

# Merton Council

## Licensing Committee

### Membership

Agatha Mary Akyigyina OBE (Chair)

David Simpson CBE (Vice-Chair)

Stan Anderson

Pauline Cowper

Nick Draper

Nigel Benbow

Billy Christie

Janice Howard

Paul Kohler

Rebecca Lanning

Nick McLean

Aidan Mundy

A meeting of the Licensing Committee will be held on:

**Date: 12 June 2018**

**Time: 7.15 pm**

**Venue: Committee Rooms D & E - Merton Civic Centre, London Road, Morden SM4 5DX**

**Merton Civic Centre, London Road, Morden, Surrey SM4 5DX**

**This will be followed by a meeting of the Licensing Committee (miscellaneous) to deal with any licensing matters which are not within the scope of the Licensing Act 2003.**

This is a public meeting and attendance by the public is encouraged and welcomed. For more information about the agenda and the decision making process contact [democratic.services@merton.gov.uk](mailto:democratic.services@merton.gov.uk) or telephone 020 8545 3357.

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# Licensing Committee

**12 June 2018**

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## **Note on declarations of interest**

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. If members consider they should not participate because of a non-pecuniary interest which may give rise to a perception of bias, they should declare this, withdraw and not participate in consideration of the item. For further advice please speak with the Assistant Director of Corporate Governance.

# Agenda Item 3

All minutes are draft until agreed at the next meeting of the committee/panel. To find out the date of the next meeting please check the calendar of events at your local library or online at [www.merton.gov.uk/committee](http://www.merton.gov.uk/committee).

## LICENSING COMMITTEE

11 OCTOBER 2017

(7.16 pm - 7.29 pm)

PRESENT Councillors Councillor Agatha Mary Akyigyina (in the Chair), Councillor David Simpson, Councillor John Bowcott, Councillor Pauline Cowper, Councillor Philip Jones, Councillor Judy Saunders, Councillor Mary Curtin, Councillor Linda Taylor, Councillor Gregory Udeh and Councillor Jill West

ALSO PRESENT Barry Croft – Licensing Manager  
Guy Bishop – Senior Lawyer (Litigation and Licensing)  
Amy Dumitrescu – Democratic Services Officer

### 1 APOLOGIES FOR ABSENCE (Agenda Item 1)

Apologies were received from Councillor Stan Anderson and Councillor John Sargeant.

### 2 DECLARATIONS OF PECUNIARY INTEREST (Agenda Item 2)

There were no declarations of interest.

### 3 MINUTES OF THE PREVIOUS MEETING (Agenda Item 3)

The minutes of the meeting of 13 June 2017 were agreed as a correct record.

### 4 DESIGNATION OF LICENSED STREETS (Agenda Item 4)

The Licensing Manager presented the report on the designation of parts of the highway for the purposes of Street Trading. The report concerned one application for the following:

- 1) An area of 1m x 0.5m outside Evie Loves Toast High Street Wimbledon Village SW19 5DX 09:30 – 5:30pm Monday – Sunday inclusive.

The Licensing Manager gave an overview of the application, noting that the application was intended for the use of the clothing rack as shown in the pictures within the agenda pack. The premises had been trading under a temporary licence and no complaints had been received, nor had any objections been received to the application.

In response to members questions, the Licensing Manager advised the Committee that whilst the designation was permanent, the licence would be renewed annually and that the application had been advertised online and in the local newspaper as with all applications of this type. The Licensing Manager also explained that the licence was restricted to the clothing rail only and therefore should this change in the

future, for example if the premises wanted to use tables and chairs in this space, then it would require a new application and each application would be considered on its own merits.

## RESOLVED

That the Committee designates the proposed area:

An area of 1m x 0.5m outside Evie Loves Toast High Street Wimbledon Village SW19 5DX 09:30 – 5:30pm Monday – Sunday inclusive.

## **Committee: Licensing**

**Date: 12 June 2018**

Wards: All

### **Subject: The Designation of parts of the highway as licence streets for the purposes of Street Trading**

Lead officer: Paul Foster, Head of the Regulatory Services Partnership

Lead member: Councillor Nick Draper, Cabinet Member for Community and Culture.

Contact officer: David Ryan, Technical Officer (Street Trading)

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#### **Recommendations:**

That committee resolves to designate the proposed areas.

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#### **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. This report relates to a request for the designation of a licence street and summarises comments received through a consultation process with interested parties.

#### **2 DETAILS**

- 2.1. The Licensing Team has received an application from a trader interested in utilising the highway for the purposes of street trading.
- 2.2. This report concerns an application for 5 new licence street designations.
- 1) An area of 9m x 1.6m outside Kentucky Fried Chicken 81 - 83 The Broadway Wimbledon SW19
  - 2) An area of 7.1m x 1.1m outside Smash 82 The Broadway Wimbledon SW19 1RH.
  - 3) An area of 3.8m x 1m outside Joe & The Juice 78 High Street Wimbledon SW19 5EG.
  - 4) An area of 4.7m x 1.4m outside Latif Halal Meat 4 Morden Court Parade SM4 5HJ.
  - 5) An area of 3m x 3m on Eastfields Road Mitcham sited between the end of the parking bays outside 93 Eastfields Road and Mitcham Eastfields Station.
- 2.3. Plans and photographs of the proposed area are included in Appendix B.
- 2.4. Street Trading is regulated by the London Local Authorities Act 1990 as amended.
- 2.5. All street trading is administered and regulated by the Council using this legislative framework. The London Local Authorities Act 1990 permits a street trading licence to be granted for "not less than six months and not more than three years". There are two types of street trading licence granted in the Borough. A permanent licence that is valid for 1 year and a temporary licence valid from 1 day to 6 months to facilitate market trading and

temporary events. It is unlawful to trade on the street without a valid street trading licence.

- 2.6. A one year Street Trading Licence can only be granted for areas designated as licence streets.
- 2.7. Merton licences specific locations (pitches) within a street rather than the street as a whole. The designation of specific locations on the street as opposed to the entire street gives greater control to the Council in regulating street trading and its impact on the environment. Street trading licences are renewable annually.
- 2.8. Comprehensive regulations and standard conditions are in place to facilitate regulation and enforcement of street trading in the Borough and provide a framework for all aspects of trade. These regulations are included for information as Appendix C.

- 2.9. Street trading licence fees for the year 2018-2019 are shown in Appendix E.

### **3 ALTERNATIVE OPTIONS**

- 3.1. The designations can be refused.
- 3.2. The final designations can be reduced in size from the requested areas.
- 3.3. Temporary licences can be issued where there are specific concerns requiring further assessment.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. The consultation process and consultees are defined by the London Local Authorities Act 1990.
- 4.2. Notices were placed in the Local Guardian newspaper advising the public of the consultations and requesting comments. Copies of the notices are included in Appendix A.
- 4.3. As part of the consultation process comments were invited from both external and internal agencies.
- 4.4. Ward Councillor representations: None.
- 4.5. Future Merton - Traffic and Highways:

Smash - We have concerns regarding this location. Although there may be a 2m footway width due to the posts and the taxi rank, it could impact pedestrians

Joe and The Juice - We have no objection as long as 2m clear footway is maintained at all times

- 4.6. Transport for London: No objections received.
- 4.7. The Licensing Team comments –
  1. Initial concerns for the site were in relation to the times requested. As part of the application process discussions were had between the applicant, the Licensing team and the police. The final agreement saw a reduction in licence times from a 2am finish to 9pm, and it therefore differs to the original notice published. As this was a reduction to the

applied for times, there was no justification to re-publish the notice. We feel this is more in keeping with the area and in recognition of conditions in the area, such as the Cumulative Impact Zone.

We feel there is sufficient space on the highway outside the property to allow the placement of the tables and chairs without causing undue inconvenience to the public and is in keeping with other licence sites in the area. The operator has been using the space under a Temporary licence since November 2017. One complaint was received in regards to the amount of space being taken up. On inspection it was found the barriers around the pitch were too large and causing the staff to set up incorrectly. The applicant has since removed the barriers pending new correctly sized ones being obtained, and the seating has been reduced down to the permitted size. The oversized barriers can be seen in the photos in Appendix B. These have since been removed.

The distance from the start of the public highway to the first set of street furniture in the area is 4.4 metres. The 1.6 metre depth of the site leaves a clear highway of 2.8 metres – a full metre more than the recommend 1.5m – 1.8m of unrestricted highway.

In recent weeks there have been issues with the number of moped delivery drivers illegally parking on the highway opposite the requested site and sitting on the tables and chairs. The council has an enforcement responsibility for the location which is being carried out but through the commercial arrangements of companies in the area the remaining highway is being reduced in size.

Following discussions with the applicant and Parking services, it is recommended that conditions be placed on any licence (if granted) which will place some responsibility for the positioning of delivery drivers with KFC's management.

As there are no reasonable grounds for refusal based on the area size requested, the officer recommendation is to grant the designation of this area to allow the issuing of a new street trading licence. This licence will then address any side effects of the area and its associated uses through conditional licensing.

2. Smash – The requested area is consistent with other designated sites on this section of The Broadway. We have noted concerns raised in regards to the site but feel these were more in relation to the previous use of the site as a nightclub. The request for a designation is in regards to the use of the public highway and not the activities taking place within. That said, there has been a complete change of business focus with the alteration to a bar/table tennis venue, and as such we do not feel a licence would be an issue at the location. A temporary licence has been in place for several months and no complaints or incidents have occurred. Therefore we feel a designation to allow this would not be out of keeping with the area and managed correctly.

3. Joe and The Juice – As with the area above, there are a number of street trading designations in the surrounding area. The requested area size is one of the smallest on the street with the location benefitting from a set back shop front. As such a minimal amount of furniture will be placed on the highway itself. Our primary concerns are in regards to the low nature of the furniture in use. Although no incidents have been recorded during their use under a temporary licence, we would look to insert the condition of barriers onto the licence if the designation is granted. These would be to protect members of the public from any trip hazards.
4. Latif Halal Meat – The requested area has been in operation for several months under a temporary licence. After some initial sizing issues and a requested increase in area size, the owners have managed the site well and no issues have been raised. We feel there is sufficient room on the highway to accommodate the designation and it is in keeping with another similar store further along the same parade.
5. Remote site Eastfields – The area has previously had a coffee van site located within the private grounds of Mitcham Eastfields station. This area request is for a section of public highway and therefore outside of the control of Network Rail. This is a wide area of pavement with sufficient space to locate the proposed vehicle. Our main concern would be the movement of the vehicle across the land from the kerb to the proposed site. Similar sites in the borough require vehicles to be manually manoeuvred or to travel at walking pace whilst entering and exiting the site. We would expect a similar approach which could be conditional under licence.

As can be seen in the photographs in Appendix B, vehicles do mount and position themselves on the footway, both in the parking bays and on private land. The pitch should not restrict this movement to legal parking bays.

## **5 TIMETABLE**

- 5.1. If granted, notice of a designation resolution must be published in a locally circulating newspaper for two consecutive weeks.
- 5.2. The first publication shall be no later than 28 days before the designation comes into force.
- 5.3. Most traders operate under Temporary licences during this time and start dates are agreed with officers under delegated authority to issue street trading licences.

## **6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 6.1. The cost of placing notices in the local Guardian is accounted for in the licence application procedures in place.
- 6.2. Regulatory and enforcement costs will be met from within the street trading budget.



- 6.3. The collection of licence fees will assist the Councils ability to fund the necessary budget requirements for the provision of the service.

