: 16 November 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

Section 2 of Appendix 2 deals with “Decision Making – General” and states that decisions upon individual conditions will be made on a case by case basis. The statement of principles would be assisted by an indication that the starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions as these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The statement of principles should make it clear that additional conditions will only be imposed where there is evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented. Conditions will not be imposed where there is no evidence of a need to do so. This section refers to conditions being imposed where there is a “perceived need”. Conditions should only be imposed where that “perceived need” exists due to evidence of a risk to the licensing objectives.

Paragraph (iii) deals with location. The final two sentences of this paragraph cause the ABB significant 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 that each case will be determined on its own merits.

The following paragraph ((iv) Primary Activity) does not take account of recent case law. It refers (although does not name) the Gambling Commission Advice Note “Indicators of Betting as Primary Gambling Activity” which was issued in October 2013. That advice note was considered in the case of *Luxury Leisure V The Gambling Commission* (May 2014) and the paragraph needs to be

redrafted to take account of that decision. The case held that condition 16 (Primary Gambling Activity) does not require a contest between over the counter betting and the use of machines. There must be sufficient facilities for betting if gaming machines are to be utilised but the requirement is that those facilities are available. The actual use of those facilities is not an issue. This paragraph needs to be redrafted to take account of the law as it stands.

Paragraph (ixx) deals with betting machines in betting premises. The statement of licensing principles would be assisted if a distinction could be made between betting machines and gaming machines. The statement of principles should recognise that whilst the licensing authority has the power to limit the number of betting machines, it has no such power in relation to gaming machines. Holders of betting premises licences are authorised to make available for use up to 4 gaming machines of categories B, C or D.

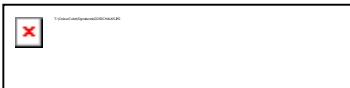
Conclusion

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

Licensing Committee	26 November 2015
Is the final decision on the recommendations in this report to be made at this meeting?	No

Draft Statement of Licensing Policy

Final Decision-Maker	Council
Lead Director or Head of Service	John Littlemore
Lead Officer and Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That Licensing Committee recommend to full Council the approval of the Statement of Licensing Policy at Appendix A with the authority of the Head of Housing and Community Services to make any amendments identified in Appendix B.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
- Securing a successful economy for Maidstone Borough

Meeting	Date
Policy and Resources Committee	N/A
Council	9 December 2015
Other Committee	N/A

Draft Statement of Licensing Policy

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Licensing Act 2003 requires that, at least every 5 years, the Council publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply when exercising its licensing functions under the Act.
 - 1.2 The Council's current Policy Statement took effect from 2010 but there have been a number of changes made necessary as a result of wide ranging reforms to the Licensing Act 2003. In light of those amendments, this new draft policy forms a secure foundation on which to determine applications in a way that clearly promotes the licensing objectives.
 - 1.3 This Policy Statement if agreed will be presented to Full Council on the 9 December 2015 for approval, and will take effect from 7, January 2016 remaining in force for a period of five years. It can be subject to regular review by the Council.
-

2. INTRODUCTION AND BACKGROUND

- 2.1 In its role as the Licensing Authority under the Licensing Act 2003, the Council has a duty to prepare, and keep under review its Statement of Licensing Policy. This sets out how the authority approaches its responsibilities under the Act. There have been a range of legislative and other changes that necessitate revision of this policy and the statutory requirement to review our policy every five years is now due.
- 2.2 Section 5 of the Licensing Act 2003 (the Act) states that –
*"5 (1) each Licensing Authority must in respect of each 5 year period
(a) Determine its policy with respect to the exercise of its licensing functions and;
(b) Publish a statement of that policy before the beginning of that period."*
- 2.3 Underpinning this obligation are the four statutory Licensing Objectives, which must be promoted in carrying out the authority's licensing functions. These are:
 - Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from Harm
- 2.4 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the Guidance issued

under Section 182 of the Act (as revised). The Council will endeavour to work with other Local Authorities to ensure that a consistent approach is taken in licensing matters whilst respecting the differing needs of individual communities throughout the County.

- 2.5 The draft 'Statement of Licensing Policy' is detailed in full in Appendix A. The Consultation draft document was before members at Licensing Committee on 11 June 2015 and has since been consulted on and this report sets out the responses to the consultation and suggested amendments as a result (Appendix B). The Draft Statement of Licensing Policy attached includes the amendments that have been suggested as part of the consultation process.

3. AVAILABLE OPTIONS

- 3.1 The Council could choose not to review and agree a revised policy but a failure to adopt a revised policy in early 2016 would be in breach of statutory requirement and put the authority at risk of legal challenge to decisions made under an out of date policy.
- 3.2 In any event the current policy does not reflect the impacts of the amendments to legislation and requires updating to support the licensing decision making process

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The authority needs to revise the current policy to meet statutory requirements, ensure coverage of the changes in the legislation and to set out how the Authority intends to approach its licensing responsibilities ;in particular what it expects from management of different types of licensed premises in their business activities and how they intend to promote the four licensing objectives.

By being open and transparent in the approach taken in administering the licensing regime the public can see the efficiency of the service and have confidence in the decision making process.

5. Responses to the consultation

- 5.1 The draft 'Statement of Licensing Policy' was sent to various recipients including responsible authorities, parish councils, district councillors , representatives of the trade, local business and the general public. Two responses to the draft 'Statement of Licensing Policy' have been received these are detailed in full in Appendix B. These responses have been considered and the suggested amendments considered necessary are set out

at App B and within the draft policy for Licensing Committee approval for recommendation to Full Council to reflect those responses.

