

## Licensing & Regulatory Committee

### Monday 8 February 2021

A meeting of the above Committee will be held remotely on Monday 8 February 2021, at **4.30pm** and available for the public to watch via the Warwick District Council [YouTube channel](#).

Councillor T Heath (Chairman)  
Councillor N Murphy (Vice-Chairman)

Councillor A Boad  
Councillor G Cullinan  
Councillor A Dearing  
Councillor A Evans  
Councillor C Gifford  
Councillor J Grey  
Councillor G Illingworth

Councillor V Leigh-Hunt  
Councillor M Luckhurst  
Councillor M Mangat  
Councillor D Norris  
Councillor P Redford  
Councillor S Syson

### Agenda

#### 1. **Apologies & Substitutes**

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) to receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

#### 2. **Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

#### 3. **Minutes**

To confirm the minutes of the Committee meeting held on 16 November 2020

**(Pages 1 to 3)**

#### 4. **Minutes of Licensing & Regulatory Panels**

To confirm the minutes of the Licensing & Regulatory Panels as set out below:

- |                     |                        |
|---------------------|------------------------|
| a) 17 November 2020 | <b>(Pages 1 to 15)</b> |
| b) 24 November 2020 | <b>(Pages 1 to 8)</b>  |
| c) 7 January 2021   | <b>(Pages 1 to 5)</b>  |

#### 5. **Warwick District Council and Parish Election Scale of Fees**

To consider a report from Democratic Services **(Pages 1 to 9)**

#### 6. **Sexual Entertainment Establishment Policy Review**

To consider a report from Health & Community Protection  
**(Pages 1 to 3 & Appendices 1-2)**

#### 7. **Public and Press**

To consider resolving that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Item Numbers	Paragraph Numbers	Reason
8, 9	7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### 8. **Minutes**

To confirm the confidential minutes of the Committee meeting held on 6 January 2021

**(Pages 1 to 8)**

#### 9. **Minutes of Licensing & Regulatory Panels**

To confirm the confidential minutes of the Licensing & Regulatory Panel meeting held on 15 December 2020

**(Pages 1 to 5)**

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456114

# Licensing and Regulatory Committee

Minutes of the remote meeting held on Monday 16 November 2020 at 4.30pm, which was broadcast live via the Council's YouTube Channel.

**Present:** Councillor Heath (Chairman); Councillors Boad, Cullinan, Evans, C Gifford, Grey, Illingworth, Leigh-Hunt, Luckhurst, Mangat, Murphy, Redford and Syson.

## 24. **Apologies and Substitutes**

- (a) An apology for absence was received from Councillor A Dearing; and
- (b) there were no substitutes.

## 25. **Declarations of Interest**

There were no declarations of interest made.

## 26. **Minutes**

The minutes of the Committee meeting held on 14 October 2020 were taken as read and signed by the Chairman as a correct record.

## 27. **Minutes of Licensing & Regulatory Panels**

The minutes of the Licensing & Regulatory Panel held on 25 August 2020 were taken as read and signed by the Chairman as a correct record.

## 28. **Revision of Statement of Licensing Policy**

The Committee considered a report from Health and Community Protection which presented the reviewed the Statement of Licensing Policy which was applicable to all Licenced Premises and requested that it would be adopted by the Council.

The Licensing Authority was required to review its Statement of Licensing Policy before it would expire on 5 January 2021.

The amended policy had been consulted upon and was attached as Appendix 1 to the report.

In line with Government guidance and legislation, work was currently underway, in partnership with Warwickshire Police, to gather and analyse crime and disorder and nuisance data for the town centre. When this process was completed, the findings would be presented to the Licensing and Regulatory Committee.

The Committee was specifically asked to consider four points (8, 9, 11 and 12) raised in the consultation, as set out in Appendix 2 Page 2 of the report.

In respect of point 8, Warwick Town Council had asked how the use of plastic and polycarbonate glassware outside, fitted with the WDC Climate Emergency Plan?

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

The Committee felt that it was its responsibility to consider the use of such plastics in the context of the promotion of public safety and the prevention **of crime and disorder. It was felt that the use of 'or similar' in condition 24** should be added to conditions 23 and 25 and that officers provided guidance to Council ahead of its meeting on 25 November, taking into consideration the guidance provided to those organising events on Council land in case this statement could be enhanced further.

In respect of point 9, Environmental Protection had asked for the first sentence in paragraph 4.4 to be removed as it was not necessary. The Committee reflected on this and considered that the sentence was necessary and would like it to remain in place.

In respect of point 11, Environmental Protection had requested the inclusion of a hyperlink or location where the mandatory conditions could be found (paragraph 9.1). The Committee accepted this and felt that a sentence directing people to the gov.uk website should be added.

In respect of point 12, Environmental Protection had requested the inclusion of a sentence to emphasise that the deregulation act did not exempt the premises from their duties to ensure there was no statutory nuisance created by any entertainment (paragraph 10.11). The Committee felt that the paragraph should remain unchanged but officers were asked to ensure that the Licensing website was updated, if necessary, to include clear information on who to complain to about noise issues.

The Committee therefore

**Recommended** to Council that the Statement of Licensing Policy at Appendix 1 to the minutes be approved.

**Resolved** that the full and robust investigation into the establishment of a Cumulative Impact Policy for Leamington Town Centre which is underway, be noted.

(Councillor Boad arrived during the debate on this item.)

### **29. Footpath Diversion Order**

The Committee considered a report from Development Services that sought authority for the Council to proceed with a making a Footpath Diversion Order under Section 257 of the Town and Country Planning Act 1990.

The Licensing & Regulatory Committee had delegated authority from the Council to authorise all matters relating to public footpaths and bridle ways. Planning permission was granted for residential development on land at Rugby Road and Coventry Road, Cubbington. Footpath W137 crossed the site and was to be retained as part of the proposal.

Upon scrutiny of the definitive footpath maps, it became apparent that there was an inaccuracy with the route of the footpath that needed to be addressed through a formal submission. Under section 257 of the Town and

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

Country Planning Act 1990, the District Council might by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if it was satisfied that it was necessary to do so in order to enable development to be carried out in accordance with a planning permission.

The proposal was to make a minor alteration to the line of the footpath so that it tied in with the line of the footpath indicated on the approved drawings.

The reason for the change was due to a discrepancy on the ordnance survey maps and the definitive footpaths map.

In answer to questions from Members, the Principal Planning Officer advised that:

- although not clear to see, there was a footpath underneath the proposed route across the site;
- the entry and exit points were remaining as at present, but the Council could seek the inclusion of waymarking as part of the order.

The Committee therefore

**Resolved** that the Footpath Diversion Order for W137, as set out in the appendix to the report, under Section 257 of the Town and Country Planning Act 1990, be approved along with a request for waymarking to be included.

(The meeting ended at 5.20pm)

CHAIRMAN  
8 February 2021

# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Tuesday 17 November 2020, at 10.00am.

**Present:** Councillors Evans, Grey and Redford.

**Also Present:** Mrs Dury (Principal Committee Services Officer), Mr Edwards (Committee Services Officer, observing only), Ms Russell (Licensing Enforcement Officer), Mr Walton (Digital Content and Social Media Officer, responsible for livestreaming the meeting to YouTube), and Mrs Gutteridge (**Council's** Solicitor).

## 1. **Apologies and Substitutes**

Councillor Redford substituted for Councillor Illingworth.

## 2. **Appointment of Chairman**

**Resolved** that Councillor Redford be appointed as Chairman for the hearing.

## 3. **Declarations of Interest**

There were no declarations of interest made.

The Chairman asked the **Council's** Solicitor to explain a late request made by one of the Interested Parties, Mr Papettas. The **Council's** Solicitor explained that Mr Papettas had registered an objection to the application in the required timescale but his request to speak at the meeting did not arrive within the deadline for registering to speak, which was five working day prior to the date of the meeting. Prior consent had been given from all parties, including the applicant and Members of the Panel, to allow him to speak at the meeting. The Chairman explained that the Council had received an email from the applicant giving his consent and double-checked that Members were happy for Mr Papettas to participate.

## 4. **Application for a Premises Licence under the Licensing Act 2003 for the Field off Barcheston Drive, Hatton, Hatton Park, Warwick**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a premises licence for the Field off Barcheston Drive, Hatton, Hatton Park, Warwick.

The Chairman asked the members of the Panel and officers present to introduce themselves. The other parties then introduced themselves as:

- Mr O Burman, the applicant;

- local residents: Mrs C Corby, Mr S Smith, Mrs K Smith, Mrs H Fitzpatrick, Mrs L Henderson, Mr L Hall, Mr T Papettas and Mr J Allen; and
- Councillor J Matecki, Ward Councillor.

The **Council's** Solicitor explained the procedure for the hearing and informed those present that the Panel would endeavour to make a final determination that day, which would be circulated to the applicant via email. A summary of the decision would be published on the **Council's** website and written copies of the decision would subsequently be posted to all those who had made representations in relation to the application. She further explained that at the end of the hearing, the Panel would consider its decision, during which time all parties would be asked to leave the meeting and a new meeting would be created for Members, herself and the Committee Services Officer. Her role was only to provide legal advice, and not to make any recommendations as to the determination to be given.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the application for a premises licence should be approved and, if so, whether the licence should be subject to any additional conditions.

Mr Burman, trading as Kingstanding Events Limited, applied for a new premises licence at Field off Barcheston Drive, Hatton Park, Hatton, Warwick on 1 October 2020.

The licensable hours and activity originally requested by the applicant were:

	Opening Hours of the premises	Live music Indoors only	Supply of Alcohol for Consumption on the Premises
Monday	07:00 to 22:00	07:00 to 22:00	16:00 to 22:00
Tuesday	07:00 to 22:00	07:00 to 22:00	16:00 to 22:00
Wednesday	07:00 to 22:00	07:00 to 22:00	16:00 to 22:00
Thursday	07:00 to 22:00	07:00 to 22:00	16:00 to 22:00
Friday	07:00 to 22:00	07:00 to 22:00	12:00 to 22:00
Saturday	07:00 to 22:00	07:00 to 22:00	12:00 to 22:00
Sunday	07:00 to 22:00	07:00 to 22:00	12:00 to 20:00

The proposed operating schedule was attached as appendix 1 to the report. Mr Burman currently held a Street Trading Consent (WDCSTC00185) for the premises to sell hot and cold drinks from 08:30 to 14:30 Monday to Saturday. This was issued in June 2020.

The applicant had agreed conditions with Environmental Health, Warwickshire County Council Safeguarding and Warwickshire County Council Trading Standards, which were attached as appendix 2 to the report. Their objections were subsequently withdrawn.



Mr Burman, on behalf of Kingstanding Events Limited, offered further conditions to be added to any premises licence issued. These were attached as appendix 3 to the report. He also amended the proposed licensable hours of the premises to:

	Opening Hours of the premises	Live music Indoors only	Supply of Alcohol for Consumption on the Premises
Monday	12:00 to 17:30	12:00 to 17:30	12:00 to 17:00
Tuesday	12:00 to 17:30	12:00 to 17:30	12:00 to 17:00
Wednesday	12:00 to 17:30	12:00 to 17:30	12:00 to 17:00
Thursday	12:00 to 17:30	12:00 to 17:30	12:00 to 17:00
Friday	12:00 to 20:00	12:00 to 19:30	12:00 to 19:30
Saturday	12:00 to 20:00	12:00 to 19:30	12:00 to 19:30
Sunday	12:00 to 16:30	12:00 to 16:00	12:00 to 16:00

The Licensing Department had received twenty-three objections to the application and twelve representations in support of the application from interested parties. These were attached as appendices 4 to 38 to the report. Under the Licensing Act 2003, if representations were received in relation to an application, a hearing must be held to consider the representations.

A satellite image of the field was attached as appendix 39; a map of the area as appendix 40 and photos of the unit where the alcohol would be sold were attached as appendix 41. Further photos of the immediate area would be shared at the meeting if requested.

A copy of the statement of licensing policy was attached as appendix 42 to the report.

(Mr Corby joined the meeting whilst the Licensing Enforcement Officer was making her statement.)

Mr Burman explained that a couple of years ago, he had decided to leave his job as a project manager, and set up an Events company holding wedding receptions. The first two years were successful, and as 2020 approached, a bar he had set up in a horsebox added to the services he was providing. The Covid-19 Pandemic wiped out his income for the year, not helped by the fact he had invested all his capital in a barn conversion. He decided to invest further in the horsebox so that fresh coffee could be served from it, making use of an unused field backing onto Hatton Park. This received a positive reaction from many local residents who were pleased to have a focal point to meet friends in a safe and picturesque environment. His understanding was that when the housing estate had been developed, residents were promised various amenity services which had never come to fruition.

Mr Burman had been able to sort out any concerns people had as they were reported to him. He mentioned an example of the noise of the generator, which he sorted using noise muffling measures such as straw bales. He had also hidden the portable toilet which had been hidden from

sight by camouflaged netting. He had been completely open and accessible to talk to since the horsebox service had been considered and felt many would agree. However, some people had not been willing to speak to him and so he had been unable to appease them. He wanted his venture to be a success and a valued addition to the community.

The addition of the sale of alcohol had arisen purely because his clientele had made the request, so he submitted an application. It had so far proven to be a learning curve for him because some of the reactions that the application had generated. Whilst he had put much consideration into his application, his original application had left far too many areas of concern, so he consulted a few local residents and then amended his application to allay their concerns. He was very willing to seek compromise to ensure his venture only had a positive impact.

Mr Burman then stated the ways he would use to ensure his business was a positive impact on the community:

- He would run a membership scheme, which would have a strict code of conduct. Members would be required to live in close or near proximity to the site and had to be above a certain age. The membership scheme would mean that people would not drive from other localities to use the facilities and would therefore not drive on Barcheston Drive.
- There would be a limit of 50 people on site at any one time. (He clarified that he had not made this clear in the initial application.)
- The music referred to in the application would only be what was played via a connection from his phone to small speakers. He was already doing this in the horsebox and he was not aware that this had been raised as a matter of concern to-date.
- Adequate recycling bins would be provided on site to ensure litter did not become an issue of concern.
- He had reduced the opening hours on the application to finish at 19:30 on Fridays and Saturdays, following a request from residents living alongside the bridal path who had young children and needed to get them to bed.
- The premises would not be open after dark so lighting, (which had been raised as a concern), would not be required.

Mr Burman was aware of concerns that had been raised and felt that, given an opportunity, these could be addressed.

In response to questions from the Panel, Mr Burman explained that:

- The primary method to promote the coffee box was using an Instagram page, which reached a wide audience. He also used a local Facebook page "**Hatton Park Locals**". Following a request from local residents, he had agreed to promote the sale of alcohol on Hatton Park Locals exclusively. He would continue to use the Instagram page purely for promotion of the coffee box, but with no mention of alcohol.