## **7 LEGAL AND STATUTORY IMPLICATIONS**

- 7.1. Part III of the London Local Authorities Act 1990 (as amended), hereinafter in these implications referred to as the “Act”, regulates trading on the street and provides a statutory consultation framework.
- 7.2. Unless provided for in the Act, Section 23 states that it is unlawful for a person to engage in street trading in any licence street within a borough unless the person is authorised to do so by a street trading or a temporary licence.
- 7.3. Under section 21 of the Act, a street trading licence means a licence granted for no less than 6 months and no more than 3 years. Regulations made by the London Borough of Merton pursuant to section 27(3) of the Act prescribe that these types of licences are only granted for a year. Temporary licences are defined as licences granted for a single day or such period as may be specified in the licence not exceeding 6 months.
- 7.4. It would also be unlawful for street trading to take place if the street or part of the street that is being licensed for these purposes have not first been designated by resolution as a “licence street” pursuant to section 24 of the Act.
- 7.5. Section 24(4) to (8) of the Act prescribes the consultation process which has to be carried out before a resolution can be passed to designate a licence street and this process has been carried out by the Council. This includes the advertisement in a local newspaper, service of notice on the local Highway Authority, and receipt of the necessary consent from the local Highway Authority.
- 7.6. The officer recommendation in this report is for the Committee to grant the designations. The Committee should decide to grant or refuse the designations after considering the officer recommendations, representations that have been made and all relevant facts before them.
- 7.7. The Committee would be expected to consider some of the following issues:
- highway safety,
  - highways obstruction,
  - street furniture or bus stop safety,
  - volume of traffic,
  - access for emergency services,
  - over use of area,
  - risk of danger to pedestrians and other road users with the presence of a trading unit/stall,
  - detriment or annoyance to residents from the proposed street trading
- 7.8. Each application must be considered on its own merits and be reasonable. In making a balanced and reasonable decision, it should be considered whether an ‘unsightly’ pitch or a site with an issue involving enough ‘space’, is sufficient reason to refuse a designating resolution. A decision could

reasonably be made to address those issues through the conditions of the licence e.g. the trading days and times permitted.

- 7.9. The Council is legally obliged to consider all applications and to only refuse on the grounds set out in the London Local Authorities Act 1990 (as amended).
- 7.10. It should be noted that many representations received during the consultation phase relate to the type of trading and not the designation of a licence street to which Committee is concerned.
- 7.11. Under Section 24 (9) of the Act, after the Borough Council have considered those representations, they may if they think fit, pass such a resolution relating to the street.
- 7.12. Under section 24(3) of the Act, if a Borough Council passes a designating resolution, the designating of the street takes effect on the day specified in the resolution. This date must not be before the expiration of the period of one month beginning with the day on which the resolution is passed.
- 7.13. Under section 24(10) of the Act, the Borough Council has to publish a notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks. Under section 24(11) of the Act, the first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.
- 7.14. The issuing of the street trading licence and associated conditions are to be taken by officers under delegated powers. The designation of licence streets has followed this process since the Act was enacted, with some sites previously designated under the Highways Act 1980.

## **8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 8.1. It is important that the Council carefully considers all the representations made during the consultation process.

## **9 CRIME AND DISORDER IMPLICATIONS**

- 9.1. Enforcement and advisory visits will be made regularly to the premises to ensure compliance with licence terms and conditions. The police are consulted on all applications for designations.

## **10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 10.1. Failure to discharge its duties under the Act and make proper regulations to control street trading could damage the Council's reputation and expose it to the risk of judicial review.

## **11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- Appendix A – Public Consultation Notice
- Appendix B - Plans and photographs of proposed area
- Appendix C – Street Trading Regulations
- Appendix D – London Local Authorities Act 1990 Section 24 – Designation of Licence Streets

- Appendix E – Street Trading Licence Fees
- Appendix F – Representations

**12 BACKGROUND PAPERS**

12.1. None.

## APPENDIX A

### LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

### PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate a part of Merton as "licence streets" and to issue street trading licences pursuant to the Act.

TAKE NOTICE THAT pursuant to **Section 24 of the Act**, the Council is seeking to designate 1 area (hereinafter referred to as "the street") as a licence street where street trading will be permitted by the Council subject to obtaining a Street Trading Licence, and requests for 2 Street Trading Licences under **Section 25 of the Act**.

- 1) An area of 1.6m x 9m outside Kentucky Fried Chicken 81 – 83 The Broadway, Wimbledon, SW19 1QE. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 11am – 11pm Monday - Sunday inclusive. **Reference WK/201705597**
- 2) The Council has been requested by Mr Sean Blackwell of Monarch Drive, Hayes UB3, for Islandos Group Ltd, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a catering stall/vehicle on the existing designated site in St Mark's Place Wimbledon 6am – 6pm Monday to Sunday inclusive. **Reference WK/201706011**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Licensing, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 19<sup>th</sup> October 2017. The Council will consider all representations received before a final decision is made on whether to designate parts of the street as licence streets, and whether to issue licences for street trading.

Dated this the 21<sup>st</sup> September 2017

## LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

### PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council is seeking to designate 3 areas (hereinafter referred to as "the street") as licence streets where street trading will be permitted by the Council subject to obtaining a Street Trading Licence, and 9 licence(s).

- 1) An area of 7.1m x 1.1m outside Smash 82 The Broadway Wimbledon SW19 1RH. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 10am - 9pm Monday to Sunday inclusive. **Ref: WK/201712512.**
- 2) An area of 3.8m x 1m outside Joe & The Juice 78 High Street Wimbledon SW19 5EG. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs on the designated site 7am - 7pm Monday to Saturday and 10am – 5pm Sunday. **Ref: WK/201712441.**
- 3) An area of 4.7m x 1.4m outside Latif Halal Meat 4 Morden Court Parade SM4 5HJ. The Council has also been requested to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of fruit and vegetables on the designated site 9am - 9pm Monday to Sunday inclusive. **Ref: WK/201711222.**
- 4) The Council has been requested by Ms. Laura Evans of Gray and Greenery Ltd. Arcadia Avenue London N3, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of Van selling flowers and plants on pitch 4 St Mark's Place 10am – 7pm Wednesday and Thursday. **Ref: WK/201712445.**
- 5) The Council has been requested by Mrs Piyanuch Samingpai of Durnsford Road Wimbledon SW19 to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a Thai food trailer at Hartfield Market, off The Broadway Wimbledon, 9am – 4pm Monday to Saturday **Ref: WK/201712777.**
- 6) The Council has been requested by Mr Keshav Poudel of Gilbert Close Morden Road Wimbledon SW19 to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of an Indian/Nepali food trailer at Hartfield Market, off The Broadway Wimbledon, 10am – 5pm Monday to Sunday **Ref: WK/201712638.**
- 7) The Council has been requested by Mr Vasile-Marius Rogoz of Abbotsbury Road Morden SM4, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs outside Ego Barbers 27 London Road Morden SM4 5HT 9am – 8pm Monday to Sunday inclusive **Ref: WK/201712640**

- 8) The Council has been requested by Mr Michael Jones of Glastonbury Road Morden SM4, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a catering trailer selling hot and cold food on an existing pitch in Lombard Road SW19, 6am – 4pm Monday and Friday. **Ref: WK/201713235.**
- 9) The Council has been requested by Ms Mila Ouanes of Eardley Crescent London SW5, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a van selling crepes and panini on an existing pitch on the corner of Gladstone Road SW19 10am – 6pm 4 days Monday – Sunday inclusive. **Ref: WK/201713237.**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Licensing, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 26<sup>th</sup> April 2018. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

Dated this the 29<sup>th</sup> March 2018

## LONDON BOROUGH OF MERTON

(hereinafter referred to as "the Council")

### PART III OF THE LONDON LOCAL AUTHORITIES ACT 1990

(hereinafter referred to as "the Act")

Intention to designate parts of Merton as "licence streets" pursuant to the Act.

TAKE NOTICE THAT pursuant to Section 24 of the Act, the Council is seeking to designate 1 area (hereinafter referred to as "the street") as licence streets, where street trading will be permitted by the Council subject to obtaining a Street Trading Licence, and 3 licence(s).

- 1) An area of 3m x 3m on Eastfields Road Mitcham Surrey. The area will be sited between the end of the parking bays outside 93 Eastfields Road and Mitcham Eastfields Station. The Council has also been requested by Mr Ben Flynn of Wilhelmina Avenue Coulsdon CR5 to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a small coffee van on the designated site 6am - 10am Monday to Friday inclusive. **Ref: WK/201800799**
- 2) The Council has been requested by Mr Seyed Shahab Amiri Tari of Earlsfield House, Royal Quarter, Seven kings way, Kingston Upon Thames, KT2, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of tables and chairs outside Diba 87 The Broadway Wimbledon SW19 1QE 10am – 10pm Monday to Sunday inclusive **Ref: WK/201800783.**
- 3) The Council has been requested by Mr Nazakat Hussain of Potter Close Mitcham CR4, to issue a street trading licence under Section 25 of the Act. The licence, if granted, will allow the placing of a fruit and vegetable display outside Mitcham Halal Meat 278 London Road Mitcham CR4 3NB on the designated site, 8am – 8pm Monday and Sunday. **Ref: WK/201800794.**

If you wish to make representations to the Council regarding the designation of parts of the highway as licence streets or the issuing of street trading licences, you should write to the Council at **Licensing, London Borough of Merton, Civic Centre, London Road, Morden, Surrey, SM4 5DX** quoting the appropriate reference. Any representations made must clearly state the grounds and reach the Council before the 23<sup>rd</sup> May 2018. The Council will consider all representations received before a final decision is made as to whether to designate parts of the street as a licence streets and whether to issue licences for street trading.