6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 Once Licensing Committee agree to the Draft Statement of Licensing Policy attached becoming the final Document it will go to Council on the 9 December 2015 for formal adoption.

7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Contained in the body of the report	[Head of Service or Manager]
Risk Management	Contained in the body of the report	[Head of Service or Manager]
Financial	None identified	[Section 151 Officer & Finance Team]
Staffing		[Head of Service]
Legal	Noted within the report	[Legal Team]
Equality Impact Needs Assessment		[Policy & Information Manager]
Environmental/Sustainable Development		[Head of Service or Manager]
Community Safety	Noted in the report	[Head of Service or Manager]
Human Rights Act		[Head of Service or Manager]
Procurement		[Head of Service & Section 151 Officer]
Asset Management		[Head of

		Service & Manager]
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

Appendix A - Draft Statement of Licensing Policy

Appendix B - Feedback from Draft 'Statement of Licensing Policy' consultation

9. BACKGROUND PAPERS

Section 182 Guidance -

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf.

STATEMENT OF LICENSING POLICY



6th January 2016 until 5th January 2021

Licensing Act 2003

ALL applications will be considered on their merits, as well as against the relevant policy and statutory framework

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STATEMENT OF LICENSING POLICY

INTRODUCTION

Maidstone Borough Council is a member of a Licensing Partnership which includes Sevenoaks District Council and Tunbridge Wells Borough Council. However this policy relates solely to Maidstone Borough Council and its area.

This is the Statement of Licensing Policy as determined by the Council in respect of its licensing functions under the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function.

This Statement of Licensing Policy commences on 6 January 2016 and continues for a five year period. During the five year period the Policy will be kept under review and the authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.

All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The 2003 Act requires the Council to carry out its various licensing functions with a view to promoting the following four licensing objectives:

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

The aims of this Statement of Licensing Policy, in line with the four licensing objectives, are to:

help build a fair and prosperous society that properly balances the rights of people and their communities with the needs of business.

minimise any nuisance or disturbance to the public through the licensing process;

integrate its aims and objectives with other initiatives, policies and strategies that will:

- (1) reduce crime and disorder;
- (2) encourage tourism;
- (3) encourage an early evening and night time economy which is viable, sustainable and socially responsible;
- (4) reduce alcohol misuse;
- (5) encourage employment;

- (6) encourage the self sufficiency of local communities;
- (7) reduce the burden of unnecessary regulation on business;
- (8) encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.

The Council will endeavour to work with other Local Authorities to ensure that a consistent approach is taken in licensing matters, whilst respecting the differing needs of individual communities throughout the local authority area.

In the preparation of this policy the Licensing Authority will have given proper regard to the local strategies on crime prevention, planning, transport, culture, tourism and economic development to ensure proper coordination and integration of the aims and actions of these policies.

The Licensing Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. The Licensing Authority will continue to develop strategies with the police, and the other enforcement agencies, as appropriate, for the management of the night-time economy. Central to this is the enforcement of the law relating to the sales of alcohol to drunk and underage people and drunkenness or disorder on, or in the immediate vicinity of licensed premises.

This policy covers a wide variety of premises and activities carried on within them. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate. However, there will be zero tolerance of dealing in or using controlled drugs (as defined by the Misuse of Drugs Act 1971) on licensed premises.

1 CONSULTATION

1.1 The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance with Section 5 of the Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licencing Objectives will be made with the approval of the Licensing Manager in order for the policy to remain legislatively current.

1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:

- the Chief Officer of Police for Kent
- the fire and rescue authority for Kent
- the Director of Public Health for all areas within Maidstone Borough
- persons/bodies representative of local premises licence holders
- persons/bodies representative of club premises certificate holders
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in the MB area

1.3 In accordance with the guidance the following persons have also been consulted on this revised statement:

- Kent Police Licensing Team
- the Superintendent of Police for Maidstone Borough Council area

- all Council members
- all parish councils
- all bordering local authorities
- all other responsible authorities under the Licensing Act 2003
- members of the public who requested to be consulted and have responded previously.
- British Beer & Pub Association

DRAFT

THE POLICY

2. BACKGROUND

2.1 When administering licensing matters the council as the Licensing Authority will promote of the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

The four licensing objectives are the:

- *Prevention of Crime and Disorder*
- *Prevention of Public Nuisance*
- *Public Safety*
- *Protection of Children from Harm*

The Licensing Authority gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authority will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to the amended guidance issued under section 182 of the Act the Police Reform and Social Responsibility Act 2012 and the Live Music Act 2012.

2.4 Maidstone Borough Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and variations to licences for a number of activities detailed below. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices,(TENs). The activities as defined by the Act are:

- Sale by retail of alcohol
- supply of alcohol (club)
- The provision of regulated entertainment which includes:
 - the performance of a play
 - an exhibition of a film
 - an indoor sporting event
 - boxing or wrestling entertainment
 - a performance of live music
 - playing of recorded music
 - performance of dance
 - entertainment of a similar description to the above 3.
(where they take place in the presence of an audience for the purpose of entertaining them)
- Provision of late night refreshment

It should be noted that following the introduction of the Live Music Act 2012, a licence is not required to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8AM and 11PM; and
- it takes place at an alcohol on-licensed premises; and
- the audience is no more than 500 people

You also don't need a licence:

- to put on unamplified live music at any place between the same hours; or
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people.