- To ensure his membership scheme was exclusive to local residents, he would determine a catchment area around Hatton Park, and he would consider also including regular customers from just outside this who were already using the service.
- If members brought along friends, then they would be taken into account for the 50-person on-site limit, and these friends would be expected to abide by the code of conduct; failure to do so would result in the member losing their membership. However, if bringing friends was not acceptable, then he was prepared to insist that the only people who could attend were members only.
- If his licence were to be granted, he would hire additional staff to ensure that the 50-person limit was adhered to and that the customers were served with drinks.
- The Horsebox would only operate into early evening during spring and summer months, which meant that it would be still light during operating hours. In autumn and winter, it would only operate during daytime hours. Had a licence just for six months each year to operate into early evening been a possibility, he would have applied for that.
- He had not considered setting a time by which children must not be on-site so that they would not be in attendance when alcohol was being sold, because he did not think 19:30 hours was late.

In response to questions from Councillor Matecki, Mr Burman explained that:

- Initially, the land where the Coffee Box was sited **wasn't** grassland, it had already been filled with hard-core, which he believed was leftover from the development of the housing estate, so the area had not been grassland. He did not think planning consent was required for portalooos. He also felt that anything he may have done in respect of additional hard-core came under permitted development rights.

(At this point in proceedings, the **Council's** Solicitor drew attention to the fact that planning permission was not directly relevant to a licensing hearing although there was some cross-over at times. However, permitted development right might apply and that if the license was granted, it did not follow that planning permission was also granted and separate enquiries should be made with the Planning Department to ascertain if further consents were required.)

- He was also planning to serve mulled wine during the day.
- He was unaware that there had been any problems caused to nearby residents from unpleasant odours coming from the portalooos. They were emptied regularly and they were designed so that odour was not an issue.
- The reason he was applying for the licence to serve alcohol was purely because his customers had asked him to do so. A need to make more money to ensure viability had not entered his

considerations; he had made the application because he had been asked to provide this service and a lot of people would enjoy it.

- The generator he used was powered by petrol, not diesel and was low output so it did not use much fuel. He had already put in many **"green"** initiatives and if things proved successful, he hoped to do more. Currently there was nothing further he felt he could do with the resources he had at his disposal to do anything more to reduce his carbon footprint.

The Chairman then asked Mr Burman how he would tackle the issue of additional parking the additional hours he was applying for might create. Mr Burman pointed out that plenty of people parked their cars in the nearby layby who were not his clientele; he had witnessed Mr Fitzpatrick photographing three vehicles parked there, and only one person had used the Coffee Box. The other two vehicles remained there all day and were nothing to do with him. All sorts of people used the layby and did not use his service. He also did not think there was anything wrong with people parking in the layby to buy a coffee to go from the Coffee Box. In respect of the alcohol sales, a request in the membership code of conduct would be that people walked to the field and did not drive. He would only be opening the Coffee Box for the sale of alcohol in evenings when the weather was pleasant so people could be expected to walk. He may even consider refusing service to anyone that drove in the evenings. If people brought friends from outside the designated membership boundary, then he would expect that these friends would park by the **member's** house and they would all walk to the field together. He felt this was a simple request to make of his members.

In response to a question from Councillor Grey, Mr Burman stated that he would not serve non-members who turned up out of the blue. In an ideal world he would love to be able to serve them but given the feeling of concern he was sensing, he would **"play by the book"**.

Mr Burman explained that he was complying with current Government guidance over Covid-19. His business offered a takeaway service only and he had removed all tables and chairs. He had signs asking people to come up to the counter for service only in their household bubbles and for them to wear masks. It was an **"one in and one out"** policy. If the licence were to be granted, then he would need to put in additional measures, which would include hiring additional staff. Currently he would not be allowed to serve alcohol because of the Covid restrictions, but when it became permitted again, he would ensure that satisfactory measures were in place.

The Chairman then opened the floor to the interested parties to ask Mr Burman questions; Councillor Matecki confirmed that he did not have questions to ask at the present time.

Mr Corby asked that whilst Mr Burman had informed those present at the hearing that he had consulted with residents on the housing estate, how had he consulted with the wider local residents. Mr Burman said that he had posted regularly on the Hatton Park Locals Facebook page, which

allowed members to publicly or privately message him. He had also posted a sign by where current public notices were posted, giving people his contact details to inform him of any issues they had with his application. He was also on-site at the Coffee Box from 10:00 until 14:00 and he was very approachable.

Mr Corby then pointed out that Hatton Park Locals Facebook page was not limited just to local residents, and asked Mr Burman how he would ensure his posts were only seen by local residents. Mr Burman accepted that he was not in control of who saw the posts, but would find it difficult to apply such a filter.

Mrs Smith asked for clarification on when coffee would be served and when alcohol would be served, given the generator was not powerful enough to power both the coffee machine and the beer pumps at the same time. Mr Burman explained that alcohol sales would only take place on Fridays and Saturdays with the later closing times (although he was considering serving mulled wine alongside coffee in winter months). On Fridays and Saturdays, he anticipated serving coffee between 10:00 and 14:00, then he would close for a couple of hours to make a changeover and would then re-open to sell beer and wine. He had not yet wholly decided whether he would operate on Sundays.

Mr Papettas asked how noise pollution would be mitigated from the people present. Mr Burman did not think there would be a big problem because of the early closing time and only operating to sell alcohol in spring and summer months. Mr Papettas felt that the **residents'** view from their homes was affected by the horsebox and Mr Burman commented that only the top of his lorry was visible from above the hedge, and beyond that was countryside. He felt that the horsebox fitted in well with the agricultural setting, only half of it was visible and it did not block the view of the open countryside. The Chairman interjected and pointed out that the Panel could only consider the licensing issues, not planning issues.

Mrs Fitzpatrick informed the Panel that there were 2,400 members of the Hatton Park Locals Facebook page so she was concerned that the sale of alcohol would be publicised quite widely. She informed the Panel that the layby was actually for buses and she stated that people parked in cars there and did use the Coffee Box. She acknowledged that Mr Burman had been approachable and she had written to him with various concerns, including the fact that he was operating without any staff. She read out his response to her which said that he would manage the alcohol sales alone, as he did with selling coffee, however, given the sensitivity, he would **"start off"** by employing extra personnel. She was also concerned about the noise 50 people would make. Mr Burman responded that he accepted those points but that the email he had sent to her should not be taken as **"absolute gospel"** because since he started the Coffee Box, he had adopted a flexible attitude and had adapted. He would definitely start with more staff when he sold alcohol and if he was successful, there was no automatic assumption that he would revert to just himself managing alcohol sales. He did not think there was any proof that his service was bringing people to the area to park in the layby; there had always been

people who parked there for a walk and now, they may see his horsebox and buy a coffee. The **Council's** solicitor reminded those present that in this stage in proceedings, people were meant to ask questions and they would get a chance later to make statements.

In response to a question from Mr Corby about ensuring people consumed alcohol on site, Mr Burman explained that some tables and chairs would be made available and some would be removed and put away each night.

Mr Allen was concerned about people parking in the cul-de-sac, and Mr Burman said he could put signs up asking people not to park there and he would ask his customers not to do that. If he became aware that certain people were doing this regularly, he would refuse to serve them.

Councillor Grey asked Mr Burman what he did currently to promote his business and what would he do if the licence was granted to make it clear that the service was for residents only within the catchment area he had set. Mr Burman explained that he currently used Instagram for its businesses page and forwarded this onto the closed Facebook page. With the licence, he would only use the closed Facebook page "**Hatton Park Locals**". Should the Panel deem this unacceptable because of the numbers of people on this page who were not necessarily local, then he would likely limit promotion to word of mouth from within the Coffee Box. He probably would not use TripAdvisor other than to promote the coffee sales.

In response to a question from Councillor Matecki, Mr Burman explained that only Members would be able to purchase alcohol, guests would be reliant on members for purchase of alcohol.

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Mrs Henderson felt that Mr Burman was being disingenuous because he had advertised his business with posters on the Birmingham Road as Coffee Box and Bar. Mr Burman explained that the handle "Coffee Box" had already been taken on Instagram and there were coffee bars in existence, so the name did not insinuate that he was selling alcohol.

The Chairman called on Councillor Matecki and interested parties who wished to make their closing statements.

Councillor Matecki expressed admiration for the initiative shown by Mr Burman but:

- The application was inappropriate on Green belt land and the site where it was located was not appropriate.
- It did not serve the village; half of the residents lived closer to the Hatton Arms.
- There were a lot of grey areas and Mr Burman was changing what he was going to do as the hearing progressed.
- It was not a well thought out idea, there would be traffic issues and people could not be prevented from using their cars.
- Residents would be affected by the noise of 50 people.

- It did not set a good precedent to give such permission on Green belt land.

Mrs Corby raised the following matters in her submission:

- She admired and understood what Mr Burnam was trying to achieve in difficult times, but not at the expense of the wellbeing of local residents.
- She had raised concerns at the Parish Council meeting he had attended and despite the fact that he knew how to contact her, Mr Burnam had not done so. She felt that whilst some consultation had taken place, he had not properly consulted with people who had raised concerns.
- Her house backed onto the field where his business was operating and people using the service could see right into her garden and kitchen window. This loss of privacy meant she was not using her garden and had the blinds closed for much of the day. This loss of privacy would become worse if evening hours were permitted.
- She was affected by the noise of the generator and the music. If 50 people were permitted, then the effect of the noise would be greater.
- Whilst there were positive comments on the Facebook page about the service, anyone expressing negative comments was trolled and she felt this discouraged comments, meaning that Mr Burman might be unaware of the strength of feeling.

Mrs Fitzpatrick raised the following matters in her submission:

- She objected to the application on the grounds of public nuisance and public safety and was affected by the noise and view of the business from her house.
- The land was agricultural land and was used for grazing sheep.
- The site was immediately adjacent to several residential properties and the horsebox was right up against the boundary.
- The proposals as applied for meant that it could be like having an outdoor party on her doorstep every day and for the business to be financially viable, it would need to be operating frequently.
- It would cause stress to those living close, wondering when the “pop-up” pub would be operating.
- It was too close to **people’s** home.
- Just because people could walk there did not mean they would walk there.
- The licence would affect the wellbeing and health of local residents.

Mrs Henderson raised the following matters in her submission:

- It would not be a great place to live if the horsebox was allowed to operate selling alcohol.
- 50 people drinking alcohol and music would be noisy, and she would be affected because her house was very close and it would cause a great deal of noise nuisance local residents.
- Parking had become a problem in the layby since the Coffee Box was established and she had been asked for directions to the Coffee Box more than once by drivers, and his street signs along the

Birmingham Road was bringing commercial traffic into a residential area to the detriment of the residents.

- He was not advertising his business just locally and for a lot of people, the name Coffee Box Bar would imply the sale of alcohol also.
- Public nuisance was a main concern and the potential for this because people would be under the influence of alcohol and the affect this would have for children in the area.

Mrs Smith made the point that she had objected to the application as originally submitted and Mr Burman had tried hard to appease **people's** concerns, but even with the changes he had subsequently made, she objected and felt it was unworkable and was impacting **people's** lives.

(The meeting was paused at 11.48pm for five minutes during Mrs **Smith's** submission because of technical issues on the YouTube livestream.)

Mrs Smith had tried to work with Mr Burman and felt that he had made a real effort to sort any problems that had been raised. The noise made by the generator had particularly affected her and Mr Burman had tried to improve matters by using straw as a sound barrier, however the noise was still unbearable and would get worse with longer hours.

Mrs Smith was also concerned that the licence would grant wider powers than Mr Burman had stated he needed and she was concerned about what could be enforced and what would be enforced. When the Coffee Box had opened, she had thought it would be temporary, but now it seemed to be moving toward more opening hours and the sale of alcohol, and she was worried what powers he would get in the future on a Green belt site. Mr Smith then added to his **wife's** submission and stated that parking was a massive issue and cited what he had witnessed a couple of days prior, where three cars parked in the layby and two cars parked on the opposite side of the road. He felt the parking would get worse. The Coffee Box had had an impact on their lives, which they had accepted because of the difficulties faced by businesses during the pandemic. The proposals would make it a lot worse for all local residents.

Mr Hall hoped that the Panel would take on board the strength of feeling expressed by residents from all of the objections submitted. A "**pop up pub**" situated on Green belt land, immediately adjacent to a housing estate was not in keeping to the environment. He did not feel that this was a community project, despite the **applicant's** statements selling the venture as such. He felt that the application failed in all four categories stated under the Licensing Policy:

- Sale of alcohol and the numbers of people this would attract would contribute to crime and disorder, and the informal nature of the proposals would make this more difficult to control.
- It failed on Public Safety by virtue of failing on Crime and Disorder. The site was adjacent to a residential area for families.
- The noise, traffic, unsightly portaloos, the appearance of the horsebox all contributed to public nuisance.



- The pavement, bus stop and bridal way in the vicinity of the horsebox were used by many children living on the estate, and their safety was put at risk by the sale of alcohol in such an environment.

Mr Corby explained how the positioning of his house meant that he had a direct view of the horsebox and people being served with drinks. They could also see directly into his house and 50 people would be an issue, especially as Mr Burman would be placing tables and chairs for them to sit as opposed to what happened currently, when it was effectively a takeaway service. This could be up to 11.5 hours on Fridays and Saturdays with the increased hours applied for. For Mr Corby, this would not constitute a temporary arrangement if the horsebox would be trading lengthier hours during daylight. Next to a family housing estate, there was a risk of poor behaviour from intoxicated customers. Traffic had increased and not all of this increased traffic was caused by cars; other types of vehicles had increased, such as tractors. Groups of youths already caused problems on the housing estate and these proposals would only increase the problems. Mr Corby questioned whether security staff in a field next to a housing estate was something that was desirable. Mr Corby also felt that the generator would cause fumes next to an area set aside for drinking, and alcohol would be served in an open, ungoverned area. The Hatton Arms was only a 10-minute walk away from the estate. Mr Corby also felt that granting this licence would set up a precedent to grant a licence in open areas.

The Chairman then called on Members of the Panel and Mr Burman to ask the interested parties and Councillor Matecki questions, but no one had any questions they wished to ask. None of the interested parties nor Councillor Matecki had anything further they wished to add in light of anything said during the hearing. The Chairman then invited Mr Burman to make a closing statement.

Mr Burman felt that a lot of the comments that had been made at the Panel hearing had been fairly subjective. In summation he made the following points:

- A lot of residents who lived closer saw the venture as positive.
- The generator did not smell and he had tested the noise from it with a decibel meter on various days, because noise would carry on different days. He had taken readings between the generator and **residents'** properties immediately adjacent, and the readings were between the high **30's** to the low **40's** which was ambient noise levels, so he rejected the claims made about the noise from the generator.
- He was no longer advertising along the Birmingham Road and if the Council felt it necessary, it could prevent him from advertising on Facebook.
- He was not trying to be opportunistic, he was simply trying to get by.
- The music could not be heard at any distance and was there for ambience.