Dated this the 26<sup>th</sup> April 2018

**APPENDIX B**

KFC 81-83 The Broadway Wimbledon



Side view showing depth of display



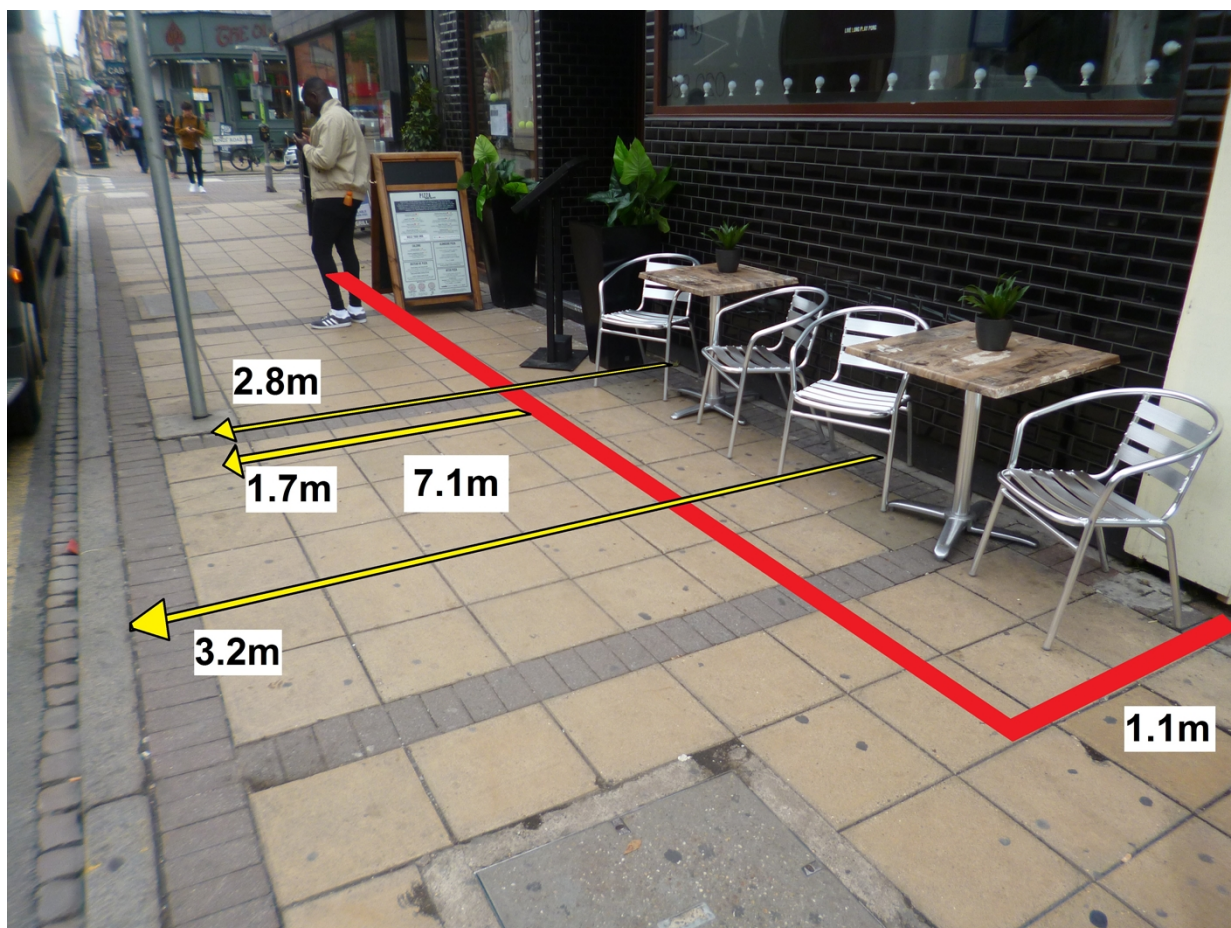
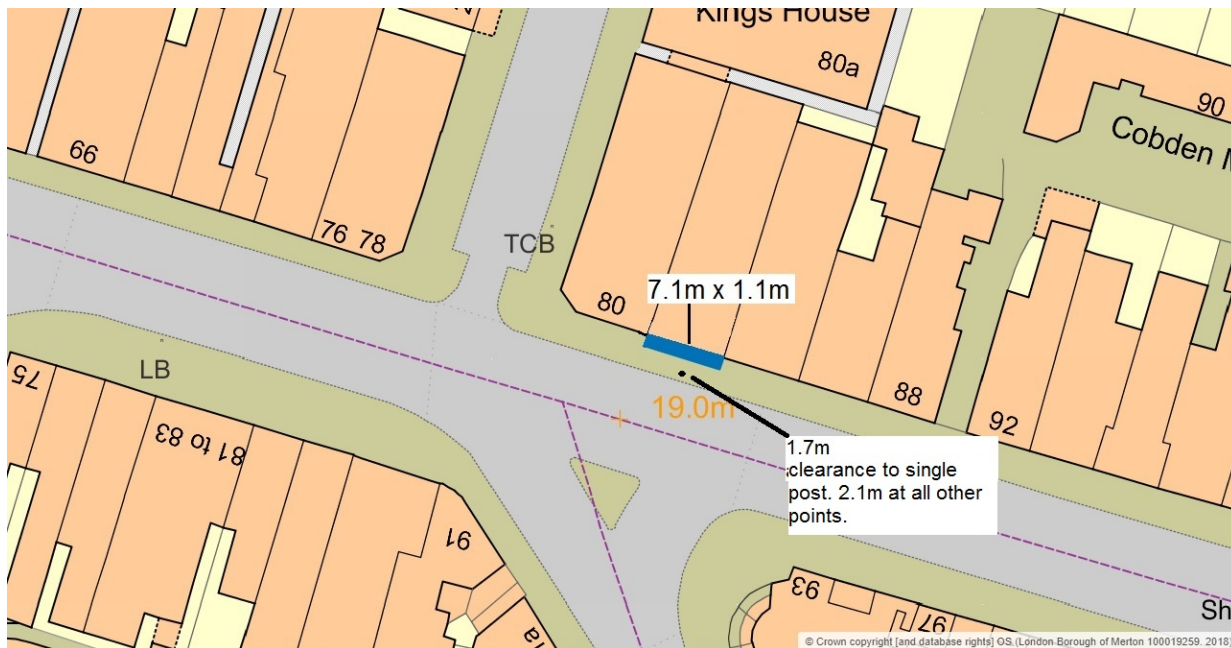




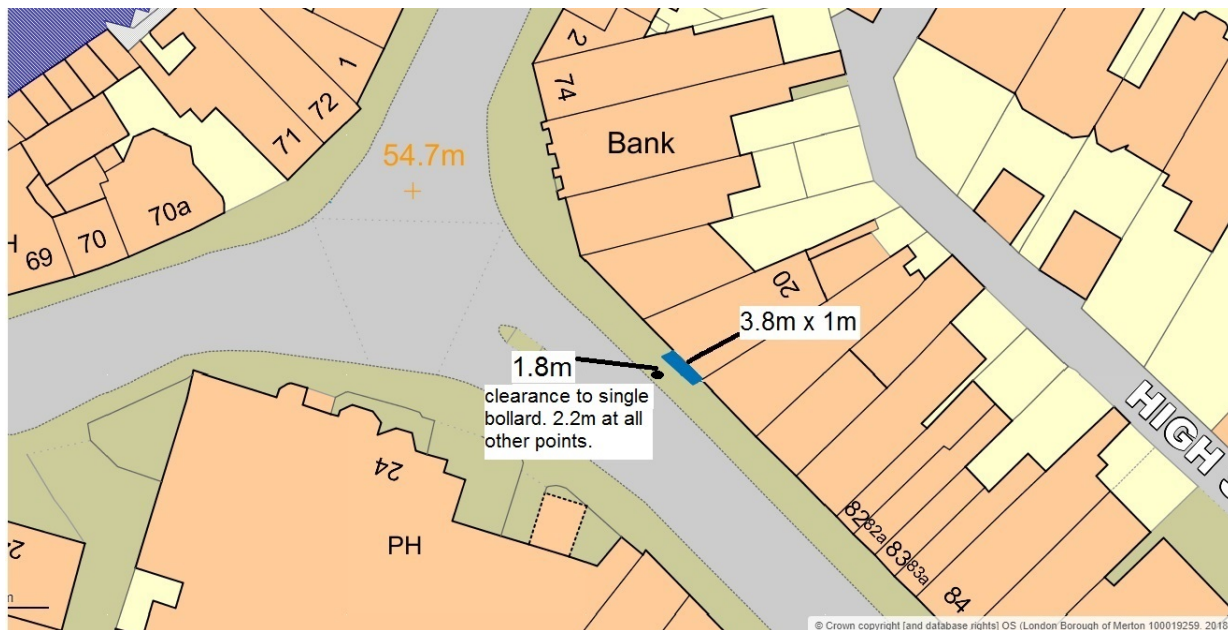
Current situation with mopeds in area.



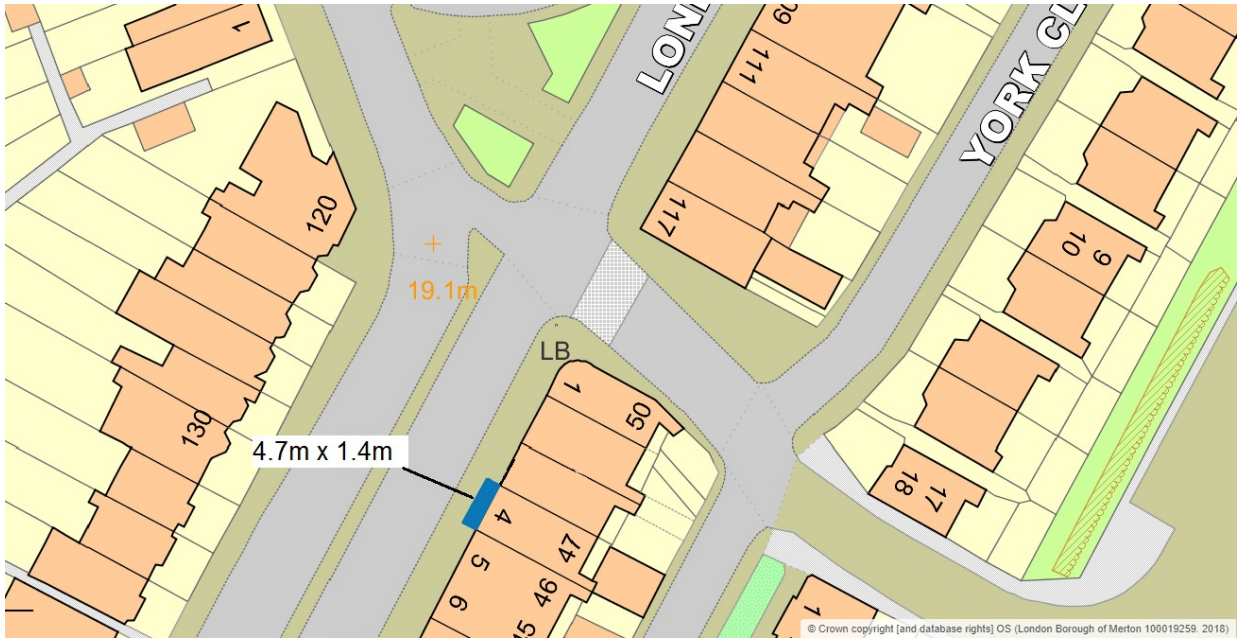
# Smash 82 The Broadway Wimbledon



# Joe and The Juice 78 High Street Wimbledon Village



Latif Halal Meat 4 Morden Court Parade Morden



Mitcham Eastfields



View from level crossing West along Eastfields Road



View East toward level crossing on Eastfields Road



## Appendix C

### REGULATIONS MADE BY THE LONDON BOROUGH OF MERTON PURSUANT TO SECTION 27(3) OF THE LONDON LOCAL AUTHORITIES ACT 1990 PRESCRIBING STANDARD CONDITIONS APPLICABLE TO STREET TRADING LICENCES.



#### DEFINITIONS

In the Regulations unless the context otherwise requires, the following expressions shall have the same meanings that appear in Section 21(1) of the London Local Authorities Act 1990 as amended.

**'Receptacle'** includes a vehicle or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adopted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service.

**'Street'** includes:-

- (a) any road or footway;
- (b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;
- (c) any part of such road, footway or area;
- (d) any part of any housing development provided or maintained by a Local Authority under Part II of the Housing Act 1985:

**'Street Trading'** means the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward.

**'Street Trading Licence'** means a Licence granted under the Act and valid for the period specified therein being not less than six months and not more than three years:

**'Temporary Licence'** means a Licence granted under the Act valid for a single day or for such period as may be specified in the Licence not exceeding six months.

#### THE FOLLOWING ARE THOSE DEFINED BY THE COUNCIL

**'The Act'** means the London Local Authorities Act 1990 Part III as amended.

**'The Council'** means the London Borough of Merton.

**'Advertisement'** means any word, letter, model, sign, placard, board, notice, whether illuminated or not, in the nature, and employed wholly or partly for the purposes of, advertisement, announcement or direction and includes any hoarding or similar structure or any balloon used, or adapted for use for the display of advertisements, and references to the display of advertisement shall be constructed accordingly.

**'Assistant'**

(a) means a person employed by, and acting under the directions of a Licence Holder to assist him/her about the business of the stall, whether for reward or not and includes a person directed solely or otherwise to transport the Licence Holder's stall.

(b) where a Licence is granted outside a catering establishment or shop premises; 'assistant' shall also include any other employee, manager, secretary, director, partner, supervisor or the like who may from time to time or full time be involved in the street trading activity including those engaged in the completion of a transaction within the premises.

**'Authorised Officer'** means any officer of the Council authorised in writing by the Council's Director of Environment and Regeneration to carry out any function under the Act or these Regulations acting within the terms of such authorisation.

**'Awning'** includes a sheet of canvas or other material, used as a protection against the weather, which projects as an extension of the roof beyond the structure of the stall and includes parasols provided to tables outside catering establishments.

**'Catering Establishment'** means any premises used for the retail sale of food or drink for consumption on the premises, where the Council has licensed a site for tables and chairs to be provided for customers' use on the street.

**'Child'** means a person under compulsory school leaving age as in the Education Act 1996 or successor and includes a baby/child of pre-school age.

**'Goods'** means any goods, wares, or merchandise displayed for sale at a stall or Licensed Site.

**'Harassment'** includes but is not limited to:-

- (a) Violence or threats of violence towards any person;
- (b) Abusive or insulting words or behaviour;
- (c) Damage or threats of damage to property belonging to another person;
- (d) Writing threatening, abusive or insulting graffiti;
- (e) Any act or omission calculated to interfere with the peace or comfort of any person or to inconvenience such person;
- (f) Refusal to serve or permit access to a stall, licensed site, premises or services.