2.6 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

2.7 The Policy will apply across a range of applications which include the following:

- New Premises Licences and Club Premises Certificates
- Variations to Premises Licences and Club Premises Certificates
- Provisional Statements for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of mandatory condition in respect of alcohol sales at village halls and community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

2.8 The Licensing Authority also regulates other activities at licensed premises which include sexual entertainment events and gambling

3. LICENSING AUTHORITY GENERAL POLICY CONSIDERATIONS

- 3.1 The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including all ages and genders. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.
- 3.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.
- 3.3 The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with the wider benefits.
- 3.4 Pre application advice is available from licensing officers upon request and where appropriate. The Licensing Authority expects that applicants will have in advance researched and understood the relevant Law in relation to their application and their particular business plans as well as this Policy. It is not for licensing officers to determine the business needs and capabilities of an applicant but advice can be offered in relation to the licensing objectives. In addition guidance notes are available on the licensing pages of Council's website – www.maidstone.gov.uk/business/licensing-and-permits and at <http://www.maidstone.gov.uk/business/environmental-health/health-and-safety/event-planning>
- 3.5 Licensing officers will also provide advice to other parties on the licensing process where needed in relation to objecting to or supporting applications that may affect them. However, MBC cannot provide legal advice to applicants or other parties.
- 3.6 *Supermarkets and other 'off' licensed premises selling alcohol.* The Licensing Authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout their opening times. However where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.
- 3.7 All 'off' licensed premises must comply with the Licensing Act 2003 Mandatory Conditions Order in relation to age related sales. The Licensing Authority also expects such premises to consider any appropriate and proportionate additional measures to prevent and deter proxy sales on behalf of under 18's.
- 3.8 Licensees should also carefully consider alcohol sales to customers who have or appear to have alcohol related health issues, and whether those customers already appear under the influence of alcohol when attempting to make purchases.
- 3.9 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by

most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption.

- 3.10 Where self-pay till points are made available in stores selling alcohol, provision must be considered for alcohol sales to be identified and approved prior to completion of the purchase.
- 3.11 *Designated Premises Supervisor (DPS) at alcohol licensed premises.* Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will normally have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.
- 3.12 The Licensing Authority would normally expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.
- 3.13 The Licensing Authority expects that a DPS should usually have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.
- 3.14 *Film Exhibitions*¹⁴, the licensing authority expects licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.
- 3.15 *Live Music.* It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authority does not see this as an opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses.
- 3.16 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.
- 3.17 *Deregulated Entertainment.* Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities. The Licensing Authority will consider using alternative powers as per para 3.15.
- 3.18 *Late Night Levy (LNL).* Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the Borough.

The Licensing Authority has considered the options around the imposition of a LNL and has no plans at the time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will use its discretion_very carefully in relation to design and impact of a levy.

- 3.19 In advance of any decision to implement a LNL, this authority will enter into discussions with the Police with a view to agreeing the allocation of the Police share of the levy to support the policing of the night time economy within this Borough .
- 3.20 *Early Morning Alcohol Restriction Order (EMARO)*. The Licensing Authority has considered the options around the imposition of an early morning alcohol restriction order and has no plans at the time of developing this policy to consider such an Order. There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the Borough which is decreasing. Should evidence arise to support implementing an EMARO, the statutory consultation process will be followed and the matter referred to the Full Council for determination.
- 3.21 *Licensing and planning permission*. The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates. However, all applicants should be in possession of the necessary planning authorisation for their activities or planning enforcement may be considered.
- 3.22 *Need for licensed premises and Cumulative Impact*. 'Need' concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a 'market forces' matter and is not of concern to the Licensing Authority. 'Cumulative Impact' means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.
- 3.23 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses. The licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation
- 3.24 The Licensing Authority, having regard to the evidence available, considers that currently there is no particular part of the Borough where there is a negative cumulative impact of licensed premises on any of the licensing objectives. If residents or a Responsible Authority (in particular the Police) provide relevant evidence through a representation in the future that supports the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.
- 3.25 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to

a negative cumulative impact on one or more of the licensing objectives. The Licensing Authority will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

4. RESPONSIBLE AUTHORITIES AND OTHER PERSONS

4.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and are contained on the Maidstone Borough Council web-site at Responsible Authorities.

4.2 When dealing with applications and variations for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons to comment both for and against applications for premises licences and club premises certificates and for reviews.

4.3 The Licensing Authority may only consider representations that are relevant to the promotion of the licensing objectives.

4.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.

4.5 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.

4.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.

4.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:

- whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous and are intended to cause aggravation or annoyance
- whether the representation raises a 'relevant' issue
- whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.

4.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them,

say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.

- 4.9 The Health Authority is now included on the list of Responsible Authorities. It is acknowledged that they may be useful in providing evidence of alcohol related crime and disorder or public nuisance etc. that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions that relate to specific licensed premises.
- 4.10 *The Licensing Authority as a Responsible Authority.* The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.
- 4.11 The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware of the negative impact on the promotion of the licensing objectives and residents, and other third parties have failed to take action by either requesting a review or making representation.

5. EXCHANGE OF INFORMATION

- 5.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003 and the Data Protection Act 1998 in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

6. HUMAN RIGHTS AND EQUAL OPPORTUNITIES

- 6.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.
- 6.2 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.
- 6.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.
- 6.4 The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how

inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

7. COMPLIANCE AND ENFORCEMENT

- 7.1 There are a range of offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.
- 7.2 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulators' Code and it has also adopted the Kent and Medway Enforcement Protocol.
- 7.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.
- 7.4 Annual fees and suspension of licences for non-payment.- The Licensing Authority is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The Licensing Authority will invoice each licensee when the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due date, the Licensing Authority will serve the required 2 working day notice to suspend the licence.
- 7.5 Where a licence is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the council's enforcement policy.
- 7.6 If an operator does not wish to carry on the activities that require the premises licence or certificate anymore it is important the licence or certificate is surrendered to prevent maintenance fees being accrued.

