

## THE DISTRICT COUNCIL OF TANDRIDGE

### LICENSING COMMITTEE

Minutes and Report to Council of the meeting of the Committee held in the Council Chamber, Council Offices, Station Road East, Oxted on the 14th May 2009 after the Annual Meeting of the Council.

**PRESENT:** The Chairman of the Council (in the Chair) and Councillors Bradbury, Brown, Burridge, Camden, Harwood, Mrs. Ingham, Sydney, Mrs. Thorn and Turner.

#### 126. ELECTION OF THE CHAIRMAN 2009/10

*RESOLVED* - that Councillor Brown be elected Chairman.

#### 127. APPOINTMENT OF THE VICE-CHAIRMAN 2009/10

*RESOLVED* - that Councillor Mrs. Bradbury be appointed Vice- Chairman.

#### 128. APPOINTMENT OF THE LICENSING SUB-COMMITTEES (X2 See Minute 167(04/05))

*RESOLVED* – that the Sub-Committees be appointed as follows:

Conservative	-	Bradbury, Brown, Harwood and Mrs. Whittle (Substitutes Camden, Mrs. Ingham, Sydney and Mrs. Thorn)
Liberal Democrats	-	Burridge and Turner

### LICENSING COMMITTEE

Minutes and Report to Council of the meeting of the Committee held in the Council Chamber, Council Offices, Station Road East, Oxted on the 30th September 2009.

**PRESENT:** Councillors Brown, (Chairman), Mrs. Bradbury, (Vice-Chairman), the Chairman of the Council and Camden, Harwood, Mrs. Ingham, Mrs. Thorn and Turner.

#### 129. MINUTES

The Minutes of the meetings held on the 8th April and 14th May 2009 were confirmed and signed by the Chairman.

#### *COMMITTEE DECISIONS* (Under powers delegated to the Committee)

#### 130. MINUTES OF THE LICENSING SUB-COMMITTEE

The Committee considered the Minutes of the Licensing Sub-Committee meeting held on the 25th June 2009.

\*\*\* *RESOLVED* – that the Minutes attached at Appendix 'A' be received.

## 131. MINOR VARIATIONS TO PREMISES LICENSES AND CLUB REGISTRATION CERTIFICATES

Amendments to the Licensing Act 2003 under the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 had introduced a procedure for making variations to Premises Licences and Club Premises Certificates. Minor Variations were those which did not require the applicant to advertise in Local Newspapers although there was still a requirement to display a Notice at the premises.

Further amendments to the Act under the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls Etc;) Order 2009 had introduced new provisions relating to Community Premises whereby such premises were now permitted to apply to have the standard mandatory conditions under Section 19 of the Act removed from their premises licence.

Statutory Guidance issued under section 182 of the Act recommended that Licensing Authorities delegate decision making on minor variation applications to Licensing Officers.

### **RESOLVED** – that

- A. the new statutory provisions relating to minor variations and community premises be noted;
- B. in accordance with Government Guidance under the Licensing Act, the Director of Community Services be given delegated authority to:
  - (i) determine minor variation applications under sections 41A to 41C and 86A to 86C of the Act, including deciding whether to consult with Responsible Authorities; and
  - (ii) grant applications for community premises under sections 25A and 41D of the Act, where no relevant representations have been received;
- C. where representations are received in respect of applications under sections 25A and 41D of the Act, the matter be delegated to the Licensing Sub-Committees for determination; and
- D. Ward members be notified of applications for minor variations within their Wards.

## 132. GAMBLING ACT STATEMENT OF LICENSING POLICY TRIENNIAL REVIEW (MINUTE 282 (06/07))

The Council's Statement of Policy, which had been published in March 2007, lasted for a maximum of three years although it could be reviewed and revised by the authority at any time.

A consultation exercise, commencing in June 2009, had been carried out and the responses received had been taken into account in finalising the document.

