

CHILTERN DISTRICT COUNCIL

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Licensing & Regulation Committee

Thursday, 2nd December, 2010 at 6.30 pm

**Large & Small Committee Room, King George V House, King George V Road,
Amersham**

A G E N D A

- 1 Evacuation Procedures
- 2 Minutes
To sign the Minutes of the meeting held on 9 September 2010, previously circulated.
- 3 Apologies for Absence
- 4 Declarations of Interest
- 5 Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Licensing Amendment - Updated Condition
(Pages 1 - 2)
- 6 Local Government (Miscellaneous Provision) Act 1976 - Hackney Carriage and Private Hire Driver Licence Amendment to Medical Requirements
(Pages 3 - 4)
- 7 Local Government (Miscellaneous Provision) Act 1982 - Street Trading Application to Trade from Pennyfields, Little Chalfont (Pages 5 - 6)
Appendix 7.1 (Pages 7 - 8)
Appendix 7.2 (Pages 9 - 10)
Appendix 7.3 (Pages 11 - 12)

Appendix 7.4 (Pages 13 - 14)

8 Sex Establishments Policy Statement (*Pages 15 - 16*)

Appendix 8 (Pages 17 - 50)

9 Licensing Act 2003 - Statement of Licensing Policy (*Pages 51 - 52*)

Appendix 9.1 (Pages 53 - 56)

Appendix 9.2 (Pages 57 - 84)

Appendix 9.3 (Pages 85 - 88)

10 Exclusion of the Public

To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.

11 Private Reports (if any)

Note: All Reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Licensing & Regulation Committee

Councillors: G P Peters (Chairman)
D G Meacock (Vice-Chairman)
Miss P A Appleby
Mrs E L Bamford
Mrs J A Burton
Mrs V G Head
L A Hodgkinson
P M Jones
M J King
D J Lacey
S A Patel
J S Ryman
Mrs E P Stacey
C J Wertheim
P N Shepherd

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CHILTERN DISTRICT COUNCIL

LICENSING AND REGULATION COMMITTEE – 2 DECEMBER 2010

Background Papers, if any, are specified at the end of the Report

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 - HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING AMENDMENT – UPDATED CONDITION

Contact Officer: Ben Coakley 01494 732060 bcoakley@chiltern.gov.uk

RECOMMENDATION

That Members consider the request by Thames Valley Police for an additional element to be added to the requirements (Hackney Carriage) and conditions (private hire) on Chiltern drivers' licenses.

Matter for Consideration:

- 1 To consider an update to the Hackney Carriage and Private Hire requirements and conditions following a request and discussions with Thames Valley Police (TVP).
- 2 This is a pro-active amendment, with each of the Bucks Authorities being asked to consider inserting a new condition into each license and does not follow a particular incident in the Chiltern District.
- 3 Wycombe and Aylesbury have just sought permission and successfully added this new element.
- 4 It has been proposed by TVP that a condition relating to 'sexual contact' is added to the Chiltern Hackney Carriage and Private Hire Policy
- 5 TVP figures identify that almost 2% of this type of crime reported to them, alleges a taxi driver as the offender.
- 6 This is part of a wider scheme to reduce instances of serious sexual assault across all of the Thames Valley region.

Background:

- 7 Private Hire vehicles and Hackney Carriages, their drivers and operators/proprietors are regulated by this Authority under the Local Government (Miscellaneous Provisions) Act (1976), the Town Police Clauses Act 1847 and by historical bylaws. This collection of legislation allows the Authority to adopt requirements and conditions for the purposes of licensing.

Decision To Be Made:

- 8 Following consideration, Members are asked to agree or disagree to the insertion of the new condition. TVP have provided a suggested condition which is provided below (in italics):

Proposal recommended for adoption on the 25th December 2010

1. That the following condition be added to current Hackney Carriage requirements and Private Hire requirements and conditions following agreement:

Drivers may not initiate any dialogue of a “sexual” nature with a passenger. Licensed drivers are not permitted to become involved “sexually”, or have sexual contact, even with consent, whilst in a licensed vehicle.

2. Enforcement will be a partnership approach with TVP leading any subsequent investigation following our current enforcement procedures. The new condition will be highlighted to all existing drivers and operators through the next enforcement newsletter.

Background Papers: None

**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE - 2nd DECEMBER 2010**

Background Papers, if any, are specified at the end of the Report

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1976
HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER LICENCE
AMENDMENT TO MEDICAL REQUIREMENTS.**

Contact Officer: Stewart Broome 01494 732063

INFORMATION ITEM

Note the amendments to the guidance for assessing DVLA Group 2 medical fitness in relation to diabetes, as a result of updated guidance published by the Department of Transport.

From the 3rd of December 2010 the Taxi & Private Hire Licensing Policy will be amended to reflect this new guidance.

Background

- 1 Our current Taxi and Private Hire Licensing policy states that we will follow the DVLA 'Group 2' requirements when assessing if an applicant should be considered fit to drive a licensed vehicle.
- 2 In March 2010 the Department of Transport published updated guidance to assist Licensing Authorities in carrying out their Taxi and Private Hire functions which provides further guidance in relation to group 2 requirements.
- 3 This updated guidance advises that when considering whether to licence or continue to licence individuals diagnosed with insulin dependent diabetes, each case should be assessed on an individual basis **i.e. by their doctor** based on the DVLA 'C1' standards rather than refusing applications or revoking licences as a blanket policy.
- 4 The Department of Transport guidance still advocates the use of Group standards generally to assess the fitness of such applicants, but they take the view that 'C1 arrangements' should be used in respect of applicants who have insulin-dependent diabetes. The following text is taken from Annex C of the Guidance and explains what is involved in administering the C1 provisions.
- 5 **Assessing applicants for a taxi or PHV driver licence in accordance with C1 standard**

The arrangements mean that those with good diabetic control and who have no significant complications can be treated as "exceptional cases"

and may have their application for a licence for category C1 considered. The individual must fulfil all of the following criteria:

- To have been taking insulin for at least 4 weeks;
- Not to have suffered an episode of hypoglycaemia requiring the assistance of another person whilst driving in the last 12 months;
- To attend an examination by a hospital consultant specialising in the treatment of diabetes at intervals of not more than 12 months and to provide a report from such a consultant in support of the application which confirms a history of responsible diabetic control with a minimal risk of incapacity due to hypoglycaemia;
- To provide evidence of at least twice daily blood glucose monitoring at times when C1 vehicles are being driven (those that have not held C1 entitlement in the preceding 12 months may provide evidence of blood glucose monitoring while driving other vehicles);
- To have no other condition which would render the driver a danger when driving C1 vehicles; and
- To sign an undertaking to comply with the directions of the doctor(s) treating the diabetes and to report immediately to DVLA any significant change in condition.

- 6 In conclusion it is recommended that the Taxi & Private Hire Policy and associated medical checklist is updated in accordance with the C1 standards.

Background Papers: None

**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE - 2nd DECEMBER 2010**

Background Papers, if any, are specified at the end of the Report

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISION) ACT 1982
STREET TRADING APPLICATION TO TRADE FROM
PENNYFIELDS, LITTLE CHALFONT.**

Contact Officer: Stewart Broome 01494 732063

RECOMMENDATIONS

Members are asked to consider the evidence provided by all parties, and determine the application using one of the options contained within section 2.5 of this report.

Background

- 1 On 28th June 2010 an application was made to the Licensing Authority for the grant of a street trading consent to sell fruit and vegetables from a mobile stall located opposite the Ian Rennie, and Robertson's Butchers on Pennyfields, Little Chalfont. The application and a map showing the location of the proposed site is attached at **Appendix 7.1**.
- 2 Following receipt of the application there followed a period of consultation. It is the Licensing Authority's policy to consult Thames Valley Police, Bucks County Council Highways Department, and the local Parish Council on all street trading consent applications.
- 3 During this period of consultation objections were received from Bucks County Council (**Appendix 7.2**) and Little Chalfont Parish Council (**Appendix 7.3**). Copies of these objections were served on the applicant who was given a further period of time to submit additional paperwork to support their application or to withdraw the application. The applicant decided to submit additional documentation in support of their application (**Appendix 7.4**)

Legal Position.

- 4 Street trading consents are issued under the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The Act contains adoptive provisions relating to street trading. The provisions were adopted by this Council in 1984. (Environmental Health Committee decision).
- 5 When objections are received it is necessary to hold a hearing of the full Licensing and Regulation Committee to determine the application.

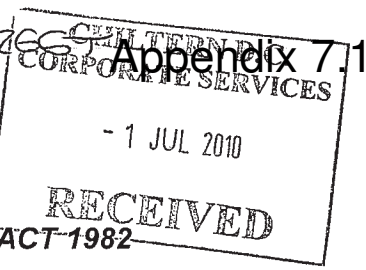
- 6 The Council may grant consent with conditions considered to be reasonably necessary, and in particular include conditions to prevent obstruction of the street or danger to persons using it, and to prevent nuisance or annoyance (whether to persons using the street or otherwise).
- 7 The Council may stipulate the exact location on the consent street that the applicant may trade from, and the times or periods which he may so trade.
- 8 Members may:

Grant the consent as applied for,
Grant the consent subject to additional conditions and/or restrictions, (see paragraphs 6 and 7 above.
Refuse the application.
- 9 The Local Government (Miscellaneous Provisions) Act 1982 does not provide provision to refuse an application due to planning issues.
- 10 Members are advised that there is no right of appeal against the refusal to grant a Street Trading Consent. However, as there is no right of appeal the applicant has a right to seek judicial review. As a judicial review is largely about the decision making process, it is essential that the applicant fully understands the reasons for the Members' decision.

Background Papers: None

10/00594/

STREET



CHILTERN DISTRICT COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

APPLICATION FOR A STREET TRADING CONSENT

TO: ENVIRONMENTAL HEALTH MANAGER, CHILTERN DISTRICT COUNCIL,
COUNCIL OFFICES, KING GEORGE V ROAD, AMERSHAM, BUCKS., HP6 5AW.

I, the undersigned Adam Hines - Randall
(Please give full name)

of Chesham bucks HP52ag 5 BRUSH
Makers court Tel: 07814 569 144

hereby apply for a Street Trading Consent in accordance with Section 3 of and Schedule 4
to the Local Government (Miscellaneous Provisions) Act 1982.

I wish to apply as follows:

Location (street, town etc): little chalfont & cheries parade
outside Iain Rennie and T.A.

Days: wed/sat Robertson Butchers

Times: 8-5 PM Starting at 6.00 AM to set
up

Description of goods: Fruit and veg

Description of stall, vehicle, etc: 1x 20ft stall covered

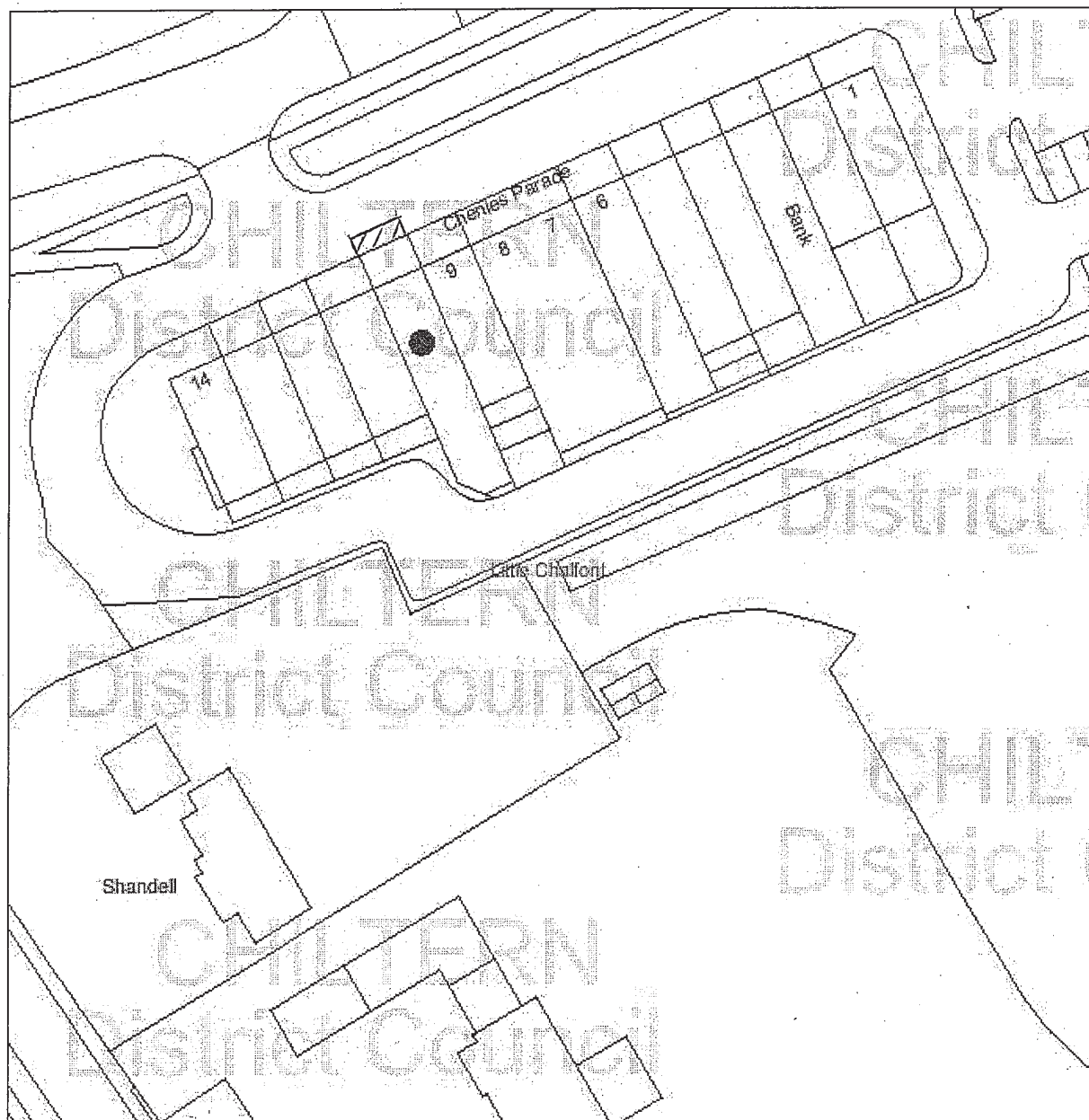
I declare that I am over 17 years of age. ☒

I enclose the sum/deposit of £. in support of this application.