CONSIDERATION OF APPLICATIONS

8 NEW PREMISES LICENCES

8.1 In making decisions about applications for licences the Licensing Authority will have regard to:

- The Licensing Act 2003
- the Statutory Guidance issued under section 182 of the Licensing Act 2003,
- The Statement of Licensing Policy made under section 5 of the Licensing Act

that any decisions made that depart from guidance or policy only do so for reasons set out in the decision.

8.2 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authority will expect the applicants to provide additional information for clarity on a request from the licensing team.

8.3 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the validation process.

8.4 Licensing officers will also notify ward councillors to whose ward the application relates, and the parish council for the relevant parish of receipt of an application via the weekly premises tracker.

8.5 Where there are no representations about an application the licence will be automatically granted after 28 days under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert that into consistent enforceable licence conditions.

8.6 Where relevant representations are received the application will be referred to the Licensing Sub-committee for determination at hearing, unless all parties agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 16 of this policy will apply.

9 VARIATIONS TO LICENCES

9.1 From time to time licensees may wish to change the nature of the business, vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as minor changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example; the provision of additional activities, increasing capacities or longer and later trading hours. However where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.

9.2 The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 8 above.

9.3 Where applications are made for minor variations officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed creates a significant impact on any of the Licensing Objectives the application will be rejected and the applicant advised to seek a standard variation.

9.4 Where minor impact or no impact is considered Officers will consult with the relevant (if any) responsible authorities.

10. VARIATIONS TO SPECIFY A NEW DESIGNATED PREMISES SUPERVISOR (DPS)

10.1 The Licensing Authority expects that usually the nominated DPS on a licence will be involved in and supervising the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authority would expect the licensee to replace that person as soon as is reasonably practicable to maintain adequate control of the premises.

10.2 Where a DPS notifies the Licensing Authority that he or she has resigned, the licensing officers will enter into immediate discussion with the licensee in relation to the mandatory conditions concerning the sale of alcohol, and provide appropriate advice to prevent unauthorised alcohol sales.

10.3 All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the licensee's behalf.

10.4 Where there are no representations the default position is to grant the variation.

10.5 The Licensing Authority will give the appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that receive relevant representations will be referred for a hearing at which point the Sub Committee may approve or reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so..

11. TRANSFERS OF PREMISES LICENCES

11.1 Before a licence transfer can be administered, the Licensing Authority usually expects consent to have been obtained from the previous premises licence holder. If this is not possible the applicant will be expected to demonstrate that he or she has taken all reasonable steps to secure consent to transfer the licence.

11.2 It is acknowledged that in some cases licensees leave premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a licensee cannot reasonably be contacted to give approval, a licence will be transferred in accordance with the requirements of the Act.

11.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process unless it is agreed by the applicant and Police as unnecessary..

12 PROVISIONAL STATEMENTS FOR PREMISES

12.1 A provisional statement may be applied for, by a person interested in a premises, where a proposed licensed premises has yet to be built or altered for the purpose of becoming a licensed premises. This option allows potential applicants advance notice

of whether a premises licence is likely to be granted on completion of its construction or conversion.

12.2 The process for considering an application for a provisional statement is the same as that for a premises licence application, including a schedule of works. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and other parties may make representations and there are rights of appeal.

12.3 The holder of a provisional statement may 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, where the application is for a licence in the same form as the provisional statement and the work described in the schedule of works has been satisfactorily completed. Representations are excluded where:

Where the relevant person could have made the same or substantially the same representations about the provisional statement application but failed to do so without reasonable excuse and there has been no material change in circumstances of the premises or area in the vicinity of the premises since the provisional statement.

13. CLUB PREMISES CERTIFICATES

13.1 The Licensing Authority acknowledges the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.

13.2 Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.

13.3 In order to apply for a club premises certificate the Licensing Authority must be satisfied that the club is a qualifying club and satisfies the legal conditions set out in the Act. Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.

13.4 The fundamental principles for premises licence applications set out at section 15 of this Policy will apply to applications for club premises certificates subject to exemptions in respect of the DPS and the requirement for evidence of the club's status.

13.5 Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice or by ensuring compliance with the club rules to allow the public to enjoy the clubs facilities and activities without jeopardising the validity of the club premises certificate.

13.6 The Licensing Authority expects 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice

from the Licensing Authority prior to providing such activities for non-members to prevent any unauthorised activities.

13.7 Where the Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Licensing Authority obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.

13.8 Suspension of Club Premises Certificates may also occur under section 92A of the LA2003, failure to pay annual fee.

14. REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

14.1 The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.

14.2 The Act allows a licence to be **reviewed** where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.

14.3 Although this Licensing Authority is also a Responsible Authority and may bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).

14.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.

14.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- relevant to one or more of the licensing objectives
- Not frivolous, vexatious or repetitious.

14.6 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits.

14.7 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve or narrow issues arising. The Council would be happy to assist in these meetings being chaired by a member of their team but all parties may choose to have a different third party as a mediation chairperson.

14.8 All reviews, save where agreed by all parties as unnecessary, will lead to a hearing before a sub-committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their

representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.

14.9 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that the a revocation of the licence will be considered.

