

SWT Licensing Sub-Committee

Monday, 5th July, 2021,
11.00 am

**Somerset West
and Taunton**

Webcasting - Virtual Meeting

[SWT MEETING WEBCAST LINK](#)

Members: Mark Lithgow (Chair), Janet Lloyd (Vice-Chair) and
Craig Palmer

Agenda

1. **Application for the grant of a Premises Licence under
the Licensing Act 2003**

(Pages 3 - 56)

Members are asked to consider an application to grant a
Premises Licence under the Licensing Act 2003.



**JAMES HASSETT
CHIEF EXECUTIVE**

Please note that this meeting will be recorded. You should be aware that the Council is a Data Controller under the Data Protection Act 2018. Data collected during the recording will be retained in accordance with the Council's policy. Therefore unless you are advised otherwise, by taking part in the Council Meeting during Public Participation you are consenting to being recorded and to the possible use of the sound recording for access via the website or for training purposes. If you have any queries regarding this please contact the officer as detailed above.

Following Government guidance on measures to reduce the transmission of coronavirus (COVID-19), we will be live webcasting our committee meetings and you are welcome to view and listen to the discussion. The link to each webcast will be available on the meeting webpage, but you can also access them on the [Somerset West and Taunton webcasting website](#).

If you would like to ask a question or speak at a meeting, you will need to submit your request to a member of the Governance Team in advance of the meeting. You can request to speak at a Council meeting by emailing your full name, the agenda item and your question to the Governance Team using governance@somersetwestandtaunton.gov.uk

Any requests need to be received by 4pm on the day that provides 2 clear working days before the meeting (excluding the day of the meeting itself). For example, if the meeting is due to take place on a Tuesday, requests need to be received by 4pm on the Thursday prior to the meeting.

The Governance and Democracy Case Manager will take the details of your question or speech and will distribute them to the Committee prior to the meeting. The Chair will then invite you to speak at the beginning of the meeting under the agenda item Public Question Time, but speaking is limited to three minutes per person in an overall period of 15 minutes and you can only speak to the Committee once. If there are a group of people attending to speak about a particular item then a representative should be chosen to speak on behalf of the group.

Please see below for Temporary Measures during Coronavirus Pandemic and the changes we are making to public participation:-

Due to the temporary legislation (within the Coronavirus Act 2020, which allowed for use of virtual meetings) coming to an end on 6 May 2021, the council's committee meetings will now take place in the office buildings within the John Meikle Meeting Room at the Deane House, Belvedere Road, Taunton. Unfortunately due to capacity requirements, the Chamber at West Somerset House is not able to be used at this current moment.

Following the Government guidance on measures to reduce the transmission of coronavirus (COVID-19), the council meeting rooms will have very limited capacity. With this in mind, we will only be allowing those members of the public who have registered to speak to attend the meetings in person in the office buildings, if they wish (we will still be offering to those members of the public that are not comfortable in attending, for their statements to be read out by a Governance and Democracy Case Manager). Please can we urge all members of the public who are only interested in listening to the debate to view our live webcasts from the safety of their own home to help prevent the transmission of coronavirus (COVID-19).

Full Council, Executive, and Committee agendas, reports and minutes are available on our website: www.somersetwestandtaunton.gov.uk

For further information about the meeting, please contact the Governance and Democracy Team via email: governance@somersetwestandtaunton.gov.uk

If you would like an agenda, a report or the minutes of a meeting translated into another language or into Braille, large print, audio tape or CD, please email: governance@somersetwestandtaunton.gov.uk

Report Number: SWT 51/21

Somerset West and Taunton Council

Licensing Sub-Committee – 5 July 2021

Application for the grant of a Premises Licence under the Licensing Act 2003

This matter is the responsibility of Cllr Andrew Sully

Report Author: Brad Fear – Licensing Officer

1 Executive Summary / Purpose of the Report

1.1 Members are asked to consider an application to grant a Premises Licence under the Licensing Act 2003 for Stokrotka, 5a East Reach, Taunton TA1 3EN

2 Recommendations

2.1 As relevant representations have been received by the licensing authority, the sub-committee must take such steps as it considers appropriate for the promotion of the four licensing objectives, being:

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

2.2 The steps the sub-committee may take are to:

- Grant the licence subject to the conditions identified in the applicant's operating schedule (modified to such extent as the authority considers appropriate for the promotion of the licensing objectives) and any appropriate mandatory conditions.
- Exclude from the scope of the licence any of the licensable activities to which the application relates.
- to refuse to specify a person in the licence as the designated premises supervisor;
- Reject the application.

3 Risk Assessment (if appropriate)

- 3.1 The matters to which this report relates does not impact on any of the issues identified within the Corporate and Function Risk Registers.

4 Background and Full details of the Report

- 4.1 Stokrotka is a small grocery (selling groceries and household items) based on East Reach in Taunton. The premises was previously licensed by the local authority to sell alcohol Monday to Sunday from 8am to 10pm. This licence was initially issued/granted in September 2010.
- 4.2 On 18th May 2018 the Licensing Authority received written confirmation (forwarded to us by Nicola Cooper of Avon and Somerset Constabulary) that the then designated premises supervisor (DPS) for the property—Anna Buczek—was formally withdrawing her consent to be named as the DPS, under section 1.41 of the Licensing Act 2003. Attempts were made by the Licensing Authority to make contact with the licence holders (to inform them that they would be unable to sell alcohol until a new DPS had been appointed), however we were then informed that the business had ceased trading on 3rd May 2018.
- 4.3 In November 2018 a letter was sent to the licence holder to advise them that the annual fee payment for the premises licence (which was still valid/ in effect) had not been received and that the licence would be suspended until such time as the fee payment was made.
- 4.4 The Government's Companies House website states that Daro Shop Ltd—who were the existing holders of this licence—had formally dissolved as of March 2020. Under section 27(1)(d) of the Licensing Act 2003, a premises licence lapses if the holder of the licence, being a company, is dissolved. Under section 50 of the Act, there is the ability to reinstate a premises licence that has lapsed in such circumstances, but only where an application to transfer said licence is made within 28 days of that licence having lapsed. No such application to transfer was received by the Licensing Authority during this period, thereby causing the licence to lapse.
- 4.5 On 25th August 2020 the Licensing Authority received an application to transfer the premises licence to the new licence holder--Stokrotka Taunton Limited. At the time, due to an error at Licensing's end, the fact that the old company had dissolved (thereby invalidating the old licence) was missed. As such, an updated licence with the new licence holder information on it was incorrectly issued on 5th March 2021. However, the Licensing Authority had acknowledged from previous records that a new DPS had not been appointed since Anna Buczek's withdrawal of consent in 2018. As such, under sections dictating the licensable activities and DPS information, the Licensing Authority added to the licence the statement: *No alcohol can be sold until an application to vary the DPS has been received by the Licensing Authority.* (Note: a copy of this licence is included with Avon & Somerset Constabulary's report appendices, attached to this sub-committee report collectively as **Appendix E**).
- 4.6 An application to Vary the Designated Premises Supervisor (DPS) was received on 19th March 2021, following a visit to the premises by Nicola Cooper (Area Licensing Practitioner for Avon and Somerset Constabulary), in which she informed the licence holders that they were not licensed to sell alcohol without a DPS in place. It was at this time that it came to the attention of the Licensing Authority that the old licence

had lapsed and, as such, the transfer in August 2020 was invalidated and that the premises in fact had no licence in effect at all. The Licensing Manager, John Rendell, made contact with the licence holder's Licensing Consultant, Tony Clarke, on 25th March 2021 to confirm this and to explain that a new application would be required for an entirely new premises licence for the premises.

- 4.7 An application for the grant of a new premises licence for Stokrotka, 5a East Reach was received on 13th May 2021. The application was to allow for the sale of alcohol (for consumption off-site only) between the hours 08:00 and 22:30 Monday to Sunday. Proposed activities and a copy of the submitted site plan can be viewed under **Appendix A**.
- 4.8 The application was submitted to responsible authorities on 13th May 2021, commencing a mandatory 28-day period of consultation on the application.
- 4.9 Notices advertising the Licence were placed up at the premises and a copy of this was also advertised in the local paper within 10 working days, in accordance with the Licensing Act 2003 (Premises licences and club Premises certificates) Regulations 2005. A copy of this notice was also posted on the Somerset West and Taunton Council website, with a function available for members or the public to make objections online through the website.
- 4.10 Within the application, the applicant has identified steps they intend to take promoting the licensing objectives, and this is often referred to as being part of the 'operating schedule'. In their application, the applicant outlined a number of conditions they would propose being added to any granted licence. These can be view under **Appendix B**.
- 4.11 Following discussions between the applicant and Somerset West and Taunton Planning department on the listed nature of the premises building, amended plans were submitted to the Licensing and Planning Authorities confirming the absence of roller shutters at the front of the building (the amended plan has also been attached to **Appendix A**). In e-mail correspondence with the Licensing team regarding their proposed conditions, the applicant confirmed on 2nd June 2021 that the condition regarding the roller shutter would need to be amended following their correspondence with Planning (the updated wording can also be found in **Appendix B**) and the police were notified of the new wording of the condition in question.