Signed: ARandall Date: 28/6/10

* Please use black ink, and complete in block letters.

Map Print Page



Legend

- ☐ Parish Boundaries
- ☒ Adjacent Districts
- ☒ Proposed location

Overview

☒ Overview Image


Date: 17.11.2010
 Approx. Scale: 1:520
 Bounding coordinates: 499373, 197347
 499482, 197458

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Memorandum

Transport for Buckinghamshire

Buckinghamshire County Council

Head of Transport Jim Stevens

10th Floor, County Hall,
Walton Street, Aylesbury,
Buckinghamshire,
HP20 1UYTelephone 0845 2302882
www.buckscc.gov.uk

To Stewart Broome

Ref: Street licence, Chenies Parade

From Stacey Capewell

Date: 19th August 2010**Re: Street trading licence, Chenies Parade, Little Chalfont**

Thank you for the consultation with regard to the street traders licence at Chenies Parade in Little Chalfont. I have been in discussions with the planning department at Chiltern District Council and I have been informed that the applicant requires planning permission for the stall given that they would be trading for more than 28 days and therefore permitted development rights do not apply.

However, irrespective of whether planning permission is required I would like to clarify that the Highway Authority has concerns over the location of the stall within the public highway. I am aware Chenies Parade is a consent street, hence the need for the licence; however, the location of the 20 foot stall would take up approximately 2 parking spaces for vehicles within the on street parking bays along Chenies Parade.

On street parking is at a premium along Chenies Parade and the turnover of vehicles given the nature of the commercial units is extremely high. Vehicles are constantly undertaking manoeuvres to park within the narrow section of Chenies Parade which is one way due to the constraints. I have concerns over where the stall holder would stand, where the crates and associated boxes for the goods would be stored and the fact that if any goods/crates fell onto the public highway this would be detrimental to highway safety.

The exact location and width of the stall is also unknown to the Highway Authority and therefore we are unsure exactly how many parking spaces the stall would take up given that the parking area is not marked out into bays. We are also concerned that the width of the stall may impede vehicles driving along Chenies Parade. Presumably the stall front would face the shops, however, markets stalls do sell goods from all sides and therefore pedestrians could stand in the way of vehicles trying to manoeuvre into parking spaces on either side of the stall; pedestrian/vehicle conflict would most likely occur.

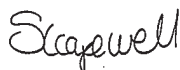
I will also raise issues as the stallholder would require a large van/lorry to set up the stall which would be parked within Chenies Parade. I am aware that there are parking restrictions so that vehicles cannot park for more than 2 hours, however, a van and a 20foot stall would lead to significant displaced parking given that the bays are in such high demand.

Given that the stall is within the public highway, the Highway Authority would be liable if any conflict occurs.

I will be raising these concerns when consulted on any forthcoming planning application for the stall and recommending refusal under the Chiltern District Local Plan.

Therefore I would wish for the licence to be refused due to the Highway Authority's concerns raised above. This is without prejudice to the fact that planning permission is required anyway.

Yours Sincerely



Stacey Capewell

Transport Development Control (South team)

Email: [REDACTED]

Stewart Broome

From: Little Chalfont Parish Council [REDACTED]
Sent: 20 August 2010 10:22
To: Stewart Broome; licencing@chiltern.gov.uk
Cc: Chris Ingham; Brian Drew; [REDACTED]
Subject: LCPC - comments on Application for Street Trading Consent for fruit and Veg stall

Dear Stuart,

Little Chalfont Parish Council Planning Committee met on Tuesday 17th August 2010 and that meeting considered the Street Trading Consent application for a fruit and veg stall in Chenies Parade on a Wednesday and a Saturday.

The following decision was reached:

The Council oppose the request - it was agreed that a fruit and vegetable store is generally wanted in the village. However, a 6am set-up time is unacceptably early because the noise levels would impact local residents. Also, there is already considerable congestion in Chenies Parade and if the store were to be located where requested would use up two of the parking spaces and provide additional pavement congestion. Also, it was agreed that there was not a good alternative location within Chenies Parade. After a vote the Council agreed to oppose the request.

If you require any additional information please contact either myself or Janet Mason by e-mail or by telephone on [REDACTED]

Kind regards

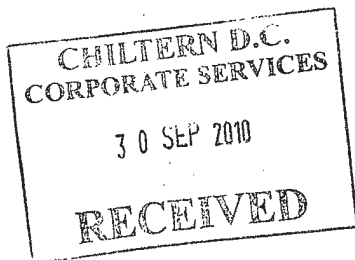
Karen Sterling
Assistant Parish Clerk

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10 Chalk Hill
Chesham
Bucks
HP5 2DN

29th September 2010

Dear Mr Broome

Application for Street Trading Consent

Thank you for your letter dated 16th September 2010. I write to respond to the objections you have received regarding my application.

Objection from Bucks County Council

I was unaware that the I would require planning application to trade for more than 28 days in any year, I will be making further enquiries with the planning department in due course. I note the concerns regarding the proposed location of the stall, in order to mitigate these concerns we would be willing to have the stall anywhere in Chenies Parade that BCC would be happy with. It does not have to be located in the position we originally suggested. The stall we propose to use is smaller than the structure currently used by the fish van that currently trades in this location. We have secured alternative off street parking on Private land so we will not be using any other bays to park¹our van.

A full risk assessment has been carried out in relation to the safety of those who would work on the stall and also to members of the public. It is my intention to trade from one side of the stall only, onto the footpath in front of the shops, with all other sides of the stall being covered to prevent goods falling into the road and also to ensure that pedestrians who wish to purchase goods remain on the foot path at all times. I am fully aware of the need to ensure the separation of pedestrians and vehicles to prevent accidents. All stock not on display would be kept within the confines of the stall and not stored on the footpath etc.

The Fish Van which trades on a Friday is approximately 23 ft long and 7ft wide. This is larger than the space that we are requesting. A 20ft by 6ft area would be adequate for us. This is smaller than the current trader's area. We do not see a reason why a smaller scale stall would be detrimental.

Objection from Little Chalfont Parish Council

The suggested 6am set up time is negotiable, even though the current trader is there at this time. I do not see how we would cause any more noise disturbance than already occurs within Chenies parade with Tesco opening at 6am and the noise from deliveries and customers using the store at

¹ Letter to CDC re stall.doc

this time. Martins is also open at this time. I am aware there are residential properties above the shops and every effort would be made to set up as quietly as possible. As stated above our vehicle will be parked away from Chenies Parade.

Should you require any further information please do not hesitate to contact me. I hope our application can now be reviewed in light of this additional information and that it will be viewed favourably as an amenity that villagers generally want and one that will provide a business opportunity for a local resident.

Yours faithfully

A handwritten signature in black ink, appearing to read 'A. Hines', with a stylized flourish at the end.

Mr A Hines – Randall

(Please note I have recently moved, all correspondence can be sent to the above address)

**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE 2nd DECEMBER 2010**

Background Papers, if any, are specified at the end of the Report

SEX ESTABLISHMENTS POLICY STATEMENT

Contact Officer: Ian Snudden 01494 732057

RECOMMENDATIONS

- 1. That Members consider the Sex Establishment Statement of Policy and give permission for it to be submitted to 7 week consultation with local businesses and other relevant bodies.**
- 2. That the policy be amended following the consultation period and that a further report be submitted to the Licensing and Regulation Committee for approval of the final policy, to come into effect by 1st March 2011 following Full Council.**

Report

- 1 Following the introduction of the Policing and Crime Act 2009 which amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, introducing Sexual Entertainment Venues as a category of licensed premises, Chiltern District Council adopted the provisions of this legislation on 9th September 2010.
- 2 Home Office Guidance suggest that, although not required, local authorities may wish to adopt policies in relation to a) areas which local authorities are likely to consider to be appropriate or inappropriate locations for such venues, and b) the number of sex establishments, or sex establishments of a particular kind, they consider to be appropriate for a particular locality, as long as the policy does not prevent any individual application from being considered on its merits at the time the application is made.

Relevant Locality

- 3 Home Office Guidance suggests that it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. The decision regarding what constitutes the 'relevant locality' is a matter for the appropriate authority, although such questions must be decided on the facts of the individual application.

- 4 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition.

Numerical Limits

- 5 The Local Government (Miscellaneous Provisions) Act 1982 allows the Council to set numerical limits for any category of sex establishment and the Licensing Authority can refuse applications for new or renewed licences where the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number the number which is considered appropriate for that locality, i.e. where a numerical limit has been set.
- 6 The Home Office Guidelines accompanying the new legislation suggest that numerical limits may only be created in respect of specified areas; not complete towns or cities, nor the whole of the area regulated by the Authority.
- 7 Consideration of the adoption of numerical limits should be based upon substantive reasons as to why a specified area is not an appropriate location for a sex establishment or why an area would be appropriate for a sex establishment, or a particular number of sex establishments and these considerations must be restricted to the grounds laid out in the legislation.

Conditions

- 8 A local authority may impose terms, conditions and restrictions on a licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.
- 9 Appendices to the policy set out the pool of conditions that can be applied to individual sex establishment licences.
- 10 A draft statement of policy has been prepared and is detailed in **Appendix 8**. It is proposed, with the Committee's approval, to formally consult on the policy over a 7 week period and report back on the outcome and present the final policy to the Committee in January 2011.

Background Papers: None

CHILTERN

District Council



CHILTERN
District Council

Health and Housing Division

SEX ESTABLISHMENTS POLICY STATEMENT

Schedule 3 Local Government (Miscellaneous Provisions Act 1982),
as amended by Section 27 Policing and Crime Act 2009

Contents

Preface

1. Introduction
2. Waivers
3. Application Process
4. Representations
5. Determination of Applications
6. Relevant Locality
7. Hearings
8. Right to Appeal a Decision
9. Fees
10. Duration of Licence
11. European Convention on Human Rights

Appendix 1 Definitions

Appendix 2 Notice of Application

Appendix 3 Standard Conditions – Sex shops and cinemas

Appendix 4 Standard Conditions – Mail order premises

Appendix 5 Standard Conditions – Sexual Entertainment Venues

1. Introduction

- 1.1 This policy has been drafted as a result of new provisions that allow the Council to regulate lap dancing and similar venues and has provided an opportunity for the unification of the regulation of existing sex establishments in the District.
- 1.2 The policy is intended to set out clear and concise guidance, procedure and principals for the benefit of the Licensing Authority, the community, applicants and other relevant organisations.
- 1.3 The policy also contains standard conditions which will be applied to the different types of sex establishment which forms part of any licence granted.
- 1.4 The scheme for the control of sex establishments by way of a licensing regime is contained in the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009 and the Home Office Sexual Entertainment Venues Guidance for England and Wales (March 2010).
- 1.5 Chiltern District Council adopted the original provisions of Schedule 3 of the 1982 Act for sex cinemas and sex shops on 1st April 1983 and the new provisions for Sexual Entertainment Venues under the amendments of the Policing and Crime Act on 9th September 2010. In this policy, we refer to these as “sex establishments” unless otherwise stated.
- 1.6 Adoption of Schedule 3 allows the Council to set terms and conditions and fees for the grant, variation, renewal and transfer of such licenses and the number of premises to be licensed in an area.
- 1.7 The Standard Conditions appended to this policy do not form part of the policy document, although they may be referred to within the policy. These Standard Conditions could be subject to change during the duration of this policy, but such amendment may not result in review of this policy.
- 1.8 This Sex Establishment Policy Statement was approved by the Licensing Committee and Regulation Committee on and will be reviewed at least once every three years.
- 1.9 The Council does not take a moral stance through the adoption of this policy. The Council recognises that Parliament has made it lawful to operate Sexual Entertainment Venues, and that such businesses are a legitimate part of the retail and leisure industries. It is this Council’s role as the Licensing Authority to administer the licensing regime in accordance with the law.