**'Licence'** means a valid Street Trading Licence or a valid Temporary Licence.

**'Licence Holder'** means any person who is licensed for street trading under Part III of the London Local Authorities Act 1990 as amended.

**'Licensed Site'** means a place in any authorised street at which street trading may be engaged in by a Licence Holder, and includes any temporary alternative place approved by the Council or a duly authorised Officer of the Council.

**'Loading and Unloading'** includes stocking or replenishing goods at a Licensed site, vehicle or receptacle.

**'Refuse'** includes empty and discarded receptacles and any waste material.

**'Stall'** means the structure for which the Council grants a Licence for goods or services to be displayed thereon or from which services are provided.

**'Street Furniture'** includes seating facilities provided by the Council for public use, bollards, stanchions, railings, the walling of flower beds and any structure owned by a statutory undertaking or the like.



**'Undressing the Stall'** means removing goods and receptacles and any other things thereon in part or in whole or dismantling or adjusting any part of the stalls' structure.

**'Approved Street Festivals'** means those street festivals whereby the Council may issue temporary Street Trading Licences.

**'Displays Outside Shop Premises'** means where the Council has granted a Licence to display goods from a stall or licensed site on the footway immediately outside the shop premises.

**'Refreshment Stalls'** includes coffee stalls and those selling foodstuffs capable of immediate consumption.

**'Traditional Stalls'** includes those licensed to sell garments, hardware and raw foodstuffs.

## **GENERAL**

The grant of a Street Trading Licence shall not be deemed to give any approval or consent which may be needed under any Bye-law, enactment, or Regulation other than under the Act.

The stall, trade, business, activity etc. shall comply and be conducted in a manner that conforms with other relevant legislation enforced by the Local Authority or other Agencies. These include but are not limited to General Health and Safety, Food Safety, Trading Standards, Fire Prevention, and Highways Regulations.

## **INFORMATION**

(i) Headings inserted in these regulations are for the purpose of convenience only and shall not in any way affect the meaning or construction thereof.

(ii) Where in these conditions there is reference to the consent or agreement of the Council such consent or agreement may be given on such terms and conditions and subject to such restrictions as may be so specified.

(iii) These conditions may be dispensed with or modified by the Council in any individual case by means of a Licence Variation in accordance with the statutory requirements.

(iv) If a trader wishes any of the terms of a Licence to be varied or the Council's agreement under these rules, application must be made in writing to the Council in accordance with the statutory requirements.

(v) These regulations replace the regulations previously approved by the Council.

## **1. INSURANCE**

(a) The Licence Holder shall take out third party insurance cover with a minimum liability of at least two million pounds.

(b) In respect of Licences granted for the display of goods outside shop premises and tables and chairs outside catering establishments this may be incorporated in an insurance policy of the business.

(c) Satisfactory evidence of such insurance must be produced to the Council before a Licence will be granted or renewed.

(d) Evidence of such insurance shall also be produced by a Licence Holder on demand to an Authorised Officer of the Council or a Police Officer.

## **2. DAYS AND TIMES**

A Street Trader shall only engage in Street Trading on the days of the week and during the times specified in the Licence or otherwise authorised by the Council except that there shall be no trading on Christmas Day. Markets do not operate on Sundays and Public Holidays.

### **3. DISPLAY OF NAMES**

Licence Holders except in respect of displays of goods outside shop premises and tables and chairs outside catering establishments shall prominently display a sign with their surname or family name and licensed Site or Licence Number on the stall. Additionally they may exhibit a trading name or title.

### **4. CHARGES AND FEES**

(a) Charges for a Street Trading Licence shall be payable to the Council annually in advance. A Street trading licence will be valid for 12 months. Fees and charges will be set by the Council from time to time. In making any payment the Street Trader shall ensure that the appropriate invoice and account numbers are recorded.

(b) Charges for a Temporary Licence shall be payable each day in advance or for such periods as shall be specified in the Temporary Licence. An Authorised Officer shall decide the charges in accordance with the rates set by the Council from time to time.

(c) A Street Trader shall pay all charges for any Licence in force that has been issued at his request whether or not he engages in Street Trading.

(d) In accordance with Section 32(1) of the Act a fee shall be paid for the grant or renewal of a Street Trading Licence, but not a Temporary Licence, and for any variation of a Licence at the request of the Street Trader.

### **5. LICENCE AND INSPECTION OF LICENCE ETC.**

(a) Licence Holders shall produce their Licence for Inspection when requested to do so by an Authorised Officer of the Council or Police Officer.

(b) In respect of displays outside shop premises and catering establishments the Licence shall be exhibited within the premises in the safe vicinity of the entrance so that it can be seen by an Authorised Officer of the Council or Police Officer.

(c) Where the Council has issued a Certificate of Variation to a Licence that shall be produced and displayed with the Licence.

(d) All other Licence Holders in their absence shall ensure that the Licence is retained on the stall so that it can be produced by an assistant on demand to an Authorised Officer of the Council or Police Officer.

(d) If alcoholic beverages are consumed at a licensed site, the Licence Holder or Assistant shall produce on demand, where appropriate, licenses that are required by the Licensing Act 2003 to an Authorised Officer of the Council or Police Officer.

(e) Once issued to a Street Trader a Licence shall remain in force until the expiry date indicated therein or until revoked by the Council in accordance with the Act.

(f) Where, in accordance with Section 26 of the Act, the holder of a Street Trading Licence has nominated a relative as his successor and that holder dies then the nominated successor may continue to engage in Street Trading within the terms of that Licence for a maximum period of 28 days provided that successor pays any charges due.

(g) On the death or retirement through age or ill health of a Licence holder, the Council may issue a Licence to a nominated relative to trade from the Licensed Pitch shown in that Licence in accordance with Section 26 of the Act. For the purposes of Section 26 of the Act a person shall be treated as being related to another if the latter is the wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half daughter of the former and shall be deemed to be so related notwithstanding that he is so related only through illegitimacy or in consequence of an adoption.

### **6. POSITION**

(a) The Licence Holder shall only use the licensed site prescribed in the Licence (which may be marked or denoted on the ground by means of white lines, contrasting paving or other device by the Council) unless the circumstances under 6(e) shall arise.

- (b) The Licence Holder shall not cause or permit stalls, goods, receptacles; (except refuse containers under Regulation 16c) to project whether grounded or suspended beyond the licensed site or to be placed or to stand anywhere else in the street.
- (c) In respect of catering establishments, tables and chairs shall not be placed or used outside of the site defined in the Licence. This may be denoted by the Council marking the boundary by White Lines or other means.
- (d) The Licence Holder or Assistant shall inspect the licensed site whilst in use at least every hour to ensure that tables and chairs are not outside of the licensed area.
- (e) If the licensed site is obstructed by roadworks or other hazard the Licence Holder may consult an Authorised Officer of the Council or failing that a Police Officer in uniform and produce their Licence. Temporary trading elsewhere whilst the obstruction persists shall be at the discretion of the Officer consulted. The name of the Council Officer or the number of the Police Officer must be noted by the Licence Holder.

## **7. SIZE**

- (a) The Licence Holder shall not place or cause to be placed on the street, a stall that exceeds the dimensions prescribed in the Street Trading Licence.
- (b) Stalls shall not exceed the dimensions unless prescribed in the Street Trading Licence.
- (c) Market stalls shall not exceed 3 metres by 3 metres (10 feet by 10 feet) or other dimension as specified in the Street Trading Licence.
- (d) The dimensions of all stalls prescribed in Licences shall include any towing bar or bracket or the like that remains projecting from the stall whilst trading is being conducted.
- (e) Displays outside shop premises shall not exceed the size prescribed in the Street Trading Licence. The Council will take into account any private forecourt and the available depth of footway.
- (f) In respect of catering establishments the number of tables and chairs on the street shall not exceed the numbers prescribed in the Licence.
- (g) The sizes of tables and chairs and parasols shall not exceed those prescribed in the Licence.

## **8. PERMITTED GOODS AND SERVICES**

- (a) Only those goods or services specified in the Licence may be displayed, used, provided or offered for sale.
- (b) In respect of displays outside shop premises, cash registers, scales and other measuring devices shall be contained within the shop and not brought onto the street, licensed site or the stall.
- (c) No advertisement shall be displayed on a stall or licensed site which relates to any goods or services other than those offered for sale or provided on the stall or licensed site.
- (d) A Street Trader shall not cause or permit a nuisance to be created by noise or smell emitted from the Licensed Pitch or type of display.

## **9. DEALING WITH THE PUBLIC**

- (a) Licence Holders and their assistant shall ensure that the public are treated fairly and with courtesy.
- (b) Licence Holders are responsible to ensure that assistants are competent, courteous and helpful.
- (c) Admission or service shall not be refused to any person on the grounds of gender, race, ethnic origin or the grounds of sexual orientation.
- (d) The Licence Holder shall not use or permit any activity, omissions or practice in the conduct of the business that will cause harassment to any person on the grounds of their disability, skin colour, religion, gender, age, sexual orientation and so on.
- (e) The serving of customers shall not take place in the road.

- (f) A Licence Holder or assistant offering a service shall make clear the nature and cost of that service by way of a notice on the stall or within the licensed area.
- (g) All goods shall be clearly marked with a price, and where appropriate an indication of the unit quantity in which they are being offered for supply.
- (h) Where the licensed site is in the road or adjacent, scales and cash registers shall be placed on the stall at the furthest point from passing vehicular traffic.
- (i) The customer should clearly be able to view the goods being weighed, measured etc. before they confirm their intention to purchase.
- (j) In respect of goods selected by customers from displays outside shops the requirement in Regulation 8(i) shall be carried out within the shop premises.
- (k) A Licence Holder or assistant shall not use a megaphone or amplification equipment or a loud voice to shout out the price of goods etc. in order to attract customers.
- (l) Radios or other audio equipment shall not be used in or around the licensed site other than by written agreement of the Council.

## **10. RECEPTACLES & CONSTRUCTION OF STALL**

- (a) Only those receptacles approved by the Council shall be used by the Licence Holder and assistants. Stalls shall not be formed by the use of old milk crates and the like and other receptacles notified to the Licence Holder by letter.
- (b) Goods must not be placed directly on the street unless specified in the Licence.
- (c) Where the Council has licensed the display of bulky furniture or the like outside shop premises on the street a suitable trolley to remove the goods shall be maintained within the shop.
- (d) Stalls shall be constructed so as not to become unbalanced or otherwise unstable.
- (e) Stalls shall be maintained in good order and free from protruding nails or other hazards likely to cause injury or damage to a person or their clothing.
- (f) No stall, part of the stall, accessory, table or chair shall be used if it is likely to damage the street.
- (g) A Licence Holder or assistant shall not bolt or otherwise secure temporarily or permanently anything to the street or street furniture.
- (h) Sites licensed for the displays of goods outside shop premises shall not incorporate any form of seating facility, nor may any seating be used or provided by the Licence Holder or assistant immediately outside the licensed site or elsewhere in the street other than on a private forecourt associated with the business.
- (i) Other Licence Holders shall not provide or use any form of seating facility outside of the licensed site (other than street furniture provided by the Council for public use) unless they have the written consent of the Council. Such permission may restrict their use to the Licence Holder and assistants and prescribe the number of seats, their construction, size and positioning together with other conditions.

## **11. ROOFING OF STALLS ETC.**

- (a) The distance between ground level and any support of the roof, awning or supports of the stall or goods suspended from any of these, shall be at least 2.4m unless otherwise specified in the Licence.
- (b) A Licensed Street Trader shall not permit the awning or roof of the stall to project outside the area of the pitch, save as provided in Regulation 11(c).
- (c) The awning or roof of a stall may project over the footway for a distance not exceeding 0.6 metres from the boundary of the pitch unless otherwise specified or restricted by a further condition of the Licence.
- (d) The roof or awning shall be safely constructed and must not shed water over customers or passers by.