Representations from Responsible Authorities

- 4.12 Representation against the application has been received from a responsible authority—Avon & Somerset Constabulary—within the 28-day consultation period. The representation/objection submitted by Sgt Andrew Gloyn is shown in **Appendix C**. A full and detailed report supporting the representation—and including a detailed history of interactions with the premises—submitted by Nicola Cooper (Area Licensing Practitioner) can also be found under **Appendix D**, and the appendices 1-7 to this separate report have all been attached to this Sub-Committee report collectively under **Appendix E**. Somerset Policing District's CCTV Operational Guidance document—which is also referred to in this police report (as their 8th appendix) can be viewed under **Appendix F** of this sub-committee report.
- 4.13 The overarching concerns raised by representatives from the Police relate to historical issues with the premises, such as underage sales, purchasing of stolen goods, lack of understanding of licensing laws, etc (see above mentioned appendices for full details). These issues have raised concerns with the police on the

fitness/suitability of the applicant to hold (and adhere to the conditions of) a premises licence. It is felt by Avon & Somerset Constabulary that the granting of this licence would undermine the licensing objectives (in particular, the protection of children from harm, prevention of crime and disorder, and maintaining public safety).

Mediation

- 4.14 As stipulated in both Sgt Gloyn's representation (**Appendix C**) and the Area Licensing Practitioner's report (**Appendix D**) it is felt by the police that the addition of further conditions, no matter how robust, would not allay their concerns. As their concerns are centred around the suitability of the applicant to hold a premises licence, it is felt by Avon & Somerset Constabulary that conditions imposed are unlikely to be fully complied with. As such, mediation between Avon and Somerset Constabulary and the applicant in advance of the Sub-Committee hearing was not achievable.

Responses to notice of hearing

- 4.15 Notices of hearing were sent out on 17th May 2021 to the applicants and to the police. Responses to these notices of hearing can be found under **Appendix G**, confirming individuals intending to attend the sub-committee hearing.

Relevant Licensing Policy considerations

- 4.16 Section 1.2 of the Authority's Licensing Policy states: "The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives". "These four objectives will be the paramount considerations when determining a course of action in relation to the Licensing Authority's licensing functions. Each objective will be given equal importance". The four objectives are: the prevention of crime and disorder, public safety, prevention of children from harm and prevention of public nuisance.

Conditions

- 4.17 Section 1.5.2 of the Policy states "The Licensing Authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations. Any conditions attached to the licence must relate to the promotion of the Licensing Objectives".
- 4.18 The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned.
- 4.19 The guidance issued under Section 182 of the Licensing Act 2003 states: "(9.38) *All licensing determinations should be considered on a case by case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be. (9.39) The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. (9.40) Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination, are limited to consideration of the promotion of the objectives and nothing outside those parameters.*"

5 Links to Corporate Aims / Priorities

- 5.1 The granting of this application would support an existing business within the district, creating additional sources of income. However, considerations must also be made, where necessary, to the Corporate Strategy's commitment to 'reduce anti-social behaviour, through working with residents and our partners'.

6 Finance / Resource Implications

- 6.1 None.

7 Legal Implications

- 7.1 The Licensing Sub Committee, when determining this application, must comply with the Licensing Act 2003. It should also have due regard to the Home Office Guidance and the Council's Licensing Policy.
- 7.2 In determining an application for a Premises Licence, any Responsible Authority or other party can make representations in relation to the application.
- 7.3 The Licensing Act 2003 created four licensing objectives and in determining this application, only factors that relate to the licensing objectives can be taken into account. Any representation must relate to the licensing objectives and any conditions added by the Licensing Sub Committee must relate to the promotion of the licensing objectives.

Human Rights Act 1998

- 7.4 The sub-committee must also have regard to the provisions of the Human Rights Act 1998 when determining this application. The 1998 Act made the European Convention of Human Rights directly enforceable in British courts. The relevant provisions are Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 11 (freedom of association) and Article 1 of the First Protocol (right to peaceful enjoyment of one's possessions). These provisions require the sub-committee to identify correctly the competing interests, give each appropriate weight in the circumstances of the case, and balance them against each other in order to arrive at a fair and reasonable decision.

Appeals

- 7.5 If the sub-committee modifies conditions or rejects the application, the applicant may appeal within 21 days of notification of the decision to the Magistrates' Court. Those making relevant representations may appeal if they believe that the licence should not have been granted, or that, when granting the licence, the Licensing Authority ought to have imposed different or additional conditions or excluded a licensable activity. The Magistrates' Court may dismiss the appeal, or substitute its own decision, or send back the case to the Licensing Authority with directions as to how the case is to be dealt with. The Magistrates' Court may make any costs order it thinks fit.

8 Environmental Impact Implications (if any)

- 8.1 None identified

9 Safeguarding and/or Community Safety Implications (if any)

9.1 In the event that Avon & Somerset Constabulary's concerns regarding further underaged sales are realised, this could have implications on community safeguarding/ protection of children from harm.

10 Equality and Diversity Implications (if any)

10.1 None identified.

11 Social Value Implications (if any)

11.1 No social value implications were identified.

12 Partnership Implications (if any)

12.1 No partnership implications were identified.

13 Health and Wellbeing Implications (if any)

13.1 Through effective regulation, confidence in licensed premises and activities can be maintained, helping communities to thrive.

14 Asset Management Implications (if any)

14.1 No asset management implications have been identified.

15 Consultation Implications (if any)

15.1 None identified.

16 Scrutiny Comments / Recommendation(s) (if any)

16.1 Not applicable.

Reporting Frequency : Once only

List of Appendices

Appendix A	Licensable activities applied for and plan of area to be licensed
Appendix B	Operating schedule/ licence conditions offered by applicant in their application
Appendix C	Representation from Sgt Andrew Gloyn – Avon & Somerset Constabulary
Appendix D	Report from Area Licensing Practitioner – Avon & Somerset Constabulary
Appendix E	Collected appendices to the Area Licensing Practitioner's report
Appendix F	Somerset Policing District Surveillance Camera Systems Within Licensed Premises Operational Requirement Guidance
Appendix G	Responses to Notice of Hearing

Contact Officer

Name	Brad Fear
Direct Dial	01823 219447
Email	B.Fear@somersetwestandtaunton.gov.uk

APPENDIX A

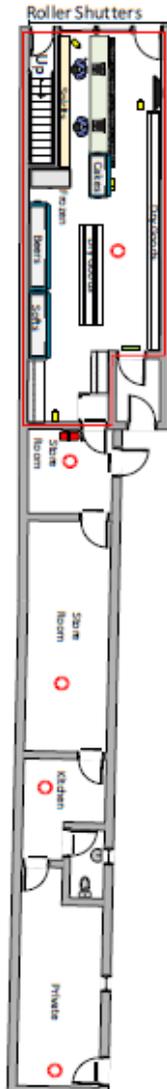
Licensable activities applied for (as per the application):

- SUPPLY OF ALCOHOL

Supply of alcohol Standard days and timings (please read guidance note 7)			<u>Will the supply of alcohol be for consumption – please tick (please read guidance note 8)</u>	On the premises	<input type="checkbox"/>			
				Off the premises	<input checked="" type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<u>State any seasonal variations for the supply of alcohol (please read guidance note 5)</u>					
Mon	08.00							
		22.30						
Tue	08.00							
		22.30						
Wed	08.00							
		22.30						
Thur	08.00					<u>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6)</u>		
		22.30						
Fri	08.00							
		22.30						
Sat	08.00							
		22.30						
Sun	08.00							
		22.30						

Initial plan submitted with application:

LEGEND	Smoke Detector	Fire Bell	Fire Exit	Camera	Fire Ext. Water	Monitor	Licensable Area
							



Drawing Purpose	Premises Licence Application		
Drawing Details	The purpose of this drawing is for the submission of a premises licence application. All measurements have been drawn in millimetres. This drawing is not to be used for the intention of any building, shop fitting or construction purposes.		
Name of Premises	Stokrotka		
Premises Address	5a East Reach Taunton TA1 3EN		
SCALE	1:200		

APPENDIX B

Operating schedule/ licence conditions offered by applicant in their application

1. CCTV

1.1 The premises shall install and maintain a digital CCTV system

1.2 . The CCTV system shall have sufficient hard drive storage capacity to store a minimum of 31 days.

1.3 The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises at the entrance.

1.4 A CCTV log will be completed on a weekly basis to record all elements of the CCTV System is maintained in good working order and recordings date and time stamped.

1.5 Only nominated staff shall be trained in the operation of the CCTV system to ensure rapid data retrieval & downloads of footage can be provided to the Police & the Local Authority Officer upon reasonable request in accordance with the Data Protection Act.

1.6 CCTV shall be continually recording during licensable hours.

1.7 In the event of a failure of the CCTV system for any reason, a record of the failure will be recorded in the premises log and immediate steps will be made to rectify the problem.

1.8 Proxy signs will be sited on the premises to deter proxy sales on behalf of under 18's.

1.9 An alcohol register will be maintained at the premises to record those persons authorised to sell alcohol under the premises licence.

2. Incident / Refusals Register

2.1 An incident log must be kept at the premises. Log records will be retained for a period of 12 months from the date it occurred. It will be made immediately available on request to an 'authorised person' (as defined by section 13 of the Licensing Act 2003), an authorised trading standards officer or the police, and must record the following;

(a) All crimes reported to the premises (where relevant to the licensing objectives)

(b) Any incidents of disorder

3. When the designated premises supervisor is not on duty, a contact telephone number will be available at all times.

4. All spirits will be stored and sold behind the counter.

5. Roller shutters have been installed at the front and a steel security door at the rear of the premises.

(NOTE: Applicant requested that wording for this be amended on 2nd June, to better represent the set-up at the store—i.e. the fact that roller shutters are not installed.