- 1.10 New applications for grant and applications to vary will be determined by this authority's Licensing and Regulation Committee. Unopposed applications to renew and/or transfer will be determined by the Head of Health and Housing under delegated authority. Contested applications for renew and/or transfer will be determined by this authority's Licensing and Regulation Committee.
- 1.11 Due to the requirement that each application must be considered on its own merits, although the Licensing and Regulation Committee must have regard to this policy as part of their decision making process they are not rigidly bound by it. Should the Licensing and Regulation Committee choose to depart from this policy, clear and concise reasons for doing so will be provided.
- 1.12 This policy reflects the legal requirements of the 1982 Act and duties under Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the District; The Regulators Compliance Code (set out under the legislative and Regulatory Reform Act 2006) not to impede economic progress by the regulations we set out and to particularly consider the impact of regulations on small businesses; and The Provisions of Services Regulations 2009.
- 1.13 Each application will be considered on its own merits, on a case by case basis.

2. Waivers

- 2.1 Applications can be made to waive the requirement for a sex establishment licence.
- 2.2 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sex Shops and Sex Cinemas, except in extreme circumstances considered by the Licensing and Regulation Committee (for example, to allow a temporary re-location of a business following damage to licensed premises).
- 2.3 The Licensing Authority does not consider it would be appropriate to permit waivers from the requirements to hold a sex establishment licence in respect of Sexual Entertainment Venues, particularly as the legislation allows relevant entertainment on an infrequent basis of no more than eleven occasions within a 12-month period, providing there is at least one month between each period of entertainment which itself does not last for more than 24 hours.

3. Application Process

- 3.1 Applications must be submitted to the Licensing Authority together with the application fee; applications may be submitted electronically. The application form can be used for grant, variation, transfer and renewal applications. The application must be copied by the applicant to the Police within 7 days after the date the application was made.
- 3.2 Applicants must provide their name, address and, where the applicant is an individual, their age, plus the premises address and the proposed licensed name of the premises. Applications in respect of premises must state the full address of the premises. Applications in respect of a vehicle, vessel or stall must state where it is to be used as a Sexual Entertainment Venue.
- 3.3 Applicants must, at the time of submission of a new grant or variation application, provide a scheme showing the exterior design, including signage, for consideration by the Licensing Authority before the premises are opened for business in order to ensure that exterior design of the premises shall be such that the interior of the premises is invisible to passers-by. The plan should also include all means of ingress and egress to and from the premises, parts used in common with any other building, and details of how the premises lie in relation to other premises within 100m.
- 3.4 In addition, applicants must, at the time of submission of a new grant or variation application, provide a plan showing the interior layout of the premises for consideration by the Licensing Authority. In the case of Sexual Entertainment Venues such plan must outline the areas that relevant entertainment will take place, any fixed structures including stages or other raised areas, dressing rooms of performers and toilets.
- 3.5 Applicants for Sexual Entertainment Venues must also submit a copy of their "House Rules". Such House Rules must contain the required conduct of performers which shall include matters containing conditions of licence, i.e. no touching, no meeting customers, no sex acts, no giving or taking phone numbers (including exchange of business cards).

Such House Rules will form part of the licence (if granted) and may be subject to amendment by the Licensing Authority prior to approval.

Applicants must make provision for all performers to sign documentation to confirm their knowledge of and acceptance to adhere to the House Rules. Such documentation must be retained for the duration of the performers' employment and for a further 6 months from the date they last worked at the premises, whether they are employed directly or freelance.

- 3.6 The Council officers may, as part of the application process, visit the locality of the premises to establish whether there are any characteristics of the locality which may require consideration by the Licensing and Regulation Committee.
- 3.7 Applicants (other than applicants for variation of licence) must also give public notice of the application by publishing an advertisement in a local newspaper. This must be published within 7 days of making the application. If the application relates to a premises then there is an additional requirement for notice of the application to be displayed for 21 days on or near the premises where it can be conveniently read by the public. The notice, the form of which is prescribed by the Licensing Authority, must contain certain information (Appendix 1).
- 3.8 Please note that with regard to online applications tacit authorisation does not apply to new grant applications for sex establishment licences. This means you must wait for the Licensing Authority to determine your application before you can operate a sex establishment.
- 3.9 If an application is for the renewal a sex establishment licence, the premises can continue to operate past the licence expiry date; provided that the renewal application has been submitted to the Licensing Authority before the licence expires. The Licensing Authority will notify you of the decision.
- 3.10 Applicants are advised that any person who, in connection with an application for the grant renewal or transfer of a licence, makes a statement which s/he knows to be false in any material respect, or which s/he does not believe to be true, is guilty of an offence and liable to summary conviction to a fine not exceeding £20,000.
- 3.11 Any licence approved does not constitute any approval under any other Acts (for example, the Town and Country Planning Act 1990) or Bye-Laws. The applicant must ensure that all other necessary consents and approvals are obtained prior to operation.
- 3.12 The Council would normally expect that applications for licences for permanent commercial premises should be from businesses with planning consent for the property concerned.

4. Representations

- 4.1 Although applicants are only required to provide notice of the application to the police, the Council will publish a list of current sex establishment premises applications on the Council's website, to allow the public to view basic details and provide a contact number for the office processing the application.

4.2 Objectors should limit their objection to matters which are relevant to the statutory grounds for refusal as set out in the 1982 Act. The grounds relevant to the majority of objectors are as follows:

- that the grant or renewal of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity of the premises, vehicle or vessel or stall in respect of which the application is made.

Any objections received by the Licensing Authority which do not relate to the grounds set out in the Act must be rejected. Where objections are rejected, the objector will be given written reasons.

4.3 Objectors can include residents'/tenants' associations, community associations and trade associations. Councillors and MPs may also raise objections. Elected Councillors may represent interested parties, providing they do not also sit on the Licensing and Regulation Committee.

4.4 The Licensing Authority will not consider objections that are frivolous or vexatious, or which relate to moral grounds (as these are outside the scope of the 1982 Act). Decisions on whether objections are frivolous or vexatious will be made objectively by Council officers and not on the basis of any political judgement. Where objections are rejected, the objector will be given written reasons. A report will be made to the Licensing and Regulation Committee/Sub-Committee determining the application (if appropriate), indicating the general grounds of the representation and the reasons for rejection.

4.5 A vexatious objection is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous objection is generally taken to be one that is lacking in seriousness.

4.6 Valid objections will be considered by the full Licensing and Regulation Committee or delegated to a Licensing Sub-Committee at the hearing to consider the application. Applicants and objectors will be given an equal opportunity to state their case in accordance with the Licensing and Regulation Committee's Code of Conduct for hearings.

4.7 Objections must be made in writing (email is acceptable) 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 proximity of the premises to the person making the objection; a sketch map or plan may be helpful to show this

- the reasons for making the objections, which are clearly set out in relation to the grounds for refusal (as stated at 6.2 above).
- 4.8 Where the Council receives notices of any objections it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.

5. Determination of Applications

- 5.1 In determining an application the Licensing and Regulation Committee will have regard to this Policy Statement, the application itself and any objections that may have been made. In all cases, each application will be determined on its own merits.
- 5.2 When considering an application for the grant, renewal, variation or transfer of a sex establishment licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory 28 day period from the date of the application being given to the Council.
- 5.3 Specific Mandatory grounds for refusal of a licence are set out in the Act.

A licence cannot be granted:

- (a) to any person under the age of 18 years;
- (b) to any person who is for the time being disqualified due to the persons having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to any person who has, within a period of 12 months immediately preceding that date when the application was made, been refused that 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.

Please note there is no right of appeal against refusal on these grounds.

5.4 In accordance with Section 17 of the Crime and Disorder Act 1998, the Council is under a duty to exercise its functions with due regard to the likely effects on crime and disorder. It aims to do all it can to prevent crime and disorder in its area. The possible impact of crime and disorder are clearly relevant factors in the consideration of all applications. In giving “due regard” to these possible implications, Members will consider all information available and representations made from all Objectors, the Applicant and in particular the Thames Valley Police.

5.5 If none of the above applies to the applicant and no objections have been received and there are no other statutory grounds for refusal, including that the application does not exceed any permitted numbers, the application will be granted by way of delegated authority.

However if any objections have been received, or if there are concerns regarding the characteristics of the locality, the application will be referred to the Council’s Licensing and Regulation Committee for a hearing of the application.

5.6 The Licensing Authority may refuse an application for the grant, variation or renewal of a licence on one or more of the following grounds:

a) the applicant is unsuitable to hold a licence because they have been convicted of an offence or for any other reason. The determination of the suitability of the applicant is a matter for the local authority to decide at the time the application is made.

(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 made the application himself; the determination of the business benefit is a matter for the local authority to decide at the time the application is made. The local authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. The Council shall normally take into account:

- previous knowledge and experience of the applicant and their managerial competence;
- any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other district;
- any report about the applicant and management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant;

- that the operator is proposing a management structure which will deliver compliance with operating conditions, and policies concerning the training of staff and welfare of performers as well as means to protect the public;
- any other relevant reason.

(c) the number of Sexual Entertainment Venues, in the relevant locality at the time which the authority consider is appropriate for the locality;

(d) that 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 lay out, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

5.7 Any decision to refuse a licence **MUST** be relevant to one or more of the above grounds.

5.8 When issuing a Sex Establishment Licence the Licensing Authority is permitted to issue it on such terms and conditions and subject to restrictions as specified at the time the licence is issued.

In addition to this the council has the power to make standard conditions applicable to all licences for sex establishments.

5.9 It is an offence to breach the conditions and the penalty for this is a fine not exceeding £20,000.

5.10 Details of the pool of conditions relating to each type of licence are contained in Appendices 3-5. Should these conditions be amended at any time in the future, they would apply to all licences already issued as if the conditions had been in place at the time they were granted.

All conditions will be reviewed as part of the full Policy review.

6. Relevant Locality

6.1 In deciding the appropriate number of premises to be licensed, the Committee must consider the character of the relevant locality and what is the appropriate number of sex establishments in that relevant locality. The number can be 'nil'.

6.2 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use of which any premises in the vicinity are put, the Committee

shall consider, among other considerations, whether the grant of the application would be inappropriate, having regard to:

- (a) the use to which any premises in the vicinity are put;
- b) the number of existing sex establishments both in total and also in respect of each type (*i.e.* sex cinemas, sex shops and sexual entertainment venues);
- (c) the number of existing premises engaged in and or offering entertainment of an adult or sexual nature or entertainment or associated with an adult or sexual nature (for example tattooing, piercing etc;)
- (d) the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons;
- (e) the proximity of educational establishments to the premises;
- (f) the proximity of places of worship to the premises;
- (g) access routes to and from schools, play areas, nurseries, children's centres or similar premises;
- (h) the proximity to shopping centres;
- (i) the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres and clubs. This list is not exhaustive;
- (j) the potential impact of the licensed activity on crime and disorder and public nuisance;
- (k) the potential cumulative impact of licensed premises in the area taking into account the days and hours of operation of the activity and the character of the locality where the premises are situated;
- (l) the nature and concerns of any objections received from residents/establishments objecting to the licence application;
- (m) any evidence of complaints about noise and/or disturbance caused by the premises;
- (n) current planning permission/planning requirements on the premises;
- (o) any current planning policy considerations;
- (p) whether there is planned regeneration of the area;

- (q) any current licensing permissions related to the premises in relation to activities, uses and hours;

7. Hearings

- 7.1 Where applications are referred to a Licensing and Regulation Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.
- 7.2 The hearing provides all parties to the application including those making objections, the opportunity to air their views openly and will be considered by the Licensing and Regulation Committee.
- 7.3 When hearing an application for the grant of a sex establishment licence, the Committee shall have regard to the Policy Statement provisions set out above but subject to the overriding principle that each application will be determined on its merits.