- He did not wish to be open all day and intended this for spring and summer months only.
- It could have a positive effect on mental health by providing people with a chance to socialise outside.
- He did acknowledge that some people parked up to get a takeaway coffee, but there was not a law preventing this. The lockdown meant that more people were walking, and were driving to areas, parking and then taking a walk.
- The two people from houses very close to the horsebox were his biggest customers.
- People who did not object to his business were not as emotional so were not present at the Panel.

At 12.15pm, the Chairman ended the remote meeting with the public present and a separate meeting was started at 12.31pm with the Members of the Panel, the **Council's** Solicitor, and the Committee Services Officers present, to enable the Panel to deliberate and determine the application.

**Resolved** that the licence be refused.

At a public hearing on 17 November 2020 Warwick District **Council's** Licensing Panel considered an application made under the Licensing Act 2003 by Mr Oliver Burman trading as Kingstanding Events Limited ("**the Applicant**"). The application was for the use of the premises described as "**The Field**, off Barcheston Drive, Hatton, Hatton Park, **Warwick**" for licensable activities namely the sale of alcohol for consumption on the premises and the playing of indoor live music. The hours applied for were as set out in paragraph 3.6 of the Licensing **Officer's** report ("**the Report**") and the Panel noted that the Applicant had amended the hours originally proposed. A map showing the premises was included at appendix 39 of the Report.

There were no objections to the application by any of the responsible authorities including the fire service, environmental health or the police. Twenty-three written representations objecting to the application and twelve written representations in support were received from members of the public.

The Panel had copies of all of the relevant representations in advance of the hearing. Mr Allen, Mr Hall, Mr and Mrs Smith, Ms Fitzpatrick, Mr and Mrs Corby, Ms Henderson and Mr Papettas attended the hearing and spoke objecting to the application. The Applicant Mr Burman attended and spoke in support.

Having listened carefully and having read all of the relevant representations the Panel determined that the main licensing objective relevant to this application was the prevention of public nuisance in terms of the impact that the grant of the licence may have on people living in the area. The Panel also considered that the public safety objective was also engaged to some extent as relevant issues were raised about the lack of lighting, waste disposal and the ground conditions. There was some discussion during the hearing about the green belt status of the field, visual amenity, the demand or need for this type of premises and concerns about car parking. The Panel did not take these issues into account when reaching their decision on the basis that they were not relevant to the licensing objectives.

In making their decision the Panel considered all of the relevant information provided in advance and at the hearing and took into account the statutory guidance and the **Council's** Statement of Licensing Policy. The Panel understood the difficult position the Applicant finds himself in due to the current situation and were sympathetic to efforts made to diversify and provide a service during such a challenging and unprecedented time. The Panel noted that the hours proposed would mean that the premises would only operate to 20:00 hours on Fridays and Saturdays, 16:30 hours on Sundays and 17:30 hours on Monday to Thursday. The Panel also listened carefully to the proposed conditions and operating schedule as set out by the Applicant where he explained that he would operate a membership scheme and restrict access only to members and their guests, members being required to live within the vicinity of the premises. It was understood that the Applicant would restrict capacity to fifty people and limit advertisement of the sale of alcohol to the local closed Facebook page. The Applicant also explained that he did not intend to install any lighting because of concerns about nuisance and that he would only be likely to trade in the spring and summer months.

The Panel noted that a street trading consent was granted in June 2020 that permitted the sale of hot and cold drinks from 08:30 to 14:30 Monday to Saturday and that the Applicant had been operating this regularly from the premises, trading as the Coffee Box. The existing operation and the diversification into the sale of alcohol did have

support from some local residents who considered that it would be a valuable asset to the community.

Many of the objections to the application came from residents who lived near to the premises and had experienced the operation of the Coffee Box. They voiced concerns about the nuisance that was caused by the noise and pollution arising from the generator and the noise of music and people congregating in what was formerly a quiet field. Those objecting to the application felt that the sale of alcohol and the longer opening times would increase the level of noise and disturbance to an extent where residents would be prevented from peacefully enjoying their homes and gardens. Some of the speakers who addressed the Panel explained that they had been disturbed by the operation of the Coffee Box over the summer but had been willing to tolerate this given the unusual circumstances that arose in 2020 and with the knowledge that trading would end at 14:30 and it was likely to be temporary, however, the prospect of the field having a permanent premises licence and becoming a **"pop up pub"** on a regular basis was a serious concern.

The Panel in reaching their decision considered that the grant of the application would be likely to cause public nuisance to local residents. The Panel considered that even limiting capacity to fifty people would still cause noise at a level that would cause disturbance in this particular location. The Panel also took into account the ability of the Applicant to play recorded music and live music which could cause further noise nuisance to the residents closest to the premises.

The Panel considered whether the conditions proposed by the Applicant and/or further conditions could be imposed that would be sufficient to enable a grant of the licence whilst preventing nuisance and protecting public safety. The Panel had some concerns in this regard; when asked how the fifty capacity limit would be enforced the Applicant explained that he would hire more staff but there did not appear to be any detail about how many staff he believed would be needed or what qualifications or experience they would be required to have. The Applicant was also unable to provide detail about how the proposed membership scheme would be administered or enforced. The Panel recognise it is important to consider each application on its own merits and on a case by case basis and this is a

somewhat unusual application in that it is for a rural field and not a building. The Panel did consider that the outdoor nature of the premises in this case restricted the ability of a licensee to control noise; for example, windows and doors could not be shut or customers prevented from going outside. Whilst it was acknowledged that the Applicant did not intend to trade in the autumn or winter months the Panel did feel that the lack of lighting on the site and the uneven ground had the potential to compromise public safety even with a terminal hour of 20:00 hours.

The Panel therefore, unanimously on the basis of the evidence presented to them, decided to refuse the application on the grounds that grant would have an unreasonable and disproportionate impact on the local community and would not promote the prevention of public nuisance or public safety.

(The meeting ended at 13.02pm)

CHAIRMAN  
8 February 2021

# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Tuesday 24 November 2020, at 10.00am.

**Present:** Councillors Grey, Leigh-Hunt and Syson.

**Also Present:** Mrs Tuckwell (Civic & Committee Services Manager), Mrs Dury (Principal Committee Services Officer, observing only), Mrs Gutteridge (**Council's** Solicitor), and Mrs Dudgeon (Licensing Enforcement Officer).

## 1. **Appointment of Chairman**

**Resolved** that Councillor Leigh-Hunt be appointed as Chairman for the hearing.

## 2. **Declarations of Interest**

There were no declarations of interest made.

## 3. **Application for a Premises Licence under the Licensing Act 2003 for Folk Festival, land at Castle Car Park, Stratford Road, Warwick**

The Panel considered a report from Health and Community Protection which asked Members to decide whether the premises licence application for Folk Festival, land at Castle Park, Stratford Road, Warwick should be granted and, if so, whether the licence should be subject to any additional conditions.

The Chairman asked the Members of the Panel and officers present to introduce themselves. The applicant then introduced himself as Mr Dixon, Festival Director of Warwick Folk Festival, joined by Mr Plumb, Chairman of Warwick Folk Festival and Mr Smith, DPS for Warwick Folk Festival. Ms Butcher, Chair of Warwick Chamber of Trade, was another registered speaker and joined the meeting at 10.07am.

The Legal Advisor announced the procedure for the meeting. At the **Chairman's** request, the Licensing Enforcement Officer introduced the report.

Warwick District Council, as the Licensing Authority, received a valid premises licence application for Folk Festival, land at Castle Park, Stratford Road, Warwick. Representations had been received in relation to this application for the consideration of the Panel in the determination of the application.

Warwick Folk Festival Limited applied for a new premises licence on the land at Castle Park, Stratford Road, Warwick on 30 September 2020. The application was for the event known as the Folk Festival, which in previous years had taken place at another location within Warwick. The entrance to

the event site would be through the Warwick Castle Car Park entrance on Stratford Road.

The applicant agreed an amendment to the hours for live and recorded music with Warwick District Council Environmental Health. Following this agreement, the licensable hours and activity being applied for by the applicant were:

Supply of Alcohol for Consumption On and Off the Premises:

Thursday from 12:00 to 01:00

Friday to Sunday from 11:00 to 01:00

Live Music (Indoors and Outdoors)

Thursday from 12:00 to 00:00

Friday to Sunday 10:00 to 00:00

Between the hours of 08:00 and 23:00, when amplified live music was taking place to an audience of less than 500 people and the premises was licensed for the sale of alcohol for consumption on the premises; or when unamplified live music was taking place to any number people on any premises, all licensing conditions applicable to the control of live music on this licence were deemed not to be in operation.

Recorded Music (Indoors)

Thursday from 12:00 to 00:00

Friday to Sunday 10:00 to 00:00

Between the hours of 08:00 and 23:00, when recorded music was taking place to an audience of less than 500 people and the premises was licensed for the sale of alcohol for consumption on the premises, all licensing conditions applicable to the control of recorded music on this licence were deemed not to be in operation.

Plays (Indoors)

Thursday from 13:00 to 23:00

Friday to Sunday 10:00 to 23:30

Between the hours of 08:00 and 23:00, when plays were taking place to an audience of less than 500 people, all licensing conditions applicable to the control of plays on this licence were deemed not to be in operation.

Performance of dance (Indoors and outdoors)

Thursday to Sunday from 10:00 to 01:00

Other Activities of a similar description to that of live music, recorded music or performance of dance. (Indoors and outdoors)

Friday to Sunday from 10:00 to 20:00

Late night refreshment (Indoor and outdoor)

Thursday to Sunday from 23:00 to 01:30

Opening Hours

Thursday from 12:00 to 01:00

Friday to Sunday from 09:00 to 01:00

An operating schedule, which had been submitted by the applicant and would form part of any licence issued, was attached as Appendix 1 to the report.

The applicant had agreed conditions with Environmental Health, Warwickshire County Council Safeguarding and Trading Standards which were attached as Appendix 2 to the report. Their objections were subsequently withdrawn.

No representations had been received from:

- Fire Authority
- The Licensing Authority
- Enforcement Agency for Health and Safety
- Authority Responsible for Planning
- National Health Service/Public Health

The Licensing Department had received one objection to the application from a local resident, attached as Appendix 3 to the report, and representations in support of the application from Warwick Town Council and Warwick Chamber of Trade were attached as Appendices 4 and 5. Under the Licensing Act 2003, if representations were received in relation to an application, a hearing had to be held to consider the representations.

A satellite image of the site was attached as Appendix 6 to the report. A map of the event site provided by the applicant was attached as Appendix 7.

When considering the application, the Panel had to also give appropriate weight to:

- a) the representations received;
- b) statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003;
- c) **the Council's Licensing** Policy Statement (attached as Appendix 8); and
- d) the Licensing Objectives, which were:
  - i) The Prevention of Crime and Disorder
  - ii) Public Safety
  - iii) The Prevention of Public Nuisance
  - iv) The Protection of Children from Harm.

However, the Panel had to only consider those licensing objectives which had been referred to in the representations received.

The Licensing Enforcement officer advised Members that regarding the second paragraph from last in Appendix 1, the concert would finish at 11pm (not 11am as stated in the appendix).

When given the opportunity by the Chairman to make his representation, Mr Dixon informed Members that the festival had been running for 40



years on a voluntary basis, and the need for a new licence was because it had moved to a different location, having been at Warwick School for some 30 years, which had been very happy years. Mr Dixon informed Members that during this time, the festival was always welcomed by the people of Warwick and he had no complaints from neighbours. Warwick Folk Festival was a family-friendly event, being attended by people of all ages. In the 40 years since running the event, the organisers never had to call the police on site to deal with any rowdiness. Now, having been welcomed at the new location and benefitting from the support of Warwick Castle, it was **very much Mr Dixon's intention to be good neighbours to** the new local residents.

In answer to questions from Members, Mr Dixon and Mr Smith explained that:

- this was a fully ticketed event, where tickets were also sold at the entrance;
- the layout had been carefully planned, taking into account the local residents and aiming to minimise any noise disturbance. Having three marquees on site, it was crucial that these operated together, without interfering with each other, including in terms of noise; and
- the finishing times for the consumption of alcohol was the same as in previous years, until 1.30am, with the sale of alcohol available until 1am. They had traded until these times in the morning in previous years and had no issues. This was not unusual for such events, others selling alcohol until even later in the night, and Mr Smith was very comfortable with the hours applied for.

**The Council's Solicitor** advised that "late night refreshment" meant the sale of hot food, which had to be licensed after 11pm. The application was for supply of alcohol until 1am on Thursday to Sunday, and for supply of late night refreshments until 1.30am on Thursday to Sunday. She reminded Members that late night refreshments and the sale of alcohol were two separate matters.

Mr Dixon informed Members that a campsite adjoined the festival, where people would spend the night. As a result, refreshments were provided until later in the night, to give those camping an opportunity to relax and use them without having to leave the site. Live music, which could upset the neighbours, was not being played, with only acoustic music provided. Families would be using the campsite, so a lot of noise was not going to be made. The organisers were keen not to upset local residents or those staying in the campsite.

In answer to a question from Councillor Grey, Mr Dixon advised that the majority of people attending the festival camped there for the weekend. However, the festival was indeed also attended by local residents from Warwick as well – about 100-200 people would usually come for the day, many of whom walked to the event. Although the entrance at Warwick Castle was small, the amount of cars coming in and out of the car park on a daily basis was significant, with thousands of visitors each day using that entrance, and it was never a problem. Once visitors arrived on a

Thursday, they would put up their tents, campervans etc. and go on foot into Warwick town using the pedestrian entrance. As a result, there was not a lot of traffic late at night. Most people would come and park in the field next to their tent or mobile home. The car park for the day visitors was bigger than what the festival had before, and Mr Dixon did not expect at all that visitors would park in the nearby streets.

When invited to make her representation, Ms Butcher, Chairman of the Warwick Chamber of Trade, advised Members that the Chamber of Trade fully supported the application. The Folk Festival had been a feature for a number of years and was a huge economic benefit for the town. Of all the events that happened in Warwick, this was probably the one bringing the most economic benefit. Particularly during 2020 and 2021, given the economic hit suffered by the town with the Coronavirus pandemic, to have an event such as the Folk Festival going ahead would be huge boost for local businesses. Ms Butcher emphasised that, without fail, all businesses **looked forward to the Folk Festival. The people visiting were "lovely people", the atmosphere in town** was fantastic and as far as she was aware, there had not been any complaints regarding behaviour during the festival. Ms Butcher lived on one of the nearby streets herself and she was not worried about impact on traffic or anything like that. The Chamber of Trade had no concerns in supporting the application.