The Committee considered a revised Statement for adoption to be effective from the 1st January 2010.

It was noted that the population figures referred to in the Description of the District required amendment .

**RESOLVED** – that the revised Statement of Licensing Principles, as now amended and attached at Appendix 'B', be adopted

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Rising: 8.26 p.m.

**THE DISTRICT COUNCIL OF TANDRIDGE**  
**LICENSING SUB-COMMITTEE (B)**

**MRS K. COLLIGON,**  
**26, HIGH STREET, OXTED RH8 9LP RH8 0LT**

Minutes of the Sub-Committee held in the Council Chamber, Council Offices, Station Road East, Oxted on the 25th June 2009 at 2.00 p.m.

**PRESENT:** Councillors Brown (Chairman), Mrs. Ingham and Mrs. Turner

**APPLICANT:** Mr. M. Hume, Divisional Licensing Officer, East Surrey Police

**PREMISES USER:** Mrs. K. Colligon, supported by Mrs. J. Lucas

**OFFICERS:** Mr. R. Diplock - Licensing Officer  
 Mr. J. Hitchcock - Principal Solicitor  
 Mr. Robert Muir, Principal Environmental Health Officer,  
 Mrs. P. Bloxham, Clerk

**1. PROCEDURES**

The Procedures, as set out in the Agenda for the Hearing, would be followed.

***SUB-COMMITTEE DECISION***  
*(Under powers delegated to the Sub-Committee)*

**2. APPLICATION FOR A HEARING TO CONSIDER AN OBJECTION TO A TEMPORARY EVENTS NOTICE – 26, HIGH STREET, OXTED RH8 0LT**

The Sub-Committee considered an application for a hearing of an objection to a Temporary Event Notice at 26, HIGH Street, Oxted.

The applicant was objecting to the Temporary Event on the grounds of the Prevention of Crime and Disorder.

The Sub-Committee heard from Mr. M. Hume, Divisional Licensing Officer, East Surrey Police.

The Sub-Committee then heard from Mrs. Colligon and Mrs. Lucas

The Sub-Committee questioned the Applicant.

The Sub-Committee then questioned the parties.

The Sub-Committee withdrew at 2.20 p.m.

The Sub-Committee returned at 2.43 p.m.

***RESOLVED*** – that the Sub-Committee's decision be as set out in the Decision Notice detailed at Annexe 'A'.

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Rising: 2.45 p.m.

ANNEXE 'A'

ANNEXE 'A'

**THE DISTRICT COUNCIL OF TANDRIDGE****DECISION NOTICE****In accordance with LICENSING ACT 2003 s.105(2)****Date of Licensing Sub-committee:****25th June 2009****Applicant:** Mr. M. Hume, Divisional Licensing Officer, East Surrey Police**Premises:** **26, High Street, Oxted RH8 9LP****REASON(S) FOR HEARING:** Relevant representations received from East Surrey Police concerning

1. Prevention of Crime and Disorder

**DECISION**

The Licensing Authority does not Object to the Temporary Event Notice and will allow the premises to be used in accordance with the Notice. The Sub-Committee does not consider that the event would undermine the crime prevention licensing objective for the following reasons.

**REASONS FOR DECISION**

1. The Sub-Committee accepted the assurance of the Premises User that it was solely her application and that she would be responsible for ensuring that the band finished on time and that in respect of organisational issues, the past problems would not recur; and
2. The Premises User has undertaken to ensure that the event will close no later than 11.20 p.m.

Date of Decision: 25th June 2009

# **TANDRIDGE DISTRICT COUNCIL**

## **GAMBLING ACT 2005**

### **STATEMENT OF PRINCIPLES**

Effective from 31 January 2010

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**Annexe 1**

Map of Tandridge

**Annexe 2**

List of consultees

## **1. Introduction**

### **1.1 The Licensing Objectives**

The Gambling Act 2005 ('the Act') gives licensing authorities various regulatory functions in relation to gambling.