8. Right to Appeal a Decision

- 8.1 If an application is refused following a hearing, then the applicant will be informed of the decision and whether there is any right of appeal.
- 8.2 Appeals must be made to the local magistrates' court within 21 days, starting from the date the applicant is notified of the Licensing Authority's decision. The notice will advise the address of the appropriate Magistrate's court to which such an appeal should be submitted. It should be noted that a fee may be payable to the magistrates to lodge such an appeal.
- 8.3 Applicants can appeal against the refusal of a grant, renewal, variation or transfer application, or against the decision to revoke a licence. They can also appeal against conditions or restrictions imposed.
- 8.4 Please note that you cannot appeal against the Licensing Authority's decision if the application was refused on the grounds that:
- that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality; or
 - the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area, or the premises themselves.

The Magistrates' court will determine the appeal application. If you do not agree with the decision made by the magistrates' court, you can appeal to the local crown court. The decision made by the crown court will be final.

- 8.5 The Licensing Authority must comply with a decision made by the Magistrates or Crown court.

9. Fees

- 9.1 The fees set are deemed to be reasonable to cover the cost of administration, enforcement, the cost of any hearings and are not refundable.

10. Duration of licence

The Licensing Authority will, unless there are exceptional reasons otherwise, grant licences for the maximum duration of one year to provide certainty to those operating businesses.

11. European Convention on Human Rights

- 11.1 As far as existing operators are concerned the Government has decided having listened to views from previous consultations that 'Grandfather Rights' will not apply.
- 11.2 The Transitional Order allows local authorities to refuse applications whether they are from existing operators or new applicants, one or more grounds as under paragraph 12 of Schedule 3.
- 11.3 When making such decisions, local authorities must take into account any rights the existing operators have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression).
- 11.4 The Council will have regard to the fact that it will be prudent to assume that freedom of expression includes the right to use particular premises as sex establishments and that a person who is denied the right to use his premises as a Sexual Entertainment Venue where he already has a licence to do so under the Licensing Act 2003 (or in future under the 1982 Act) has been deprived of possessions.

APPENDIX 1**Definitions****The Act**

This refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by section 27 of the Policing and Crime Act 2009).

The Policy Statement

This refers to the Sex Establishments Policy Statement.

The Council

This means Chiltern District Council.

Sex Cinema

A sex cinema is any premises, vessel, vehicle or stall used to a significant degree for the exhibition of moving pictures however produced, which:

- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to or intending to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity
- (b) are concerned primarily with the portrayal of, or primarily deal with or relate to genital organs or urinary or excretory functions but does not include a dwelling-house to which the public is not admitted

Sex Shop

A sex shop is any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- (a) sex articles
- (b) other things intended for use in connection with or for stimulating or encouraging:-
 - (i) sexual activity
 - (ii) acts of force or restraint which are associated with sexual activity.

Sex Articles

A sex article is anything for use in connection with or for stimulating or encouraging

- (a) sexual activity
- (b) acts of force or restraint which are associated with sexual activity.
- (c) anything:-
 - i) containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - ii) to any recording of vision or sound, which

- a) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
- b) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

Sexual Entertainment Venue

A sexual entertainment venue is any premises where any live performance or any live display of nudity is of such a nature that, regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience. It includes, but is not limited to, lap dancing, pole dancing, table dancing, strip tease, live sex shows and similar venues.

The Organiser

This is any person who is responsible for the organisation or management operation of the relevant entertainment or the premises.

Display of nudity

This means:

- in the case of a woman: exposure of her nipples, pubic area, genitals or anus; and
- in the case of a man: exposure of his pubic area, genitals or anus

The Licensed Premises

This is the premises, vessel, vehicle or stall which is subject to a sex establishment licence. The premises will be in possession of all appropriate consents and permissions required to operate.

Permitted Hours

These are the hours of activity and operation that have been authorised under the sex establishment licence.

**NOTICE OF APPLICATION FOR
THE GRANT / RENEWAL /
TRANSFER OF A SEX
ESTABLISHMENT LICENCE**



CHILTERN
District Council

I/we.....

hereby give notice that I/we have applied to Chiltern District Council under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 for a licence to use the following premises referred to above as a sex shop / sex cinema/sexual entertainment venue.

Proposed Licensed Name.....

Address of premises.....

Proposed hours of opening/operation

Any person wishing to make representations about the application should make them in writing to the PLEASE INSERT ADDRESS OF THE OFFICE OF THE COUNCIL THAT IS DEALING WITH THE APPLICATION within 28 days of the date of the application which was INSERT DATE.

Signed..... Date.....

Notes:

1. Enter full details of the application on this form.
2. Affix a copy of the completed form on the exterior of the premises, to which the application relates, in a prominent position for public viewing on the day of making application. You must ensure that the completed form remains in position for 21 days.
3. The content of the form, as completed, must be published in a local newspaper within 7 days of making the application.

APPENDIX 3**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982****SEX ESTABLISHMENT LICENCE CONDITIONS, RESTRICTIONS AND TERMS APPLICABLE TO SEX SHOPS AND SEX CINEMAS****Introduction**

1. In these Conditions "The Council" shall mean the Chiltern District Council and all enquiries concerning this licence shall be directed to the Head of Health and Housing,
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to "Sex Shop and Sex Cinema" premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment ("the manager") shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be

immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.

9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
11. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.
12. The Licensee 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 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.
13. The Licensee shall take all reasonable precautions for the safety of the public and employees.
14. No person under the age of 18 shall be admitted to the Premises.
15. The Licensee shall adopt a procedure to check the age of customers entering the shop who appear to be younger than 25 in order to ensure that they are not under the age of 18.
16. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
17. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.
18. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Opening of the Premises

19. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:

Monday – Saturday 9:30 am – 6:00 pm

20. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Sundays, Christmas Day or Good Friday.

Operation of the Premises

21. No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue, sex cinema to either a sex shop or sex entertainment venue, or from a sex entertainment venue to either a sex cinema or a sex shop shall be made without the approval of the Council. This will require consideration of an appropriate application.
22. No 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 which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema or a sexual entertainment venue.
23. The primary use of a sex shop must be for the purpose of the sale of goods by retail.

External Appearance

24. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
25. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
26. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.
27. No items should be stored on the premises so that they can be viewed from any external window or door.
28. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:

- (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that the name is of a profane or sexual nature or gives other cause for concern.
 - (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
 - (iii) A notice stating the opening hours of the establishment.
 - (iv) The wording "PRIVATE SHOP" or "ADULT SHOP" but no other indication as to the nature of the business carried on at the licensed premises.
29. The lettering used in respect of such permitted items:-
- In the case of the permitted items at paragraph 24 'i', 'ii' and 'iv' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.
30. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 22 and 25 or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

- 31. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
- 32. 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.
- 33. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 34. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.

35. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
36. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.
37. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.
38. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee be present in any such booth or cubicle at any time). Appropriate fastenings are permitted on toilet doors.

Goods Available in Sex Establishments

39. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a the shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
40. 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 is effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films or video films be exhibited (played) to customers).
41. 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.

Information for Customers

42. The Licensee shall make available in the Sex Establishment free counselling and advice literature on matters related to sexual health and issues as may be published by the Family Planning Association, the NHS and or other similar organisations. Such literature should be displayed in a prominent position, preferably adjacent to all points of sale in the Sex Establishment.

Licensed Name

43. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.
- (b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

APPENDIX 4**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982****SEX ESTABLISHMENT LICENCE CONDITIONS, RESTRICTIONS AND TERMS APPLICABLE TO MAIL-ORDER PREMISES****INTRODUCTION**

1. In these Conditions “The Council” shall mean the Chiltern District Council and all enquiries concerning this licence shall be directed to the Head of Health and Housing.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
2. These conditions are only applicable to a “Mail-Order Sex Shop” premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.

8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.
9. The Licensee shall ensure that the public is not admitted to any part of the Premises. No person under the age of 18 years will be admitted to the premises at any time, for whatever reason or purpose.
10. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
11. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
12. The Licensee 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 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.
13. The Licensee shall take all reasonable precautions for the safety of employees.
14. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.

Operation of the Premises

15. No change from a sex shop (including a mail-order shop) to either a sex cinema or sex entertainment venue, sex cinema to either a sex shop or sex entertainment venue, or from a sex entertainment venue to either a sex cinema or a sex shop shall be made without the approval of the Council. This will require consideration of an appropriate application.
16. No 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 which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema or a sexual entertainment venue.

17. The sex establishment shall be used exclusively for 'mail-order' purposes only, selling sex articles and other articles that do not fall within the definition of sex articles in Schedule 3, paragraph 4(3) of the Local Government (Miscellaneous Provisions) Act 1982.
18. All advertisements, catalogues, sales documents used in connection with the business intended or likely to be seen by customers will clearly and prominently state "MAIL ORDER ONLY". All deliveries/despaches of parcels shall be in plain wrapping not identifying what is inside.

External Appearance

19. No external nameplate, advertisement board or any other written or pictorial or graphic display connected with the business shall be observable from outside the building, or from other units within the building or from the common parts of the building.
20. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
21. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.
22. No items should be stored on the premises so that they can be viewed from any external window or door.

State, Condition and Layout of the Premises

23. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
24. 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.
25. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
26. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.

Goods Available in Sex Establishments

27. 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.

Licensed Name

28. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as “The Licensed Name” by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form. Paragraph 16 of these conditions applies.
- (b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

APPENDIX 5**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982****SEX ESTABLISHMENT LICENCE CONDITIONS, RESTRICTIONS AND TERMS APPLICABLE TO SEXUAL ENTERTAINMENT VENUE PREMISES****INTRODUCTION**

1. In these Conditions "The Council" shall mean the Chiltern District Council and all enquiries concerning this licence shall be directed to the Head of Health and Housing.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act as terms, conditions and restrictions on a subject to which a licence is in general to be granted, renewed or transferred by the Council save and insofar as they do not conflict with the provisions of the Act itself.
3. These conditions are only applicable to a "Sexual Entertainment Venue" premises.

Management of the Premises

4. The Licensee or some responsible person, over the age of 18, nominated by him and approved in writing by the Council for the purpose of managing the sex establishment ("the manager") with the authority to direct activities within the Premises, shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public. A form will be provided for this purpose.
5. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
6. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council.
7. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
8. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council

must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee's control of the Premises.

9. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licensed, other than toilet facilities where provided for customers.
10. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the locality (village, town or city) of the Premises.
11. The Licensee 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 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.
12. The Licensee shall take all reasonable precautions for the safety of the public and employees.
13. The Licensee must ensure that a suitable and sufficient number of trained staff are employed to supervise the interior of the Premises ("floor supervisors") to ensure that conditions of licence are complied with, in particular the no touching conditions, and to ensure the safety of performers.
14. No person under the age of 18 shall be admitted to the Premises.
15. The Licensee shall adopt a procedure to check the age of customers entering the premises who appear to be younger than 25 in order to ensure that they are not under the age of 18.
18. All persons working in the premises, including Performers, shall be aged not less than 18 years. The Licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.
17. The Licensee must submit a set of "House Rules" to the Licensing Authority as part of the application process; these rules will form part of the licence, and must be complied with. Furthermore they must ensure that all performers are fully conversant with and sign an agreement to adhere to such House Rules.
18. In the event that an authorisation under the Licensing Act 2003 does not require the provision of a CCTV system, then the Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council. Appropriate notices must

be displayed in accordance with the Data Protection Act 1998, advising that CCTV is in operation. In addition the Licensee must ensure that the requirement under that Act regarding registration with the Data Protection Commissioner is complied with.

19. CCTV recordings will be made available for viewing by authorised officers of the licensing authority or the police. Copies of such recordings must be provided upon request.
20. CCTV must be capable of monitoring the whole of the premises, in particular any private booths or rooms to ensure the safety and security of performers and other persons within the premises. The CCTV system must be monitored by a dedicated member of staff or security personnel at all times that the premises are in operation.
21. The Licensee shall ensure that neither they nor any person promoting or providing entertainment on the Premises (nor any person acting on behalf of any such person) shall display advertisements promoting the entertainment or the Premises in any unlawful manner.
22. Where the Council have 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.
23. The Licensee shall ensure that no more members of the public shall be present on the Premises at any time whilst relevant entertainment takes place to which this licence relates where the Council has specified a number in writing on the grounds of public safety, public nuisance or crime and disorder.
24. The Licensee shall provide upon request copies of any documents reasonably required by an authorised officer of the Council in relation to compliance with this Licence.
25. The Licensee shall provide adequate non-public changing rooms for performers.