The amended wording is: **5. A steel security door has been installed at the rear of the premises.**)

6. Prominent, clear and legible signage shall be displayed at all exits to the premises requesting the public to respect the needs of local residents and businesses and to leave the area quickly and quietly. (Quiet Notice).

7. All waste products will be stored in a suitable receptacle.

8. No exterior lights will cause annoyance to any nearby residential property.

9. A written register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months and will be collected by the designated premises supervisor and produced to the police or an 'authorised person' (as defined by section 13 of the licensing act 2003) or an authorised trading standards officer the local authority/council on demand.

3. Challenge 25

3.1 The premises shall operate a Challenge 25 policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand by the police, an 'authorised person' (as defined by section 13 of the licensing act 2003) or an authorised Trading Standards Officer.

3.2 The DPS will provide training to staff for alcohol sales in relation to Challenge 25. Training records to be retained on the premises.

3.3 Prominent, clear and legible Challenge 25 signage shall also be displayed at all entrances to the premises as well as at, at least one location behind any counter advertising the scheme operated.

APPENDIX C

Representation from Sgt Andrew Gloyn – Avon & Somerset Constabulary



Avon & Somerset Constabulary Representations Licensing Act 2003

Your Name	Sgt Andrew Gloyn 4674
Job Title	Neighbourhood Sergeant - Taunton
Postal and email address	Taunton Police Station The Deane House, Belvedere Rd, Taunton TA1 1HE
Contact telephone number	101

Name of the premises you are making a representation about.	Stokrotka Taunton Ltd
Address of the premises you are making a representation about.	5a East Reach, Taunton TA1 3EN

Which of the four licensing Objectives does your representation relate to? Please state yes or no.	Yes	An application for the grant of a premises licence was received on 13 th May 2021 from Tony Clarke of JMC Licensing Consultants on behalf of Stokrotka Taunton Ltd for the supply of alcohol Monday to Sunday 0800 – 2230hrs. We have recently been made aware of an underage sale of alcohol from the premises when there was no authority to sell alcohol and
	Or No	

		<p>also received information that the premises may be purchasing stolen goods from local shoplifters in the area. We are also concerned at the applicant's lack of understanding of licensing laws and an unwillingness to work in partnership with us to prevent crime & disorder. Full details of our representations are presented in the attached Licensing Officer's report with attachments.</p> <p>We would like Mrs MICHALIK to be present at the Licensing hearing in order that the committee may speak directly to her regarding the evidence that we are submitting.</p> <p>In conclusion, whilst our aim is to support local business and especially in these very difficult times, based on the evidence submitted, we feel that the granting of this licence, will undermine the licensing objectives.</p> <p>On behalf of the Chief Officer of Police for Avon & Somerset Constabulary we ask that the grant of this application is refused.</p>
The Prevention of harm to children	Yes	See attached
To prevent Public Nuisance	No	
To prevent crime and disorder	Yes	See attached
Public Safety	Yes	See attached

<p>Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.</p>	<p>We do not think that applying conditions, no matter how robust, will allay our concerns. We do not feel that the owner of the business would have a sufficient understanding of compliance and their importance. The breach of a premises licence condition is a criminal offence and to impose conditions that they can't comply with would be setting them up to fail and lead them into enforcement which is costly, time</p>
---	---

	<p>consuming but more importantly would not be fair, open or transparent. Conditions should not be imposed to manage a premises where we have doubts that premises can meet their obligations and comply with the law.</p>
--	--

Signed: Sgt. Andrew Gloyn

Date: 9th June 2021

APPENDIX D

Report from Area Licensing Practitioner – Avon & Somerset Constabulary

Representation in relation to an application for the grant of a Premises Licence under the Licensing Act 2003

Stokrotka, 5a East Reach, Taunton, TA1 3EN

Area Licensing Practitioner's Report

I am Area Licensing Practitioner Nicola Cooper of Avon & Somerset Constabulary and make representations in respect of the above application for a grant of a premises licence at the above address. I have considered the application submitted and on behalf of the Chief Officer of Police wish to make representations that the likely effect of the grant of this application undermines the Prevention of Crime & Disorder, Public Safety and the Protection of Children from Harm licensing objectives as outlined below:

Premises History

18/5/18 – The previous Designated Premises Supervisor withdrew their consent leaving the previous owner with no authority to sell alcohol. PC 2187 Pethick delivered a letter to the owner of the premises at that time instructing them that they had no authority to sell alcohol and remove all alcohol from the shelves.

Dec 18 – We were informed by the Licensing Authority that the licence had subsequently lapsed due to non-payment of fee.

From Companies House, part of the www.gov.uk website, the company was subsequently listed as dissolved on the 20th March 2020. No application was received to transfer the licence within the 28 day period following dissolution and therefore, a new premises licence would need to be applied for.

The key elements of our representations are as follows:-

25/8/20 – An application was submitted to transfer the premises licence from Mrs Kubiszyn Michalik in to the name of Stokrotka Taunton Ltd whilst I was away on leave. At that time the licence was still in the name of the previous owner. No application for a Designated Premises Supervisor was submitted at this time and there remained no authority to sell alcohol. We were not in receipt of any other applications prior to this.

05/03/21 - Leeann Leeds of Somerset West & Taunton Council (SWaT) Case Manager, had telephoned the premises following a “bounced back” email. I believe Leeann at that time explained that they could not sell alcohol and she posted them the

licence which stated this. As a Personal Licence Holder Mrs MICHALIK should have been aware that there was no Designated Premises Supervisor but she continued to sell alcohol unlawfully. She obtained her Personal Licence Certificate on 5th August 2019 and therefore. She told me she took the exam in Polish which I am currently querying.

15/03/21 – We were made aware of an underage sale from this premises whilst alcohol was being sold unlawfully. See my attached statement **appendix 1.**

18/03/21 – Due to this report I visited the premises and met with Mrs MICHALIK for the first time. I asked if I could purchase alcohol from the shop and she responded “yes what would you like”? I explained who I was and she said she had been selling alcohol from the premises since December 2020. At the time of my visit, alcohol was on display behind the counter and also a large amount of stock of alcohol could be seen in the stock room at the rear of the premises. Mrs MICHALIK said she had a premises licence and had been speaking to the council since last November 2020. However, there was no licence on display in the premises at the time of my visit which is a legal requirement under s.57 of the Licensing Act 2003. From our records, it was my understanding that the premises did not have any authority to sell alcohol and I tried to advise her of this fact. She also had in her possession, but not displayed, the current licence dated 5th March 2021 stating “*no alcohol can be sold until an application to vary the DPS has been received by the Licensing Authority*”. This was written 3 times on the licence under Licensable Activities, Name of Designated Premises Supervisor and also the Personal Licence section and was very clear. I pointed this out to her. A copy of the summary of this licence is attached as **appendix 2.** During this visit, I was in the premises for approx. 1 hour and I found that Mrs MICHALIK had difficulty understanding licensing processes. Her basic English is good but limited when discussing more complex issues and she became very frustrated and upset. She called her son Marcel by telephone who attended the premises to assist. Although Marcel spoke good English it was still very difficult explaining the situation to him and he accused me of harassing them despite me being there to make legitimate enquiries and try to resolve the issues. It appeared that Mrs MICHALIK had obtained her Personal Licence and also transferred the licence into the name of Stokrotka Ltd but she HAD NOT applied to be a Designated Premises Supervisor and therefore, she had no authority to sell alcohol. The licence in her possession clearly stated this but she didn’t understand and neither did her son. She had previously been assisted by her friend Claudia and the council had explained the situation. I believe Mrs MICHALIK genuinely felt that she had a licence but her lack of understanding continues to be a concern.

During this visit I also advised Mrs MICHALIK that should we receive an application to add her as Designated Premises Supervisor, we would regrettably be submitting representations due to her lack of understanding of UK licensing laws and also an underage sale which had taken place when the premises had no authority to sell alcohol. I asked her about her staff and Mrs MICHALIK told me her husband occasionally helped out in the premises. She said she kept a refusal register but was unable to produce it. As I knew that they had no authority to sell alcohol, I asked them to remove all alcohol from the shelves. I also felt it would be difficult for Mrs MICHALIK

to understand not to sell to street drinkers and her premises may be targeted by them. We have a local agreement with all other off licenses in the Town Centre not to sell to street drinkers, nor sell single cans of alcohol in order to reduce anti-social behaviour in the area and promote the licensing objectives. It later came to light that it appears Mrs MICHALIK has and is being targeted by local street drinkers who have been racist & verbally abusive towards her.

19/03/21 - An application was received to add Mrs Anna Kubiszyn MICHALIK as Designated Premises Supervisor. Mrs MICHALIK had now obtained the services of Tony Clarke from JMC Licensing Consultants to assist with the application on her behalf following my visit. However, I undertook further enquiries with Companies House which clarified that the previous licence had lapsed and I advised the Licensing Authority.

24/03/21 – Following on from the DPS application, I made a further visit to the premises to check if the premises had any training records. Mrs MICHALIK said that she was the only one who sold alcohol which contradicted her previously telling me her husband occasionally helps out. There were no staff training records for any other staff member. At the time of this visit both of Mrs MICHALIK's son's were present and the youngest, aged 17 yrs was present behind the counter with the alcohol. I asked why he was there and he said "to protect his mother". Whilst present in the shop they telephoned June Clarke. She asked Mrs MICHALIK's son to record my conversation whilst I was in the shop which I did not allow. This was a legitimate licensing visit. I conveyed this to June Clarke by phone after my visit and asked her to email me with her identity. She said that we were "targeting the premises because they had no conditions on their licence". She said she knew nothing about the client and had never met them. I tried to explain the situation about the applications but she disagreed with me and was argumentative. I explained a receipt could not guarantee the submission of an application which had never been served on Police and would be invalid.