There were no questions for Ms Butcher.

The Chairman invited Mr Plumb to make his statement. Mr Plumb had been involved with the festival for many years. The festival was family-oriented and the organisers never had any trouble on site. The festival was very well respected in the country, not just locally. A plan for the area had been done and there was more than adequate parking available. Mr Plumb was looking forward to the event and hoping it would go ahead, given the Coronavirus restrictions. The event was beneficial for the local economy, bringing in close to £500k.

Members had no questions for Mr Plumb.

Mr Smith, at the request of the Chairman, made his representation to the Panel. He had been involved with the festival for a number of years, and had also been the DPS for the event. He was in support of the other **speakers' points in terms of the event having operated trouble-free** in the past, and apart from the change of venue, it would be managed in the **same manner in the future. Whilst some "little hiccups" could be expected** in the first year at the new location, the organisers would work hard to get these resolved as soon as they emerged.

In answer to a question from the Chairman, Mr Smith and Mr Dixon confirmed that they would both be in attendance on the site all the time. Ms Butcher did visit the festival but she would not be there at all times.

In his final statement, Mr Dixon emphasised that the organisers of the Folk Festival always sought to make local residents and the local authority proud to have the festival and to welcome it in Warwick every July.

At 10.38am, the Chairman reminded those present of the procedure: the remote meeting would be ended by the Civic & Committee Services Manager; a separate meeting would be arranged with the Members of the Panel, the Legal Advisor and the Civic & Committee Services Manager; the decision would be communicated in writing via email to the applicant and interested parties later on the same day, followed by a written notice with a full decision within seven days.

**Resolved** that the application be granted.

At a public hearing on 24 November 2020 Warwick District **Council's** Licensing Panel considered an application made under the Licensing Act 2003 by Warwick Folk Festival Limited in respect of land at Castle Park, Stratford Road, Warwick for an event known as the Warwick Folk Festival which in previous years has taken place at another location in Warwick. The application was for the use of the premises for the licensable activities as set out in paragraph 3.5 of the Licensing Officer's report. The operating schedule and the conditions agreed by the applicant were detailed at Appendix 1 and Appendix 2.

At the beginning of the hearing the Licensing Officer confirmed that the finishing time for the Kingmaker Marquee referred to in Appendix 1 was 11pm.

The Panel heard from Mr Dixon, the Festival Director who explained that the new application was required as the festival was moving from its previous location at Warwick School. Mr Dixon further explained that the folk festival had been taking place in Warwick for nearly 40 years and it was run by volunteers. There had never been any need to call the police to the site and neighbours had not had any issues. Mr Dixon said that it was a family friendly event that was fully ticketed. The owner of the new premises was fully supportive of the event as were Warwick Castle who were happy to allow the festival to use their car park entrance.

In response to a question from Cllr Syson Mr Dixon explained that they had considered the impact on residents when deciding where to locate the various marquees and that it was important noise levels from each marquee were not too high as they would interfere with the other performances taking place. Mr Dixon also explained that most people attending the festival stayed and camped on site with only between 100-200 local people attending for the day.

Mr Smith, the Designated Premises Supervisor and Mr Plumb, the Chair of the Warwick Folk Festival also attended and addressed the Panel explaining that the festival had run for a substantial number of years, that those running it were very experienced and that it was well respected national event. They explained that it was very important that it had the support of the residents and businesses of Warwick and that any nuisance was avoided.

Ms Sue Butcher, Chairman of the Warwick Chamber of Trade also attended and spoke in support of the application. Ms Butcher stated that the festival was the single largest event held in the town and a huge benefit; it was very much welcomed by local businesses and it was hoped that this year, in particular, it would provide a much-needed boost. It was well run and did not cause problems. Ms Butcher explained that she lived close to the site and was not concerned about the impact on local residents.

There was one written objection to the application (Appendix 3) which raised concerns about security of the area of Lodge Crescent, Foxes Crescent, Foxes Way and Temple Grove and that the supply of alcohol, late refreshment and entertainment would be a disturbance with noise and possibly anti-social behaviour. The person objecting did not speak at the meeting and had declined to send in any further representations.

In making their decision the Panel considered all of the information provided in advance of, and at, the hearing and the statutory guidance and the **Council's** Statement of Licensing Policy.

The Panel considered that the potential impact on the licensing objectives and in particular public nuisance. The Panel noted the lack of any objection from Environmental Health and the fact that only one objection had been received. It was also noted that Warwick Town Council had provided a letter in support (Appendix 4). The Panel, having considered the history of the festival, the experience of the organisers, the lack of previous problems and the measures contained within the operating schedule and the conditions, decided to grant the licence.

(The meeting ended at 10.38am)

CHAIRMAN  
8 February 2021

# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Thursday 7 January 2021, at 2.00pm.

**Present:** Councillors Luckhurst, Mangat and Syson.

**Also Present:** Mrs Tuckwell (Civic & Committee Services Manager), Mrs Amphlett (**Council's** Solicitor), and Mrs Dudgeon (Licensing Enforcement Officer).

## 1. **Apologies and Substitutes**

Councillor Syson substituted for Councillor Redford.

## 2. **Appointment of Chairman**

**Resolved** that Councillor Syson be appointed as Chairman for the hearing.

## 3. **Declarations of Interest**

There were no declarations of interest made.

## 4. **Street trading application to trade outside of the restrictions set out within Warwick District Council's Policy**

The Panel considered a report from Health and Community Protection which asked Members to consider an application for a Street Trading Consent for the sale of pizza from a mobile food unit by Mr Marc Baldrey for Dough and Flow Ltd. The applicant wished to trade outside the hours and restrictions set out within Warwick District Councils Policy.

The Chairman asked the Members of the Panel and officers present to introduce themselves. The applicant then introduced himself as Mr Baldrey.

The Street Trading Policy stated that *"In considering applications for the grant of a street trading consent the following factors should be considered:*

### *a) Public Safety*

*Whether the proposed activity represents or could present a risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions.*

### *b) Public Order*

*Whether the proposed activity presents or could present a risk to public order.*

### *c) The Avoidance of Public Nuisance*

*Whether the proposed activity presents or could present a risk of nuisance to the public from noise or misbehaviour, particularly in residential areas.*

*d) Local Area Needs*

*Consideration will be given to the character of the area (eg conservation area)”*

The Street Trading Policy also stated that *"The Council generally will only permit street trading between 06:00 and 18:00. Any trading outside these hours will have to be approved by the Licensing and Regulatory Committee. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate."*

Details of the procedure adopted by the Licensing Committee for Panel Hearings had been supplied to the applicant.

Anyone who exposed goods for sale within the District needed a Street Trading Consent issued by the Council. Upon receiving the application, officers referred to the current Street Trading Policy.

The current Policy permitted trading between the hours of 08:00 and 18:00, and any touring consent may only trade in one location for up to 15 minutes.

Mr Baldrey had applied for a Street Trading Consent in order that he might sell Pizza from his mobile unit. The Consent, if granted, would permit him to trade in all streets within the District. However, Mr Baldrey had requested on his application form to trade three days a week, between 16:00 and 21:00 on Thursdays and Friday and 12:00 to 21:00 on Saturdays.

Mr Baldrey had stated in conversations with the Licensing team that he would need longer than the 15 minutes permitted for a touring consent holder to trade from the same location.

Mr Baldrey had also obtained permission from a land owner to trade from a site within Lapworth.

A copy of Mr **Baldrey's** application form and photographs of the unit were attached as Appendix 1 to the report. A copy of the **Council's** Street Trading Policy was attached as Appendix 2 to the report.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it.

In answer to questions from Councillor Luckhurst, Mr Baldrey advised that with regards to the provision of rubbish bins, Mr Baldrey always had two large bins in the trailer. In addition, the locations where he would trade from would usually provide refuse facilities too, such as Lapworth Village Hall, and he did not intend to trade on the street.

In answer to a question from Councillor Syson, the Licensing Enforcement Officer advised that no objections to the application had been received from County Highways or Warwickshire Police, and that a wider public consultation did not take place in the case of street trading consents.

Mr Baldrey advised Members that he was a trained pizza chef and having worked in Italy, he was passionate about delivering a good product, which was why he aimed to create quite a unique offering. His philosophy was to bring real quality to little community pockets, which was even more important during this difficult time as a result of the Coronavirus pandemic. Lapworth was identified as a suitable location, and the hope was to find more such locations to trade from. There was a real opportunity to engage with the community when offering a unique product. His business was not just a van turning up, selling an average product and moving on. There was commitment to the community and a real passion for what Mr Bradley was offering.

**In answer to a question from the Council's legal advisor, Mr Baldrey** explained that he needed more than 15 minutes at a location and that his business offered a very different product compared to, for example, an ice-cream van. He was aiming to find a location, for example, Lapworth Village Hall, and then trade from that location for a period of time. The 15-minute time frame would not give the local community enough time to come and see what Dough and Flow was all about, and to experience the product.

In answer to questions from Members, Mr Baldrey advised that:

- in a location such as Lapworth Village Hall, where he had been given permission to trade from, the intention was to arrive at 4pm and stay for the evening, until closing at 9pm. This would give the local community the opportunity to come and collect the pizza within that time;
- there were other locations he had in mind where he hoped to trade for in the future; and
- he would never turn up unannounced at a location and wait for people to come to them. Instead, this would be marketed in advance so that the local community was aware of his presence.

**The Council's legal advisor clarified that, should the application be granted** in its current form, it would give permission for trading anywhere within the District during the times applied for and without the 15-minute limit, should that be removed.

In answer to a question from Councillor Syson, the Licensing Enforcement officer advised that there were two other similar applications that she was aware of, which had been granted. This was also for the reason that for a **product like Mr Baldrey's, 15 minutes** was not sufficient for taking the order, cooking and selling the pizza. The 15 **minutes'** slot was not adequate when taking into account the time it took to cook produce the food.



She further reminded Members that the Council had two types of licences: the static consent and the touring consent. Everyone who wanted to trade from the same location could apply for a static consent, which was also **restricted in terms of hours of operation. With Mr Baldrey's business** model, he did not want to be restricted to that one location, hence why the application was for a touring consent. There was also the option of applying for several static consents for each location Mr Baldrey would wish to trade from, but there was a cost associated with each application. Each Council had its own street trading policy, which meant they were very different across the board.

Mr Baldrey shared with Members that it would not be financially viable for him to turn up somewhere, sell one pizza and move on to the next location. This was the reason why he asked for the 15-minute time limit to be removed.

At 2.22pm, the Chair reminded those present of the procedure: the remote meeting would be ended by the Committee Services Officer; a separate meeting would be arranged with the Members of the Panel, the Legal Advisor, the Committee Services Officer and the Civic & Committee Services Manager; the decision would be communicated in writing via email to the applicant later on the same day, followed by a written notice with a full decision within seven days.

**Resolved** that the application be granted.

The Panel listened carefully to the report and comments made by the Licensing Officer and your submissions and decided that your consent should be granted as applied for.

For the avoidance of doubt, your consent will enable you to sell pizza from your mobile unit between the hours of 16:00 to 21:00 hours Thursdays and Fridays and 12:00 to 21:00 hours on Saturdays. The Panel were satisfied that in this instance it would be appropriate to grant you a consent, which permits you to trade from the same location for more than 15 minutes, given the nature of the food offering **you're** going to provide, and the submissions that you made.

In reaching this decision, the Panel were mindful of the confirmation you provided during the hearing that you tend to operate from village hall locations, with prior agreement from those running the halls and that you advertise your offering in advance of the date of trading.

(The meeting ended at 2.22pm)

CHAIRMAN  
8 February 2021

Licensing & Regulatory Committee  
8 February 2021

**Title:** Warwick District Council and Parish Election Scale of fees

**Lead Officer:** Chris Elliott 01926 456000 [chris.elliott@warwickdc.gov.uk](mailto:chris.elliott@warwickdc.gov.uk)

**Portfolio Holder:** Andrew Day

**Public report / Confidential report:** No

**Wards of the District directly affected:** None

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement:

Final Decision: Yes

**Officer/Councillor Approval**

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	18/1/2021 16/1/2021	Andrew Jones Chris Elliott
Head of Service		
CMT		
Section 151 Officer	11/1/2021	Mike Snow
Monitoring Officer	18/1/2021	Andrew Jones
Finance	11/1/2021	Mike Snow
Portfolio Holder(s)	16/1/2021	Councillor Day

## **1. Summary**

- 1.1. This report seeks agreement for the proposed Warwick District Council and Parish/Town Council Election Scale of fees up to December 2024.

## **2. Recommendation**

- 2.1. That the Licensing & Regulatory Committee approve the Warwick District Council and Parish/Town Council Election Scale of fees, as set out at Appendix 2 to the report, subject to the inclusion of any increase as a result of a national pay award for Council workers from 1 April 2021 up to and including 1 April 2024, rounded to the nearest 50p.

## **3. Reasons for the Recommendation**

- 3.1. The Council is required to establish the fees payable to persons employed by the Returning Officer at its elections held every four years and at any by election held in between. The authority for approving these fees has been delegated by Council to the Licensing & Regulatory Committee.
- 3.2. In 2015 the Licensing & Regulatory Committee agreed that the fees continue to be increased each year in line with the annual salary award and is now due to be reviewed.
- 3.3. The fees have been discussed by Warwickshire Elections Officers who have provided comparison figures across the County, as well as wider sub region of their fees from last year. The fees for Warwick District have been considered locally to recognise the 2.75% pay award to Council officers in April 2020. It is key to get the comparison in place as these fees will be used as a basis for payments as part of the County Council and Police and Crime Commissioner Elections taking place in May 2021. The Table at Appendix 1 illustrates the core figures for last year which are directly comparable and it is understood all (in Warwickshire) have arrangements in place for these to be up lifted to the same level as the proposed core fees for WDC.
- 3.4. Therefore by setting a fee it reduces the risk of staff being enticed by neighbouring authorities for a higher fee, but also recognising people delivering the same work on the same election across Warwickshire. This is particularly important for elections work because it is becoming increasingly difficult to recruit people to undertake this work.

## **4. Policy Framework**

### **4.1. Fit for the Future (FFF)**

- 4.1.1. **The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit.** To that end amongst other things the FFF Strategy contains several Key projects.
- 4.1.2. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on](#)

[the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

#### 4.2. **FFF Strands**

##### 4.2.1 **External impacts of proposal(s)**

**People - Health, Homes, Communities** – There is no impact on this outcome.

**Services - Green, Clean, Safe** - There is no impact on this outcome.

**Money- Infrastructure, Enterprise, Employment** - There is no impact on this outcome.

##### 4.2.2. **Internal impacts of the proposal(s)**

**People - Effective Staff** – The proposed fees are considered to be fair when comparing with other authorities and ensure recognising the role undertaken by the individuals involved and responsibilities.