15. APPLICATION TO VARY PREMISES LICENCE AT COMMUNITY PREMISES TO REMOVE THE MANDATORY REQUIREMENT FOR A DPS.

15.1 The Licensing Authority acknowledges the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.

15.2 The Act allows management committees at community premises to take over the responsibility of the alcohol sales by applying to the Licensing Authority to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authority will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the mandatory condition requiring all alcohol sales to be authorised by a personal licence holder.

15.3 Before considering an application the Licensing Authority will satisfy itself that a premises meets the definition of a community premises. Enquiries will be made as to the regular use of the premises and whether it is in the main 'community' based. Where there is a regular 'commercial' or 'non-community based' use or a membership requirement to use the premises it is unlikely that such a premises would meet the definition of a community premises and permission to remove the requirement for a DPS is likely to be refused.

15.4 In general it is expected that premises that form part of a church hall or chapel hall or are a village, parish or community hall or other similar building would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.

15.5 The licensing officers will consider, on a case by case basis, all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the supply of alcohol the premises .

15.6 Committees that make an application will be expected to have members who are aware of the law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

16 HEARINGS

16.1 Any application that has resulted in the submission of relevant representation from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.

- 16.2 A sub-committee will consist of 3 suitably trained members of the Licensing Committee. The sub-committee will be advised on the law by a member of the Council's Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 16.3 This Policy will play a key role in achieving consistency in decision making.
- 16.4 Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve or narrow issues before attending the licensing hearing and to achieve an outcome satisfactory to all parties.
- 16.5 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.
- 16.6 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.
- 16.7 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.
17. LICENCE CONDITIONS
- 17.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions must be appropriate and proportionate in order to promote the licensing objectives at that premises.
- 17.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Act and Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 as amended (and any subsequent Mandatory Conditions that are introduced).
- 17.3 Applicants will be expected to include appropriate steps to promote the licensing objectives within their operating schedule which will be converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be proportionate, achievable, enforceable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.
- 17.4 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate and proportionate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.

17.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be given the opportunity to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable, enforceable and reasonable conditions for new and variation applications.

17.6 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions.

17.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises and the areas around the premises which is within the licensees control.

17.8 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

17.9 CONDITIONS TO PROMOTE THE PREVENTION OF CRIME AND DISORDER.

Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

17.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction to responsible drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage “vertical drinking”
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

17.11 In busier premises the Licensing Authority would usually expect to see a short (e.g.30 mins) 'wind down' or 'drinking up' period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

17.12 Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence. Where the Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area.

17.13 Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to consider inclusion of a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

17.14 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidential purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

17.15 In any application resulting in hearing the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to promotion of the licensing objectives.

17.16 **CONDITIONS TO PROMOTE PUBLIC SAFETY.**

The applicant will be expected to show how the physical safety of persons attending the premises will be protected and to offer any appropriate steps in the operating schedule to promote this.

17.17 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

17.18 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the Licensing Authority will consider adding such a limit as a licence condition.

Where appropriate an operating schedule should specify occupancy limits for the following types of licensed premises:

- (i) High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the primary activity is the sale of alcohol
- (ii) Nightclubs

- (iii) Cinemas
- (iv) Theatres
- (v) Other premises where regulated entertainment is likely to attract a large number of people.
- (vi) Where conditions of occupancy have arisen due to representations received.

17.19 CONDITIONS TO PROMOTE THE PREVENTION OF PUBLIC NUISANCE.

The applicant will be expected to detail any appropriate and proportionate steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

17.20 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Delivery and collection times and locations.
- (viii) Impact of external security or general lighting on residents.
- (ix) History of management of and complaints about the premises.
- (x) Applicant's previous success in preventing Public Nuisance.
- (xi) Outcomes of discussions with the relevant Responsible Authorities.
- (xii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiii) Collection of litter arising from the premises

17.21 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

17.22 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

17.23 CONDITIONS TO PROMOTE THE PROTECTION OF CHILDREN FROM HARM.

Applicants will be expected to detail any appropriate and proportionate steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

17.24 Steps to protect children from harm must be carefully considered for inclusion where:

- (i) There is entertainment or services of an adult nature provided.
- (ii) There have been previous convictions for under age sales of alcohol.
- (iii) There has been a known association with drug taking or dealing.
- (iv) There is a significant element of gambling on the premises.
- (v) There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- (vi) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

17.25 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.

17.26 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

18. PERSONAL LICENCES

18.1 Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authority acknowledges the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.

18.2 The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed in Schedule 4 of the Licensing Act 2003.

18.3 Where a representation is received from the Police the Licensing Authority must hold a hearing unless the Police and the authority agree that it is unnecessary. The application must be rejected if it is considered appropriate for the promotion of the crime prevention objective and granted in any other case.

- 18.4 The Police must give a notice of objection to the Licensing Authority within the statutory 14 day consultation period. The Licensing Authority accepts that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.
- 18.5 The Licensing Authority requires all personal licence holders to advise if there is a change of their name or address in accordance with the Act. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated and an amended licence will be issued within 20 working days of a notification of change.
- 18.6 The Licensing Authority anticipates that the Magistrates' and Crown Courts will take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a personal licence and notify the Licensing Authority of any action taken in respect of a personal licence.
- 18.7 The Licensing Authority requires personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty.