The next day I spoke to Mrs MICHALIK by phone to see if they had working CCTV but she did not understand and I subsequently spoke to her eldest Son by phone who said CCTV did not work and they didn't know how to work it.

Following my visit, June Clarke has messaged Mrs MICHALIK's youngest son asking for a letter about my visit signed by them stating that they will "hopefully make PC Nicola Cooper go away and save your mum from going to a hearing" see attached [appendix 3](#). Mrs MICHALIK showed me this text message during my visit on the 24th May.

25/03/21 - PCSO Amy Borthwick visited the shop (see statement [appendix 4](#)) to see if the underage sale had been recorded on CCTV. Mr MICHALIK was working in the shop, Mrs MICHALIK was not there and he would not let PCSO Borthwick assist with the CCTV and she was unable to ascertain whether or not it was working at that time. The monitor recording customers was on display which breaches data protection.

26/03/21 – Having made further enquiries, I clarified with the Licensing Authority that the premises licence was actually "dead" following the business being dissolved on

20th March 2020 as suspected. This deemed the earlier transfer application invalid as there was no licence to transfer. The premises were advised by letter that all alcohol must be removed from display in the shop. Letter attached [appendix 5](#). June Clarke did telephone me and briefly discussed this and advised they would be applying for a licence at which time I advised Mrs Clarke that we would be submitting representations due to an underage sale.

14/04/21 – We received information that the premises may be handling stolen goods. CCTV were tracking known shoplifters from shops with full bags of stolen goods to Stokrotka.

25/04/21 - We have viewed CCTV footage on 3/4/21 between 1032 & 1040hrs whereby two known shoplifters were seen to leave Lidl supermarket at Tangier with a basket of meat. A female was then seen shortly after with 2 full “bags for life” on her shoulder cycle directly to Stokrotka leaving her bike outside. She was in the store for 8 minutes and left with empty bags holding something in her hand, it could only be small enough to be money or a small package. She then cycled off. See Statement of evidence from PC 2187 Pethick [appendix 6](#).

13/5/21 - We received a new application for the grant of a Premises Licence.

Having scrutinised the application, I don't believe that the agent JMC Licensing Consultants has consulted with Somerset West & Taunton Statement of Licensing Policy, nor visited the premises or has any knowledge of the area. The address for JMC Licensing Consultants on the application is Belfast. Section 8.41 of the s.182 Guidance specifies that applicants are expected to have regard to the statement of licensing policy for the area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area.....” s.8.42 states that “applicants are expected to obtain sufficient information to enable them to demonstratethe local area and physical environment including crime & disorder hotspots.....risks posed by the local area and local crime initiatives etc. However, JMC Licensing Consultants have not had any consultation with me during or before the 28 day consultation period to discuss what measures we would require to promote the Licensing Objectives as also suggested in Somerset West & Taunton's Statement of Licensing Policy under section 2.0 – General principles.

When I have researched JMC Licensing Consultants on the internet, I have located an almost identical application form for a premises in Rotherham and the content of the application does not appear individual to this premises but possibly a “cut and paste” from another application not local to this area.

The application states that “roller shutters have been installed at the front.....” which is not the case. The original premises plan submitted also stated shutters were installed but during the consultation period this has also been changed on the 19th May without re-submission of the application. This re-iterates my view that this application is not specific to this premises or it's surroundings. Although the agent has made changes to the application, they have taken objection to the Licensing Authority

requesting a slight change to the wording of conditions eg changing the words will or shall to “must” which would be our preference. These slight amendments would still have been consistent with the operating schedule and only the Licensing Authority can impose conditions on a premises licence. s.3.4.7 of the Council’s Statement of Licensing Policy specifies that compromises can be reached and can be “treated as a change to the Operating Schedule”. I am not aware that this agent has had previous dealings with Somerset West and Taunton Council and cannot understand their reluctance to work in partnership, which is not helpful to their client.

The Operating Schedule

At no time did the agent consult with us regarding our specification for CCTV. At present there does not appear to be a working system installed at the premises and I think it unlikely that the applicant would understand our requirements. Monitors are on display in the premises and the shop owner has failed to remove these despite my advice during an earlier visit in March, which breaches data protection regulations. I have also provided the shop with a copy of our CCTV document which is endorsed by the Licensing Authorities across Somerset see **appendix 8**. We have been told by the premises the system is to “scare people off” and doesn’t work. Mrs MICHALIK advised me that someone called Daniel will be fixing it and I have asked for his details but these have not been forthcoming.

The prevention of Crime & Disorder

This section states that “all incidents of disorder” will be recorded. However, on a recent visit to the premises Mr & Mrs MICHALIK both advised me that they are on the receiving end of anti-social behaviour, racial abuse and harassment from local people wanting free drinks and then being verbally abusive to Mrs MICHALIK on a regular basis. I subsequently sent a Polish Police Officer to investigate further who was met with hostility. Mrs MICHALIK advised the officer that “it happens all the time and she is not scared of them”. None of these incidents have been reported to us despite this being proposed on the application. On my last visit on the 13th May Mrs MICHALIK produced a small book with polish writing which she describes as a list of people who have been in the premises offering to sell her stolen goods but none have been reported to us. This translates to “THIEVES” Blond Female – 04.05 2:30, Small guy on bike – 18.05 1-2, Dark hair in a ponytail slim with (??backpack) 19.05 1.50, Long hair – 24.5 16:00. This document is attached as **appendix 7**. This records 4 visits in a few weeks in May which causes me some concern about the premises being targeted with no reports to police. Furthermore, recording of incidents in Polish will not satisfy responsible authorities when conducting legitimate visits and these need to be recorded in English as well.

Public Safety

On my visit to the premises on 13th May several of Mrs MICHALIK’s customers came in without masks and were not challenged. The wearing of masks in shops is mandatory unless exempt and liable to a fine. I spoke to a customer who could not give me a legitimate reason nor was he exempt. Mrs MICHALIK continued to serve people without masks despite my advice and the premises is very small. I believe this

undermines public safety. There were signs displayed but Mrs MICHALIK was not enforcing them. I have no confidence that any other signage in the shop would be enforced eg. “leave quietly” and “challenge 25” as put forward by the agent.

The Protection of Children from Harm

When Mrs MICHALIK was unlawfully selling alcohol there were no training records or refusal registers. Mrs MICHALIK advised me that she was always in the shop and she was the only person who sold alcohol which is untrue. Mr MICHALIK has been seen working alone in the shop and the report of an underage sale also advises that a male sold the alcohol. At this time, there was no age verification policy nor any Challenge 25 posters or “due diligence” in place despite Mrs MICHALIK being the holder of a Personal Licence.

With the evidence that I have submitted and the contents of this report, I do not believe that Mrs MICHALIK has a good understanding of licensing laws and despite regular visits and advice from me and also to her friends and family, there continues to be a lack of understanding. I would have no confidence in the level of training that she could provide bearing in mind there has already been an underage sale of alcohol from this premises.

Visits to the premises

During my visits Mrs MICHALIK becomes very frustrated and upset as did Mr MICHALIK who started shouting and swearing during a visit. I have also been called racist which is unacceptable. My only interest in any premises is compliance with UK Licensing Laws and not specific to any individual. I have felt that the family use this phrase quite “freely” and my polish colleague was also met with some hostility and racism was mentioned. We need premises to be working in partnership with us and to not do so, undermines the fundamental basics of the Licensing objectives. Any discrimination by us would be unlawful and we have due regard to eliminate unlawful discrimination and promote equality and diversity. If issues arise we need to be able to work with a premises on complex issues and sometimes compliance and this hostility is preventing any positive working relationships &/or discussions which I feel may have been exacerbated by the agent employed as is evidenced in their text message. The Council’s Statement of Licensing Policy under section 3.0 recognises that the “co-operation and partnership remain the best means of promoting the licensing objectives.” Also during my visits to the premises, various customers have become involved and are having to translate and explain things to the premises.

Conditions

I do not think that applying conditions, no matter how robust, will allay our concerns as I do not think Mrs MICHALIK would have a sufficient understanding of compliance and their importance. The breach of a premises licence condition is a criminal offence and this would be setting them up to fail and lead them into enforcement which is costly and time consuming but more importantly would not be fair on them. Conditions

should not be imposed to manage a premises where we have doubts that premises can meet their obligations and comply with the law.

Conclusion

I cannot recall having previously objected to any premises licence application in this area and this decision has not been taken lightly. It is always our intention to support local businesses especially in these very difficult times. However, to grant this licence would undermine the licensing objectives based on the evidence that I have provided.

We submit our representations and also specifically request that Mrs MICHALIK is in attendance at the licensing panel either in person or remotely so that the Committee may make their own assessment and speak directly to her in respect of our concerns.

This completes our submission to the panel.

See also Attachments:

Appendix 1 – Statement regarding underage sale on 14th March 2021.

Appendix 2 - Summary of Premises Licence and letter – dated 5th & 9th March

Appendix 3 – Text message from JMC Licensing Consultants

Appendix 4 – Statement from PCSO Borthwick regarding visit.