The main functions of licensing authorities are:

- Licensing premises for gambling activities
- Considering notices given for the temporary use of premises for gambling
- Granting permits for gaming and gaming machines in clubs and miners' welfare institutes
- Regulating gaming and gaming machines in alcohol licensed premises
- Granting permits to family entertainment centres for the use of certain lower stake gaming machines
- Granting permits for prize gaming
- Considering occasional use notices for betting at tracks
- Registering small societies' lotteries

The Gambling Commission has responsibility for dealing with personal licences and operating licences.

Tandridge District Council is a licensing authority for the purposes of the Act.

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

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

### **1.2 Tandridge District Council**

Tandridge District Council is situated in the County of Surrey, which comprises 11 District Councils and 1 County Council. The Council covers an area of 24,819 hectares and has a population of 83,500, the second smallest in Surrey and the lowest population density with 3.3 persons per hectare compared to a county average of 6.6. Approximately 70% of the population live in the main northern residential areas of Caterham, Oxted, Warlingham and Whyteleafe which together cover about 5% of the Council's geographical area. The District is almost entirely covered by the Green Belt (approximately 94%) and only 12% of its area developed. Some 28% of the District is open space or woodland and 60% is under agricultural activity. The remainder live in smaller settlements and villages.

A map of the District is attached as Annexe 1.

### **1.3 Consultation**

The following persons/bodies have been consulted on the tri-annual review of the statement of principles:-

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

A full list of consultees is attached as Annexe 2.

#### **1.4 Declaration**

This review of the statement of principles has been prepared with due regard to the licensing objectives, the guidance to licensing authorities issued by the Gambling Commission, and with due weight attached to the responses received from those consulted.

This statement of principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

#### **1.5 Protection of Children**

In exercising the Council's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

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

Having regard to the above principles, the Surrey Children's Service has been designated for this purpose.

#### **1.6 Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. The Act defines interested parties as persons who, in the opinion of the licensing authority;

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) have business interests that might be affected by the authorised activities; or
- c) represent persons who satisfy paragraph (a) or (b)

Whether or not a person is an interested party is a decision that will be taken by the Council on a case-by-case basis. However, the following factors will be taken into account:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);



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

This list is not exhaustive and other factors may be taken into consideration in an individual case.

Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing section.

### **1.7 Exchange of Information**

The Council regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Council’s functions, and to maintaining confidence between the people/ bodies we deal with and ourselves. We ensure that our organisation treats information lawfully and correctly.

The Council may share information in accordance with the following provisions of the Act: -

- Sections 29 & 30 (with respect to information shared between the Council and the Gambling Commission)
- Section 350 (with respect to information shared between the Council and the other persons listed in Schedule 6 to the Act)

In the exercise of the above functions, consideration shall also be given to the common law duty of confidence, the law relating to defamation, the guidance issued by the Gambling Commission and to the Council’s policies in relation to data protection and freedom of information.

Any information shared between the Council and Surrey Police must also be carried out in accordance with the Surrey Information Sharing Protocol produced by the Surrey Community Safety Unit.

### **1.8 Enforcement**

The Council will use a risk-based approach to the inspection of gambling premises. This allows

for the targeting of high-risk premises, or those where a breach would have serious consequences. Premises that are low risk and/or well run are subject to a less frequent inspection regime.

Where necessary, appropriate enforcement (including prosecution under section 346 of the Act) will be carried out in a fair and consistent manner in accordance with

- The Enforcement Concordat 2001
- The Better Regulation and Hampton Principles
- Tandridge District Council's enforcement policy

The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

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

## **2. Premises Licences**

### **2.1 Decision making - general**

In accordance with Section 153 of the Act, the licensing authority will aim to permit the use of premises for gambling in so far as it thinks it is:

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

The licensing authority will not have regard to the expected demand for the facilities which it is proposed to provide, nor the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

Moral objections to gambling will not be considered by the licensing authority, as they are not a valid reason for rejecting an application for a premises licence.