**Services - Maintain or Improve Services** - There is no impact on this outcome

**Money - Firm Financial Footing over the Longer Term** – While these fees will be set for District Council elections which this Council has to pay for they will also be used for a base for other elections or referendums that the Returning Officer has to deliver for the community.

#### 4.3. **Supporting Strategies**

4.3.1. Each strand of the FFF Strategy has several supporting strategies but this does not directly impact on those.

#### 4.4. **Changes to Existing Policies**

4.4.1. This report does not bring forward any revisions to existing policies.

#### 4.5. **Impact Assessments**

4.5.1. No impact assessment has been undertaken for these revisions as they are uplifted through pay awards to Council employees under the JNC conditions.

### 5. **Budgetary Framework**

5.1 The report does not impact on the Councils Budgetary Framework and can be funded within the proposed budget for District Council elections.

### 6. **Risks**

6.1. The main risk is that by the non-agreement of the proposed fees or variation of them could cause disparity across Warwickshire ahead of the County elections in May 2020.

**7. Alternative Option(s) considered**

- 7.1. The Committee could refuse to agree these fees or propose revised fees but this is not considered appropriate due to the disparity it would cause over the key fees for the WCC elections in 2020.



**Appendix 1**

**Election fees 2020**

<b>Role</b>	<b>Warwick</b>	<b>North Warwickshire</b>	<b>Stratford-on- Avon</b>	<b>Nuneaton &amp; Bedworth</b>	<b>Rugby</b>	<b>Solihull 2020</b>	<b>Coventry 2020</b>	<b>Redditch &amp; Bromsgrove 2020</b>
<b>Presiding Officer</b>	£235.00	£235.00	£230.00	£235.00	£235.00	£222.16	£195	£262
<b>Poll Clerk</b>	£153.00	£150.00	£150.00	£150.00	£150.00	£144.00	£146.88	£159
<b>Polling Station Inspector</b>	£257.50	£250.00	£250.00	£250.00	£250.00	£162.92 (only required to work until 5pm)	£235	£300
<b>Postal Vote Opening</b> per hour	£10.50	£10.00	£11.66	£10.00	£13.00	£10	£10	£8.75 to £10
<b>Postal Vote Supervisor</b> per hour	£10.50	£10.00	£16.66	£15.00	£13.00	£15	£16	£12-£18
<b>Training</b>	£30.30	£30.00	£25.00	£30.00	£30.00	£40 for PO and PC training.	£30	£25
<b>Count Assistant</b>	£94.50	£96.00	£45 to 00:01 then £8/hr	£90.00	£90.00	£100	£105	£25 per hour
<b>Count Supervisor</b>	£131.50	£126.00	£60 to 00:01 then £11/hr	£126.00	£125.00	£150	£165	£30 per hour

## **DISTRICT AND TOWN/PARISH COUNCIL ELECTIONS** **SCALE OF ELECTION FEES AND EXPENSES – (2021/22)**

### **PART 1 - Returning Officer's Fee**

(including duly authorised Deputy Returning Officer)

Fee for conducting the election and generally performing all the duties which a Returning Officer is required to perform under the Local Government Act 1972, or rules of the Secretary of State made there under, including all expenses other than those for which special provision had been made herein:

<b><u>CONTESTED ELECTIONS</u></b>	<b><u>FEE</u></b>
<b>1. DISTRICT ELECTIONS</b> (where election is for District Councillor only - for each ward)	
(a) For the first 1000 local government electors in a Ward:	£115
b) For each 500 electors or fraction thereof, above	£58
<b>2. TOWN/PARISH</b> (where the election is for Town/Parish Councillors only - for each Ward or Parish)	
(a) For the first 1000 local government electors in a Ward or Parish: -	£110.50
(b) For each 500 electors or fraction thereof, above:	£56
<b>3. DISTRICT AND TOWN/PARISH ELECTIONS</b> (where election is for District & Town/Parish Councillors held on the same day)	
the fee shall be in accordance with the scale at 1 above, plus an additional fee for every 500 local government electors or fraction thereof:	£57
<b><u>UNCONTESTED ELECTIONS</u></b>	<b><u>FEE</u></b>
<b>4. DISTRICT ELECTIONS</b> - for each Ward:	£47
<b>5. TOWN/PARISH ELECTIONS</b> - for each Ward or Parish:	£24



## PART 2 - Disbursements

1. <b>POSTAL VOTES</b> - for the remuneration of persons employed in connection with the issue and the receipt of ballot papers for electors entitled to vote by post:	<b><u>FEE</u></b>
(a) <b>CLERK</b> per session for Issue and receipt/opening	£32.50 session or £11 per hour
(b) <b>CLERK</b> per session for the issue management of postal voter signature and dates of birth on postal voting statements.	£32.50 session or £10.40 £11 per hour
(c) <b>POSTAL VOTER ADJUDICATOR</b> – appointed for the adjudication and determination of valid postal voting statements and ballot papers at all opening sessions and the Count.	£428 for week for full elections £49 per single session
2. <b>PRESIDING OFFICERS</b> - for each PO (to include all expenses other than travelling expenses)	
(a) District Election or Town/Parish Election only:	£241
(b) Combined District and Town/Parish Election:	£267.50
3. <b>POLL CLERK</b> - for each PC (to include all expenses other than travelling expenses)	
(a) District Election or Town/Parish Election only:	£157
(b) Combined District and Town/Parish Election:	£184
4. <b>POLLING STAFF TRAINING FEE</b> - for the remuneration of persons employed as Presiding Officer, Poll Clerk & Polling station Inspectors to attend an official training session prior to election day. (includes all travelling expenses)	£31
5. <b>POLLING STATION INSPECTOR</b> - for the remuneration of persons employed in visiting and collection of Postal Votes handed in at polling stations by electors (to include all expenses other than travelling expenses)	£265
6. <b>COUNT</b> - for all remuneration of persons employed in counting the votes (to include all expenses other than travelling expenses)	
(a) <b>Deputy Returning Officer (Count)</b> - appointed for the purpose of counting the votes and declaring the results for the Ward or Parish:	£524
(b) <b>Clerk Thursday evening Ballot Box arrival Count:</b>	£135
(c) <b>Clerk in Charge main Count</b> - for each Ward or Parish:	£135

(d) <b>Counting Assistant -</b>	
1) for one Ward or Parish:	£97.50
2) for each additional Ward or Parish:	£38

\* Discretion to Returning Officer to add a supplement if the Count is extremely lengthy.

<b>ADMINISTRATIVE DUTIES</b>	<b>FEE</b>
<b>1.</b> For the remuneration of persons employed (on each such occasion) in connection with the staffing of the elections office on polling day:	£270
<b>2.</b> Maximum recoverable amount for the Returning Officer to make payments in respect of persons employed (on each such occasion) in connection with the administrative and clerical duties for the purpose of the elections:	
<b>2a. DISTRICT OR TOWN/PARISH</b> (for each ward or Parish or Parish/Town ward):	
(a) For the first 1000 local government electors in a Ward:	£120
(b) For each 500 electors or fraction thereof, above	£52.40
<b>2b. DISTRICT AND TOWN/PARISH ELECTIONS</b> (where election is for District & Town/Parish Councillors held on the same day)	
the fee shall be in accordance with the scale at 2 above, plus an additional fee for every 500 local government electors or fraction thereof:	£30
<b>3. CLERK on Friday</b> - Assist in sorting & packing away of election equipment & paperwork at Riverside House:	£65
<b>4. CLERK on WDC Riverside House Reception</b> – to staff reception from 5.15pm to 10pm on election day and be responsible for delivering postal vote ballot box to Count Centre after close of poll:	£65

\*records should be kept by persons employed by the Returning Officer on such occasions of the hours worked on Election duties.

- 5. TRAVELLING EXPENSES** of Returning Officer, Deputy Returning Officer, clerical and other Assistants, Presiding Officers, Poll Clerks and Count Assistants engaged in the conduct of the election, are to be paid 45p per mile.
- 6. MOBILE PHONE CALLS** – staff employed on polling duties (Presiding Officers. Poll Clerks & Polling Station Inspectors) £2.50 is included in fee to cover calls made in connection with Election duties on Election Day.

**PART 3 - Actual and Necessary Costs**

- Clerical and other assistance employed by the Returning Officer.
- Hire and fitting up of polling stations, expenses of heating, lighting and cleaning any building for such purposes and for making good any damage arising from such use.
- Hire and fitting up of rooms for counting the votes.
- Provision of voting compartments and conveyance thereof to polling stations.
- Printing and providing official poll cards.
- Preparation and issue of official poll cards.
- Printing and providing ballot papers.
- Printing and providing notices, nomination forms and other forms and documents.
- Posting of Notices.
- Stationary and sundries required at each polling station and at the counting of the votes.
- Miscellaneous stationary, postage, telephone calls etc.

**Chris Elliott**  
**Returning Officer.**  
**Riverside House**  
**Milverton Hill**  
**Royal Leamington Spa**

## Licensing and Regulatory Committee 8<sup>th</sup> February 2021

**Title:** Draft - Sexual Entertainment Policy

**Lead Officer:** Kathleen Rose

**Portfolio Holder:** Judith Falp

**Public report**

**Wards of the District directly affected:** All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: Yes

Consultation & Community Engagement: Legal Services have advised that this draft policy would not require a public consultation.

Final Decision: No

Accessibility checked: Yes

### Officer/Councillor Approval

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	19.01.2021	Andy Jones
Head of Service	28.01.2021	Marianne Rolfe
CMT		
Section 151 Officer	28.01.2021	Mike Snow
Monitoring Officer	28.01.2021	Graham Leach
Finance	28.01.2021	Mike Snow
Portfolio Holder(s)	18.01.2021	Judith Falp

### 1. Summary

- 1.1. To present the reviewed draft Sexual Entertainment Establishment Policy which is applicable to all Sexual Entertainment Establishments within the Warwick District Boundary.

### 2. Recommendation

- 2.1. That the Committee notes the reviewed draft policy and make comment upon it to assist the Executive in making a determination with regard to adopting the policy.

### 3. Reasons for the Recommendation

- 3.1 The current Sexual Entertainment Policy was adopted on 2<sup>nd</sup> June 2016. It is used to outline the **Council's approach to** sexual entertainment applications and premises within the district. The Policy has been reviewed by the Licensing Team.
- 3.2 A review of the policy has been undertaken by the Licensing Team Leader. A review of applications received during the period has confirmed that there are no corrective measures to be made.
- 3.3 There have been no enquiries or complaints received from licence holders, members of the public or any responsible authorities during the period which has confirmed that there are no corrective measures to be made.
- 3.4 Legal Services have been consulted on this review and have not requested any changes to the documents.
- 3.5 Legal Service were asked whether the draft policy would require a full public consultation and advised that the changes were so minimal that it would not be required.
- 3.6 The proposed policy is attached to this report as Appendix 1. A summary of the main alterations is included as Appendix 2.

### 4. Policy Framework

#### 4.1. **Fit for the Future (FFF)**

- 4.1.1. **The Council's FFF Strategy** is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.
- 4.1.2. The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy."

#### 4.2. **FFF Strands**

##### 4.2.1 **External impacts of proposal(s)**

**People - Health, Homes, Communities** - None.

**Services - Green, Clean, Safe** - Sexual entertainment venues (SEV's) are likely to also be licensed under the Licensing Act 2003. Additional controls will strengthen the Licensing Objectives, one of which is the prevention of crime and disorder.

**Money- Infrastructure, Enterprise, Employment** - Licensing enables the Council to more closely regulate SEV's and will therefore assist in delivering the Corporate priorities of economy and society.

4.2.2. **Internal impacts of the proposal(s)**

**People - Effective Staff** – None.

**Services - Maintain or Improve Services** - None.

**Money - Firm Financial Footing over the Longer Term** - none.

4.3. **Supporting Strategies**

4.3.1. Each strand of the FFF Strategy has several supporting strategies and the relevant ones for this proposal are the Equality Objectives and the Enforcement Policy.

4.4. **Changes to Existing Policies**

4.4.1. This policy has no impact on any other part of the Council's policy framework.

4.5. **Impact Assessments**

4.5.1. A full impact assessment has been carried out.

**5. Budgetary Framework**

5.1. There are no budgetary implications resulting from this policy review.

**6. Risks**

6.1. There are no additional risk implications resulting from this policy review.

**7. Alternative Option(s) considered**

7.1. The Committee request a public consultation on the draft policy before making comment. Legal Services have advised that this is not necessary.

7.2. The Committee choose not to recommend the proposed policy to the Executive. The purpose of the policy is to provide clear guidance for officers and Councillors on what matters should be taken into account when determining applications, it would be more difficult to ensure consistent application of the law to applicants without a policy to work with.

**8. Background**

8.1 The proposed policy includes changes to introduce a formal review timetable for the document and minor grammatical changes to both the policy document and the conditions which are attached to any licence granted.



**Sexual Entertainment Establishment  
Statement of Licensing Policy  
March 2021**

## CONTENTS

Section		Page
1	Introduction and Scope	3
2	Statement of General Principles	5
3	Types of Sex Establishments	7
4	Applying for a Sex Establishment Licence	8
5	Making objections or Commenting on an application	10
6	Determining Applications	11
7	Grounds of refusal	12
8	Refusal of licences	15
9	Revocation of a licence	15
10	Cancellation of a licence	16
11	Death of a licence holder	16
12	Right of Appeal	16
13	Enforcement & Compliance	17
<b>Appendices</b>		
A	Map of Warwick District	18
B	Sample advertisement	19
C	Area locality maps	20
D	Conditions for Sex Establishments	24



## 1. Introduction and Scope

- 1.1 Warwick District Council ("the Council") has an agreed vision for Warwick District. This is encapsulated by the following statement:  
***Warwick District, a great place to live work and visit, where we aspire to build sustainable, safe, stronger and healthier communities"***.
  - 1.2 The Council believes that the control of sex establishments via licensing supports and contributes to this vision and helps to create and maintain safe strong and healthy communities for people to live and work in.
  - 1.3 The Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act") in July 1982. This enabled the Council to regulate premises classed as sex shops and sex cinemas. In September 2010 the Council re-adopted Schedule 3 of the Act following amendments made by section 27 of the Policing and Crime Act 2009. This amendment to the Act made provision for the licensing of sexual entertainment venues (for example venues which provide pole dancing, lap dancing and strip clubs or similar). The Council can prescribe terms, conditions or restrictions on licences and charge a fee for the licence application. Sex shops, sex cinemas and sexual entertainment venues are collectively known as sex establishments.
  - 1.4 The Act also enables the Council to refuse a licence where it considers that the number of sex establishments or sex establishments of a particular kind is equal to or exceeds the number that the Council considers is appropriate for that locality. In March 2014 the Council carried out a public consultation in relation to the number of sexual entertainment venues that the public believed were appropriate in various localities within Warwick District. The consultation focused on the town centre areas of Royal Leamington Spa, Warwick, Kenilworth and Whitnash as these are areas most associated with the night time economy and believed most likely to attract applications for sexual entertainment venue licences. A majority of respondents stated that they believed that a nil limit would be appropriate for these areas of the District.
  - 1.5 A public consultation took place in 2015 prior to the original adoption of this policy.
- Policy Review**
- 1.6 This Policy will be kept under review and a full consultation exercise carried out when major changes are made to it. It is anticipated that major reviews of the Policy will take place every 5 years.