Appendix 5 – Letter from council advising licence lapsed dated 25th March

Appendix 6 – Statement from PC Pethick.

Appendix 7 - Shop log of “thieves”.

Appendix 8 – Our minimum guidance for CCTV document

Nicola Cooper 8820

Area Licensing Practitioner

9th June 2021

APPENDIX E

Collected appendices to the Area Licensing Practitioner's report

APPENDIX 1



Licensing
Somerset West and Taunton Council, PO Box 866
Taunton, TA1 9GS
Email: enquiries@somersetwestandtaunton.gov.uk
Telephone: 0300 304 8000
Website: www.somersetwestandtaunton.gov.uk

Ms Anna Kubiszyn-Michalik
Stokrotka Taunton Limited
5A East Reach
Taunton
Somerset
TA1 3EN

9th March 2021

Dear Ms Anna Kubiszyn-Michalik

RE: Stokrotka, 5A East Reach, Taunton – Application to transfer the premises licence

Following on from the application to transfer the premises licence, please find enclosed the premises licence and premises licence summary.

Please be advised that at the moment you are unable to sell alcohol from the premises until you have made an application to vary the designated premises supervisor (DPS) as the previous DPS informed us that they no longer wish to continue to be the DPS.

Please find below the link to Somerset West and Taunton Council's webpage where you can make this application.

<https://www.somersetwestandtaunton.gov.uk/licensing/alcohol-entertainment-licensing/>

Once the application to vary the DPS has been received sales of alcohol from the shop can commence.

Please ensure that premises licence summary is displayed in a prominent position on the premises. The premises licence or a certified copy should also be kept on the premises.

If you have any queries relating to this email then please do not hesitate to contact Licensing.

Yours sincerely

Leeann Leeds
Case Manager - Licensing

Somerset West and Taunton

Somerset West and Taunton Council
PO Box 866
Taunton
TA1 9GS

Email: Enquiries@somersetwestandtaunton.gov.uk
Website: www.somersetwestandtaunton.gov.uk
Telephone: 0300 304 8000

Premises Licence

Premises licence number
LPP/000478

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description
Stokrotka
5a East Reach

Post town	Taunton	Post code	TA1 3EN
Telephone number	07737 977213		

Where the licence is time limited the dates

NOT APPLICABLE

Licensable activities authorised by the licence

Sale by retail of alcohol for consumption off the premises

No alcohol can be sold until an application to vary the DPS has been received by the Licensing Authority

The times the licence authorises the carrying out of licensable activities

Monday to Sunday from 8am to 10pm

The opening hours of the premises

Monday to Sunday from 8am to 10pm

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

Off supplies

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Stokrotka Taunton Limited
5A East Reach
Taunton
Somerset
TA1 3EN

Registered number of holder, for example company number, charity number (where applicable)

Not applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

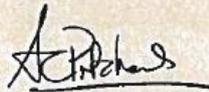
No alcohol can be sold until an application to vary the DPS has been received by the Licensing Authority

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

No alcohol can be sold until an application to vary the DPS has been received by the Licensing Authority

This licence will take immediate effect, replacing the licence dated 17th October 2016

Dated: 5th March 2021



Director of External Operations and Climate Change

RESTRICTED (when complete)

MG11

APPENDIX 2

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of Nicola Cooper

Age if under 18 Over 18 (if over insert 'over 18') Occupation Police

This statement (consisting of 1 page(s), each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature Nicola Cooper

Date 15th May 2021

Tick if witness evidence is visually recorded (supply witness details on rear)

I am Nicola Cooper, Area Licensing Practitioner of the Avon and Somerset Constabulary, in whose area the premises known as Stokrotka of 5a East Reach, Taunton TA1 3EN are situated, and I am authorised to exercise our statutory functions as a 'Responsible Authority' under the Licensing Act 2003.

On the 15th March 2021 I received a report of an underage sale of alcohol from the premises known as Stokrotka of 5a East Reach, Taunton TA1 3EN and I obtained details of the complainant. I subsequently contacted the informant by telephone on the 19th March 2021 and discussed the matter at length. Full details were provided to me in writing but I am withholding that information in order to protect the complainant and young people concerned who wish their details to remain private. I believe the details given to me are true and correct as follows:-

At about 4pm on 14th March 2021 a young person was found in Taunton semi-conscious after being sick. An ambulance was called and the patient was taken to A&E at Musgrove Park Hospital and later discharged after treatment. Following investigation 2 young people have stated that they went to Stokrotka, the Polish Shop in Taunton at about 1.00pm. They also referred to the premises as the "green one" and said "it is the place to go in Taunton to buy alcohol as they never ask for ID". They had been told where to go to buy it, no questions asked. There are three European shops close to each other at this location, two are red and I can confirm that Stokrotka is painted Green. The young people were aged 15 and 16 years and they went into Stokrotka and purchased 1Litre bottle of vodka and paid in cash. It was around £16.00. They were not asked for ID. They said the sale was made by a Male approx. 25 yrs old. They consumed the alcohol in French Weir Park. The matter was reported to Police the next day on 15th March 2021.

This information was reported to us by a professional in their duty to safeguard children and I believe the information to be true and correct. Any details that may identify the informant or the children have been withheld but this information is available to the Licensing sub-committee on request.

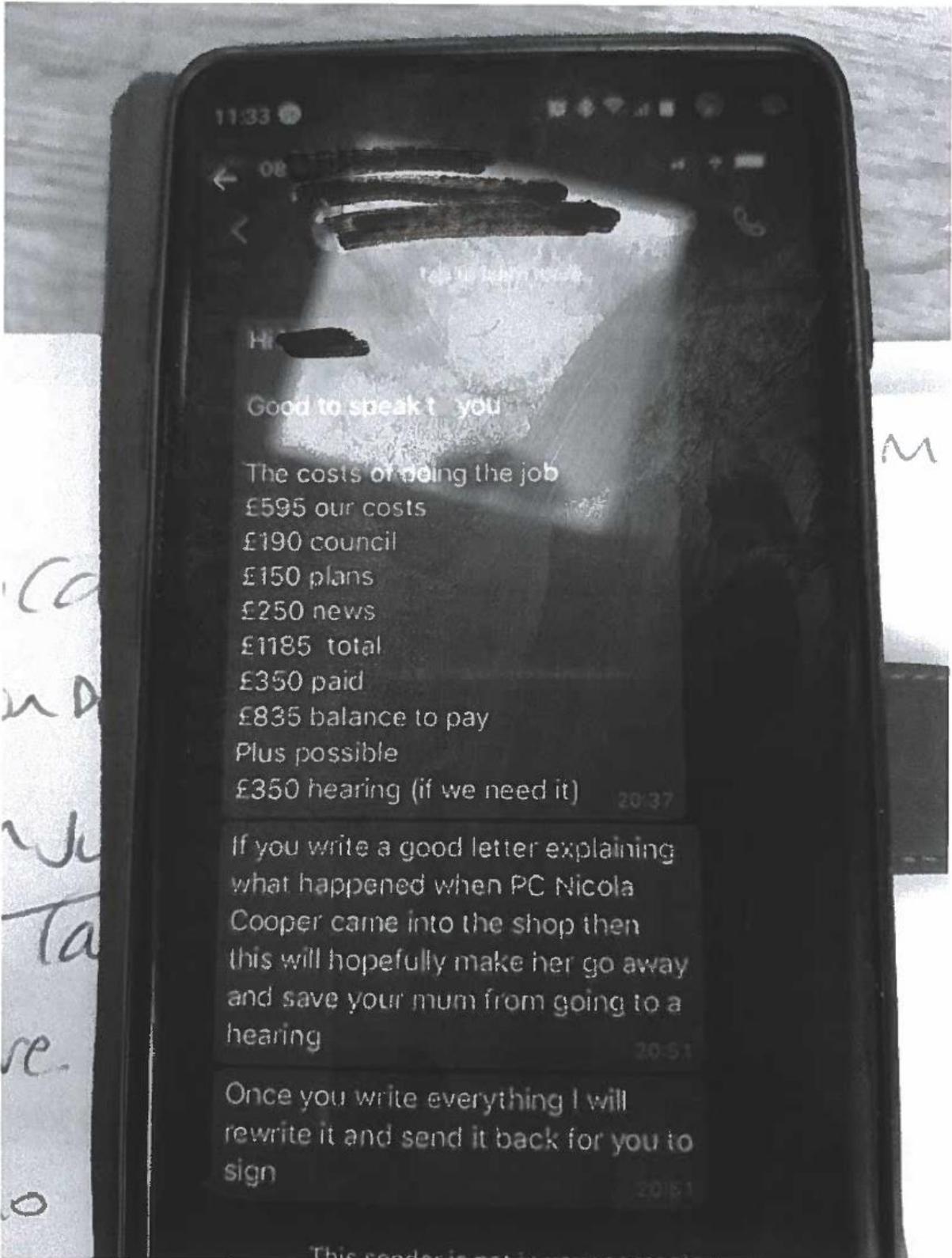
Signature: Nicola Cooper

Signature witnessed by:

2010/11

RESTRICTED (when complete)

APPENDIX 3



RESTRICTED (when complete)

MG11

APPENDIX 4

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of Amy BORTHWICK

Age if under 18 **Over 18** (if over insert 'over 18') Occupation **Police Community Support Officer**

This statement (consisting of 2 pages, each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature A.Borthwick

Date: 15/05/2021

Tick if witness evidence is visually recorded (supply witness details on rear)

I am Police Community Support Officer 6266 Amy BORTHWICK of Avon and Somerset Constabulary and I am currently based at Taunton Police Station on the Taunton Central beat team.