Each case will be considered on its individual merits. However, in order to assist applicants and objectors alike, this section sets out the general factors that will be taken into account by the licensing authority when considering applications for premises licences.

### **2.2 Location**

The location of premises may be relevant to the promotion of the licensing objectives. In particular, premises located in close proximity to the following may give rise to concern

- schools
- vulnerable adult centres
- residential areas with a high concentration of children

Much will depend upon the type of gambling that it is proposed will be offered on the premises. The licensing authority will, where appropriate, consider the location on a case-by-case basis. If the proposed location does pose a risk to the promotion of the licensing objectives, the applicant will be invited to show how they propose to overcome such concerns.

### **2.3 Multiple licences/ layout of buildings**

Premises are defined in the Act as including 'any place', but no more than one premises licence can apply in relation to any one place. A single building can be subject to more than one premises licence, provided they are for different parts of the building and those parts can reasonably be regarded as being different premises.

Where multiple licences are sought for a building (or a discrete part of a building used for other non-gambling purposes), specific issues will need to be considered by the licensing authority before such application(s) can be granted. These include

- the ability of children to gain access to or observe gambling facilities (even accidentally) – entrances and exits from parts of a building covered by more than one premises licence should be separate and identifiable so that the separation of different premises is

not compromised and that people (and in particular, children) do not drift into a gambling area.

- the compatibility of the 2 or more establishments; and
- the ability of the establishments to comply with the requirements of the Act.

The Gambling Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. Therefore, In accordance with the guidance, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

## 2.4 Conditions

Conditions may be imposed upon a premises licence in a number of ways. These are

- (a) **Mandatory** – set by the Secretary of State (some set out on the face of the Act) and some to be prescribed in regulations, for all, or classes of licence;
- (b) **Default** – prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the licensing authority;
- (c) **Specific** – conditions that can be attached to an individual licence by the licensing authority.

Conditions imposed by the Council will be proportionate to the circumstances that they are seeking to address. In particular, this Council will ensure that premises licence conditions:

- Are relevant to the need to make the proposed building suitable as a gambling facility
- Are directly related to the premises and the type of licence applied for;
- Are fairly and reasonably related to the scale and type of premises; and
- Are reasonable in all other respects

Certain matters may not be the subject of conditions. These are:

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

The Council, acting as the Licensing authority, will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Licensing sub-Committee will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this Licensing sub-Committee will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as

these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

## **2.5 Door Supervisors**

It is not a mandatory requirement of the Act to impose a condition relating to door supervision. However, if the Licensing authority does consider it necessary to impose a condition on a premises licence requiring the presence of door supervisors, such persons will normally need to hold a licence from the Security Industry Authority (SIA).

This requirement does not apply to door supervisors at licensed casino or bingo premises, who are exempt from the licensing requirements of the Private Security Industry Act 2001. The Licensing authority may however impose specific requirements on door supervisors at such premises if considered appropriate in an individual case.

## **2.6 Adult gaming centres**

Persons operating an adult gaming centre must obtain an operating licence from the Commission and a premises licence from the Licensing authority. This will allow the operator to make category B, C & D machines available to their customers. No one under the age of 18 is permitted to enter an adult gaming centre.

In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Licensing authority will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.

Applicants are encouraged to consider the following steps:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Location of and entry to premises (so as to minimise the opportunities for children to gain access)
- Notices / signage
- Training for staff on challenging persons suspected of being under-age
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

## **2.7 Licensed family entertainment centres**

Operators of licensed family entertainment centres require an operating licence from the Gambling Commission and a premises licence from the Licensing authority. This will allow the operator to make category C & D machines available to their customers.

Children and young persons are able to enter licensed family entertainment centres and play on the category D machines. They are not permitted to play on category C machines.