(e) No awning other than a parasol may be used as part of a stall for displays outside catering establishments.

(f) A Street Trader, or his Assistant, shall immediately remove any Awning on the instruction of an Authorised Officer or a police constable and shall, in any case, remove any Awning outside the permitted hours for Street Trading.

## **12. ELECTRICITY SUPPLY ETC.**

(a) The only connection between stalls in the street and other premises shall be for the purposes of electric lighting and power for the operation of electronic scales, measuring equipment and cash registers and the testing of electrical goods or other agreed services; and any such electrical or other connections shall be readily detachable and the detailed arrangements agreed with the Council. No connection shall be made with any other stall.

(b) Where the Council provides an electrical supply system to the stall, the trader shall pay to the Council upon demand the installation costs and for the supply and maintenance of the service and equipment.

(c) All electric power supplies shall have the appropriate consent from the Council before seeking installation from the Electricity Board.

(d) All electrical wiring and components shall comply with the basic Electricity Board Specification and be earthed and insulated accordingly.

(e) All electrical cables that are suspended over the public footway shall have a minimum clearance of 2.4 metres from the footway surface, and 5.1 metres from the surface of the roadway.

(f) Any suspended lighting shall be safely protected and shall not expose the public, Licence Holder or assistants to any form of risk.

(g) In respect of displays outside shop premises and catering establishments, mains electrical power may be supplied from the permanent premises to the trading area providing that all equipment and wiring shall be placed, installed, maintained and operated in accordance with the provisions of the Health and Safety at Work, etc. Act 1974 and all other relevant Regulations.

(h) In all such cases an automatic circuit breaker must be installed within the premises between the point of supply and the equipment in the trading area.

## **13. GENERATORS**

(a) Electrical generators shall not be used at displays outside shop premises and catering establishments.

(b) When mobile electrical generators are permitted they shall be so positioned that:-

(i) they do not present a danger to the public, and

(ii) they do not present a fire or similar hazard risk to the stall or goods displayed thereon, or to persons engaged on or about the stall, and

(iii) they do not cause any noise or fume nuisance, and

(iv) any inflammable fuel is stored away from the stall in a container and position approved by the Council.

(c) Heat producing equipment shall be so placed within the licensed site as to offer maximum safety to the public. The position of any equipment in relation to other goods and materials shall be agreed with the Council in writing.

## **14. LOADING AND UNLOADING**

(a) Any cart, barrow, trolley or similar conveyance owned or hired by the Licence Holder or assistant shall not be used except for the purpose of loading, unloading and transporting goods.

(b) Loading and unloading shall be restricted to twenty minutes and resumption shall not occur until a further hour has elapsed.

- (c) Loading and unloading must not be continually interrupted by the serving of a customer.
- (d) The cart, barrow or trolley or similar conveyance used for replenishing or moving goods shall be stored on the Licence Holder's vehicle or at the storage facilities or in respect of displays outside shop premises within the shop premises and not on the street.
- (e) Loading or unloading shall be abandoned for any duration ordered by an Authorised Officer of the Council or Police Officer if in their opinion the activity obstructs pedestrian flow or causes any other form of obstruction or nuisance.
- (f) The Licensed Street Trader or his assistant shall not use a vehicle for loading or unloading at or near the licensed site unless it can lawfully be there.
- (g) Licence Holders or assistants shall replenish displays outside shop premises from stocks held within the shop premises and not directly from any vehicle.
- (h) A Street Trader, or his Assistant, shall ensure that there is no undue obstruction of vehicular or pedestrian traffic whilst re-stocking the Licensed Pitch or loading and unloading Goods or other articles used for or in the course of Street Trading. When, in the opinion of an Authorised Officer or a police constable, there is likely to be undue obstruction of vehicular or pedestrian traffic the Street Trader, or his Assistant, shall immediately cease re-stocking, loading or unloading and within 15 minutes clear any Goods or other articles used for or in the course of Street Trading or for re-stocking, loading or unloading from any position in the Street other than within the Licensed Pitch.
- (i) A Street Trader, or his Assistant, shall not place, keep or use a vehicle at or near his Licensed Pitch in contravention of any legal parking or loading restrictions nor shall a Street Trader, or his Assistant, place, keep or use a vehicle at or near his Licensed Pitch which does not display a current disc showing that any road tax, or similar, has been paid.

#### **15. REMOVAL OF STALLS ETC.**

- (a) Licence Holders and their assistants shall remove stalls, goods, tables and chairs and anything else under their control as directed for so long as may be necessary.
  - (i) In the event of an emergency and this shall include any public demonstration, congregation or disorder in the area, whether or not instructed by an Authorised Officer of the Council or Police Officer;
  - (ii) In the exercise of the Council's powers and duties which include the maintenance of the licensed site, to enable its re-marking and to check whether the stall is capable of being removed in accordance with these Regulations and
  - (iii) To enable statutory undertakings to maintain their services;
  - (iv) In order to accommodate customers confined to wheelchairs outside catering establishments the Licence Holder or assistants shall remove any surplus chairs, for the time being, to the place of storage
- (b) Stalls, goods, tables and chairs etc. shall be removed from the public highway to the place of storage, as stated on the application form, or such other alternative place subsequently agreed by the Council in writing, within 30 minutes of the time prescribed on the Licence for the end of trading on that day.
- (c) A Licence Holder electing to cease trading before the time denoted in the Licence shall remove the stall, goods, tables and chairs at that time to the place of storage.
- (d) A Licence Holder in respect of shop premises shall remove the stall(s) and goods on the cessation of trading and before closing the shop premises.
- (e) Where at an approved Street Festival the stall is hired or provided by the organiser or the agent, the Licence Holder shall be responsible for its erection, suitability, stability, dismantling and safe and prompt removal.
- (f) A Licence Holder upon production of Proof of Ownership may claim from the Council within 14 days of it coming into the Council's possession and without penalty (providing that it is not otherwise this subject of Legal Proceedings or a Seizure Order) anything that:-

- (i) not being within a licensed site was removed by an Officer of the Council because in their opinion it was a hazard or the like to the public;
- (ii) otherwise came into the Council possession and was identified as possibly being associated with the activity of Street Trading.

#### **16. PROVISION OF STALL BY THE COUNCIL**

- (a) The Licence Holder shall use any stall provided by the Council.
- (b) Where the Council provides, (lends, hires or lets) the stall, the Licence Holder shall be responsible for its care and safe custody and must not willfully or otherwise cause to it any damage.
- (c) The stall must either be on the licensed site, in the storage unit or in the course of being transported to and fro. It shall not be used for street trading or any other purpose elsewhere.
- (d) The stall when not in use shall be placed within the storage unit provided by the Council.
- (e) The Licence Holder shall secure the unit by the use of padlocks or other locking devices approved by the Council.
- (f) The Licence Holder shall keep the storage unit free from accumulations of refuse.
- (g) The Licence Holder shall make the storage unit available for inspection by an Authorised Officer of the Council and to enable its general maintenance.

#### **17. REFUSE**

- (a) In respect of traditional sites the Licence Holder and assistants shall ensure that all refuse arising as a result of the activities shall be placed in suitable covered containers provided by the Licence Holder exclusively for that purpose.
- (b) Such refuse containers shall be kept as clean as is reasonably practicable.
- (c) Refuse containers shall be sited in a location agreed with the Council. They shall be emptied whenever necessary into any vehicle, container, compactor, or place provided by the Council for that purpose.
- (d) Licence Holders and their assistants, in respect of footway displays outside shop premises and catering establishments shall ensure that any refuse arising from the external activities is properly stored and disposed of as part of the shop business.
- (e) No refuse shall be allowed to accumulate or be placed in the street.
- (f) No vehicle shall be used for the storage of such refuse.
- (g) The Licence Holder shall produce on demand to an Authorised Officer of the Council, proof of a contract for the disposal of trade refuse.
- (h) In respect of catering establishments the Licence holder shall also remove from tables any used and discarded receptacles.

#### **18. ATTENDANCE BY LICENCE HOLDER**

- (a) Traditional Licence Holders must be in attendance throughout the whole or part of the day that the stall is set up for trading unless engaged on the following:-
  - (i) A meal break or visit to the toilet.
  - (ii) Sickness of short duration.
  - (iii) Hospital, dental or doctor's appointment.
  - (iv) Occasional attendance at the office of an accountant, tax inspector, bank or Council cash office.
  - (v) On holiday.
  - (vi) Or for any other sufficient reason that may be approved by the Council from time to time.
- (b) In respect of displays outside shops and catering establishments the Licence Holders usual place of work shall be within the premises.

- (c) At approved Street Festivals the Licence Holder shall be in attendance at the stall throughout the event save that prescribed in 18(a)(i).
- (d) No Licence Holder shall sub-let the stall or any part of the stall or the licensed site, or install a manager to operate the Licence.
- (e) A Licence Holder if required by an Authorised Officer and/or Solicitor to the Council shall furnish the Council with a Medical Certificate obtained at the Licence Holders own expense or other documentary evidence to support the reasons for any continual or repetitive absences.

#### **19. NAMES OF ASSISTANTS AND RESTRICTION OF EMPLOYMENT ETC.**

- (a) The Licence Holder shall notify the Council of the names of any assistants within seven days of their commencement. This shall be by letter or on a form prescribed by the Council.
- (b) The Licence Holder shall give any other information regarding assistants as required by the Council.
- (c) A Licence Holder shall not have as an assistant any child in the business of street trading including the putting out or stocking of receptacles, clearance of refuse, attending a stall or any related activity.
- (d) A Licence Holder and assistant shall not bring or have care and control of a child whilst the business is being set up, operated or dismantled.
- (e) The failure of an Assistant to comply with the conditions of the Street Trading Licence held by the employer shall be deemed to be a failure by the Licence Holder.

#### **20. ADMINISTRATION**

- (a) Licence Holders and assistants must give every reasonable assistance to Council Officers and their contractors in carrying out their duties.
- (b) A Licence shall cease to have effect (*other than being revoked or having expired or on the death of the trader*) only upon it being surrendered by the Licence Holder in exchange for a written receipt at the Council's Offices.
- (c) A Licence Holder making application for the renewal of a Licence shall bring the completed application form and prescribed fee to the Council Officer by appointment. The three photographs prescribed in the Act if not already forwarded by the Licence Holder shall be handed to the Officer at this time.
- (d) A Licence Holder having appeared before a committee of the Council where, although there were sufficient grounds to revoke the Licence it was decided to deal with the matter by way of a Warning Letter shall acknowledge receipt of the Warning Letter by signing and dating and returning one copy of the letter to the Council in the envelope provided within 21 days of its receipt.
- (e) Licence Holders shall notify the Council in writing of any change of their title, name or home address as soon as it occurs.
- (f) The sending of letters and Notices from the Council by the General Postal Service to the last notified address by the Licence Holder shall be taken by the Council as proper and good service of documents.
- (g) All notifications (*excluding payments of weekly/monthly charges*) given by the Licence Holder to the Council shall be to the Council's address as it appears on the Licence or that subsequently amended and notified in writing to the Licence Holder.



## **Appendix D**

### **London Local Authorities Act 1990 Section 24**

#### **Designation of licence streets**

24 (1) If a borough council consider that street trading should be licensed in their area they may from time to time pass any of the following resolutions:—

- (a) a resolution (in this Part of this Act referred to as a “designating resolution”) designating any street within the borough as a “licence street”;
- (b) a resolution specifying in relation to any such street or any part of a street any class or classes of articles, things or services which they will, or other than which they will not, prescribe in any street trading licence granted by them in respect of that street; and may from time to time by subsequent resolution rescind or vary any such resolution:

Provided that a borough council shall—

- (a) before passing a designating resolution, consult with the Commissioner of Police of the Metropolis on their proposal; and
- (b) before rescinding or varying a designating resolution, consult with the licence holders trading in the street in question, or a body or bodies representative of them, on their proposal.