On Thursday 25th March 2021 at approximately 1200hrs, I attended Stotrotka on EAST REACH in Taunton in company with Police Community Support Officer 9107 Alexandra BYRON as requested by Nicola COOPER the Police Licensing Practitioner. The purpose of the visit was to try and review the CCTV in relation to a report whereby alcohol had been sold to 2 underage females.

Upon attending, I noted in the shop that there was no signage for 'challenge 25' or anything similar. There were spirits behind the till and cans of alcohol in the fridge opposite. The manager came and spoke with me and gave me his name – Robert MICHALE. He said he owned the shop with his wife Anna but she was not there.

I asked Robert if he could show me the footage from Sunday 14th March 2021 at approximately 1300hrs so I could potentially identify witnesses to an offence that took place.

Signature: Amy Borthwick

Signature witnessed by:

2010/11

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11

Page No 2 of 2

Continuation of Statement of: Sam Bushen

Robert said that the CCTV was not recording but when I asked if he could play the footage back, he said he could.

Robert pulled out a wireless mouse from under the counter and started clicking the buttons. He said he did not know how to work the system so I asked if I could try and he said no. Robert then hit the mouse on the counter a few times and said it was broken. I advised him he should look into getting it fixed.

I then left the store.

Signature: Amy Borthwick

Signature witnessed by:

2010/11

RESTRICTED (when complete)

APPENDIX 5

Nicola Cooper

From: Rendell, John [REDACTED]
Sent: 09 June 2021 16:02
To: Nicola Cooper
Subject: FW: MA/50965 - change DPS at Stokrotka - premises licence lapsed
Importance: High

Hi Nicola

See below.

John

John Rendell
Licensing Manager
Somerset West and Taunton Council

[REDACTED]
www.somersetwestandtaunton.gov.uk

From: Enquiries,
Sent: 25 March 2021 13:55
[REDACTED]
Subject: MA/50965 - change DPS at Stokrotka - premises licence lapsed
Importance: High

Dear Mr Clarke

The Licensing Authority has been checking historic records connected with the premises at 5a East Reach, Taunton following a number of queries being raised by both your client and the Police.

Looking back, your client made an application to transfer the premises licence for 5a East Reach, Taunton from Daro Shop Ltd on the 25th of August 2020.

It has come to light that this company was dissolved on the 20th of March 2020, as the listing on the Companies House part of the Gov.uk website shows: <https://find-and-update.company-information.service.gov.uk/company/10332528>

Under section 27(1)(d) of the Licensing Act 2003, a premises licence lapses if the holder of the licence, being a company, is dissolved.

Under section 50 of the Act, there is the ability to reinstate a premises licence that has lapsed in such circumstances, but only where an application to transfer said licence is made within 28 days of that licence having lapsed.

Therefore, in the case of licence LPP/000478 for 5a East Reach, the licence had unfortunately lapsed many months before your client's application to transfer the licence was submitted and the application was therefore invalid.

It is unfortunate that the application was taken on face value and that a check of companies house was checks were not made at the time. It is only right of course that we will arrange for your client to be refunded the £23 transfer fee, plus annual fees paid during that period and for you to be refunded the £23 fee for the application to specify a new DPS.

This of course leaves us in a position where your client still does not have authorisation under the Licensing Act 2003 to supply alcohol at 5a East Reach. Indeed, this can now only be rectified by your client submitting an application for a brand new premises licence:

<https://www.somersetwestandtaunton.gov.uk/licensing/alcohol-entertainment-licensing/premises-licence/apply-premises-licence/>

All alcohol should be removed from the shop area of the premises that the public have access to, until such time as a new licence is granted.

Please acknowledge receipt of the email and that your client has been made aware.

Kind regards

John Rendell
Licensing Manager
Somerset West and Taunton Council
enquiries@somersetwestandtaunton.gov.uk
0300 304 8000
www.somersetwestandtaunton.gov.uk

The Council is committed to protecting your privacy when you use our services. If you would like more information about how we do so please visit our website at <https://www.somersetwestandtaunton.gov.uk/privacynotice/>.

This communication is intended solely for the person (s) or organisation to whom it is addressed. It may contain privileged and confidential information and if you are not the intended recipient (s), you must not copy, distribute or take any action in reliance on it. If you have received this e-mail in error please notify the sender and copy the message to dpo@somersetwestandtaunton.gov.uk

APPENDIX E

RESTRICTED (when complete)

MG11

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of Gary Pethick

Age if under 18 Over 18 (if over insert 'over 18') Occupation Police

This statement (consisting of 1 page(s), each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature Date 27th May 2021

Tick if witness evidence is visually recorded (supply witness details on rear)

I am PC 2187 Gary Pethick of the Avon and Somerset Constabulary currently stationed at Taunton Police Station.

I am currently working in a Neighbourhood Policing Role. This involves working in the community with partner agencies to identify emerging trends.

I was recently contacted by Somerset West and Taunton CCTV operatives regarding a pattern of behaviour involving identified persons in Taunton town centre appearing to be selling stolen goods at an identified premises. The premises being Stokrotka, East Reach, Taunton. They identify as a convenience store who specialise in Polish food items.

I have viewed CCTV footage from the 3rd April 2021 covering the times of 1032hrs to 1040hrs.

Upon viewing the footage I have seen the identified female who is a known town centre shoplifter. She was in the company of a male outside of Lidl, Wood Street, Taunton. The male is also a known shoplifter. The footage shows them removing a basket full of what appears to be joints of meat. By leaving the store with a basket and in an obvious rush it would suggest that the items were stolen. The male on the bike takes the basket and leaves the area crossing the council car parks and disappearing from camera view.

A short time later she appears on a bike with 2 large shopping bags on the shoulder. CCTV operatives have been able to track most of her movements through the town centre and she is tracked to East Reach. She goes in to Stokrotka leaving her bike propped up outside.

The female was in the store for 8 minutes and left with a small item in her hand and was no longer in possession of the bags. She was seen with something in her hand that could only be small enough to be money, or similar sized item. She then cycled off.

I have visited the store at a later date and spoke to the manager, Anna. I have asked her about CCTV but she stated that she did not have any ability to record and the cameras present were for monitoring only. She stated that the layout of the store meant that any suspicious persons who enter the store have to pass the till point and are turned away immediately. She also confirmed that she was working that day.

Signature:

2010/11

Signature witnessed by:

RESTRICTED (when complete)

RESTRICTED (when complete)

MG11

Page No 2 of 2

Continuation of Statement of: Gary Pethick

I have explained the behaviour of the identified female in the store and asked if she could explain for her presence for 8minutes. I have asked if the contents of the bag were sold in the store, and she denied this. But she was unable to account for the presence of the female in the store, saying perhaps the meat was sold to another customer.

Anna has allowed a look around the store and the staff only storage areas. No items branded from other stores was located.

Anna was told about the concerns of the Police around her, the business and the expectations to operate responsibly if she wished to apply for a licence to sell alcohol.

Signature:

Signature witnessed by:

2010/11

RESTRICTED (when complete)

APPENDIX 7

— Dan
on —
Daniel

ZŁODZIEJE

Blondynka	- 4.05	- 2:30
Maty na rownie	- 18.05	- 1-2
ciężkie włosy kucyk		
szczerpa 2 plec	- 19.05	- 1:50
długie włosy	- 24.05	- 16:00

APPENDIX F

Somerset Policing District

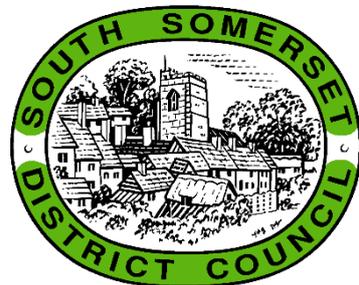
SURVEILLANCE CAMERA SYSTEMS

WITHIN

LICENSED PREMISES

OPERATIONAL REQUIREMENT

GUIDANCE



	Page No
1 Introduction	3
2 What is an Operational Requirement	3
3 Equipment	5
4 Cameras	5
5 Monitors	7
6 Recording of Images	8
7 Digital Recording Images	8
8 Image Quality	9
9 Image Retention	9
10 Time and Date Stamp	9
11 Image Integrity	9
12 Security of Equipment	9
13 Lighting	9
14 Signage	10
15 Systems and the Data Protection Act	10
16 Installation	11
17 Commissioning	11
18 Training/Management System	11
19 Service/Maintenance Support	12
20 Checklist – Camera Locations	13
21 Checklist – Operational Requirement	14
22 Data Protection Act 2018 - Compliance Advice	15
23 Small User Checklist	16

1 Introduction

Closed Circuit Television, commonly referred to as CCTV, whilst still popular, the term is no longer accurate. Industry standards often use the term video surveillance system (VSS) in preference to CCTV. In this guide, we have used the term surveillance camera system (or “system” for short). A surveillance camera system includes the cameras and all the related hardware and software for transmitting, processing and storing the data which is captured. A correctly designed, installed and maintained system can be an effective tool in the potential prevention and detection of crime.

This document is intended to provide a **minimum** performance specification for the installation of a system, or the upgrade of an existing system, within licensed premises. The primary objectives of installing a system within such an environment are –

- To seek to influence behaviour of patrons.
- To protect staff and property.
- Where necessary, to provide unequivocal evidence of an incident to assist subsequent prosecution.