As family entertainment centres particularly appeal to children and young persons, weight shall

be given to child protection issues. Where category C machines are available in licensed family entertainment centres the Licensing authority will normally require that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

Applicants are therefore encouraged to consider the steps set out at paragraph 2.6 of this statement in order to prevent children and young persons from gaining access to category C machines. In addition, applicants are encouraged to consider the following

- Physical separation of areas
- Measures/training for staff on how to deal with suspected truant school children on the premises

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

## **2.8 Tracks**

Tracks are sites (including racecourses and dog tracks) where sporting events take place. Operators of tracks require a premises licence from the Licensing authority, but they do not need to obtain an operating licence from the Gambling Commission (although they may have one).

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

It will be a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided, and any area where a gaming machine, other than a category D machine, is situated. Special dispensation from this rule is provided for dog tracks and horse racecourses on days when racing takes place, in relation to the areas used for betting. On these days families will be entitled to attend the track or racecourse, and children enter the areas where facilities for betting are provided. This race day dispensation does not apply to the areas where gaming machines of category B & C are provided, and the Licensing authority will, therefore, wish to ensure that suitable measures are in place to prevent children from entering such areas.

Applicants are encouraged to consider the steps set out at paragraph 2.6 in order to prevent the access of children and young people to machines of category B & C. In addition, applicants are encouraged to consider the following

- Physical separation of areas
- Measures / training for staff on how to deal with suspected truant school children on the premises

*Gaming machines* – holders of betting premises licences in respect of tracks who also hold a

pool betting operating licence may make available up to 4 gaming machines (categories B2 to D) on the track. The Licensing authority will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.

*Betting machines at tracks* - the Licensing authority will apply similar considerations to those set out in paragraph 3.11 (in relation to betting machines made available at off-course betting premises) to betting machines made available at tracks.

*Condition on rules being displayed* - the Licensing authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

*Applications and plans* - the Licensing authority will require the following information from applicants for premises licences in respect of tracks: -

- detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”)
- in the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities

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

## **2.9 Casinos**

*No Casinos resolution* - The Council has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

## **2.10 Betting Premises**

This paragraph deals with off-course betting, that is betting that takes place other than at a track (commonly known as a licensed betting office). Operators of betting premises require an operating licence from the Gambling Commission and a premises licence from the Licensing authority.

The holder of a betting premises licence may make available for use up to 4 gaming machines of category B (B2, B3 or B4), C or D.

The Licensing authority may, in accordance with section 181 of the Act, restrict the number of betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the Licensing authority will take into account the following: -

- the size of the premises;
- the number of counter positions available for person-to-person transactions; and

- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people

## 2.11 Bingo

Operators of premises offering bingo (cash or prize) require a bingo operating licence from the Gambling Commission, and a premises licence from the Licensing authority.

The holder of a bingo premises licence may, in addition to bingo in all its forms, make available for use up to 4 category B gaming machines (B3 & B4) and any number of category C & D machines.

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Licensing authority will normally require that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

## 2.12 Temporary Use Notices

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operators licence wishes to use the premises temporarily for providing facilities for gambling.

There are a number of statutory limits in regards to temporary use notices.

If objections are received to a temporary use notice (from the Police, Gambling Commission, HM Revenues & Custom or any other licensing authority in whose area the premises are situated), the Licensing authority must hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).

If the Licensing authority, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it must issue a counter-notice which may:

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activities to take place subject to a specified condition

The Licensing authority will apply the principles set out in paragraph 2.1 of this statement to any consideration as to whether to issue a counter-notice.



## 2.13 Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

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

In contrast to the premises licence application, the applicant does not at this stage have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 2.14 Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

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

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the Chief Officer of Police and

Her Majesty's Commissioners for Revenue and Customs

### **3. Permits**

#### **3.1 Unlicensed Family Entertainment Centre gaming machine permits**

Unlicensed family entertainment centres are able to offer category D machines if granted a permit by the Licensing authority. If an operator of a family entertainment centre wishes to make category C machines available in addition to category D machines, he will need to apply for an operating licence from the Gambling Commission and a premises licence from the Licensing authority.