(2) At the appointed day for the purposes of this Part of this Act in a borough, the streets prescribed by any licences granted by the council of the borough in pursuance of powers contained in any of the enactments referred to in column (2) of Schedule 2 to this Act and then in force shall be deemed to have been designated as licence streets under a designating resolution.

(3) If a borough council pass a designating resolution the designation of the street shall take effect on the day specified in the resolution (which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed).

(4) A borough council shall not pass a resolution or rescind or vary a resolution under this section unless—

- (a) they have published notice of their intention to do so in a local newspaper circulating in their area;
- (b) they have served a copy of the notice on the highway authority for that street (unless they are that highway authority); and
- (c) where subsection (5) below applies, they have obtained the necessary consent.

(5) This subsection applies—

- (a) where the resolution relates to a street which is owned or maintainable by a relevant corporation; and
- (b) where the resolution designates as a licence street any street maintained by a highway authority; and in subsection (4) above “necessary consent” means—
  - (i) in the case mentioned in paragraph (a) above, the consent of the relevant corporation; and

(ii) in the case mentioned in paragraph (b) above, the consent of the highway authority.

(6) The following are relevant corporations for the purposes of this section:—

(a) British Railways Board;

(b) London Regional Transport;

\* \* \* \* \*

(d) Network Rail Infrastructure Limited; and

(e) Transport for London.

(7) The notice referred to in subsection (4) above shall—

(a) contain a draft of the resolution to which it relates; and

(b) state that representations relating to it may be made in writing to the borough council within such period, not less than 28 days after the publication of the notice, as may be specified in the notice.

(8) As soon as practicable after the expiry of the period specified under subsection (7) above, the borough council shall consider any representations relating to the proposed resolution which they have received before the expiry of that period.

(9) After the borough council have considered those representations, they may if they think fit, pass such a resolution relating to the street as is mentioned in subsection (1) above.

(10) The borough council shall publish notice of the passing of such a resolution in a local newspaper circulating in their area on two consecutive weeks.

(11) The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

## Appendix E

### LONDON BOROUGH OF MERTON LONDON LOCAL AUTHORITIES ACT 1990 PART III (as amended) (STREET TRADING)

NOTICE IS HEREBY GIVEN UNDER SECTION 32 OF THE ABOVE NAMED ACT OF  
THE STREET TRADING LICENCE FEES FOR THE FORTHCOMING YEAR  
VALID FROM 1<sup>ST</sup> April 2018 – 31<sup>ST</sup> March 2019

Unless otherwise stated all fees are for a period of 1 year.

#### Administrative Fees

Street Trading Licence Application Fee	£103
Licence Street Designation & Street Trading Licence App. Fee	£206
Renewal Licence Processing Fee	£31
Variation of existing Licence or Registration	£77
Market Trader Registration Fee	£31

#### Forecourt or Tables & Chairs Licence

Up to 1 sq m	£108
Over 1 sq m up to 6 sq m	£638
Over 6 sq m up to 12 sq m	£941
Over 12 sq m up to 18 sq m	£1,245
Over 18 sq m	£1,822

Temporary Monthly Licence for Forecourt, and Tables & Chairs where a full application is being processed.

Up to 1 sq m	£9
Over 1 sq m up to 6 sq m	£53
Over 6 sq m up to 12 sq m	£78
Over 12 sq m up to 18 sq m	£104
Over 18 sq m	£152

**Remote Pitch** (catering van, individual stall etc.) £1,429

#### Market Fees (Temporary Licence per pitch per trading day)

Regular Market	£12
Regular Market food stalls	£15
Casual Market	£21
Casual Market food stalls	£26

#### Specialist Market Fee

(min. ten stalls/pitches for up to 4 days or part thereof)

£530

#### Other Temporary Licences

Daily	£55
Weekly	£276
Monthly	£1104

## Appendix F

### Representations

Representation received after the publication of the consultation notice in the local Guardian newspaper, relating to both designations and licence applications, as shown in Appendix A:

From: Leigh Terrafranca [<mailto:wehraplanning@aol.com>]

Sent: 24 April 2018 20:49

To: Licensing; Licensing

Cc: Councillor David Williams;

Subject: Nine Street Trading Licences, including WK/201712445: St Mark's Place Flower Van

Dear Licensing Officer,

We have seen the list of nine street trading licences being proposed, and wish to reply in general about all the applications, and specifically about WK/20172445 for a new Flower Van in St Mark's Place, SW19.

Eight of the applications are for more street food vendors in Wimbledon. Wimbledon has around 150 licensed premises in the area, and we see no need for another tranche of 'street food' vans on vacant corners of our neighbourhood. It is concerning that even more vendors are being sought, when so few have provided a positive contribution to the commercial offering. Is there any experience or understanding of basic marketing principles at the Council?

Virtually every previous stall has come and gone, despite their hopes of making a great addition to the food offering here. When speaking to former stall holders in St Mark's Place they complain there are too many places to eat in Wimbledon; not just a huge variety; also too many of similar price. When you allow another eight food vendors into Wimbledon, you are not bringing in any more footfall, you are simply DECREASING the economic prosperity of all the existing food/drink businesses ... those who are paying rent, rates, utilities and staff. With more and more licences, you are impoverishing all the existing food businesses.

Wimbledon is an upmarket community, with a good number of 'budget' food places, but generally there are QUALITY offerings. Wimbledon people do not view street or junk food as a mainstay of one's diet. We don't want more cheap food vendors, and you do a disservice to residents and visitors by bringing in small vans, serving (at times) dubious meat and cheap sandwiches, trying to make fast money off Brand Wimbledon. Without quality, they will fail, as so many others have before.

Who is checking where their meat is sourced from? Who is checking if the correct temperatures are kept for storage of meat and other ingredients? Who will pay for the rubbish left behind? In St Mark's Place with the former Sausage Man and Van, we regularly had streams of oil stains on the pavers. He stored his paper products and styrofoam outside his van for all to see, his extractor fan was useless and we could smell his fat/oil inside the Church, and he was known to have served 'old meat' (you could taste that it was going off). By inviting in random 'street vendors' without a formal programme of scrutiny, you are just asking for more work than it is worth. Local people have to pick up the rubbish - styrofoam chip boxes were found all over the area, usually in the gutter with chips being eaten by pigeons. Is this your idea of a great Future Wimbledon?!

Regarding the proposal WK/201712445: Flower Van in St Mark's Place: The fruit man has been there since the 1950's. We love having someone selling fresh fruit and veg in the neighbourhood. With thousands of school children and infants, we often see young families selecting the fruits/veg they like, they are learning about fruit and ingredients, and they have a kind and loving vendor who knows

nearly everybody in the area. They always have a kind word or smile, especially for older residents who may be lonely or out in need of a bit of exercise - and then a rest - when they are often seen chatting to the fruit man. They sell flowers and plants. In spring he may have primrose or hyacinth and daffs, and in summer some small colourful indoor plants. He has been doing this for over 20 years.

If you allow another vendor in the Mews, you are knowingly making it more difficult for the existing vendor to turn a profit. Is that your intention? That is the likely impact of a decision to approve a directly competitive business alongside the Fruit Stall. We therefore urge you to REFUSE PERMISSION and ask them to locate elsewhere.

Finally, we would be grateful if you would confirm receipt of this email. We would also like to see the report on this consultation and the decision being recommended to Cabinet. Thank you for your consideration of our views.

Yours sincerely,  
Leigh Terrafranca, on behalf of Wimbledon E Hillside Residents' Assn (WEHRA) C/o Woodside, SW19

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**Committee:** Licensing Committee

**Date:** 12 June 2018

**Wards:** All.

**Subject:** Update of the Council's Statement of Principles under the Gambling Act 2005.

**Lead officer:** Chris Lee, Director of Environment and Regeneration.

**Lead member:** Councillor Nick Draper, Cabinet Member for Community and Culture.

**Forward Plan reference number:** N/A

**Contact Officer:** Barry Croft, Licensing Manager, London Boroughs of Merton and Richmond upon Thames Joint Regulatory Services Partnership and Guy Bishop Acting Assistant Head of Law – Litigation & Licensing Litigation, Housing & Planning Team

**Recommendations:**

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- A. The Licensing Committee to approve the recommended amendments to the revised Statement of Principles under the Gambling Act 2005 (Gambling Policy) before the start of the public consultation processes.
- 

**1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 There is a statutory requirement under section 349 of the Gambling Act 2005 for the Council, as the Licensing Authority, to review and republish its Statement of Principles under the Gambling Act 2005 every three years.

**2. DETAILS.**

- 2.1 There is a statutory requirement under section 349 of the Gambling Act 2005 for the Council, as the Licensing Authority, to review its Statement of Principles under the every three years. The Council's current Statement of Principles under the Gambling Act 2005 will expire on **31 January 2019**.
- 2.2 In this update proposed changes have been made to include current legislation and Gambling Commission guidance updates, and to start the twelve week public consultation process on **Monday 25 June 2018** and finish on **Monday 17 September 2018**.
- 2.3 As part of the work already undertaken legal and licensing amendments arising from legislative changes have been made to the draft Statement of Principles under the Gambling Act 2005, which is attached at **appendix "A"**. The draft document contains track changes for members to consider and approve before the start of the public consultation processes.
- 2.4 The Licensing Authority does not propose to distribute paper copies of the draft Statement of Principles under the Gambling Act 2005, but it will be available in electronic format on the Council's website.

2.5 The following Responsible Authorities, various organisations and individuals will be written to notifying them of the draft revised Statement of Principles and the consultation processes. Details of those to be contacted are as follows:

- The local Chief Officer for the Metropolitan Police;
- The London Fire and Emergency Planning Authority;
- The local Planning Authority;
- The Director of Public Health;
- The local Children’s Safe Guarding Board;
- The Manager of the local Environmental Health Team;
- The Manager of the local Trading Standards Team;
- Safer Merton;
- The British Transport Police;
- All local Ward Councillors;
- Local area forums;
- The Musician’s Union and Equity;
- Persons/bodies representing local holders of premises licenses;
- Persons/bodies representing local holder of club premises certificates;
- Persons/bodies representing local businesses; and
- Local residents associations.

2.6 Electronic submissions of responses to the consultation for the revised Statement of Principles under the Gambling Act 2005 will be encouraged. This will ensure the process is cost efficient, and it should save time for local residents, businesses, responsible authorities and any person wishing to make comment of the proposed changes.

2.7 Following the end of the public consultation period, which it is proposed will end at midnight on **Monday 17 September 2018**; officers of the Licensing Authority will collate comments received. Details of the comments received and any suggested changes to the draft Statement of Principles under the Gambling Act 2005 will be made available to members for open discussion at a meeting before the Licensing Committee on **Wednesday 10 October 2018**.

2.8 Following this meeting, if Committee members agree to the proposed amendments to the draft Statement of Principles under the Gambling Act 2005, the Licensing Committee shall recommend adoption by Full Council. It is proposed to take the final draft of the Statement of Principles under the Gambling Act 2005 to a Full Council meeting scheduled to take place on **Wednesday 21 November 2018** for formal adoption.