19. TEMPORARY EVENT NOTICES

- 19.1 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.
- 19.2 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authority expects the premises user to have considered any potential impacts and how they may be mitigated.
- 19.3 The Licensing Authority welcomes requests for advice from applicants who wish to provide temporary events to ensure they understand the law relating to such events and to reduce the likelihood of objections being made.
- 19.4 There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year. There is also a numerical limitation on the number of TENS that may be served in respect of individual premises or place.
- 19.5 **Standard TEN.** A standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the Licensing Authority, The Environmental Health (EH) Department, and the Police. The fee is payable only to the Licensing Authority. Applicants are encouraged to serve TENS at least 28 days before the proposed events to allow greater time for an event to be planned.

- 19.6 Where numerical limits are exceeded the Licensing Authority will serve a counter notice and the proposed licensable activities will not be authorised.
- 19.7 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-Committee. The Sub-Committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing premises licence) or reject a TEN by serving a counter notice.
- 19.8 **Late TEN.** A late TEN may be served between 9 and 5 working days before a proposed event commences. The same limitations apply to the day the notice was served and the day of the event. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.
- 19.9 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected. The proposed activities would not be authorised. The Licensing Authority has no discretion to accept TENs outside the permitted statutory deadlines.
- 19.10 Where valid representations are received from the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised. A refund of the fee will not be made.
- 19.11 The Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.
- 19.12 It should be noted that if a TEN has been processed and is no longer required the fee will not be refunded as the Licensing Authority has already carried out its obligations.
20. **OTHER RELEVANT MATTERS**
- 20.1 **Adult entertainment.** The Licensing Authority has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.
- 20.2 The Licensing Authority acknowledges that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original application specified that such adult entertainment was proposed to be provided.
- 20.3 **Gaming machines in licensed premises - Automatic entitlement.** There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify this Licensing Authority and pay the prescribed fee.
- 20.4 This 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 (under the GA2005);
- gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);
- the premises are mainly used for gaming; or
- an offence under the GA2005 has been committed on the premises.

20.4 Gaming Machine Permit – If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.

20.5 In determining such matters, consideration will be given to all the objectives but particularly the need to protect children from harm and to the need to protect vulnerable persons from harm or being exploited by gambling. The applicant will be required to satisfy the authority that there will be sufficient measures to ensure that minors do not have access to the adult only gaming machines.

20.6 Measures to satisfy the authority relate to restricting access to age restricted machines and adult machines being in sight of the bar, or in sight of staff who will monitor that the machines are not being used by minors. Notices and signage should also be displayed to this effect. Applicants may consider the provision of information leaflets and helpline numbers for organisations such as GamCare to demonstrate their responsibility in the protection of vulnerable persons and compliance with Codes of Practice issued by the Gambling Commission.

20.7 Gambling in alcohol 'On' licensed premises. Exempt gaming is equal chance gaming that is generally permissible in any club or alcohol licensed premises. Equal chance gaming includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker. Such gaming should be ancillary to the purposes of the premises.

20.8 This exemption is automatically available to all clubs or alcohol licensed premises, but is subject to statutory stakes and prize limits determined by the Secretary of State. Licensees are encouraged to seek advice from the Gambling Commission at www.gamblingcommission.gov.uk or this Licensing Authority before providing any forms of gambling at alcohol licensed premises.

20.9 Licensees should consider appropriate arrangements for customers who wish to smoke outside the premises in an effort to ensure that any unlicensed pavement area are not also used as allocated smoking area. This is to prevent nuisance and potential health harms to any non-smokers who may use the area.

21. INFORMATION

21.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the Maidstone

Borough Council website www.maidstone.gov.uk or by contacting the licensing team by email (licensing@maidstone.gov.uk), or by telephone on 01622 602028

APPENDIX A

Maidstone is the County Town of Kent situated in the heart of the “Garden of England”. Maidstone Borough includes a variety of picturesque rural villages. Maidstone town has a vibrant retail centre, historic attractions and is a popular visitor destination with a busy day, evening and night time economy, and many cultural and leisure activities.

SOUTH EAST ENGLAND



There are 507 premises licences and 33 club premises certificates issued to businesses associated with the Licensing Act provisions. There are 461 licences that allow the sale of alcohol, 98 are on sales only, 142 are off sales only and 222 that allow both on and off sales. There are 321 premises licensed for late night refreshment. This premises includes Leeds Castle which holds cultural events and evening concerts during the summer months, the Lockmeadow Leisure Complex providing multi-screen cinema, restaurants and a night club, the Hazlitt Theatre and Exchange Complex, the County Agricultural Showground at Detling, Mote Park which has staged many popular music events and many premises such as restaurants, hotels, public houses, village halls and community centres in the rural area. There were also 386 Temporary Event notices dealt with in 2014/15

Tourism along with economic development works to deliver the Council's key priority of prosperity, by attracting visitor expenditure to the local economy, by the promotion of Maidstone as an attractive location for inward investment and through support for existing and start-up tourism businesses. This works in partnership with the Council's priority of Quality Living by engendering community pride in Maidstone and improving the quality of life.

Maidstone has a population of 155,143 people (2011 census) comprised of the following:

Maidstone

	no	%
Under 16	29667	19.1
16 to 19	7385	4.8
20 to 29	18274	11.8
30 to 59	63102	40.6
60 to 74	24470	15.8
75 and over	12245	7.9

In Maidstone, violence against the person increased from 1,889 offences in 2012/13 to 2,349 offences in 2013/14 (+24.4%). This rate of increase is below the county increase and shows a peak during the summer months. Maidstone is ranked 6th in the county, the same ranking as 2012/13.

For community safety it is important to state that its aim is to create safer communities in the Borough by reducing crime and disorder in a cost effective way, through involving the community and partnership working. In December 2006 the Council made Designation Orders under the provisions of the Criminal Justice and Police Act 2001 (as amended by the Licensing Act 2003) in relation to alcohol consumption in public places.