Opening of the Premises

26. Relevant entertainment may only be provided during the hours permitted by an authorisation under the Licensing Act 2003 unless a specific condition on the Sex Establishment Licence permits otherwise.

Operation of the Premises

27. No change from a sex entertainment venue to either a sex cinema or a sex shop (including a mail-order shop), or a sex shop to either a sex

cinema or sex entertainment venue, or from a sex cinema to either a sex shop or sex entertainment venue, shall be made without the approval of the Council. This will require consideration of an appropriate application.

28. No 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 which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sexual entertainment venue or a sex cinema.

External Appearance

29. A notice stating that no person under the age of 18 shall be admitted to the premises must be displayed on the outside of the Premises. The notice must also include a statement that proof of age may be requested.
30. The exterior design of the premises shall be such that the interior of the premises is invisible to passers-by.
31. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by. At no time shall performers or persons working in the premises be visible from outside of the Premises, with the exclusion of Door Supervisors.
32. The Licensee shall not permit the display outside of the Premises of photographs or other images which indicate or suggest that relevant entertainment takes place on the Premises.
33. External advertising of relevant entertainment shall not include any of the following:
 - a) any depiction of full nudity
 - b) any depiction of partial nudity (including the display of breasts, buttocks or genitalia)
 - c) any depiction of overtly sexual or violent images or any other images which may give rise to concerns in respect of public decency or protection of children or vulnerable persons from harm.
34. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (i) The licensed name of the premises (as explained in paragraph 40 hereof) may be displayed, unless the Council determines that

the name is of a profane or sexual nature or gives other cause for concern.

- (ii) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981.
- (iii) A notice stating the opening hours of the establishment.

35. The lettering used in respect of such permitted items:-

In the case of the permitted items at paragraph 24 'i', 'ii' and 'iv' the lettering used shall not exceed 15 cm (approximately 6" inches) in height for each letter.

- 36. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in conditions 27 and 33 or otherwise approved by the Council in writing;
- (b) No external loudspeakers may be installed.

State, Condition and Layout of the Premises

- 37. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.
- 38. 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.
- 39. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the premises shall be visible when persons are entering or leaving the Premises. Such inner entrance door or screen shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 40. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.
- 41. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

42. Alterations or additions, either internal or external, shall not be made to the Premises without prior written consent from the Council. A variation application will be required in order for consent to be considered.
43. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee be present in any such booth or cubicle at any time). Appropriate fastenings are permitted on toilet doors.

Provision of Relevant Entertainment

44. Performers shall only perform in specified designated areas, to seated customers or in such other areas of the licensed Premises as may be agreed in writing with the Council.
45. The Licensee is to implement a policy to ensure the safety of the Performers when they leave the Premises after a period of work.
46. Performers must remain clothed in public areas and all other areas except while performing in areas specified by the Council as where relevant entertainment may be provided.
47. At the conclusion of performances all articles of clothing removed during that performance must be put back on. This does not prevent performers going to their non-public changing area to change their attire.
48. Performers may not accept any telephone number, email address, address or contact information from any customer, except in the form of a business card which must be surrendered to the Licensee or their representative before leaving the Premises.
49. Performers may not give any telephone number, email address, address, contact information or business card to any customer or in any way solicit themselves.
50. Performers must not perform a nude table dance unless in a supervised area or within five metres of a floor supervisor.
51. Performers are never to be in the company of a customer except in an area open to the public within the Premises (excluding the toilets).
52. The Licensee must ensure that during the performance of a table or lap dance:
 - (1) customers must be seated in an upright position against the back of the booth or seat with their hands by their sides before a dancer can start a table dance;

- (2) customers must remain seated during the entire performance of the dance;
 - (3) for the purpose of restraint only, Performers may only touch a customer above the customer's chest with their hands only;
 - (4) Performers must not sit or straddle the customer;
 - (5) Performers must not place their feet on the seats.
53. The Licensee must ensure that during performances of relevant entertainment:
 - (1) Performers may not perform any act that clearly simulates any sexual act;
 - (2) Performers must never intentionally touch the genitals, anus or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals, anus or breasts;
 - (3) Performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;
 - (4) Performers may not use inappropriate, suggestive or sexually graphic language at any time;
 - (6) Performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the Performer has no intention of carrying out the act;
 - (7) Performers must only perform nude or semi-nude dancing (of any description) within areas specified by the Council.
54. The Licensee must ensure that during performances of relevant entertainment:
 - (1) Customers may not dance at any time except in areas specifically designated by the Council as being separate from areas for sexual entertainment.
 - (2) Customers must remain appropriately clothed at all times.
55. At all times there must be no physical contact between customers and employees, or other persons working within the premises, in any part of the premises save for the following:-
 - The payment of an entry fee by customers to authorised members of staff.
 - The payment of a fee for relevant entertainment.

- The purchasing of drinks by customers from authorised members of staff.
 - The placing of bank notes by the customer in a garter worn by females or an armband worn by males.
 - SIA door staff in the execution of their duties.
56. At all other times during the performance the performer will keep a minimum distance of at least 3 feet away from the customer.
57. Relevant entertainment will only take place in specified designated areas within the premises, as identified on the plan attached to the licence.
58. Notices outlining condition 57 will be clearly displayed at each entrance to the premises and in the specified designated areas. Notices must state that no touching relates to customers touching performers and other persons working within the premises and vice versa.
59. Performers will stop immediately and move away from any customer who is offensive or attempts to touch them, and shall report such behaviour and any other inappropriate behaviour or breach of house rules to the management. If after receiving a warning a customer continues behave inappropriately, the customer must be requested to leave the premises and should be escorted from the premises by appropriately authorised staff only (i.e. SIA registered door supervisors).

Licensed Name

60. (a) The Council at the time of granting the licence in respect of the premises shall appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph (b) below. Such name shall have been provided on the application form.
- (b) An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE - 2nd DECEMBER 2010**

Background Papers, if any, are specified at the end of the Report

LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY

Contact Officer: Ian Snudden 01494 732057

RECOMMENDATIONS

That Members consider the amended Statement of Licensing Policy and approval of the final policy and recommend it for approval by Full Council.

Report

- 1 The draft Statement of Licensing Policy was presented to the Licensing and Regulation Committee on 29th July 2010 and formal consultation has since taken place.
- 2 A table summarising the responses is detailed in **Appendix 9.1** and the amended Statement of Licensing Policy is presented in **Appendix 9.2**.

Special Saturation Policy

- 3 Central Government Guidance recommends that any adopted saturation policies are reviewed as to whether the policy is still valid. Therefore Members were asked to consider whether the saturation policies relating to Old Amersham and Chalfont St Peter should remain in place or not.
- 4 Officers were asked to review the boundaries of the cumulative impact areas and also to consider whether The Greyhound Inn should be included within the cumulative impact area of Chalfont St Peter. No representations were received in connection with this property and to date there is no evidence to suggest a need for the premises to be included.
- 5 Similarly, no representations have been received either for the removal, change or continuation of either of the Special Saturation Policies. However a letter was received concerning the advertising of premises licence applications in cumulative impact areas. This is appended as **Appendix 9.3**. The requirements for advertising applications are stipulated within the legislation and statutory guidance and random checks are made to ensure compliance. Where applicants have failed to comply with the requirements, they have generally been required to re-advertise and the consultation period has been extended so that no person has been prejudiced. All relevant applications are also required

to advertise in a local newspaper and all applications are advertised on the Chiltern DC website.

- 6 Paragraph 8.94 allows for licensing authorities to notify residents living in the vicinity of premises by circular of premises making an application, but this is not a statutory requirement. As members will appreciate any notification scheme will entail a cost in terms of administrative costs and postage and therefore it is recommended that the cost of administering such a scheme outweighs the benefit to be gained.
- 7 With the increasing requirement to reduce the costs incurred in delivering services the licensing team are currently investigating opportunities to better use the web site, twitter, emails and SMS messaging. Should Members consider that the council should notify residents in the vicinity of premises that a variation or change to a licence is requested the team can explore these low costs methods of notifying the community rather than issue letters to neighbouring premises. Any change to procedures will then be brought in following piloting of the approach and with the agreement of the portfolio holder and Chairman of this committee.

Background Papers: None

Schedule of Responses following the formal consultation on the Council's Statement of Licensing Policy

Section 1: Introduction/General Comments

No responses

Section 2: Objectives and Principles

No responses

Section 3: Strategic Links

No responses

Section 4: Licensing Process

No responses

Section 5: Special Policy Relating to Cumulative Impact

Reference	Respondent	Comments	Appraisal	Response
008/001	Mancini	<p>Raised issue of poor advertising of premises licence applications.</p> <p>That the local authority notifies local residents of application for the grant or variation or review of</p>	<p>Example given in consultation letter - premises not within a cumulative impact area.</p> <p>Para. 8.94 of the amended statutory guidance provides</p>	<p>Requirements for advertising set out within legislation and statutory guidance.</p> <p>Random checks made to</p>

		premises licences within a cumulative impact area	for local authorities to notify residents in the vicinity of premises	<p>ensure advertising is in accordance with legislation - any contraventions or lack of clarity has resulted in an extension of the consultation period.</p> <p>Notification process will provide an additional cost particularly for an area such as Old Amersham</p>
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Section 6: Licence Conditions

Reference	Respondent	Comments	Appraisal	Response
006/01	Drugs and Alcohol Action Team	Reference to voluntary codes for drinks promotions now a mandatory requirement	Agree - Policing and Crime Act 2009 provides for mandatory codes of practice for retailers and the Licensing Act 2003 as amended creates a new mandatory condition to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which does not promote the licensing objectives.	Amend policy 6.3e

Section 7: Complaints Against Licensed Premises

No responses

Section 8: Enforcement Policy

No responses

Section 9: Delegation & Decision Making

No responses

Section 10: Further Information

No responses

CHILTERN

District Council



Health and Housing Division

LICENSING ACT 2003

**STATEMENT OF
LICENSING POLICY
2010**

Adopted Licensing and Regulation Committee
December 2010

Page 1 of 27

CONTENTS

	Page
1. Introduction	3
2. Objectives and Principles	4
3. Strategic Links and other Regulatory Systems	7
4. Licensing Process	9
5. Special Policy Relating to Cumulative Impact	11
6. Licence Conditions	16
7. Complaints against licensed premises	22
8. Enforcement Policy	24
9. Delegation and Decision Making	25
10. Further Information	26
Appendix 1 Maps showing Designated Saturation Policy Areas	30
Appendix 2 Maps showing Cumulative Impact Areas	

1. Introduction

- 1.1 The Act requires the licensing authority to prepare a Statement of Licensing Policy that states its position in relation to its duties under the Licensing Act 2003.
- 1.2 This policy relates to the following activities that are required to be licensed under the Act:
 - a) the sale of alcohol by retail;
 - b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
 - c) the provision of regulated entertainment in the presence of an audience. Regulated entertainment includes the performance of a play; film exhibitions, indoor sporting events, boxing or wrestling events, performing live music and playing recorded music (except incidental music), dance performances and entertainment of similar descriptions and the provision of facilities for dancing, making music and similar types of entertainment;
 - d) the provision of late night refreshment.
- 1.3 This policy shall apply to Premises Licences, Club Premises Certificates, Personal Licences and Temporary Event Notices in respect of new consents, renewals, transfers and variations.
- 1.4 The licensing authority recognises the powers granted to it by the Act, and intends to use them, in consultation with responsible authorities, licence holders and with the general public, in a socially responsible way.

This policy will be taken into account by the licensing authority if its discretion is engaged (i.e. at a hearing following representations).
- 1.5 The aim of the policy is to secure the safety and amenity of residential and working communities whilst facilitating a sustainable entertainment and cultural industry. Chiltern DC in adopting this licensing policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of well run entertainment premises to the local economy and vibrancy of the District. To achieve this aim Chiltern DC is committed to partnership working with police, fire service, local businesses, licensing trade, residents, Buckinghamshire Drug and Alcohol Action Team (DAAT) and others towards the promotion of the objectives as set out in this policy.
- 1.6 In accordance with the statutory procedures, a review of this policy will take place every 3 years, to take into account information collated over a

Adopted Licensing and Regulation Committee
December 2010

period of time, coupled with the outcomes of initiatives relating to alcohol and entertainment at central and local government level.