The Licensing authority can grant or refuse an application for a permit, but cannot attach conditions.

As unlicensed family entertainment centres particularly appeal to children and young persons, weight shall be given to child protection issues.

The Licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. The Licensing authority will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres; that the applicant has no relevant convictions (those that are set out in Schedule 7 to the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

#### **3.2 (Alcohol) Licensed premises gaming machine permits**

Premises licensed to sell alcohol for consumption on the premises, can automatically have 2 gaming machines, of categories C and/or D. The holder of the premises licence authorising the sale of alcohol will simply need to notify the Licensing authority, and pay the prescribed fee.

The Licensing authority can remove the automatic authorisation in respect of any particular premises if;

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act;
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

If premises wish to have more than 2 machines, then the holder of the premises licence need to apply for a permit. The Licensing authority shall consider that application having regard to the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.

The Licensing authority shall determine what constitutes a relevant consideration on a case-by-case basis, but weight shall be given to the third licensing objective i.e. protecting children and

vulnerable persons from being harmed or being exploited by gambling. To this end, the Licensing authority will expect applicants to demonstrate that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help.

With respect to the protection of vulnerable persons, the Licensing authority will expect applicants to provide information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

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

The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **3.3 Prize gaming permits**

Applicants for prize gaming permits should set out the types of gaming that he or she is intending to offer. The applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations; and
- that the gaming offered is within the law.

In making its decision on an application for this type of permit the Licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance. Weight will be given to child protection issues, and relevant considerations are likely to include the suitability of the applicant (i.e. if the applicant has any convictions which would make them unsuitable to operate prize gaming) and the suitability of the premises. Applicants for prize gaming permits must disclose any previous relevant convictions to the Licensing authority.

The Licensing authority can grant or refuse an application for a permit, but cannot attach any conditions. However, there are 4 conditions in the Act that permit holders must comply with. These are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations; and
- participation in the gaming must not entitle the player to take part in any other gambling.

### 3.4 Club gaming and club machine permits

Members' clubs (but not commercial clubs) may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B4, C or D), equal chance gaming and games of chance.

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a club machine permit, which will enable the premises to provide gaming machines (3 machines of categories B4, C or D).

Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

An application may only be refused on one or more of the following grounds;

- the applicant does not fulfil the requirements for a members' or commercial club and, therefore, is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a condition of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or;
- an objection has been lodged by the Gambling Commission or the Police

The Licensing authority shall have regard to the guidance issued by the Gambling Commission and (subject to that guidance), the licensing objectives.