The Council were satisfied that nuisance or annoyance had been caused to the public or disorder caused, associated with the consumption of alcohol. The Orders provide the Police with the power to require consumption to cease and confiscate containers. The areas covered by the Orders included:-

- Area 1 – Town Centre Maidstone
- Area 2 – Snowdon Parade, Vinters Park
- Area 3 – Mote Park, Maidstone
- Area 4 – Northumberland Court, Maidstone
- Area 5 – Cumberland Green, Maidstone
- Area 6 – Barming Recreation Ground (also known as Barming Heath)
- Area 7 – Parkwood Green, Maidstone

These will be reviewed and consideration given to Public Spaces Protection Orders (PSPOs) under new legislation as appropriate.

DRAFT

Appendix B

Contact details of Local Authority Licensing Department as at 11.06.2015

<p>Lorraine Neale Senior Licensing Officer Email: lorraineale@maidstone.gov.uk Telephone: 01622 602028</p>	<p>Louise Davis Licensing Officer louisedavis@maidstone.gov.uk Telephone: 01622 602727</p>
<p>Licensing Department Maidstone Borough Council Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Licensing Partnership Sevenoaks District Council Council Offices PO Box 182 Argyle Road Sevenoaks Kent TN13 1GP</p> <p>Web; www.maidstone.gov.uk/business/licencesandpermits Email: licensing@maidstone.gov.uk Telephone: 01622 602028</p>	

See the Maidstone Borough Council Website www.maidstone.gov.uk for details of the Town and Parish Councils within the Borough. Details of your local Councillors may also be obtained from the website.

Information on licensing applications being processed is available on the licensing pages of Maidstone Borough Council's website www.maidstone.gov.uk or the Licensing Partnership website at Sevenoaks District Council website www.sevenoaks.gov.uk

Appendix C
Responsible Authorities

<p>Kent Fire & Rescue Service Asst Divisional Officer</p>	<p>Maidstone & Malling Police Divisional Licensing Coordinator</p>
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<p>Maidstone Fire Safety Loose Road Maidstone Kent ME15 6QD</p> <p>Tel: 01622 774126 Email: maidstone.firesafety@kent.fire-uk.org</p>	<p>Community Safety Unit Tonbridge and Malling Borough Council Gibson Drive Kings Hill West Malling ME19 4LZ</p> <p>Tel: 01622 604296 Email: west.division.licensing@kent.pnn.police.uk</p>
<p>Trading Standards Kent County Council 1st Floor, Invicta House County Hall Maidstone Kent. ME14 1XX</p> <p>Tel: 03000 412000 TSwest@kent.gov.uk</p>	<p>Social Services Kent County Council Social Services Mid Kent Area, District Office Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Tel: 01622 691640 Fax: 01622 691135</p>
<p>Local Planning Authority Maidstone Borough Council Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Tel: 01622 602736 or 602737 Email: DevelopmentControl2@maidstone.gov.uk</p>	<p>Public Health Kent Kent Public Health Department Room 3.45, Sessions House, County Hall, County Road Maidstone Kent ME14 1XQ</p> <p>Tel: 0300 333 6379 Gillian.Montgomery@kent.gov.uk</p>
<p>Director of Regeneration and Prosperity Maidstone Borough Council Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Tel: 01622 602364</p>	<p>Environmental Health Maidstone Borough Council Maidstone House King Street Maidstone Kent ME15 6JQ</p> <p>Tel: 01622 602111 Email: Enforcementoperations@maidstone.gov.uk</p>
<p>FOR VESSELS ONLY – ALSO SEND TO: Environment Agency Kent Area Office Orchard House Endeavour Park London Road Addington</p>	<p>FOR VESSELS ONLY – ALSO SEND TO: Environment Agency Kent Area Office Orchard House Endeavour Park London Road Addington</p>

West Malling Kent ME19 5SH Tel: 08708 506506 Website: www.environment-agency.gov.uk Email: enquiries@environment-agency.gov.uk	West Malling Kent ME19 5SH Tel: 08708 506506 Website: www.environment-agency.gov.uk Email: enquiries@environment-agency.gov.uk
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Appendix D

References to guides of best practice

www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003

Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics
www.ioa.org.uk

Good Practice Guide: Licensing published jointly by the Justices' Clerks' Society and the Magistrates' Association (April 1999)
www.magistrates-association.org.uk

Code Of Practice And Guidance Notes On Noise Control For Concerts And Outdoor Events
www.cieh.org/policy/noise_council_environmental_noise.html

Maidstone Borough Council Event Planning (SAG)
www.maidstone.gov.uk/residents/events/event-planning

The National Alcohol Harm Reduction Strategy Toolkit
www.alcoholconcern.org.uk

The Point of Sale Promotions published by BBPA
www.beerandpub.com

Public Places Charter
www.ash.org.uk

National Pubwatch
www.nationalpubwatch.org.uk

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Appendix E

Contact details and useful addresses (e.g. Chamber of Trade, BBPA, BII, SIA etc.)