### 3. **Alternative options.**

3.1 None for the purposes of this report.



- 4. Consultation undertaken or proposed.**
- 4.1 A twelve week (three month) public consultation to be undertaken on the proposed revisions the revised Statement of Principles under the Gambling Act 2005.
- 5. Timetable.**
- 5.1 Public consultation for the revised Statement of Principles under the Gambling Act 2005 to start on **Monday 25 June 2018** for a twelve week period and to finish on **Monday 17 September 2018**.
- 5.2 Comments received during the public consultation period and the final draft of the Statement of Principles under the Gambling Act 2005 to be submitted before the Licensing Committee on **Wednesday 10 October 2018**.
- 5.3 Statement of Principles under the Gambling Act 2005 to go to Full Council meeting for adoption on **Wednesday 21 November 2018**.
- 6. Financial, resource and property implications.**
- 6.1 None for the purposes of this report.
- 7. Legal and statutory implications.**
- 7.1 None for the purposes of this report.
- 8. Human rights, equalities and community cohesion implications.**
- 8.1 These are statutory functions and are applied globally.
- 9. Crime and Disorder Implications.**
- 9.1 The service has a statutory duty to contribute to the reduction of crime and disorder within the London Borough of Merton under Section 17 Crime and Disorder Act 1988.
- 10. Risk management and health and safety implications.**
- 10.1 All risk and health and safety implications have been considered when compiling this report. None are apparent.
- 11. Appendices – the following documents are to be published with this report and form part of the report.**
- 11.1 Appendix “A” Draft revised Statement of Principles under the Gambling Act 2005 showing proposed changes using track changes.
- 12. Background Papers – the following documents have been relied on in drawing up this report but do not form part of the report.**
- 12.1 The Gambling Act 2005; and
- 12.2 Gambling Commission Guidance to Local Authorities 5<sup>th</sup> Edition dated September 2015/16.

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**London Borough of Merton**

**STATEMENT OF PRINCIPLES  
under the Gambling Act 2005**

**From January ~~2016-2019~~ to January  
~~2019~~2022**

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## 1 STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

### 1.1 Introduction

London Borough of Merton is the Licensing Authority under the Gambling Act 2005 and is responsible for granting premises licences in the Borough in respect of: -

- ❖ Casino premises;
- ❖ Bingo premises;
- ❖ Betting premises, including tracks;
- ❖ Adult Gaming Centres;
- ❖ Family Entertainment Centres;
- ❖ Club Gaming Permits;
- ❖ Club Machine Permits;
- ❖ Small Lotteries;
- ❖ Temporary Use Notices;
- ❖ Occasional Use Notices; and
- ❖ Alcohol licensed premises permits and notifications.

The Gambling Act 2005 requires the Licensing Authority to prepare and publish a “Statement of Licensing Policy” that sets out the policies that the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

This “Statement of Licensing Policy” has been adopted having regard to the provisions of the revised Guidance issued by the Gambling Commission, responses from consultees and the licensing objectives of the Gambling Act 2005.

The formal Statement of Licensing Policy is available on Merton’s website at [www.merton.gov.uk/licensing/Gambling](http://www.merton.gov.uk/licensing/Gambling)

This policy came into effect on 31 January 2016 and has been reviewed in accordance with statute. The Policy will be reviewed as necessary, and at least every three years from the date of its adoption.

A consultation on this policy took place between 22 June and 14 September 2015.

**Comment [BC1]:** Date to be updated when known.

The London Borough of Merton will aim to permit the use of premises for gambling as set out in the Act.

### 1.2 The London Borough of Merton

The London Borough of Merton is one of the metropolitan boroughs located in South West London and is predominantly urban in character. The Borough is composed principally of five town centres rather than a single, dominant centre and these form the basis of the Council’s community focus. The town centres are Wimbledon, Raynes Park, Mitcham, Colliers Wood and Morden.

At the last count the population of the borough was just under 203,200. As far as the economy is concerned, Merton is still heavily reliant on leisure and service industries, which form almost 60% of total employment within the borough.

**Comment [BC2]:** Check figure

Merton is also densely populated. In contrast, the Borough has one of the highest proportions of parks and open spaces within the London area, some one third of them being green field sites.

### 1.3 Glossary of Terms

Within this Statement of Policy, the following words and terms are defined as stated:

Licensing Objectives:	<b>As defined in section 1.6 below</b>
Licensing Authority:	<b>London Borough Of Merton</b>
Licences:	<b>As stated in section 1.5 below</b>
Applications:	<b>Applications for licences and permits as defined in section 1.5 &amp; 1.6 below</b>
Notifications:	<b>Means notification of temporary and occasional use notices</b>
Act:	<b>The Gambling Act 2005 (as amended)</b>
Regulations:	<b>Regulations made under the Gambling Act 2005</b>
Premises:	<b>Any place, including a vehicle, vessel or moveable structure</b>
Code of Practice:	<b>Means any relevant code of practice made under section 24 of the Gambling Act 2005</b>
Mandatory Condition:	<b>Means a specified condition provided by regulations to be attached to a licence</b>
Default Condition:	<b>Means a specified condition provided by regulations to be attached to a licence, unless excluded by the Council</b>
Provisional Statement:	<b>Means an application made prior to construction or extensive building work is undertaken to ascertain whether the grant of a licence is likely.</b>
Responsible Authority:	<b>For the purposes of this Act, the following are responsible authorities in relation to premises:</b>  <b>1. The London Borough Of Merton;</b>  <b>2. The Gambling Commission;</b>

3. **Metropolitan Police at Wimbledon Police Station;**
4. **Planning Department;**
5. **Environmental Protection** (the authority which has functions in relation to pollution of the environment or harm to human health)
6. **Merton Local Safeguarding Children Board (LSCB) & LBM's Safeguarding Adults Service;**
7. **HM Customs and Excise;**
8. **The London Fire and Emergency Planning Authority; and**
9. **Any other person prescribed in regulations made by the Secretary of State**

Interested Party:

**For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, that person:**

- a) **Lives sufficiently close to the premises to be likely to be affected by the authorised activities;**
- b) **Has business interests that might be affected by the authorised activities;**
- c) **Represents persons who satisfy a) or b) above.**

Local Area Profile:

Gambling operators have been required to undertake risk assessments for their premises since 6th April 2016 (and keep the risk assessment document on site), which should take into account the nature and characteristics of the locality in which they are situated, such as the proximity of schools, churches, addiction rehabilitation centres, offender hostels, etc and the preponderance for gambling in certain areas of the Borough. Such risk assessments have to consider the Borough's Local Area Profile which maps reported gambling-related problems in any area of the Borough. A Local Area Profile is designed to increase awareness of identified detailed risks, to inform operators with constructive engagement when completing risk assessments and to allow them to address identified local risks. The map at Appendix D shows the Local Area Profiles in the Borough, whilst the Local Area Profile is appended at Appendix E.

## 1.4 Licensing Objectives

This document sets out the policies that the Licensing Authority will apply when making decisions upon applications or notifications made for: -

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act; and
4. Registrations as required under the Act.

## 1.5 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely: -

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming Permits;
9. Occasional Use Notices
10. Temporary Use Notices;
11. Registration of small society lotteries; and
12. Alcohol licensed premises

## 1.6 General Principles

Section 153 of the Gambling Act 2005 governs how the Licensing Authority or Licensing Committees will consider and determine applications for Premises Licenses applications and other applications under the Gambling Act 2005. A Licensing Authority or Committee will 'aim to permit the use of premises for gambling' in so far as the authority think it in accordance with any relevant Code of Practice, any relevant Guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this statement. A Licensing Authority or Committee will not consider expected demand for the facilities being considered.

The Licensing Objectives are as follows:

- Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime



- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

Nothing in this Statement of Policy will: -

1. Undermine the rights of any person to apply under the Act for a variety of permissions, other than casinos, and have the application considered on its individual merits in accordance with the Act; or
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application without conditions, other than the mandatory conditions or default conditions laid down by the Secretary of State or reject the application. Conditions, where allowed, will only be considered where they are needed to meet the requirements of the licensing objectives and the criteria above in Section 153 of the Gambling Act 2005, and any conditions applied will be proportionate. Conditions will be considered unnecessary if they are already adequately covered by other legislation or in the Default or Mandatory Conditions.

When determining an application to grant a Premises Licence or review a Premises Licence, the Licensing Authority will have regard to the proximity of the premises to schools, vulnerable adult centres and residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will be considered on its merits. We would expect the applicant to effectively demonstrate how they might promote the licensing objectives, address any relevant guidance issued by the Gambling Commission under section 25 of the Act and be in accordance with any relevant code of practice issued under section 24 of the Act. We would therefore expect a premises risk assessment taking into consideration the locality where the premises are situated.

When considering any conditions to be attached to licences, the Licensing Authority will primarily focus on the impact of the authorised activities taking place at licensed premises on interested parties and/or in the context of the Licensing Objectives.

#### Interested Parties

The Licensing Authority will form an opinion as to whether a person is an Interested Party, based on whether that person represents those that have or live sufficiently close to the premises to be likely to be affected by the authorised activities or has business interests that might be affected by the authorised activities. Factors the Licensing Authority may take into account to determine whether or not an interested party is within the proximity of the premises are as follows:

1. the nature of the activities;
2. the size of the premises;

3. the proposed hours of operation of the premises; and
4. the distance of the premises (eg town centre, residential, rural) from the location of the interested party making the representation.

This list is not exhaustive and the Licensing Authority may take into account any other factors that they consider to be relevant in deciding whether or not someone is an interested party.

In all cases, each application will be determined on its individual merits.

In determining any application the Licensing Authority may not have regard to the expected demand for the facilities, which it is proposed that the premises intend to provide.

The Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues that can occur away from licensed premises that may give rise to objections including:

1. Planning controls;
2. Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
3. Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
4. The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

Objectors will be required to relate their objection to one or more of the Licensing Objectives for Gambling, listed at 1.6 above, before the Licensing Authority will be able to consider it. An application for a review of a licence must be made on the prescribed form but must also relate to the 3 Licensing Objectives for Gambling, listed at 1.6 above.

The Licensing Authority, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups and to promote equality of opportunity for people with disabilities.

## **1.7 Consultees**

The Statement of Licensing Policy has been subject to formal consultation with:

- The Borough Commander of the Metropolitan Police at Wimbledon Police Station;
- Persons who appear to the Authority to represent the interests of those carrying on gambling businesses in the authority's area
- Businesses who are, or will be, holders of a premises licence
- Organisations named as Responsible Authorities in the Act
- Persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this

Act; e.g. representatives of residents associations currently notified to the Licensing Authority, Wimbledon Civic Forum, Local Trade Associations etc

- Other organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)

## **1.8 Information exchange**

In fulfilling its functions and obligations under the Gambling Act 2005 the Licensing Authority will exchange relevant information with other regulatory bodies (like the Gambling Commission) and will consider the establishment of protocols where it considers this necessary. In exchanging such information, the Licensing Authority will conform to the requirements of Data protection and Freedom of Information legislation in accordance with the Council's existing policies. The authority will act in accordance with the relevant legislation and guidance from the Gambling Commission and will adopt the principles of better regulation.

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

## **2 LEGISLATION, POLICIES AND STRATEGIES**

### **2.1 Legislation**

In undertaking its licensing function under the Gambling Act 2005, the Licensing Authority is also bound by other legislation, like the Human Rights Act 1998.

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators and the licensing authority, like.

1. Health and Safety at Work Act 1974;
2. Section 17 of the Crime and Disorder Act 1988;
3. Environmental Protection Act 1990;
4. The Anti-Social Behaviour Act 2003; or
5. The Race Relations Act 1976 (as amended);

### **2.2 Relationship with Planning Policies**

When determining an application, the Licensing Authority cannot take into account "irrelevant matters" such as the likelihood of the applicant obtaining planning permission or building control approval.

A decision by the licensing authority under this Act shall not constrain any later decision by the authority under the law relating to planning or building.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

### **2.3 National Strategies**

The Licensing Authority will also seek to discharge its functions identified by other Government Strategies, in so far as they impact on the objectives of the licensing function.

### **2.4 Local Strategies and Policies**

Where appropriate, the Licensing Authority will consider applications with reference to other adopted local strategies and policies.

## 2.5 Integrating Strategies

There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Licensing Authority will aim, as far as possible, to co-ordinate them.

The Licensing Authority recognises in particular the importance of the co-ordination and integration of the Gambling policy with other plans aimed at the management of town centres and the night-time economy.