- 1.7 The Policy will be regularly evaluated and may be changed at any time to reflect minor, administrative or legislative changes or to amend any inconsistencies between the legislation and policy without a full consultation process being carried out. Any major changes will be agreed by the Executive Committee.

**Examples of 'major changes' are changes that are:**

- likely to have a significant financial effect on licence holders
- likely to have a significant procedural effect on licence holders
- likely to have a significant effect on the community

### **Contacting the team**

- 1.8 If after reading this policy you require further information you are welcome to seek assistance from the Licensing Team.

Email: [Licensing@warwickdc.gov.uk](mailto:Licensing@warwickdc.gov.uk)

Address: Licensing, Health and Community Protection, Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ

## 2. Statement of General Principles

- 2.1 Any person who wishes to use any premises, vehicle, vessel or stall as a sex establishment within Warwick District must obtain a licence from the Council. In addition any person who wishes to renew, vary, or transfer an existing sex establishment licence must apply to the Council.
- 2.2 **This Statement of Licensing Policy ("the Policy") aims to provide clear** guidance for applicants, existing license holders, those who want to object to an application and Members of the Licensing and Regulatory Committee when making a determination. This Policy replaces all previous sex establishment policies issued by the Council and it is intended that it will apply to all applications for sex establishments received after the date on which it is approved by the Council. The Policy will be reviewed every three years.
- 2.3 The Council does not take a moral stance in adopting this policy and recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure **industries. It is the Council's role as Licensing Authority to regulate such** premises in accordance with the law.
- 2.4 In adopting this policy the Council has had regard to the Regulators Code and the Councils own Enforcement Policy. The Code stresses the need for regulation and its enforcement to be proportionate and flexible. The Policy aims to help and encourage regulated sex establishments to understand and meet the regulatory requirements.
- 2.5 Policy making and licensing decisions under the Act are made by the Council with regard to the relevant provisions of the following legislation:
- **The Crime and Disorder Act 1998:** The Council must use its powers as a licensing authority to do all that it can to reasonably prevent crime and disorder, anti-social behaviour and the misuse of drugs and other substances.
  - **Provision of Services Regulations 2009:** The refusal of a licence or the imposition of any condition on a licence must be non-discriminatory, necessary and proportionate. The Council will apply these three tests when refusing a licence or imposing conditions.
  - **Equality Act 2010:** This policy is underpinned by an Equality Impact Assessment. When making decisions the Council will consider and give due weight to the views and needs of protected groups with the aim of eliminating discrimination, harassment and victimisation and advancing equality of opportunity and fostering good relations between different people.
  - **Human Rights Act 1998:** The rights that are potentially engaged in sex establishment licensing are likely to include Article 10, the right to

freedom of expression and Article 1, the protection of property. These rights, together with any other that may apply, will be considered by the decision maker.

- 2.6 The Council will work in partnership with neighbouring authorities, the Police, South Warwickshire Community Safety Partnership (CWCSP), Warwickshire Safeguarding Executive Board (WSEB) and those involved with protecting adults from the risk of harm to promote the common objectives of safeguarding vulnerable people.
- 2.7 The Act permits the Council to set a reasonable fee for each application. Fees are reviewed annually and set at a level appropriate to recover the costs of carrying out the licensing functions under the Act. In setting fees the Council has regard to legislation, any relevant guidance and case law.
- 2.8 The grant of an application under the Act does not constitute approval under any other acts (for example Town and Country Planning Act 1990). The applicant must ensure that all the necessary consents and approvals are obtained prior to operation.
- 2.9 Each application will be dealt with on its own merits. The Council will not apply rigid rules to its decision making although regard will be had to this document together with Home Office guidance and to the relevant legislation and case law in reaching any decision.
- 2.10 The Council will give full and clear reasons for its decisions.

### 3. Types of Sex Establishments

3.1 Sex Establishments can be a premises, vehicle, vessel or a stall. A private dwelling to which there is no public admission would not be classed as a Sex Establishment.

3.2 There are three types of Sex Establishment defined in the Act. These are a Sexual Entertainment Venue, a Sex Shop and a Sex Cinema.

#### **Sexual Entertainment Venues**

3.3 **Sexual Entertainment Venues are defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.**

3.4 **“Relevant entertainment” is defined as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)”. An audience can consist of just one person.**

3.5 The Council considers that the following forms of entertainment will generally be deemed to fall within the definition of relevant entertainment:

- Lap dancing
- Pole dancing
- Table dancing
- Strip Shows
- Peep Shows
- Live sex shows
- Burlesque shows
- Exhibition of sexual activity
- Other types of sexual recreational venues or activities

The above list is not exhaustive and decisions as to whether entertainment or an activity would fall within the definition of relevant entertainment will be made by the Council on a case by case basis and shall depend upon the nature and content of the entertainment and not the name it is given.

3.6 Premises which provide relevant entertainment on no more than 11 occasions in any 12 month period, with each occasion lasting no more than 24 hours and separated from another occasion by at least a month are exempt from the need to be licensed as sex establishments.

#### **Sex Shops**

3.7 Sex shop means any premises, vehicle, vessel, or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual

activity or acts of force or restraint associated therewith. Sex articles are defined at paragraph 4 Schedule 3 of the Act.

- 3.8 **The term “significant degree” is not defined in legislation.** When deciding whether a business is selling or otherwise dealing in a significant degree of sex articles and requires a licence the Council will consider:
- The ratio of sex articles and associated items to other aspects of the business
  - The character of the remainder of the business
  - The nature of the displays in the business
  - Turnover generated by sales of sex articles and associated items
  - The nature of literature, publicity or advertising materials
  - Any other factor which appear to be materially relevant
- 3.9 A licence is not required for the sale supply or demonstration of articles which are manufactured for use primarily for the purposes of birth control or primarily relate to birth control.

### **Sex Cinemas**

- 3.10 Sex cinema means any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures by whatever means produced which are concerned with the portrayal of, primarily deal with or relate to or are intended to stimulate or encourage sexual activity, acts of force or restraint associated with sexual activity or relate to genital organs or urinary or excretory functions.

## **4. Applying for a Sex Establishment Licence**

### **Applications for grant, renewal or transfer**

- 4.1 Applications for the grant, renewal or transfer of a sex establishment licences **must be made on the prescribed forms available on the Council’s website and submitted to the Council at [www.warwickdc.gov.uk/licensing](http://www.warwickdc.gov.uk/licensing).**
- 4.2 A template notice for public advertisement is attached as **Appendix B** or can be obtained via the Council’s website.
- 4.3 Applications must be accompanied by the appropriate fee which can be found **on the Council’s website. The fee must be paid in full at the time of the application and the application fee is non-refundable.**
- 4.4 In accordance with the legislation, a licence can be granted for a maximum period of 1 year, although the Council may grant a licence for a shorter period where it thinks fit. It may, for example, be appropriate to grant a licence for a shorter period of time where the applicant requires a licence for a specific purpose, for example an exhibition or a trade show. Applicants

should note that the fee will remain the same even though the duration of the licence may be reduced.

- 4.5 Provided that an application for the renewal or transfer of a licence is made prior to the date of expiry, the licence is deemed to continue until the application is withdrawn by the applicant or determined by the Council.
- 4.6 Tacit authorisation, the process by which an application is deemed to be granted if an authority fails to determine it within certain time periods does not apply to sex establishment licences. This means that the licence will not be granted, renewed, transferred or varied until the Council makes a determination.

### **Variation**

- 4.7 Sex establishment licences can be varied on application. Applicants can apply to vary the terms, conditions or restrictions on, or subject to which the licence is held. Applicants must complete the prescribed form and follow the **guidance notes available on the Council's website. The Council may make** such variations as it considers fit. There is no requirement to advertise a variation application so applicants are advised to contact **the Council's** licensing team to discuss whether a variation is appropriate or whether a new application would be more suitable.

### **Waivers**

- 4.8 The Act contains provisions where a licensing authority can waive the requirement for a sex establishment licence in circumstances where a licence would be unreasonable or inappropriate.
- 4.9 A waiver can be for a specific period that the Council thinks fit or it can be open ended. An open ended waiver can be terminated by the Council with at **least 28 days' notice.**
- 4.10 Whilst the Council will consider any request for a licence waiver individually and on its own merits it considers that waivers are only likely to be appropriate in exceptional cases. Examples may include cases where the requirement for a licence under the Act is borderline or the activities are a minor or ancillary part of the business and are not carried out for profit.
- 4.11 **To apply for a waiver applicants must contact the Council's licensing team** who will advise as to the information that should be provided. The application will then be determined by the Licensing and Regulatory Committee. Where a waiver is granted the applicant will be given a waiver notice. Where a waiver is refused the applicant will be notified and invited to apply for a sex establishment licence.
- 4.12 In accordance with legislation the grant of a waiver does not need to be advertised or consulted upon.

## **Conditions**

- 4.13 The Council has prescribed standard conditions that will apply to every licence granted, varied, renewed or transferred unless they have been expressly excluded or amended. The conditions can be found at **Appendix D**.
- 4.14 Applicants who want to exclude or amend any of the standard conditions from a licence must include this request and the reasons for it within their application. It may also be appropriate for the Council to add specific, non-standard conditions to individual licences in some circumstances.

## **5. Making Objections or Commenting on an Application**

- 5.1 The Act permits any person, to make an objection against an application for the grant, renewal, transfer or variation of a sex establishment licence. It is not necessary for the person to live or work in the vicinity of the premises. Objections can be made by a wide range of people or organisations which could include, but are not limited to, individuals, businesses, residents associations, trade associations, statutory authorities (Environmental Health or Planning) Councillors or MP's.
- 5.2 Objections must be made in writing, email or upon the template form which **is available on the Council's website**. **Objections must be made no later than 28 days after the date of the application to the Council's Licensing Team and** should include the following:
- The name and address of the person or organisation making the objection
  - The premises to which the objection relates
  - The grounds for making the objection
- 5.3 The Council will notify the applicant in writing of the general terms of any objections that have been received within the 28 day period. The Council will not disclose the name and addresses to the applicant without the consent of the person(s) making the objection. Persons who are prepared to consent to the disclosure of their name and address to the applicant may wish to indicate this within their objection.
- 5.4 The Council must consider valid objections when determining an application. Objections which are judged to be frivolous or vexatious will be accorded little or no weight. Objections on purely moral grounds will also be accorded little or no weight as these fall outside of the scope of the Act.
- 5.5 The Council is entitled but not obliged to consider comments about an application that are positive or neutral in content. The Council will exercise its discretion in these circumstances but will usually take into account comments that are made in writing and received no later than 28 days after



the date of the application. The weight that will be attached to a comment will depend upon the circumstances of each particular case.

## **6. Determining Applications**

- 6.1 In all cases, the Council will consider each application on its own merits for all types of applications.
- 6.2 When determining applications, the Council will have regard to:
  - a) the Local Government (Miscellaneous Provisions) Act 1982
  - b) other relevant statutory considerations including those specified at paragraph 1.4 above
  - c) this statement of Licensing Policy
  - d) any relevant guidance or case law
- 6.3 Where the Council has received valid objections to the grant, renewal, transfer or variation of a licence the application will be determined by the Licensing and Regulatory Committee at a hearing. The hearing will be conducted in accordance with normal hearing procedures for the Committee.
- 6.4 If no valid objections are received then the application will be determined by an Officer of the Council in accordance with delegated powers.
- 6.5 In the case of an application for the renewal of a licence, the Council is not bound to make the same determination and will consider the matter afresh. The Council will, however, give due weight to the fact that a licence has previously been granted when making its decision.

## 7. Grounds of Refusal

### **Mandatory Grounds for Refusal of an Application to Grant, Renew or Transfer**

- 7.1 Applications for the grant, renewal or transfer of a sex establishment licence must not be granted where one or more of the following apply:
- a) the applicant is under the age of 18 at the date of determination
  - b) the applicant is for the time being disqualified from holding a sex establishment licence
  - c) the applicant is not a body corporate, and is not resident or has not been resident in an EEA state for 6 months immediately preceding the date of the application
  - d) the applicant is a body corporate which is not incorporated in an EEA state
  - e) the applicant has in the period of 12 months preceding the date of the application been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal

### **Discretionary Grounds for Refusal of an Application to Grant Renew or Transfer**

- 7.2 Applications for the **grant or renewal** of a sex establishment licence may be refused on the following grounds:
- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons
  - b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he/she made the application himself/herself
  - c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for the locality
  - d) the grant or renewal of the licence would be inappropriate, having regard:
    - (i) to the character of the relevant locality, or
    - (ii) to the use to which any premises in the vicinity are put, or
    - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made
- 7.3 The only discretionary grounds upon which the Council may refuse an application to **transfer** a sex establishment licence are those stated at 7.2 a) and b) above.

### **Suitability of an Applicant**

- 7.4 When determining the suitability of an applicant the Council will consider such matters as it considers to be relevant including, but not limited to whether the applicant:
- a) has no criminal conviction of a nature that deem him/her unsuitable
  - b) is honest
  - c) is qualified by experience to run the type of sex establishment in question or will employ suitable individuals with the relevant experience
  - d) clearly understands the conditions that may be attached to the license.
  - e) has a suitable management structure and business plan which delivers compliance with the conditions
  - f) has demonstrated compliance with other regulatory and taxation schemes
- 7.5 The Council will require an applicant to identify the proposed manager and beneficiary of the business in order to establish whether grounds of refusal at 7.2 b) apply. In considering the suitability of these persons the Council will apply the principles at paragraph 7.4.