<p>Maidstone Chamber of Commerce Innovation Centre Medway Maidstone Road Chatham Kent ME5 9FD Phone: 01634 565 162</p>	<p>Disclosure and Barring Service (DBS) Customer services PO Box 165 Liverpool L69 3JD Information line: 0870 90 90 811 Website: https://www.gov.uk/disclosure-barring-service</p>
<p>British Beer & Pub Association Ground Floor Brewers' Hall Aldermanbury Square London EC2V 7HR Tel: 020 7627 9191 Fax: 020 7627 9123 contact@beerandpub.com Press Office: 020 7627 9199</p>	<p>British Institute of Inn keeping (BII) Wessex House 80 Park Street Camberley Surrey. GU15 3PT Tel: 01276 684 449 Fax: 01276 23045 www.bii.org Email: reception@bii.org</p>
<p>SIA PO Box 49768 London. WC1 V6WY Website: www.the-sia.org.uk Tel: 0844 892 1025 Fax: 0844 892 0975</p>	

Appendix F - Recommended delegation of functions as per S182 of the guidance

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal		If a police objection	If no objection made

licence			
Application for a personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	If no objection made
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	If no objection made
Applications for interim authorities		If a police objection	If no objection made
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination for a minor variation			All cases

Feedback from the “Statement of Licensing Policy” (Licensing Act)

Contact	Comment	Name	Ref	Include in final version for Full Council	Recommendation by Licensing Committee on 02 02 15
<p>G H A Barnes Shepherd Neame</p>	<p>13.07.2015</p> <p>Thank you for forwarding the draft statement. I am writing on behalf of Shepherd Neame, who operate a number of public houses in the Maidstone Licensing area. In general we welcome this statement and in particular sections 3.18, 3.20 and 3.24, concerning the lack of need for Late Night Levy, EMRO or designation of Cumulative Impact Area. We particularly welcome the observation that alcohol related crime and disorder is reducing.</p> <p>We have a few observations which we would wish you to consider as below:</p> <p>3.2 We would question whether it is the role of the Licensing Authority to seek to direct the style of operation of licensed premises. Many pubs are</p>	<p>Shepherd Neame Ltd</p>	<p>Page 8</p>	<p>We would not seek to impose any style of operation on a premises, this is just a suggestion.</p>	

	<p>of a size and layout that precludes a significant catering operation. Many wet led community based pubs provide an important social role.</p> <p>3.8 We would question whether licensees are qualified to make judgement concerning the health of customers.</p> <p>3.11 We would query specific responsibility of the DPS for the receipt of alcohol. In practice, this is often carried out by a member of staff.</p> <p>3.12 We do not consider physical presence on site to be a requirement under the Licensing Act 2003.</p> <p>3.13 We do not think that the Licensing Act 2003 restricts a DPS to having responsibility for one site only</p>		<p>Page 8</p> <p>Page 9</p> <p>Page 9</p> <p>Page 9</p>	<p>We would expect the licensee to exercise common sense and to adhere to the rules surrounding serving alcohol to persons already intoxicated.</p> <p>Amended in document to read “expected”</p> <p>Although this is not a requirement we feel that this is best practice.</p> <p>This is dependent on where the premises are located and that the licensing Authority is satisfied that proper management is in place</p>	
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	<p>17.8 For the reason stated above in connection with item 3.2, we would query the final bullet point</p> <p>20.9 We do not fully understand how this advice is to be interpreted, unlicensed pavement area are unlikely to be under the control of the licensees</p>		<p>Page 20</p> <p>Page 27</p>	<p>Disagree; this can only serve to promote responsible drinking.</p> <p>The advice is specific to smoking areas within a licensed area generally outside the premises, these often draw large crowds of people, it is not ideal for large crowds to be on the pavement area, especially near busy roads. This also can lead to noise issues for neighbouring residents.</p>	
<p>Fay Gooch Chairman, Barming Parish Council MBC Ward Member for Barming & Teston</p>	<p>I have compared the new draft policy, which runs from January 2016, with the one that's on your website which runs to January 2014. I assume that the intervening period of 2015 is being covered by the out of date policy.</p>		<p>N/A</p>	<p>The Council's current Policy Statement took effect from 7th January 2011 and at that time the legislation required the Statement of Licensing Policy to be published every three years. Section 122 of the Police Reform and Social Responsibility Act 2011 changed this from every 3 years to every 5 years, therefore the policy remained in place for 2015.</p>	

	<p>The new draft policy looks clearer, better set out and much more user friendly for Officers, Members and Public alike.</p> <p>The information at 9 (paragraphs 3.15 and 3.16) concerning the Live Music Act 2012 is particularly important and relevant to residential/rural areas, because they are more sensitive to noise issues than the centre of town. For example, the issue my residents have with both the Redstart and the Bull in Barming is not that they can hear live music being played, but that the level of noise is so loud (a matter I'm raising with Environmental Enforcement). On the other hand, if I'm leaving the Town Hall late one evening after a meeting and wondering how the pub revellers can stand the music so loud, I'm pleased that the town is vibrant and our night time economy is healthy. Therefore I feel that the draft policy here has</p>		<p>N/A</p> <p>Page 9</p>	<p>Positive feedback</p> <p>Feedback only, mainly live music to have its own Heading</p>	
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	<p>“pitched it right” by not trying to define nuisance or excessive noise levels, and by succinctly setting out MBC’s position. However, because of the impact of this Act, you might consider the practicalities of giving it its own section?</p> <p>I do hope that once the policy is finalised and agreed, it is proof-read. For example to make sure the text is kept within the orange headers and footers, the type face is consistent, the different sections are consistently separated and titled, and the appendices are on separate pages.</p> <p>Page 14: it would be helpful to say what LA03 is, and Page 32: the title Director of Resource and Partnerships needs updating</p>		<p>N/A</p> <p>14&32</p>	<p>the document on the website had corrupted format and numbering and was corrected and replaced for the remainder of the consultation period</p> <p>amended</p>	