- 1.7 The licensing authority will establish a Licensing Forum for representatives of licensed premises, personal licence holders, residents, police and Town and Parish Councils to discuss and keep under review matters relating to licensing.
- 1.8 In preparing this statement Chiltern DC has consulted with and considered the views of a wide range of people and organisations including:
 - a) Thames Valley Police;
 - b) Buckinghamshire Fire and Rescue;
 - c) Existing Premise Licence holders;
 - d) Existing Club Premise Certificate holders;
 - e) Existing Personal License holders;
 - f) Representatives of businesses and residents in the Chiltern DC area;
 - g) Town and Parish Councils.
- 1.9 In the preparation and publication of this policy Chiltern DC has had regard to the guidance issued by the Secretary of State under Section 182 Licensing Act 2003.
- 1.10 Nothing in this policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden. Any statement within the Policy will be relevant to all licensed premises unless otherwise stated.

2. Objectives and Principles

- 2.1 The Licensing Act provides that Chiltern DC has a duty to carry out its functions with a view to promoting the prescribed licensing objectives:
 - a) **The prevention of crime and disorder**
 - b) **Public safety**
 - c) **Prevention of public nuisance**
 - d) **Protection of children from harm**

Each objective is of equal importance.

- 2.2 Recognition is given to the variety of activities for which licences may be sought and this document specifies licensing policies in respect of those regulated entertainments, premises from which alcohol may be served, late night hot food outlets and others with proper regard to the following:

Adopted Licensing and Regulation Committee
December 2010

- a) Location of and environmental impact of the proposed activity;
 - b) Suitability of applicants;
 - c) Suitability of premises subject to the application;
 - d) Operation and management functions;
 - e) Consultation processes;
 - f) Monitoring, review and enforcement.
- 2.3 Whilst these factors will be under consideration it should be stressed that the following fundamental principles will also be observed: -
- a) the right of any individual or body to apply for a variety of permissions is not undermined and that each application will be determined on its merits;
 - b) the statutory right of any person to make appropriate representations or to seek a review in respect of any application;
 - c) that the statutory function of licensing is primarily concerned with the regulation of persons, premises and temporary events within the legislation and that any terms and conditions will focus on:
 - i) matters within the control of individual licence holders and others who are granted any relevant permissions;
 - ii) the premises and places being used for licensable activities and their immediate vicinity;
 - iii) the direct impact of the activities taking place at the relevant premises on the public living, working or engaged in normal activity in the area concerned;
- 2.4 All residents living in the vicinity of any licensed premises have equal rights to make representations concerning applications for premises licences and to receive appropriate consideration to their representations. However, unreasonable, frivolous and vexatious representations will be disregarded. Each representation will be considered on its own merits. In determining such matters, the licensing authority will have regard to Act, the statutory Government Guidance, this policy and the licensing objectives.
- 2.5 Government Guidance is that licensing policies are not used as a mechanism for the general control of anti-social behaviour by individuals once they are beyond the immediate vicinity of the individual club, business or licensed premises holding the relevant licence, certificate or permission.

Commercial Demand

- 2.7 The commercial demand for additional premises licences [as distinct from cumulative impact] will not be a matter for the licensing authority.

Zoning and Licensing Hours

- 2.8 Individual applications will be considered on their own merits and in general terms a flexible approach will be adopted and arbitrary restrictions will be avoided. Fixed predetermined closing times for particular areas will not form part of the policy and restriction on trading hours will be considered only where necessary to meet the licensing objectives.
- 2.9 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops which are known to be a focus of disorder and disturbance then, subject to representations from the police, other responsible authorities and interested parties, a limitation on licensing hours may be appropriate and imposed.
- 2.10 In general, the Council will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises which are situated in largely residential areas.

Children

- 2.11 Nothing in this statement of policy shall limit or require access to premises by children unless there is an overriding requirement of necessity to prevent physical, moral or psychological harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this policy.
- 2.12 The licensing authority considers that Buckinghamshire County Council's Buckinghamshire Children's Safeguarding Board is a competent body to advice on matters of child protection, and in urgent cases, the Director of Social Services at Buckinghamshire County Council is competent to give advice.

Conditions

- 2.13 The policy does not provide for any 'standard conditions' to be imposed to avoid the imposition of disproportionate and burdensome requirements. Conditions attached to licences if required in particular circumstances will be tailored to reflect the individual style and characteristics of the activities concerned. It should be noted that 'pools of conditions' from which

Adopted Licensing and Regulation Committee
December 2010

appropriate and proportionate conditions may be drawn in particular circumstances are provided for in this policy statement. This may include those contained within the Secretary of State's Guidance and the District Surveyors Association Model National Standard Conditions.

- 2.14 Where relevant representations have been made and it has been satisfied at a hearing of the necessity to impose conditions, such conditions will only be imposed such as are necessary and proportionate to promote the licensing objectives. Conditions will not be imposed which are beyond the responsibility or control of the licence holder.
- 2.15 Where no representations have been made, the licence or certificate will be granted subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the Act.

Community Premises

- 2.16 Recent changes in legislation now permit community premises to be able to sell alcohol without the need for a Designated Premises Supervisor holding a personal licence and can instead specify that the committee will be responsible for alcohol sales. In such circumstances the Authority would expect to be provided with a name or names and contact number(s) for those individuals who could be contacted in case of emergency or general queries relating to the licence.

3. Strategic Links and other Regulatory Systems

Strategic influences

- 3.1 There is a range of national and local strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities. In this respect, the licensing authority has and will continue to take account of its obligations and powers under other legislation, including in particular, the Crime and Disorder Act 1998, the Human Rights Act 1998, the Disability Discrimination Act 1996, the Anti Social Behaviour Act 2003 and Race Relations Act 1976 and 2000.
- 3.2 It has also taken account of Government and national strategies including:

Alcohol Harm Reduction Strategy for England (Prime Minister's Strategy Unit;
Safe. Sensible. Social. The Next Steps in the National Alcohol Strategy;
Home Office Safer Clubbing Guide;

Adopted Licensing and Regulation Committee
December 2010

Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
Portman Group Code of Practice on the Naming, Packaging and
Promotion of Alcoholic Drinks.

- 3.3 The licensing authority has also taken account of relevant local strategies relating to crime reduction, community development and tourism including:

Chiltern Community Plan;
Chiltern Community Safety Strategy;
Community Development Revitalisation Action Plan;
Enforcement policies of Chiltern District Council and Thames Valley
Police;
'Calling Time on the Harms Caused by Alcohol in Buckinghamshire'
(DAAT, 2007)

- 3.4 The licensing authority recognises that licensed premises in the District are a major contributor to the District. They attract tourists and visitors, make for vibrant towns and communities and are major employers. Therefore, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music and entertainment, for the wider cultural benefit of communities within the context of residential amenity. To this end, the licensing authority would encourage applications for premises licenses from owners of public land in order to encourage circus and street arts into the area.
- 3.5 Arrangements will be made for the licensing committee to receive reports on the needs of the local tourist economy and the cultural strategy for the area as appropriate and the employment situation and the need for new investment and employment.

Other Regulatory Systems

- 3.6 It is appreciated that there may be an overlap between the licensing regime and other statutory regulatory systems. To avoid such duplication, conditions will not be attached to licences if they are already adequately covered by other legislation. However, such regulations do not always cover the unique circumstances that arise in connection with licensable activities and so in these circumstances, tailored conditions may be necessary.
- 3.7 The planning, building control and licensing regimes will be separated to avoid duplication and licence applications will not cut across decisions made under the other regimes. However, in circumstances where any restriction has been placed on the use of premises (through the imposition of planning conditions) prior to an application being made for a licence, certificate or provisional statement, consideration will be given to the

Adopted Licensing and Regulation Committee
December 2010

extent to which the application meets the overall licensing objectives and the policies contained within this statement. The granting of a licence, certificate or provisional statement will not override any requirement of the planning system. The licensing system will provide the detailed control of operational matters, which are unlikely to be addressed through planning processes however there will be overlapping issues of interest i.e. disturbance, which will remain material considerations for planning purposes.

4. The Licensing Process

General

- 4.1 The powers of the licensing authority under the Act may be carried out by the Licensing and Regulation Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority. It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part be carried out by officers.
- 4.2 Applications where there are relevant representations will be dealt with by a Committee of the licensing authority, as will any application for review of a licence.
- 4.3 The licensing authority acknowledges the advice received from Department of Culture, Media and Sport (DCMS) that the views of vocal minorities should not be allowed to predominate over the general interests of the community. However, each case will be considered on its own merits.

Applications for Premises Licenses

- 4.4 Premises Licences and Club Premises Certificates will be determined in the same way. Club Premises operators may apply for a full Premises Licence, which (if granted) will allow them greater freedom in relation to the use of the Premises. New legislation has recently been passed which allows for a new 'minor variation' application which can be used to make changes to licences which are unlikely to have any effect on the licensing objectives. Officers will consult with relevant responsible authorities where there is any doubt of possible impact on the licensing objectives. There is no right to a hearing with such applications although any comments made by interested parties or responsible authorities must be taken into account before any decision is made.

- 4.5 The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, their operational procedures, the nature of the location and the needs of the local community.
- 4.6 Applicants should make themselves aware of the licensing authority's Statement of Licensing Policy and the advice provided for applicants when preparing their operating schedules.
- 4.7 When attaching conditions the licensing authority will also be aware of the financial implications and the need to avoid measures which might deter entertainment by imposing indirect costs of a substantial nature.
- 4.8 Prospective holders of new premises licences, and those seeking variations to existing premises licences, are advised to consult with the licensing authority's licensing officers, the various responsible authorities and where appropriate local residents or their representatives at the earliest possible planning stage in order to reduce the risk of confusion and dispute arising. The licensing authority will endeavour to work in full co-operation with licence holders and applicants to minimise the number of disputes that may otherwise.

Temporary Events

- 4.9 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 96 hours) do not need a licence providing that advance notice is given to the police and the licensing authority. The police can only object to a Temporary Event Notice if the event is likely to undermine the crime prevention objective.
- 4.10 The licensing authority recommends, where possible and practical that at least three calendar months' notice be given to hold these events, to allow it to help organisers plan their events safely. This is particularly important when considering more complex entertainment events. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard. It is recognised however, that a high proportion of TENS will be less involved in which case a maximum one calendar month notice is recommended. The statutory minimum notification period is ten working days.
- 4.11 The licensing authority has established a Safety Advisory Group, consisting of the emergency services and other statutory agencies such as the highways authority, to advise and co-ordinate planning for public

Adopted Licensing and Regulation Committee
December 2010

events in the District, whether or not a premises licence or a temporary event notice is needed.

- 4.12 Organisers of temporary events are strongly advised to contact the licensing authority's licensing officer for advice at the earliest opportunity when planning events. Where necessary, the advice of the Safety Advisory Group can be obtained, or discussions held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 4.13 Local publicity will also remind notice givers of relevant offences under licensing law including the laws governing sales of alcohol to minors or to any person who is drunk, and of the police powers to close down events with no notice on grounds of disorder, the likelihood of disorder or the because of public nuisance, including noise emanating from the premises.
- 4.14 The licensing authority's licensing enforcement officers may visit events held under the terms of a temporary event notice on the basis of potential risk or impact.

No Smoking Legislation

- 4.15 In July 2007, the government introduced new legislation under the Health Act 2006 to prohibit smoking in virtually all enclosed public places and work places. This includes both permanent and temporary structures such as tents and marquees. Smoking rooms in public places and workplaces are no longer permitted.
- 4.16 As a result of the new legislation many licensed premises have created specific smoking areas for customers and where necessary controls may be required to limit the hours that such areas are used to prevent nuisance to neighbouring residents.
- 4.17 With some venues this has not been possible and has resulted in people smoking in the streets. The Authority works closely with the licence holders of such premises in conjunction with Thames Valley Police to ensure that nuisance and/or disorder are not caused by customers congregating in outside areas.

Films

- 4.18 No film shall be exhibited at licensed premises which is likely to lead to disorder and/or stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

- 4.19 If a licence holder is notified by the Authority that a particular film in the opinion of the Authority falls into that category and may not be shown, its decision shall be final in that respect.
- 4.20 The Council accepts that the British Board of Film Classification (BBFC) is best qualified to make age limitation decisions and will not seek to change or substitute its own age limitations in place of the Board's classification.
- 4.21 Where a request is made to screen a film which has not been classified by the BBFC, the Authority will classify the film having followed the relevant guidelines provided by the BBFC.

Gambling in Licensed Premises

- 4.22 The Gambling Act 2005 was implemented in 2007 and a separate policy has been created and approved by this Council which provides details on the Act and the manner in which the Authority will deal with applications made under the Act. The Authority will have due regard to this policy, where relevant, when considering applications under the Licensing Act 2003.

Sexual Entertainment Venues

- 4.23 In November 2009, the Police and Crime Act was implemented, which amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to incorporate sexual entertainment venues. Under the amended Act, premises offering lap dancing or any live performance or display of nudity on more than eleven occasions within a twelve month period will be required to obtain a sex establishment licence. Some exemptions also exist within the legislation.
- 4.24 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Police and Crime Act 2009 was adopted on 9th September 2010 requiring the licensing of Sexual Entertainment Venues.
- 4.25 Currently there are no such establishments within the Chiltern District area.