### **Appropriate number of Sex Establishments**

- 7.6 As set out in 7.2 c) above the Council may refuse an application if it is satisfied that the number of sex establishments or sex establishments of a particular kind in a relevant locality is equal to or exceeds the number which the authority considers is appropriate for that locality.
- 7.7 The term relevant locality is not defined in the Act. The Council will consider it to be the locality where the premises are located or the locality where a vehicle, vessel or stall is to be used as a sex establishment. The relevant locality will be decided by the Council on a case by case basis.
- 7.8 When determining applications for **sex shop** or **sex cinema** licences the Council will, once the relevant locality has been established, consider, in each case, what the appropriate number of sex establishments in that particular locality is. In determining this, the Council will have regard to the general character of that locality and any other considerations that are deemed relevant and appropriate. Where the Council decides that granting the application would result in the number of sex establishments equalling or exceeding the number that they deem to be appropriate in that particular locality they may refuse the application.
- 7.9 The Council has determined that a limit of nil is appropriate for the number of **sexual entertainment venues** within localities falling within the areas shown outlined on the maps at **Appendix C**. Both sides of any road which borders the outlined areas shown on the maps are deemed to be included within it. The Council has not set a limit in relation to sex shops and sex cinemas. This limit has been set following a consultation that focused on the town centre areas of Kenilworth, Leamington Spa, Warwick and Whitnash and in which the majority of respondents supported a nil limit. The Council

does not believe that there are any localities within these areas in which it would be appropriate to licence a sexual entertainment venue.

- 7.10 The determination that a nil limit is appropriate within these areas does not prevent any person from applying for or renewing a sexual entertainment venue licence and each application will be considered on its merits.
- 7.11 There are areas of the District which are not subject to the nil limit. This does not mean that the Council considers that these areas are more suitable than the areas specified in Appendix C for the location of sexual entertainment venues. Applications for sexual entertainment venue licences in these areas will be decided on their individual merits.

#### **Character of the Relevant Locality and Use of Premises in the Vicinity**

- 7.12 As set out in 7.2 d) above the Council may refuse an application if it is satisfied that granting or renewing a licence would be inappropriate having regard to the character of the relevant locality, or the use to which any other premises in the vicinity are put.
- 7.13 When considering whether an application should be refused on the grounds that it would be inappropriate having regard to the character of the relevant locality the Council will determine the relevant locality in each case and then have regard to the following together with any other factors deemed relevant in assessing the character of the locality:
- a) the number and type of residential premises, including any sheltered housing and accommodation for vulnerable people
  - b) The number and type of educational establishments and their hours of operation
  - c) The number and type of places of worship and hours of opening
  - d) **Access routes to and from schools, play areas, children's nurseries, children's centres or other premises catering for vulnerable people and hours of use**
  - e) the presence of shopping centres and hours of use
  - f) the presence of community facilities for example halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs relevant planning decisions and hours of use
  - g) On-going regeneration of the locality
  - h) the presence of other sex establishments
  - i) the views of residents, owners and occupiers of businesses and other organisations within the locality
  - j) The presence of licensed premises and their activities, uses and hours of operation
- 7.14 When considering whether an application should be refused on the grounds that it would be inappropriate having regard to the use to which other

premises in the vicinity are put the Council will have regard to the following factors together with any others deemed relevant:

- the proximity of premises used as educational establishments, leisure facilities, community centres, places of worship, youth clubs or women's refuges, and hours of use
- the proximity of residential accommodation and other accommodation for vulnerable people
- evidence of complaints of noise or disturbance from other premises in the vicinity that are either caused by the applicant premises or are likely to increase as a result of granting an application
- the view of the occupiers or owners of premises in the vicinity

7.15 When considering the vicinity, the Council considers the vicinity to be the area immediately surrounding the premises.

## **8. Refusal of licences**

8.1 The Council will not refuse to grant, renew or transfer a licence without first giving the applicant the opportunity of appearing and making representations **before the Council's Licensing & Regulatory Committee.**

8.2 Where an application for grant renewal or transfer is refused the Council will give the applicant a statement in writing of the reasons for their decision.

## **9. Revocation of a licence**

9.1 The Council can revoke a sex establishment licence at any time on one of the mandatory refusal grounds set out at 7.1 above or on either of the discretionary refusal grounds set out at 7.2 a) and b).

9.2 The Council will not revoke a licence without first giving the licensee the opportunity of appearing before and being heard by the **Council's Licensing and Regulatory Committee.**

9.3 Where a licence is revoked, the Council shall give the licensee a statement in writing of the reasons for the decision within 7 days of the decision.

9.4 Where a licence is revoked, its holder will be disqualified from holding or obtaining a licence in the area of the Local Authority for a period of 12 months from the date of revocation.

9.5 When the authority revokes a licence, the decision does not take effect until the time for bringing an appeal has expired and if an appeal is brought until the determination or abandonment of that appeal.

## **10. Cancellation of a licence**

- 10.1 The Council may at the written request of the licence holder cancel the licence. No refund of the fee will be made in these circumstances.

## **11. Death of the Licence Holder**

- 11.1 If a licence holder dies, the licence will be deemed to have been granted to **the licence holder's personal representatives and will remain in force for three months from the date of the licence holder's death**, unless previously revoked, and will then expire.
- 11.2 The Council can, however, on the application of the licence holder's personal representatives, extend the three month period if the Council is satisfied that an extension is necessary for the purpose of winding up the late licence **holder's estate. The Council will only do so where there are no** circumstances that make such an extension undesirable.

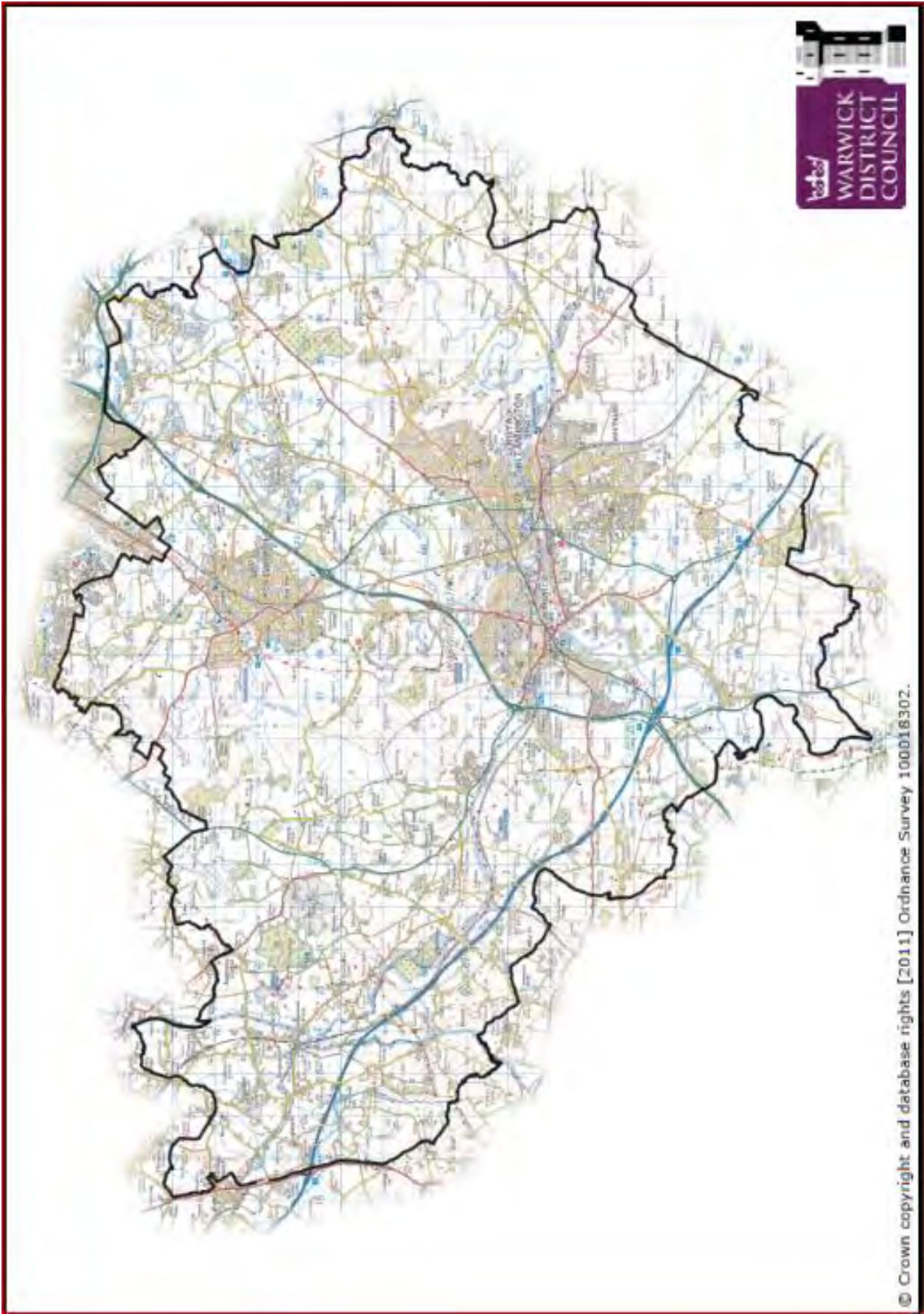
## **12. Right of Appeal**

- 12.1 **Only the applicant or licensee has the right to appeal the Council's decision** to the Magistrates Court and only on limited grounds. There is no right of appeal for persons who have made representations or statutory authorities.
- 12.2 The decisions against which a right of appeal lies are refusals of grants, renewals, variations or transfers, the imposition of conditions and revocation.
- 12.3 Appeals can only be made against refusals or revocations made on the mandatory grounds on the basis that the mandatory ground does not apply to the Appellant. The only discretionary grounds of refusal that can be appealed are those set out at 7.2 a) and b) above which relate to the suitability of the applicant, the manager or the beneficiary of the operation. There is no right of appeal against refusals made on the grounds set out at 7.2 c) and d) above.
- 12.4 **Appeals must be made to the Magistrates' Court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision.**

## **13. Enforcement and Compliance**

- 13.1** Compliance inspections of a premises will be carried out on a risk assessed basis.
- 13.2 There are a number of offences created by the Act in relation to sex establishment licensing. They can be found at paragraphs 20, 21, 22 and 23 of Schedule 3 of the Act.
- 13.3 Enforcement will be carried out in accordance with the Regulators Code and **Council's Enforcement Policy**.

**Appendix A: Map of Warwick District**





## Appendix B: Sample Advertisement

### **Local Government (Miscellaneous Provisions) Act 1982 Sex Establishment Licence Public Notice**

*[Name of person applying for licence]* is applying to Warwick District Council for a *[sex cinema/sex shop/sexual entertainment venue]* licence at *[name and address of premises]*.

Any person wishing to make representations in relation to this application may do so by writing to:

Licensing Authority

**Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
Warwickshire CV32 5HZ**

Representations may be made for 28 consecutive days from the date of this Notice.

A copy of the application for the grant of the above licence is kept by the Licensing Authority at the above address. The application can be viewed Monday to Thursday 9.00am to 5pm, and 9.00am to 4.30pm on Fridays, except Bank Holidays.

*It is an offence knowingly or recklessly to make a false statement in connection with an application. The maximum fine for which a person is liable on summary conviction for making a false statement is a Level 5 fine on the Standard Scale.*

*[Date]* – This must show the day after the day that the application was received by the Licensing Authority.



**Appendix C: Area Locality Maps**  
**Kenilworth**





## Royal Leamington Spa

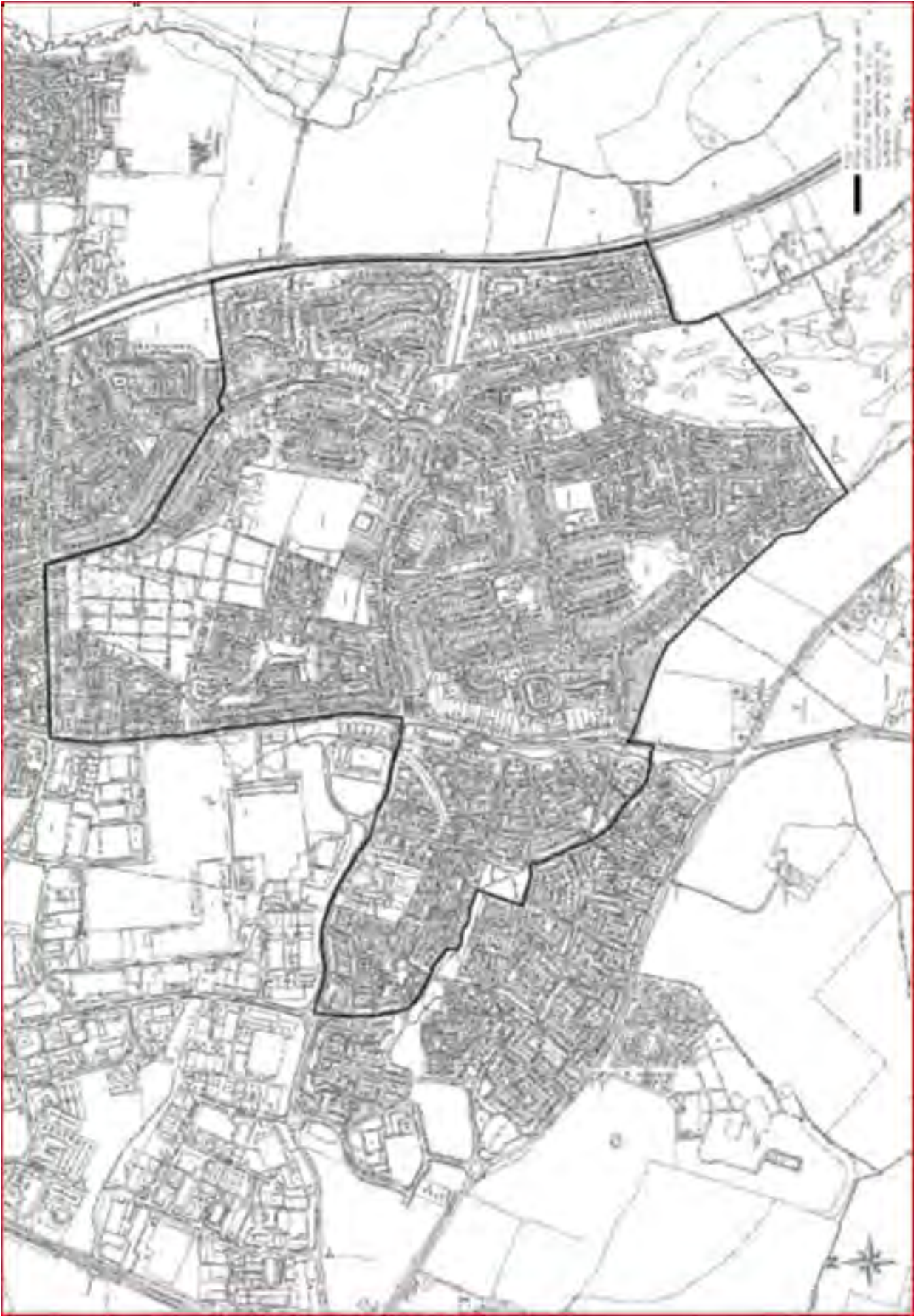




## Warwick



**Whitnash**



## **Appendix D:**

### **Sex Establishment Licensing Standard Conditions**

#### **Explanatory Note**

There are three types of sex establishment that can be licensed by the Council under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

These are:

- Sexual Entertainment Venues
- Sex Cinemas
- Sex Shops

The following standard conditions shall apply to licences granted, renewed or transferred by the Council under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

"Sex Establishments", "Sex Cinemas", "Sex Shop", "Sex Article", "Sexual Entertainment Venue", "relevant entertainment" shall have the meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

#### **Part 1**

#### **Sex Establishment General Conditions.**

**The following Conditions apply to all Sex Establishments licensed by the Council.**

##### **1. General**

- 1.1 The Licence or a clear copy of it shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.
- 1.2 A copy of the conditions that apply to the Licence shall be retained at the premises in a clear and legible condition and provided to any person using the premises on request.
- 1.3 The premises shall not be open or used for the purposes for which the licence is granted except between the hours prescribed within the licence.
- 1.4 The Licence Holder shall retain control over all areas of the premises and shall not let, licence or surrender possession of any area. The Council must be immediately notified in the event that any area of the premises is affected by **the termination of a lease or other event affecting the License Holder's control** of the Premises.
- 1.5 The Licence Holder shall ensure that members of the public are not admitted to any part of the premises that has not been licensed, other than toilet facilities where provided for customers.