An effectively installed and managed system will also help to prevent criminal and anti-social behaviour.

Proposed system installations for licensed premises must comply with the requirements of this guidance. A suitably qualified company should be engaged to design and install the system to ensure compliance.

A system specification will be supplied to the Licensing Authority.

The following guidance seeks to assist the reader in the procurement process. It provides a checklist of criteria which are required for the specification of an effective surveillance system and is, in part, based upon advice published by the Home Office Centre for Applied Science and Technology (CAST) (formally the Home Office Scientific Development Branch (HOSDB)).

There is a requirement for those operating surveillance systems that meet these minimum standards to ensure suitable auditing procedures for the retention of recorded images and that there is a requirement for any surveillance evidence requested by police to be provided

2 Operational Requirement Analysis

What is an Operational Requirement?

“A statement of needs based on a thorough and systematic assessment of the problems to be solved and the hoped for solutions”.

In its simplest form an Operational Requirement (O.R) makes the reader ask a series of simple questions -

- Why am I installing a surveillance system?
- What do I want it to do?
- Where should I install cameras?
- How should I record the images?

The Home Office Centre For Applied Science and Technology advise the use of the Operational Requirement checklist methodology for a number of reasons including –

- It is relevant to any size of system – Town Centre to Corner Shop.
- It is relevant to any type of system – Analogue or Digital.
- It is relevant at any stage in the system's life – from initial concept to upgrade.
- It identifies the role that the surveillance system will play in the overall security strategy for the premises.

When a client contracts an installer to design a surveillance system the installer will require certain information to enable them to create the specification for an effective system. It is unlikely that the client will have sufficient technological knowledge to specify which equipment is required.

The use of an Operational Requirement approach simplifies the process and reduces the opportunities for confusion, which may lead to a non-complaint installation.

The Operational Requirement should answer the following questions –

Who and/or where is to be observed?

- Customers, Patrons and staff.
- Internal/External use

What activities are of concern?

- Incidence of disorder.
- Assaults.
- Theft of property.
- Damage to property.
- Dealing of drugs.
- Drug abuse.
- Suspicious actions.

Why are the activities being observed?

- To monitor behaviour.
- To recognise and identify offenders.

- To produce physical evidence of incidents, which may subsequently be used in Court?

Picture Quality

The quality of images recorded is of paramount importance. They should therefore -

- Clearly show actions of persons involved in an incident.
- Provide supporting evidence of identity of offenders.
- Show an overall view of the scene.
- Be time and date stamped.
- A basic Operational Requirement covering these points should enable the installer to specify an appropriate system.

3 Equipment

In its simplest format, surveillance systems comprise of one or more cameras, a multiplexer, a monitor, and a means of recording images. If poorly specified, each item has the potential to reduce the image quality. To enable accurate identification from recorded images, the Police Scientific Development Branch recommends that the system should produce an image quality at the monitor of 450 TVL (television lines)

4 Cameras

Image quality is measured against the Human Identification Test developed by the Centre for Applied Science and Technology as a means of auditing the efficiency of a surveillance system.

Human identification test

The purpose of this test is to help system commissioners and auditors to demonstrate the system under review is capable of providing images that can be identified.

The test consists of nine human faces. A random selection is presented to the camera at an appropriate distance. An operator attempts to match the presented face to a reference list. The operator's accuracy is then scored and used to evaluate the capability of the system to record identifiable images at this distance.

Vehicle registration number (VRN) legibility test

The purpose of this test is to evaluate whether a system can provide images suitable for reading a VRN. The test kit specifies nine segments of VRN characters. A random selection of these segments is shown to the camera at an appropriate distance. An operator attempts to match the presented VRN to a reference list and their accuracy is scored.

Colour rendition test

This test will help to establish whether a surveillance system can provide images with reasonably accurate colour information. The test kit includes a basic colour chart which is presented towards the camera at a suitable distance. The operator can then verify the level of match between the colours on a reference chart and the colours seen through the imaging system.

There are three image standards -

		
<p>Identify 4 mm per pixel or 250 pixels per metre or 100% of the available screen height or 40% Full HD screen height</p>	<p>Recognise 8 mm per pixel or 125 pixels per metre or 50% of the available screen height or 20% Full HD screen height</p>	<p>Observe 16 mm per pixel or 62.5 pixels per metre or 25% of the available screen height or 10% Full HD screen height</p>
<p>Sufficient picture quality and detail to identify an individual beyond reasonable doubt. Must pass HOSDB 'Faces' test.</p>	<p>Viewers can say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before. Same recording quality setting as that used for identify.</p>	<p>Some characteristic details of the individual, such as distinctive clothing can be seen. Must be able to distinguish between individuals.</p>
<p>Screen height is how much space vertically a 1.7m tall figure would occupy, as shown in the diagram above.</p>		

The quantity and location of cameras will be site specific. They must meet the requirements identified within the Operational Requirement procedure in accordance with BS.EN.50132.7. The cameras wide dynamic range must be operational 24 hours at all light levels, not disabled at low light - full colour.

In the case of licensed premises, shops & supermarkets; All external public access doors must be fitted with colour cameras which enable clear, unobstructed images of all persons entering/exiting the premises. Where practicable, these cameras should be mounted internally.

These cameras must be capable of producing CAST Identification standard images (a minimum of 400 TVL resolutions and **100%** screen target height) and monitor.

In particular cases of licensed premises; The exterior of all entrance/exits will be covered by cameras to a radius of 4 metres of that door capable of providing CAST recognition standard images (a minimum of 400TVL resolution at **100%** screen height) at the monitor.

All internal cameras must be capable of producing CAST Recognition standard images (a minimum of 400 TVL resolutions at **50%** screen target height) at the monitor.

For further information regarding this test please see contact details below

Video team

The Centre for Applied Science and Technology

Woodcock Hill

Sandridge

St Albans

Hertfordshire

AL4 9HQ

email: castenquiries@homeoffice.gsi.gov.uk

switchboard: (+44) (0)1727 865051

fax: (+44) (0)1727 816233

Cameras can be susceptible to interference and vandalism. Cameras should be fitted with robust anti-tamper housing to prevent such actions if they are vulnerable.

All cameras must be a minimum standard of 400 TVL. They must have back light compensation, direct drive or amplification capability, and a sensitivity of a minimum of 4 lux.

With advances in Internet Protocol (IP) cameras, ensure adequate security measures are in place to prevent unauthorised web access.

5 **Monitors**

A colour monitor must be provided with the system to view live or recorded images. The monitor must not be located where it can be viewed by unauthorised personnel.

The monitor must be capable of producing minimum of 400 TVL processed images if using older analogue equipment or LED (light emitting diode) a more modern and lower power consumption technology used in flat screen displays. Images displayed on monitors must not be visible from outside the premises.

Certain premises may be advised to install a “comfort” monitor in the vicinity of the external public access doorways(s). This monitor should display images produced by the camera covering the said doorway. It **must not** display images produced by any other camera located within the premises. Patrons entering the premises will be made aware of the fact that their images are being recorded by a surveillance system, enhancing the systems potential deterrent value.

6 Recording of Images

As established during the Operational Requirement process one of the main reasons for installing a surveillance system is to produce evidence, which may be used in Court in accordance with BS.8495. The images must therefore be recorded.

Images must be recorded onto the hard-drive of a digital recorder.

7 Digital Recording Systems

The video format utilised must be PAL or PAL/NTSC.

The system must incorporate sufficient build-in hard-drive capacity to suit the number of cameras installed. The system must record at a minimum of **6 frames per second (fps) on all cameras within the premises, however, cameras covering entrance doors must record at 12fps** (*real time equals 25 frames per second so this would record/capture 50% of action*). This can be achieved either by total capacity of the hard-drive or where appropriate, by event controlled recordings, ie alarm activated or motion activated.

The system must have duplex multiplexing facility or greater, to allow for simultaneous image recording and playback. There must be no interruption in recording during the playback process.

The system must incorporate a means of transferring images from the hard-drive to a format that can be played back on any windows compatible computer.

The image file should therefore be transferred to a WORM (Write Once Read Many Times) media such as CD-R disc. CD-R must be “finalised” or “closed” in the CD-writer before the disc is removed, otherwise the image file may not be viewable.

The system must produce images, which are watermarked as part of the original recording process. There must be no subsequent watermarking of images (ie at the time of transfer to removable media).

The application software required to launch and view recorded images must be either included as part of a standard Microsoft operating system installation or be installed to the recorded media when the data is copied to that media.

The quality of the copied data must be of a high resolution as defined by the PC industry standards, eg 1024 x 768.

The Digital Multiplexer must have the facility to be password protected.

8 Image Quality

The image quality setting of recorded images must be set to the operational requirement rather than to minimise the storage capacity. The system must be capable of producing images to the CAST Identification and Recognition standards.

The compression standard should be H.263 or H.264, JPEG or MPEG4. The high resolution images should not be heavily compressed therefore providing poor quality playback images.

9 Image Retention

Systems are often set to over-record images after a set period of time. The system should be capable of recording and retaining **31** days of images before over-recording.

10 Time and Date Stamp

Digital recording equipment must record time and date information as part of the image file. The time/date must be accurate.

11 Image Integrity

The integrity of images removed from a hard-drive for evidential purposes is vital. They must be protected at the earliest opportunity to reduce opportunities for challenges in Court. Designating the image as read only can prevent alteration or erasure.