Relevant plans and strategies include:

- ❖ **Crime and Disorder Strategy** – The Licensing Authority will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. As far as possible, licensing decisions will aim to contribute to the targets set in the Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.
- ❖ **Racial Equality** – The Licensing Authority is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.
- ❖ **Human Rights** – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Licensing Authority will have particular regard to the following provisions of the European Convention on Human Rights, in particular: -
  - Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and private and family life;
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- ❖ **Proper integration** will be assured by the Licensing Authority's Licensing Committee providing reports, when appropriate, to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.
- ❖ **Tourism and Town Centre Management** – The Licensing Authority aims to promote a high quality thriving nighttime economy.

- ❖ The Licensing Authority will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations.
- ❖ Economic Strategies – The Licensing Authority will ensure that the Licensing Committee is apprised of the employment situation in the area and the need for new investment and employment where appropriate.
- ❖ Enforcement Policy – All licensing enforcement will be conducted in accordance with the regulatory compliance code.

In order to avoid duplication with other statutory regimes, the Licensing Authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

### **3 DECISION MAKING**

#### **3.1 Terms of Reference**

A Licensing Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and/or responsible authorities.

A clear statement of the reasons for the decision shall accompany every determination of a licensing decision by the Licensing Sub-Committee. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable in the form of a Notice of Determination.

The Council's Licensing Officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Licensing Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. The Gambling Act 2005 provides no right of appeal in these circumstances, although other avenues of legal challenge, for example Judicial Review, may be available.

#### **3.2 Allocation of Decision Making Responsibilities**

The Licensing Authority has established a Licensing Committee to discharge all Licensing functions.

The Licensing Committee has delegated responsibilities for determining certain administrative functions in respect of the Licensing Authority's approach to this Policy. Therefore the Licensing Committee may decide to adopt the following:

- Regulators Code;

- Information Sharing Protocol;
- Charges for Pre-application Advice; and
- Other matters relating to the administration of the Licensing Authority's functions under this Act.

The Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to the Director of Environment & Regeneration.

**Appendix A** sets out a table showing the agreed delegation of functions & decisions in respect of the full Council, Sub-Committee and Officers.

Such delegation does not preclude Officers from referring any application to the Licensing Sub-Committee if they consider it appropriate.

### **3.3 Licensing Reviews and Applications**

Regulations have been made by the Secretary of State under Section 160 of the Act that will require applicants for premises licences to notify the responsible authorities and other persons.

Whilst these authorities will have legitimate interests in aspects of the application, the Licensing Authority must ensure that it does not take into account concerns from these bodies if they are not relevant to the application for a premises licence under the Act.

Examples of representations from such bodies that may not be taken into account are as follows (but these examples are not exhaustive):

- There are already too many gambling premises in the locality
- The proposed premises are a fire risk
- The location of the premises is likely to lead to traffic congestion

The Licensing Authority will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives.

Due consideration will be given to all relevant representations unless they fit the following:

- a) The grounds are frivolous
- b) The grounds are vexatious
- c) The grounds are irrelevant

- d) The grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence
- e) The grounds are substantially the same as the grounds cited in a previous application relating to the same premises
- f) The grounds are substantially the same as representations made at the time the application for a premises licence was considered and there has been no change in the circumstances.

The Act permits the Licensing Authority to review a premises licence if it considers it appropriate.

Representations may include issues relating to the following:

1. Use of licensed premises for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
2. Use of licensed premises for the sale and distribution of illegal firearms;
3. Use of licensed premises for prostitution or the sale of unlawful pornography;
4. Use of licensed premises as a base for organised crime activity;
5. Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
6. Use of licensed premises for the sale of smuggled tobacco or goods;
7. Use of licensed premises for the sale of stolen goods;
8. Children and/or vulnerable persons being put at risk.

## **4 LOCAL STANDARDS**

### **4.1 Applications**

An application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, or, has made an application for an operating licence which has not yet been determined, or, in the case of an application for a track betting licence the applicant may not be required to have an operators licence.

The applicant may ask the Licensing Authority for advice as to the scope of information to be provided. The Licensing Authority may levy a charge where more in depth or complex advice and assistance is requested.

The level of detail to be provided will be advised by the Licensing Authority and will be proportional to the scale and nature of the application made.



Definitions of “Responsible Authorities” and “Interested Parties” who are able to make representations under this Act can be found in the glossary of terms in section 1.3.

#### 4.2 Assessment of Need

Unmet demand for gambling establishments or facilities is not a criterion that will be taken into consideration when determining an application for a Premises Licence under the Gambling Act 2005. Demand is specifically precluded within the Act. There is no legal obligation to demonstrate that any demand exists.

#### 4.3 Conditions

Conditions will only be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The Licensing Authority will draw upon the advice issued by the Gambling Commission and attach conditions relative and proportionate to the given circumstances of each individual case.

#### 4.4 Enforcement

The Licensing Authority intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises be monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the Borough for unlicensed premises.

The Licensing Authority will seek to work actively with the Police in enforcing licensing legislation and intends to establish protocols with the Metropolitan Police on enforcement issues to ensure an efficient deployment of police and council officers.

Such protocols will be agreed by the Licensing Committee.

#### 4.5 Casinos

There are currently no casinos operating within the Borough.

On 21 November 2012 Merton re-adopted a resolution under Section 166 of the Act not to issue casino licences within Merton or allow operators to make applications for premises licences for casinos.

**Comment [BC3]:** Update the date and re-adopt at meeting and include as a decision in the Report

#### 4.6 Bingo

The Licensing Authority may issue a Bingo premises licence, which will authorise the following gaming machines:

- 1 20% of the total number of gaming machine of Category B3 or B4 machines
- 2 An unlimited number of Category C & D machines

#### 4.7 Betting Offices

The Licensing Authority may issue a premises licence to Betting Offices, which will authorise the following gaming machines:

- 1 A maximum of 4 machines of Category B, C or D

#### 4.8 Family Entertainment Centres (Licensed)

The Licensing Authority may issue a premises licence to Family Entertainment Centres which will authorise the following gaming machines:

- 1 An unlimited number of Category C & D machines
- 2 Category C machines must be located in an adult area only

#### 4.9 Family Entertainment Centres (Unlicensed)

It should be noted that the term “unlicensed” in this definition means premises that do not require an operator’s licence to be granted by the Gaming Commission.

The Licensing Authority may issue a premises licence, which will authorise the following gaming machines: -

- 1 Unlimited numbers of Category D machines

**Comment [BC4]:** Check numbers and categories and types of machines

### 5 PREVENTION OF CRIME AND DISORDER OBJECTIVE

Merton’s Licensing Authority places considerable importance on the prevention of crime and disorder, and will fulfil its duty under s17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. A high standard of control is expected to be exercised over licensed premises.

Merton’s Licensing Authority will, when determining applications, consider whether the grant of a Premises Licence will result in an increase in crime and disorder.

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council’s Licensing Officers and [the local Police Licensing Officer](#) at Wimbledon Police Station before making a formal application.

In considering licence applications, the Licensing Authority will particularly take into account the following: -

1. The design and layout of the premises
2. The training given to staff in crime prevention measures appropriate to those premises
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks

5. The likelihood of any violence, public order or policing problem if the licence is granted

6. The operators draft or existing Local Area Risk Assessment and

7. the operators compliance with the Local Area Profile.

## **6 ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY OBJECTIVE**

Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence). As the Gambling Commission grants Personal Licences and Operating Licences, enforcement of these matters is the responsibility of the Gambling Commission.

## **7 PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS OBJECTIVE**

### **7.1 Access to Licensed Premises**

With limited exceptions, the access of children and young persons to those gambling premises, which are adult only environments, will not be permitted.

The principle used to designate the following bodies to advise the Authority on the protection of children and vulnerable persons from harm is that they are the acknowledged experts in this specialised field within this Authority.

The Licensing Authority formally recognises Merton's Local Safeguarding Children Board and Community Care Services as the proper agencies in respect of the protection of children and vulnerable persons from being harmed or exploited by gambling.

The Licensing Sub-committee will judge the merits of each individual application before deciding whether to impose conditions to protect children and vulnerable persons on particular categories of premises. This may include such requirements as: -

1. Supervision of entrances;
2. Segregation of gambling areas from areas frequented by children;
3. Supervision of gaming machines in non-adult gambling specific premises.

The 2005 Act provides for a Code of Practice on access to Casino premises by children and young persons but Merton has adopted a policy not to permit casinos in the Borough.

## **7.2 Vulnerable Persons**

The Licensing Authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will follow the Gambling Commission's assumption that for regulatory purposes, "vulnerable persons" include:

1. People who gamble more than they want to;
2. People who gamble beyond their means;
3. People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

In addition to the responsible authorities and specifically with regard to the protection of vulnerable persons from being harmed or exploited by gambling, the Licensing Authority will consult with Community Care Services via a joint arrangement with the Merton Local Safeguarding Children Board & Safeguarding Adults Service.

## **8 COMPLAINTS AGAINST LICENSED PREMISES**

The Licensing Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Licensing Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all relevant representations unless they fit the exceptions in 3.3 sub-paragraphs A – F.

## **FURTHER INFORMATION**

Further information about the Gambling Act 2005, this Statement of Principles under the Gambling Act 2005 or the application process can be obtained from: -

Licensing Team  
London Borough of Merton  
Civic Centre  
London Road  
Morden  
SM4 5DX

Tel: 020 8545 3969  
E-mail: [licensing@merton.gov.uk](mailto:licensing@merton.gov.uk)  
Web page [www.merton.gov.uk/licensing](http://www.merton.gov.uk/licensing)

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6666  
Fax: 0121 230 6720  
E-mail: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

**Business opening hours:** 9am to 5pm, Monday to Friday

**Appendix A**

**DELEGATION OF LICENSING FUNCTIONS**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>SUB-COMMITTEE</b>	<b><u>OFFICERS OF THE LICENSING AUTHORITY</u></b>	<b><u>DEMOCRATIC SERVICES &amp; LEGAL SERVICES</u></b>
Three year Licensing Policy	X			
Policy not to Permit Casinos	X			
Validity of Applications or Representations			X	
Representations made by Licensing Authority			X	
Determination of Applications		X	When no hearing is required	
Dispensing with Hearings		Where all parties agree		Where all parties agree prior to hearing
Extending Times Limits		X		Where there is a need prior to hearing (consult with Licensing Committee Chair)
Consideration of Representations (opposing or supporting) and Notices (temporary use / occasional use)		X	X	
Procedure and Conduct of Hearings		X		
Issue of Notice of Hearing				X
Determining Relevance of Information		X	<del>X</del>	
<del>Determination of Premises Licence Fees</del>		<del>X</del>		

## Appendix B

### GAMING MACHINE CATEGORIES

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 (with and option of a maximum £20,000 linked progressive jackpot on a premises basis only).
B2 <small>** See below for definition</small>	£100	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D	30p or £1 when non-monetary prize	£8 cash or 50 non-monetary prize
D money prize	10p	£5
D non-money prize (other than crane grabe machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machines)	20p	£20 (of which no more than £10 may be a money prize)

**Comment [BC5]:** Check figures are still correct?

**\*\* These machines are "Fixed odds betting terminals (FOBTs)"**

*The government is satisfied that FOBTs should comprise a separate sub-category (B2) of gaming machine offering a maximum prize of £500 with a maximum stake of £100 per game (£15 per chip) and that they should only be available in Casinos and Licensed Betting Offices.*

**Comment [BC6]:** Check figures are still correct?

*The Government remains concerned about a possible connection between FOBTs and problem gambling.*

*However a report on 6 July 2009 from the Gambling Commission has recommended that no immediate action be taken. It suggests that further research into regulatory measures need to be part of a wider prevention and harm mitigation framework which addresses risk mitigation in the context of machine and other gambling more generally. The Government continues to keep the matter under review.*

**Comment [BC7]:** Remove and replace for new consultation

### **Appendix C**

#### **REGULATORS COMPLIANCE CODE & ENFORCEMENT POLICY**

This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures.

This document can be accessed by the following web link:

[http://www.merton.gov.uk/working/tradingstandards/enforcement\\_policy-4.pdf](http://www.merton.gov.uk/working/tradingstandards/enforcement_policy-4.pdf)