- 1.6 The premises shall be maintained in accordance with the lay out plan attached to the Licence. Amendments to the layout of the premises and/or any structural or physical alteration must be approved by the Council by way of an application for variation of this licence unless otherwise agreed in writing by the Council.
- 1.7 Where the Licence Holder is a corporate body or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within fourteen days of such change and such written details as the Council may require in respect of any new Director Secretary or Manager are to be furnished within fourteen days of a request in writing from the council.
- 1.8 No person under the age of 18 shall be admitted to any part of the premises and the Licence Holder shall adopt the Challenge 25 policy on admissions. The only acceptable forms of identification are recognised photographic identification cards, such as a driving licence or passport. There must be adequate, regular and documented training on admissions for staff and records of that training will be provided to Authorised Officers of the Council and police on request.
- 1.9 A warning notice of not less than 600 mm by 300 mm comprising white letters on a dark background, such letters to be at least 25 mm high, shall be exhibited in a prominent position on each entrance to the premises. The warning notice must contain the following words and no others: -

### **WARNING**

**Persons passing beyond this notice may find material of a sexually explicit nature on display. No admittance to persons under 18 years of age.**

- (ii) The word **"WARNING"** must appear as a heading.
- (iii) No pictures or other matter shall appear on the notice.
- (iv) The notice must be situated so that no person could reasonably gain access to the premises without being aware of the notice and it must be easily legible by any person gaining such access.

## **2. Conduct and Management of Premises**

### **2. Management and Staffing of the Licensed Premises**

- 2.1. A written record shall be kept of anyone refused admission to the premises or refused service. Details contained in this record shall show:
- the basis for the refusal;
  - the person making the decision to refuse; and,

- the date and time of the refusal

This record shall be retained at the premises for at least one year from the date of refusal and shall be made available for inspection and copying by the Police and Authorised Officers of the Council immediately upon request.

- 2.2 The Licence Holder or some responsible person over 18 years of age nominated by him in writing for the purpose of managing the Sex Establishment in his absence shall be in charge of and present at the premises during the whole time they are open to the public. Such written nomination shall be continuously available for inspection by authorised officers of the Council. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision. The person in charge shall be conversant with these licence conditions.
- 2.3 The Licence Holder shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex **Establishment in the Licensee's absence and the names and addresses** of those employed or self-employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.
- 2.4 Persons working at the premises must be aged over 18 and the Licence Holder must undertake adequate identity checks to ensure that they are 18 years or over and have the right to work in the UK. Copies of all documents used to verify identities together with name address, photograph, National Insurance Number and date of birth must be securely retained for inspection by the Police or authorised officers of the Council on request.
- 2.5 A bound and sequentially paginated incident and accident book shall be kept to record all instances of crime, disorder, damage to property and personal injury at the premises. This book shall be made available for inspection and copying by the Police and authorised officers of the Council immediately upon request and all such books shall be retained at the premises for at least 1 year from the date of the last entry.
- 2.6 The Licence Holder shall as soon as reasonably practicable provide copies of any documents reasonably required by an authorised officer of the Council to prove compliance with this Licence.
- 2.7 The Licence Holder shall ensure that no part of the premises is used for the purposes of soliciting for prostitution.
- 2.8 The Licence Holder shall maintain good order on the premises and ensure that the Police are notified where criminal behaviour is suspected to have taken



place. In particular the Licence Holder shall ensure that the Police are notified immediately of the unlawful possession or supply of illegal drugs or acts of violence taking place on the premises.

- 2.9 The Licence Holder shall inform the Council in writing within 14 days if he, a person responsible for managing the premises is arrested, convicted or cautioned for any offence.
- 2.10 The Licence Holder shall inform the Council in writing if a person working at the premises is arrested, convicted or cautioned for a criminal offence of a violent or sexual nature.
- 2.11 There must be no activities designed to obtain custom for the licensed premises by means of personal solicitation, touting, or distribution of flyers, handouts or any like thing.
- 2.12 The use of cruising cars by the premises to solicit for custom or to transport people to or from the premises is prohibited.
- 2.13 Where the Council has given notice in writing to the Licensee objecting to an advertisement on the grounds that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that advertisement shall not be displayed.

## **Part 2**

### **Sexual Entertainment Venue Standard Conditions**

The Sex Establishment Standard Conditions in Part 1 will apply to a Sexual Entertainment Venue licence in addition to the conditions set out below.

The following conditions are standard conditions that will apply specifically to the type of Sex Establishment known as a Sexual Entertainment Venue.

#### **1. Conduct and Management of Premises**

- 1.1 Notices will be displayed at the entrance to the premises advising customers that random searches will be carried out and admission will be refused to customers who do not give their consent to being searched.
- 1.2 The Licence Holder shall ensure that during the hours the Sexual Entertainment Venue is open for business every employee who is not a performer wears a badge of a type to be approved by the Council.

- 1.3 The premises shall subscribe to an approved radio system and radios shall be operational at all times the premises is open to the public.
- 1.4 The prices for entrance and any compulsory purchases within the venue shall be clearly displayed on the interior of the premises at the entrance of the premises.
- 1.5 All charges for products and services shall be clearly displayed in prominent areas within the premises, and at each customer table and in the bar area.

## **2. Security**

- 2.1 SIA registered door staff shall be employed at the premises, both inside and outside, at all times that the premises are open to the public. The number of door staff required shall be agreed with the Police. Appropriately trained staff shall supervise the admissions desk and all dance and entertainment areas at all times.

## **3. Premises**

- 3.1 Any person who appears to be drunk or intoxicated or under the influence of illegal drugs shall not be permitted entrance to the premises.
- 3.2 Any person found to be in possession of illegal drugs upon entry shall be denied entry and the Police shall be notified. Any persons found using illegal drugs on the premises shall be removed from the premises and the Police notified.
- 3.3 No films may be shown at the premises unless they have been passed by the British Board of Film Classification or the Licensing Authority. No films classified as R18 shall be shown on the premises.
- 3.4 No sex articles or other items intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be used, displayed, sold, hired, exchanged, loaned or demonstrated at the premises.

## **4. CCTV**

- 4.1 Except in accordance with the requirements for CCTV, no photographs, films or video recordings shall be taken of the performances. Electronic transmissions of a performance shall not be shown outside of the premises except for the purpose of remote management of the premises and in those circumstances, the licensee shall ensure that only managers nominated in writing shall view any photograph, film or recording.

## 5. Performers

- 5.1 A designated dressing room area shall be provided for **performer's** exclusive use. Such dressing room shall be secured so as not to be accessible to members of the public and shall be sufficient to enable performers to change privately. Only performers and staff authorised by the Licence Holder shall be permitted in to the changing rooms.
- 5.2 A member of staff will be available to escort performers from the premises to secure transport, or safe place at the end of their working day if requested to do so.
- 5.3 No performers shall be allowed to work at the premises if they are under the influence of intoxicating liquor or drugs.
- 5.4 Accurate payment and remuneration records shall be maintained and shall be made available upon request to the Police or an authorised officer of the Council. All fees and charges for performers shall be clearly stated in writing and prominently displayed within the changing area.
- 5.5 Performers who are not performing shall not be in any public area in a state of undress (which includes the displaying of naked female breasts).
- 5.6 There shall be no physical contact between performers and customers at any time, either before, during or after a performance except for the placing of money or tokens in an item of clothing worn by a performer or into the **performer's hand before or at the end of the performance and a customary** kiss on the cheek of the patron by the performer at the conclusion of the performance. Customers may be led by the hand and escorted to an appropriate area for the dance.
- 5.7 Performers must never intentionally touch the genitals, anus or breasts of another performer or to knowingly permit another performer to intentionally touch their genitals, anus or breasts.
- 5.8 Performers must not simulate any sexual act.
- 5.9 Performers must not use any sexually graphic language during a performance or in the public areas of the premises.
- 5.10 Performers must not sit on or straddle a customer or place their feet on seats.
- 5.11 The Licence Holder must adopt and implement a code of conduct for performers and a code of conduct for customers. The terms must be approved by the Council and any amendments must be approved by the Council.

- 5.12 The Code of Conduct for Customers shall be displayed in prominent positions throughout the licensed premises so that it is visible to all patrons.
- 5.13 All management and staff (including security staff) must be aware of and familiar with the content of the Code of Conduct for Customers and shall ensure it is complied with at all times.
- 5.14 On any occasion whereby a customer breaches the Code of Conduct, such details shall be recorded in the incident log.
- 5.15 Any customer who has previously been asked to leave the premises and again breaches the Code of Conduct shall be banned from the premises.
- 5.16 The Licence Holder shall ensure that all performers performing at the premises have signed a declaration to confirm that they are aware of, have understood and will abide by the code of conduct. The Licence Holder shall retain this declaration until such time as the performer ceases to perform at the premises.
- 5.17 Performances of sexual entertainment may only take place in designated areas of the premises as agreed in writing by the Council.
- 5.18 No performer will exchange personal information or contact details with a customer or arrange to meet any customer outside of the premises.
- 5.19 Performers must not perform unless in a supervised area and within sight of a member of staff or a member of security.
- 5.20 Any exterior smoking area for use by performers shall be kept secure and separate to any public smoking area.

## **6. Performances**

- 6.1 The Licence Holder must ensure that during a performance:
- (a) customers are seated in an upright position against the back of the booth or seat with their hands by their sides
  - (b) customers must remain seated during the entire performance
- 6.2 Performers will stop immediately and move away from any customer who is offensive or attempts to touch them during a performance and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management.
- 6.3 At the end of a performance the performer should be able to leave the stage area without the need to walk through the audience.

## **7. Customers**

- 7.1 Customers must remain fully clothed at all times.

### **Part 3**

#### **Sex Cinema Standard Conditions**

The Sex Establishment Conditions in Part 1 will apply a Sex Cinema licence in addition to the conditions set out below:

The following conditions are standard conditions that will apply specifically to the type of Sex Establishment known as a Sex Cinema.

The premises shall be conducted primarily for the purpose of the exhibition of moving picture.

1.1 No film shall be exhibited at the premises unless it has been passed by the British Board of Film Classification as a U, PG, 12A/12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council; or

1.2 No film shall be exhibited at the premises: -

(1) which is likely: -

(a) to encourage or to incite to crime; or

(b) to lead to disorder; or

(c) to stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or

(d) to promote sexual humiliation or degradation of or violence towards women.

(2) the effect of which is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely to see it; or

(3) which contains a grossly indecent performance thereby outraging the standards of public decency.

If the Licence Holder is notified by the Council in writing that it objects to the exhibition of a film on any ground, such film shall not be exhibited.

1.3 **The Licence holder shall give at least 28 days' notice in writing to the council** of any proposal to exhibit any film which has not been classified as specified above. Such a film shall only be exhibited if consent has been obtained from the council in writing and subject to any terms or restrictions contained within such written consent.

1.4 No other indication as to the nature of the business carried on at the licensed premises may be displayed on the external area of the premises other than **the wording "ADULT CINEMA"**.

1.5 No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Cinema, nor shall more than one person (including any

employee) be present in any such booth or cubicle at any time except for maintenance or security reasons.

- 1.6 Neither Sex Articles nor other things intended for use in connection with, or the purpose of stimulating or encouraging sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

## **Part 4**

### **Sex Shop Standard Conditions**

The Sex Establishment Conditions in Part 1 will apply a Sex Shop licence in addition to the conditions set out below:

The following conditions are standard conditions that will apply specifically to the type of Sex Establishment known as a Sex Shop.

- 1.1 The Licence Holder shall produce a list of all stock carried at the premise and shall make it available to a police officer or authorised officer of the Council on demand in respect of a sex shop.
- 1.2 All printed matter, DVD, video and other formats capable of storing readable/viewable material offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Shop. (This regulation does not require that films or video films be exhibited (played) to customers).
- 1.3 No film, DVD, or video recording (or computer game, or other formats capable of storing readable/viewable material) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.
- 1.4 The licensee shall retain control over all parts of the premises and shall operate the designated area of the premises exclusively as a sex shop as stated in the licence unless otherwise agreed in writing by the Council.
- 1.5 The licensed premises shall be used only for the purposes of a sex shop, as defined by Paragraph 4 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, and shall not be used either wholly or in part for any other purpose or purposes whatsoever during the period in respect of which this Licence is granted.
- 1.6 The licensed name of the premises may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
- 1.7 No other indication as to the nature of the business carried on at the licensed premises may be displayed on the external area of the premises other than the wording **"PRIVATE SHOP" or "ADULT SHOP"**.
- 1.8 No external loudspeakers may be installed.

- 1.9 External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 1.10 Lighting shall be in operation continuously during the whole of the time that the Sex Shop is open to the public.
- 1.11 No film, video film, record or tape shall be exhibited, sold or supplied in, at or from the licensed premises unless it is a reproduction authorised by the owner of the copyright of the film, video film, record or tape.
- 1.12 No charge shall be made to any member of the public or visitor for admission to the premises in respect of which a licence is granted, nor for admission to any part thereof.



## Summary of Change

Title Page:	Added 'Statement of' to 'Licensing Policy' as this is what the document is referred to in other statutory documents.  Date updated.
Contents Page:	Updated with new section information and page numbering details.
Section 1:	Change is title, introduction of review information and contact information to ensure consistency across Licensing Policies.
Section 2:	Updated to include reference to councils Enforcement Policy and amended to update the name of the safeguarding board.
Whole Document:	Throughout the document there are small changes to spelling and grammar and there are some corrective measures included.