Applications for personal licences

- 4.25 All applicants for the grant of a personal licence will be required to undertake a current criminal record check. Where a criminal record check discloses an unspent relevant conviction (see schedule 4 of the Act) and the Police object to the application on crime prevention grounds, the Licensing Sub Committee will normally refuse such an application unless

Adopted Licensing and Regulation Committee
December 2010

there are exceptional and compelling circumstances to justify the granting of a licence.

5. Special Policy Relating to Cumulative Impact

- 5.1 It is clear that the vicinity within which licensed premises are or may be located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it. Primarily consideration will be given to the direct impact of the licensed activity on members of the public living, working or engaged in normal activity in the vicinity of the premises. Although this is not explicitly defined in the Act or Guidance, the 'vicinity' will be determined as a matter of fact in each circumstance. However, it will need to be demonstrated that there is a causal connection between any disorder and the licensed premises themselves.
- 5.2 Licensing law is not a mechanism for the general control of the anti-social behaviour of patrons once they have left licensed premises. Other mechanisms for dealing with such behaviour exist and are outlined in Section 4 of this policy. However in some areas concentrated "pockets" of licensed premises can exist which lead to serious problems of nuisance and disorder arising in the area itself and even some distance away from the premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish individual premises as being the sole cause, or even a major contributing factor, of a particular problem. It is the **cumulative impact** of all of the premises, which causes problems for a wider area. This should not be confused with the issue of "need" which relates to commercial demand for licensed premises. "Need" is not a matter to be taken into account when determining licensing applications.
- 5.3 In some circumstances the area concerned may become saturated with licensed premises making it a focal point for large groups of people to congregate and eventually leave. This might create exceptional problems of disorder, noise and other nuisance and in such circumstances the grant of further premises licences or club premises certificates may undermine the Licensing Objectives.
- 5.4 Notwithstanding these concerns each application has to be considered on its own individual merits. Where an objector is seeking to establish that the grant of a premises licence would result in a cumulative impact which undermines one or more of the licensing objectives the following shall apply:

Representations On The Grounds Of Cumulative Impact

- 5.5 In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact which would undermine one or more of the licensing objectives the objector shall:
- a) Identify the boundaries of the area from which it is alleged problems are arising;
 - b) Provide full details and evidence as to the seriousness and frequency of the nuisance and disorder caused in the area;
 - c) Identify the licensing objective(s) which it is alleged will be undermined with specific regard to:
 - i) The occupancy figure (maximum capacity) for the proposed premises;
 - ii) The nature of the licensed activity to be carried on at the premises and its patrons.
- 5.6 The licensing authority is keen to stress however, that as well as the licensing function there are a number of other mechanisms for addressing issues of cumulative impact. These include:–
- a) planning controls;
 - b) ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others;
 - c) powers to designate parts of the District as places where alcohol may not be consumed publicly;
 - d) confiscation of alcohol from adults and others in designated areas (where adopted);
 - e) police enforcement of the law with regard to disorder and anti-social behaviour;
 - f) police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
 - g) the power of police and other representative bodies, local businesses or residents to demand a review of the licence;
 - h) enforcement action against those selling alcohol to people who are already drunk;
 - i) Enforcement by Trading Standards Officers of underage sales.

The licensing authority will address a number of these issues through the Council's Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the District.

Adoption of a Special Saturation Policy

- 5.7 Where as a result of a representation under paragraph 5.5 above the licensing authority is satisfied that there is clear evidence substantiating a serious or chronic concern about nuisance and disorder in a particular area, the licensing authority may consider the adoption of a special saturation policy detailing the approach to future applications from that area. In doing so the licensing authority shall:
- Identify a concern about crime and disorder or public nuisance;
 - Consider whether crime and disorder and nuisance are arising from and are caused by the customers of licensed premises and if so, identifying the area from which problems are arising and the boundaries of that area;
 - Consult with those specified by section 5(3) of the Act.
 - Subject to that consultation, include a special saturation policy relating to the area defined in that policy about future premises licence or club premises certificate applications within the terms of this Policy;
 - Publish the special policy as part of the Policy as required by the Act.
 - Review the need for the special saturation policy regularly
- 5.8 The effect of adopting a special saturation policy of this kind is to create a rebuttable presumption if relevant representations to that effect are received, that applications for new premises licences or club premises certificates or material variations that are likely to add to the existing cumulative impact will normally be refused, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.
- 5.9 Applicants would need to address the special saturation policy issues in their Operating Schedules in order to rebut such a presumption. Any special saturation policy will stress that the presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its special policy.
- 5.10 The absence of a special saturation policy does not prevent any responsible authority or interested party making evidence based relevant representations on a new application for the grant, or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

Special Saturation Policy

- 5.11 Chiltern District Council has adopted a special saturation policy in respect of the village centre of Chalfont St Peter and High Street, Old Amersham,

Adopted Licensing and Regulation Committee
December 2010

delineated on the maps appended to this policy. This was introduced following evidence brought by residents of the described area and Thames Valley Police on the grounds of crime and disorder and public nuisance.

- 5.12 The effect of this special policy is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
- 5.13 However this policy does not relieve responsible authorities or interested parties of the need to make a relevant representation relating to cumulative impact before the licensing authority will consider giving effect to the policy. If there are no relevant representations, the licensing authority will grant the application in terms that are consistent with the operating schedule submitted.
- 5.14 This policy does not impose quotas that restrict the consideration of any application on its own merits within the area. The exercise of the policy is not absolute. There may be applications for licences and certificates that, because of their nature, will not add to the cumulative impact on the licensing objectives. After receiving representations, the licensing authority will consider whether it is justified in departing from the special policy in light of the individual circumstances of the application. If the application is refused, the licensing authority will need to demonstrate that the grant of the licence would undermine the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.
- 5.15 It is recognised that there are other mechanisms available to address issues within a cumulative impact area.
- 5.16 This policy applies to all existing licensed premises and club premises and applications for such premises licenses and club premises certificates whose curtilage falls within the delineated area and all areas within the control of the licence or certificate holder as set out in Appendix 1.

6. Licence Conditions

Prevention of crime and disorder

- 6.1 The licensing authority's starting point is in terms of seeking a reduction in crime and disorder throughout the District consistent with its statutory duty under Section 17 of the Crime and Disorder Act 1998.

Adopted Licensing and Regulation Committee
December 2010

6.2 The licensing authority will continue to play an active part in the Pubwatch scheme.

6.3 When preparing their operating schedules, applicants may wish to consider the following examples as they relate to the licensing objectives having regard to their particular type of premises or activities:

- a) the ability of the person in charge of the premises at the time to monitor the premises at all times it is open;
- b) the training given to staff in crime reduction measures appropriate to those premises;
- c) physical security features installed in the premises such as CCTV; where a licensed premises is required to have CCTV as a condition of the licence then, unless there are good reasons provided otherwise, the premises must be equipped to a standard and in a manner in accordance with established Thames Valley Police guidance;
- d) measures taken to prevent bottles and glasses being used as weapons;
- e) any other such measures as may be appropriate, such as participation in a local Pubwatch or Shopwatch scheme, 'music wind—down policies';
- f) adherence to the Portman Group code of Practice;
- g) the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
- h) where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- i) the likelihood of any violence, public order or policing problem if the licence is granted;
- j) representations from authorised persons, interested parties and responsible authorities.

Although this is an extensive list of examples, applicants should only consider those measures they feel are appropriate to their premises and locality. Conditions will only be attached to a licence which are consistent with their operating schedule unless representations are received and additional conditions are considered necessary.

Premises used for clubbing

6.4 The licensing authority recognises that the issue of drug use by young people is not something that is applicable to all licensed premises and each case will be considered on its own merits. However, in some situations it may be necessary to attach conditions to discourage the sale and consumption of drugs and to create a safer environment for those who may have taken them. If relevant representations are made in this respect

and are upheld at a hearing, the conditions to be imposed will take into account the "Safer Clubbing" publication issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs Action Team and the police.

Door Supervisors

- 6.5 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed with the Security Industry Authority. Where the Police make representations, the licensing authority may consider that certain premises require particularly strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the licensing authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

Designated Public Places Orders

- 6.6 A number of Designated Public Places Orders have been introduced following requests from Thames Valley Police who expressed concern over alcohol induced disorder in certain areas (see Appendix 2) The Orders give power to police constables to request individuals to cease drinking or confiscate any alcohol where it is considered that the person is acting anti-socially as a result of alcohol consumption. All licensed premises are exempt and the Order does not affect people who are drinking socially and not causing any disturbance.

Public Safety

Occupancy limits

- 6.6 With the introduction of the Fire Safety (Regulatory Reform) Order 2004, it is recognised that existing prescriptive controls such as Fire Certificates have been replaced with the duty to produce risk assessments. In accordance with the Secretary of State's guidance, the licensing authority will avoid duplicating existing controls.
- 6.7 Where a relevant representation is received in respect of capacity, the licensing authority may impose conditions in relation to the maximum number of persons to attend premises where:
- It considers it to be necessary for the purpose of reducing crime and disorder;
 - It considers it to be necessary for the purpose of safety of occupants.

Adopted Licensing and Regulation Committee
December 2010

The issue of capacity will be decided on a case by case basis and will only be applied where there is a clear and justifiable need to do so based upon the nature and style of the premises and the licensing objectives.

- 6.8 The purpose of imposing a maximum number of persons to be in the premises at any one time is to ensure the safety of those persons at the premises. Where relevant representations have been made, the licensing authority will set occupancy limits in consultation with the responsible authority.

Health and Safety

- 6.9 Every applicant granted a licence, certificate or permission would also be under a duty to comply with the Health and Safety at Work etc. Act 1974 and regulations made under it. In many cases, the licensing authority will also be the enforcing authority responsible for ensuring compliance with the Health and Safety at Work Act in licensed premises.

The prevention of nuisance

- 6.10 The licensing authority will protect the amenity of residents and businesses in the vicinity of licensed premises, and for these purposes 'vicinity' is taken to mean the immediate area around licensed premises.
- 6.11 The Licensing Authority will interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 6.12 At the same time the licensing authority is aware of the importance of the licensed trade to the revitalisation of the local area. Accordingly, it will try and work together with interested parties, statutory agencies and licensed businesses to ensure a mutual co-existence.
- 6.13 Where the considerations apply to late-night refreshment premises, they shall only be taken to apply to their operation between the hours of 11 p.m. and 5 am for which a premises licence would be required.
- 6.14 When preparing their operating schedules, applicants may wish to consider the following examples as they relate to the licensing objectives having regard to their particular type of premises or activities:
 - a) the steps to prevent noise and vibration escaping from the premises, including music; noise from ventilation equipment, and human voices. Such measures may include the installation of

Adopted Licensing and Regulation Committee
December 2010

soundproofing, air conditioning, acoustic lobbies and sound limitation devices. Please note that where relevant representations have been made, a condition may be imposed requiring the assessment by the applicant, of potential noise sources which could cause disturbance to those in the vicinity and the identification and installation of appropriate control measures;

- b) the steps to prevent disturbance by customers arriving at or leaving the premises. This will be of greater importance between 11 p.m. and 7 am than at other times of the day;
- c) the steps to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues could be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- d) the steps to ensure staff and patrons leave the premises quietly;
- e) the arrangements for parking by patrons, and the effect of parking by patrons on local residents;
- f) whether licensed taxis or private hire vehicles are likely to disturb local residents;
- g) the installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as nursing homes, hospitals, hospices, places of worship, residential dwellings;
- h) the use of gardens and other open-air areas;
- i) delivery and collection areas and times at the premises;
- j) the siting of external lighting, including security lighting that is installed inappropriately;
- k) steps to minimise the impact of increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity of the premises;
- l) any previous nuisance complaints or representations against the premises;
- m) steps taken to reduce litter (e.g. bottles, cans) in the immediate vicinity of the premises.

- 6.15 Although this is an extensive list of examples, applicants should only consider those measures they feel are appropriate to their premises and locality. Conditions will only be attached to a licence which are consistent with their operating schedule unless representations are received and additional conditions are considered necessary.

Protection of children from harm

- 6.16 The licensing authority recognises that there are many activities for which licences may be sought. These will be located in a great variety of premises such as public houses, night-clubs, hotels, inns, theatres, cinemas, concert halls, restaurants, cafes, takeaways, fast-food outlets, community halls, schools and colleges.
- 6.17 The Licensing Act 2003 does not prevent children having free access to premises selling alcohol for consumption on those premises (including those listed above) although the licensing authority will impose conditions restricting the access of children to premises where it is considered necessary for the prevention of physical, moral or psychological harm to children and representations have been received to this effect. Where there are matters that give rise to serious concerns and restriction of access may not ensure adequate protection of children from harm, applications will be refused.