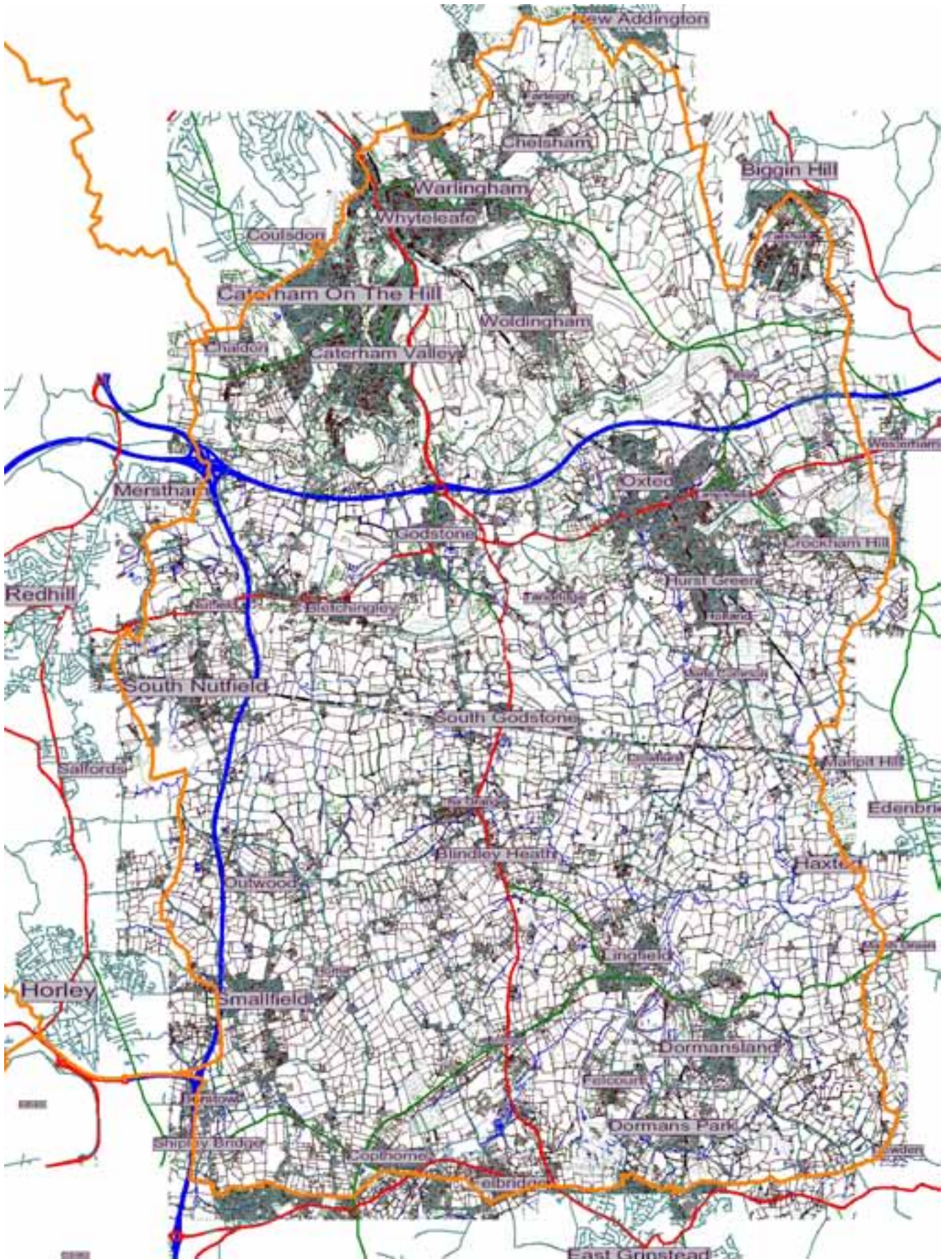
There is a 'fast-track' procedure available for clubs which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which an authority can refuse a permit are reduced.

The grounds on which an application under the fast track procedure may be refused are;

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

The Licensing authority can grant or refuse an application for a club gaming or club machine permit, but cannot attach any conditions. However, there are a number of conditions in the Act that the holder must comply with.

ANNEXE 1 – MAP TANDRIDGE DISTRICT COUNCIL



**ANNEXE 2 – LIST OF CONSULTEES**

Elected Members, Tandridge District Council  
Parish Councils in Tandridge  
The Gambling Commission  
Surrey Police  
Surrey Fire & Rescue Service  
Surrey Trading Standards  
Head of Statutory Child Protection and Child Care, Surrey County Council  
HM Revenues and Customs  
The Association of British Bookmakers  
The Racecourse Association Ltd

Licensing Section  
Tandridge District Council  
8 Station Road East  
Oxted  
RH8 0BT

Email: [licensing@tandridge.gov.uk](mailto:licensing@tandridge.gov.uk)

Web: [http://www.tandridge.gov.uk/environment/licences/gambling\\_act.htm](http://www.tandridge.gov.uk/environment/licences/gambling_act.htm)