Examples which may give rise to concerns in respect of children include those:

- a) Where there have been convictions of staff for serving alcohol to minors;
 - b) Where there is a reputation for underage drinking;
 - c) Where there is a known association for drug taking or dealing;
 - d) Where there is a strong element of gambling on the premises but not the simple presence of a small number of AWP machines;
 - e) Where entertainment or services of an adult or sexual nature are provided.
- 6.18 In exceptional circumstances, where necessary, and only where the licensing authority has received relevant representations, it may impose conditions restricting access or excluding children from premises or part of licensed premises. The options available would include:
- a) Limitations on the hours when children may be present;
 - b) Age limitations for persons under 18;
 - c) Limitations on the exclusion of children under certain ages when certain activities are taking place;

- d) Full exclusion of persons under 18 when certain licensable activities are taking place;
 - e) Limitations of access to certain parts of the premises for to which children might be given access;
 - f) A requirement for an accompanying adult to be present.
- 6.19 The licensing authority will not impose any conditions that specifically require the admission of children to premises.
- 6.20 Where no conditions or restrictions are imposed, the issue of access for children still remains a matter of discretion for individual holders of premises licences, club premises certificates or Temporary Event Notice.
- 6.21 The licensing authority supports and encourage the adoption of the Proof of Age Standards Scheme (PASS), which aims to approve and accredit proof of age schemes to assist in preventing underage access to unsuitable premises, films and the purchasing of alcohol. This scheme identifies reliable and secure proof of age schemes with the same hologram mark in order that retailers can easily distinguish accredited cards.
- 6.22 The licensing authority also supports and encourages the adoption of the Challenge 21 campaign which recommends that anyone who appears to be under 21 is challenged for appropriate identification. It also supports the No ID, No Sale campaign.

Children and Public Entertainment

- 6.23 Where a large number of children are likely to be present on any licensed premises, for example a children's show or pantomime, the licensing authority would expect an adequate ratio of adults to children in order to ensure the prevention of harm to the children and also to ensure public safety. If representations are received, the licensing authority will impose such a ratio.

7. Complaints against Licenced Premises

- 7.1 The licensing authority will investigate relevant complaints against licensed premises. In the first instance, complainants should raise the complaint directly with the licence holder or business concerned. All complaints will be investigated and enforcement action taken in accordance with the licensing authority's Enforcement Policy and Complaints Procedure. It is recognised that another agency may be the more appropriate body to investigate the complaint and in such circumstances, the licensing authority will maintain liaison with that agency in accordance with the Enforcement Protocol.

Adopted Licensing and Regulation Committee
December 2010

- 7.2 Where necessary, the licensing authority will initially arrange a meeting with the licence holder to address, clarify and try to resolve the issues of concern.

This process will not override the right of any interested party or responsible authority to request a review of a licence by the Licensing Committee at any stage following the grant of a premises licence or if the particular concerns are not addressed in a way that fulfils the licensing objectives.

Licence Reviews

- 7.3 At any stage following the grant of a premises licence a responsible authority or an interested party may ask the licensing authority to review the licence because of a matter arising at the premises in connection with one of the four licensing objectives. In addition, a review of the licence will normally follow any action to close the premises (for up to 24 hours) on the grounds of disorder or noise nuisance or as a result of a magistrates' court determination.
- 7.4 Under the Violent Crime Reduction Act 2006, following an application from the chief officer of police, the Authority can attach interim steps to licences pending a full review. The Act also introduces a new offence in relation to persistent alcohol sales to minors.
- 7.5 Any application for review must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of one or more of the licensing objectives. Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Applications will not be accepted if they are considered to be frivolous, vexatious or repetitive. Government Guidance suggests that more than one request originating from an interested party or responsible authority for a particular premises within a reasonable interval may be considered as repetitious.
- 7.6 Prior to the hearing, the licence holder will be made fully aware of the representations, the evidence supporting the request and will be given the opportunity to prepare a response.
- 7.7 The licensing authority views particularly seriously applications for the review of any premises licence where there has been evidence of the following:
- a) use of licensed premises for the sale and distribution of drugs and/or the laundering of the proceeds of drug crimes;

Adopted Licensing and Regulation Committee
December 2010

- b) use of licensed premises for the sale and/or distribution of firearms;
- c) evasion of copyright in respect of pirated films and music;
- d) underage purchase and consumption of alcohol;
- e) use of licensed premises for prostitution or the sale of unlawful pornography;
- f) use of licensed premises for unlawful gaming;
- g) use of licensed premises as a base for criminal activity;
- h) use of licensed premises for the organisation of for example, racist, homophobic or sexual abuse or attacks;
- i) use of licensed premises for the sale of smuggled tobacco or goods;
- j) the use of licensed premises for the sale of stolen goods;
- k) where the police are frequently called to attend to incidents of disorder;
- l) prolonged and/or repeated instances of public nuisance;
- m) where serious risks to public safety have been identified and the management is unable or unwilling to correct those;
- n) where serious risks to children have been identified.

8. Enforcement Policy

- 8.1 The licensing authority has an established enforcement policy, based around the principles of consistency, targeting, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat. Due regard will also be given to the Regulator's Compliance Code issued by the Department for Business Enterprise and Regulatory Reform and the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions.
- 8.2 The licensing policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been breached. An isolated administrative offence, such as failing to maintain certain records, may be dealt with purely by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety, such as failing to maintain fire extinguishers properly, may result in a referral for prosecution.
- 8.3 The licensing authority will seek to work actively with the police, and other statutory authorities in enforcing licensing legislation. It is a signatory to the Buckinghamshire Memorandum of Understanding and Joint Enforcement Protocol along with Thames Valley Police and other Buckinghamshire local authorities and enforcing agencies which seeks to ensure a consistent and appropriate approach to enforcement.

It expects the agencies to share information about licence holders and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the licensing authority when any enforcement action may be required.

- 8.4 The licensing authority will investigate allegations of unlicensed activities and to ensure that licence conditions are complied with.
- 8.5 The licensing authority will continue to be a partner in the Buckinghamshire Licensing Liaison Group, and has established a local forum for liaison between the statutory agencies responsible for licensed premises.

Inspection of Premises

- 8.6 Any inspection regime will be targeted at those premises that pose the greatest risk and are known to cause the greatest problems.
- 8.7 The licensing authority will aim to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits with the fire authority, police, building control and environmental health officers as appropriate.

9. DELEGATION AND DECISION MAKING

- 9.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 9.2 The Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the Guidance issued by the Secretary of State, the Council's Constitution and procedures laid down for good governance.

10. FURTHER INFORMATION

Further information about the Licensing Act 2003 and the Authority's licensing policy can be obtained from:

**Licensing Team
Chiltern District Council
King George V Road
Amersham
Bucks HP6 5AW**

**T: 01494 732068
F: 01494 586504
E: licensing@chiltern.gov.uk
Website: www.chiltern.gov.uk**

Information is also available from

(1) Department for Media, Culture and Sport,
2-4 Cockspur Street
LONDON
SW1Y 5DH
T: 020-7211 6200
E: Enquiries@culture.gov.uk
W: www.culture.gov.uk

(2) The Local Government Licensing Forum
www.lglf.org

(3) Copies of the Licensing Act 2003 and associated legislation is available from
www.legislation.hmso.gov.uk

(4) Government's Licensing Act 2003, Section 182 Guidance is available from
http://www.culture.gov.uk/Reference_library/Publications/archive_2007/guidance/section182_licact03june07.htm

(5) Copies of reports and minutes of the Licensing Committee are available on the Council's website at www.chiltern.gov.uk, following the links to **Council and Democracy** or by contacting the Licensing Team (details as above)

Appendix 1 - Cumulative Impact Areas

Old Amersham

Chalfont St Peter

Appendix 2 - Designated Public Places Orders

Chesham Cemetary

Chesham Town Centre

Seer Green Vilage Centre

Station Forecourt, Amersham

Roundwood Road, Amersham

Telephone 01753 884416

125 St Peters Court
High Street
Chalfont St Peter
Buckinghamshire
SL9 9QJ

Your Ref: IS/cr

22 October 2010

Mr Ian Snudden
Environmental Health Manager
Health and Housing Division
Chiltern District Council
Council Offices
King George V Road
Amersham
Buckinghamshire
HP6 5AW

Dear Mr Snudden,

The Licensing Act 2003 – Policy Statement Review

1. I refer to your letter of the 3 August 2010 in connection with the Council's draft Statement of Licensing Policy 2010.
2. I am sorry for this late reply to your letter but I shall be very grateful if you and your Council will consider my comments and request in paragraphs 3 and 4 below.
3.
 - (1) Since the coming into force of the Licensing Act 2003 on the 24 November 2005 I have taken a very close interest in the operations of the 4 licensed premises (The Poachers, The White Hart, The Greyhound Inn and The George Inn) in the centre of Chalfont St Peter.
 - (2) I have made representations on behalf of myself and other residents of St Peters Court in support and in opposition to various applications for a premises licence and variations to existing premises licences of the 4 licensed premises.
 - (3) At all times the Licensing Team have been courteous and helpful, I have had meetings from time to time with the

designated premises supervisors and the hearings before the Licensing Sub-Committee have been fairly conducted and their decisions well-reasoned compromises.

- (4) Having said all that I do have, in my opinion, a reasonably serious issue to raise which in the overall context of the licensing process may appear to be quite trivial to others.
- (5) On several occasions I have made observations in connection with the statutory requirement to advertise applications.

These observations have included the following:-

- (a) the Blue Notice has been displayed on the inside of a window with glass frames smaller than the Notice so that the horizontal and vertical frame supports have obscured important details on the Notice;
- (b) the Blue Notice has been displayed in a window on the premises which does not abut the public highway so that it was not readily visible to members of the public; and
- (c) The notices have been published in newspapers which are not "local" newspapers. In this regard the "Buckinghamshire Advertiser" has long been regarded as the "local" newspaper for Chalfont St Peter and most notices have appeared in this newspaper. However, on at least one occasion the advertisement appeared in the "Bucks Free Press" which although it circulates in the area cannot be considered to be a "local" newspaper. Since the Blue Notice was displayed inside the entrance to the premises the application was not capable of being seen by members of the public. In this case the position was rectified following a visit by the Licensing Officer and the Blue Notice was displayed outside the premises for a further period.
- (6) On the 16 April 2010 I downloaded the List of Applications and noted the following application from The Greyhound Inn:-

Date of Application: 1 October 2009

Application
Details:

Premises Licence -
VARIATION In addition
to the currently
permitted hours and
activities: Recorded
Music / Facilities for
Dancing: from 10pm
until 11.30pm on
Sundays, and when
alcohol is extended so
will recorded music /
facilities for dancing be
extended. Sale of
Alcohol: from 10.30pm
until 11.30pm on
Sundays.

Applicant:

FCH One Limited

- (7) I am a little confused by this application since it was my understanding that the existing premises licence already provided for these activities for the times specified.
 - (8) However, considering the Application Details as specified:-
 - (a) I did not see any notice published in the "Buckinghamshire Advertiser"; and
 - (b) I did not see any Blue Notice displayed immediately on or outside the premises.
 - (9) If it was an application under the Minor Variations Process (although it does in fact appear to relate to an increase in the permitted hours for the sale of alcohol which would have required a full application) then I did not see any White Notice displayed immediately on or outside the premises.
 - (10) If I had known of this application then I would have made representations in opposition to it.
4. (1) In connection with the regulations governing the advertising of applications for the grant or variation or review of premises licences, paragraph 8.94 of the Amended Guidance issued

under Section 182 of the Licensing Act 2003 (March 2010)
states as follows:-

"It is open to licensing authorities to notify residents living in the vicinity of premises by circular of premises making an application, but this is not a statutory requirement".

- (2) In all the circumstances I am requesting the Licensing Authority to consider incorporating the provisions of paragraph 8.94 of the Guidance into its Statement of Licensing Policy.
- (3) I fully appreciate that this will involve some extra cost but any notification would be entirely within the discretion of the Licensing Authority.
- (4) I particularly make this request since the Council has adopted a special saturation policy in respect of the village centre of Chalfont St Peter where close monitoring by residents of applications by the 4 licensed premises to vary their premises licences is of considerable importance.

Notification by the Council could be limited to applications made by licensed premises in an area for which the Council has adopted a special saturation policy.

Yours sincerely,

Peter Mancini