12 Security of Equipment

The monitor and recording equipment should be located in a **secure** room. Where this is not practicable, the recording equipment must be stored in a **secure** cabinet to prevent unauthorised access, tampering, or removal of images.

13 Lighting

When lighting premises, consideration must be taken into account regarding the following factors, which will dramatically reduce the quality of images recorded –

- Excessive shadows.
- Glare into the lens.
- Back-lighting.
- External lighting.
- Impact of rapid changes in light levels from 'Disco lighting', lasers etc

Steps must be taken to eliminate or reduce the impact of such factors.

Particular attention must be given to lighting in the area of public access doors. The lighting must produce “white light” to enable clear images and accurate colour retention.

The fields of view of **all** cameras must be sufficiently well lit to enable them to operate as required under normal working conditions.

14 **Signage**

Each system installed must include appropriate signage.

The Data Protection Act 2018 requires that signage around the area where surveillance is being used be erected.

The signs should be placed in the proximity of the cameras so that anyone entering a camera zone will be aware that they are entering an observed area. Advice from the Information Commissioner is that signs should be at least A3 size with wording to identify the person or organisation responsible for the scheme, the purpose of the scheme and who to contact regarding complaints about the scheme.

For example –



15 **Surveillance Systems and the Data Protection Act 2018**

All aspects of the system must comply with the Data Protection Act 2018 and registered with the Information Commissioners Office (ICO) at [ICO.org.uk](https://ico.org.uk) The Office of the Data Protection Supervisor has produced guidance in relation to how the Act should be interpreted, including advice on the required signage. For further information please contact – [Data protection - GOV.UK](https://www.gov.uk/government/organisations/data-protection-commissioner)

16 **Installation**

All electrical installation works must be carried out to 17th Edition IEE Wiring Regulations BS7671: 2008. A Minor Works certificate for design, construction, inspection and testing must be provided before completion. The contractor will need to satisfy themselves that existing electrical circuits comply with the current 17th edition electrical regulations before commencing the installation.

17 **Commissioning**

The complete system must be fully tested, and commissioned in the presence of a representative of the client. The purpose of this test is to determine whether or not the cameras cover the required areas, and if they are capable of providing

images to the required standards. An acceptable certificate will need to be signed to prove the installation meets the specification defined.

18 Training/Systems Management

As part of the commissioning procedure, the installer must train the client, or the client's representative, to operate the system and associated equipment effectively. The training must include details of the client's responsibilities in relation to the effective maintenance and management of the system, the provision of user manuals, all relevant handbooks, and technical data. A full workshop manual should be provided.

A separate operator's manual should be provided for system users.

The Client must appoint a trained Data controller who will be responsible for the general administration, operation, maintenance and supervision of the system.

All users must be fully trained in the operation of the system and be made aware of their general legal responsibilities, at all times of operation of the premises there must be a competent person present on the premises capable of replay and export of recordings quickly onto a removable storage medium. Only CD or DVD will be acceptable, the export method must be proportionate to the storage capacity and pictures should be exported in the native file format at the same quality that they were stored on the system in accordance with BS.8495. This master copy will be available at the time on request of an investigating officer.

An operations manual and code of practice must be provided to cover staff training, fault reporting, maintenance management and evidence handling procedures. The management section should identify the person responsible for the system and daily checking.

19 Service/Management Support

The system must be regularly serviced by qualified operatives to maintain the quality of images recorded; the system must be "fit for purpose". A record will be kept of all faults, any fault will be "returned to service" within 7 days.

Where any investigating agency becomes aware of three faults within a rolling 12 month period, the system operator will be warned. Where five faults occur within a 12 month rolling period, the matter will be brought to the attention of the licensing authority for breach of conditions attached to the licence.

Each system installed will require a maintenance contract.

Camera Locations

All licensed areas must be covered by surveillance system.

The location of cameras is as important as ensuring that the System installed is of a high standard. Please see the checkpoint areas listed below for camera locations -

Entrances/exits and lobby areas	
Pavement area immediately outside entrances of premises	
Corridors to toilet facilities	
Designated Drug Search areas inside premises	
Vending Machines/Gaming Machines	
Gaming areas, ie pool tables	
Bar areas	
Corridor areas	
Internal public areas	
Car Parks	
Beer Gardens/Patio areas	
Security offices (safes)	
Storerooms	
Entrances to living quarters	
Delivery areas	

Camera locations may be specified at the discretion of the Avon & Somerset Police / South Somerset District Council / Mendip Council/ Sedgemoor District Council/ Taunton Deane Borough Council/ West Somerset Council –

- *Licensing Officer*
- *Crime Reduction Officer*
- *Crime Prevention Design Advisor*

In respect of any new applications, variations (excluding minor) and premise licence reviews.

Whilst all surveys, reports and recommendations prepared by the Avon and Somerset Constabulary are believed to be accurate and reliable, they are prepared on a voluntary basis without charge. You should note that the Chief Constable, the Avon and Somerset Police Authority and the Home Office will not accept any liability whatsoever, in contract tort (including negligence and breach of statutory duty) or otherwise for any loss, apparatus or materials recommended being found unsuitable, inadequate or defective.

The total elimination of crime cannot of course be guaranteed and in any event is the responsibility of the criminal. However, the range of options mentioned, if implemented, should reduce the opportunity for a crime to be committed.

Crime reduction strategies should be re-assessed on a regular basis.

SURVEILLANCE SYSTEM OPERATIONAL REQUIREMENT CHECKLIST	
1 Name of Premises	
2 Date	3 Sheet No
4 Location within premises Doorway Corridor Room Other	
5 Who/What/Where is to be observed?	
6 Which activity is to be observed?	

7 Why is the activity being observed?			
8 Likelihood of an activity occurring - frequency			
High	Medium	Low	
9 Picture quality achieved			
25% R Observe	50%R Recognition	100% R Identification	
10 Lighting conditions			
Natural	Light	Artificial Light	Both
11 White Light Requirement			
(Public Access Doorway)		Yes	No
12 Additional comments/Notes			
<p>* A CHECKLIST SHOULD BE USED FOR EACH CAMERA OR LOCATION WITHIN THE PREMISES. PLEASE TICK APPROPRIATE BOXES</p>			

General Data Protection Regulation (GDPR) & Data Protection Act 2018

Compliance Advice

Small User Checklist

Introduction

This checklist is designed to help operators of small systems comply with the legal requirements of the General Data Protection Regulation Act 2018 and the Data Protection Act 2018; it details the main issues that need to be addressed when operating a surveillance system. When used as part of a regular review process it should help to ensure that the system remains compliant with the requirements of the Act. Compliance is the duty of the owner/operator

It is important that the General Data Protection Regulation Act is complied with because failure to do so may result in action being taken under this Act. Failure to comply with Data Protection requirements will also affect the police's ability to use the

surveillance images to investigate a crime and may hamper the prosecution of offenders.

If you use a system in connection with your business you should work through the checklist and address all points listed. This will help you to ensure that your system remains within the law and that images can be used by the police to investigate crime.

**Small User Checklist
Operation of the Surveillance System**

This surveillance system and the images recorded by it are controlled by _____ who is responsible for how the system is used and for the notifying of the Information Commissioner about the system and its purpose (this is a legal requirement of the Data Protection Act 2018).

The above controller has considered the need for using a surveillance system and has decided it is required for the prevention and detection of crime and for protecting the safety of staff/customers. It will not be used for other purposes.

	Checked / Date	By	Date of Next Review
The controller is aware that notification to the Information Commissioner is necessary and must be renewed annually			
Notification has been submitted to the Information Commissioner and the next renewal date recorded			
Cameras have been sited so that their images are clear enough to allow police to use them to investigate a crime			
Cameras have been positioned to avoid capturing the images of persons not visiting the premises			

There are signs showing a system is in operation visible to people visiting the premises and the controllers contact details are displayed on the sign where it is not obvious who is responsible for the system			
The recorded images from this system are securely stored, where only a limited number of authorised persons may have access to them			
The recorded images will only be retained long enough for any incidents to come to light (eg for a theft to be noticed)			
Recordings will only be made available to law enforcement agencies involved in the prevention and detection of crime, and no other third parties			
The operating equipment is regularly checked to ensure that it is working properly (eg the recording media used is of an appropriate standard and that features on the equipment such as the date and time stamp are correctly set)			
The controller knows how to respond to requests from individuals for access to images relating to that individual. If unsure the controller knows to seek advice from the Information Commissioner as soon as such a request is made			

Please keep this checklist in a safe place until the date of the next review

APPENDIX G

Responses to Notice of Hearing

#1 – Applicant:

From: Licensing House
Sent: 22 June 2021 00:11
To: Enquiries,
Cc: Tony Clarke
Subject: Stokrotka, 5a East Reach, Taunton, TA1 3EN

Good afternoon Licensing,

Licensing Hearing: Monday 5th July 2021 - 11.00
Ref: MA/51216

Please accept this email as confirmation of attendance of the following person to the Virtual Zoom meeting

June Clarke - Licensing Consultant, JMC Licensing

e: [REDACTED] - t: [REDACTED]

Tony Clarke - Licensing Consultant, JMC Licensing

e: [REDACTED] - t: [REDACTED]

Anna Olga Kubiszyn-Michalik - applicant

e: [REDACTED] - t: [REDACTED]

Kindest regards

June Clarke

Licensing Consultant
JMC Licensing Consultants

#2 – Avon & Somerset Constabulary:

From: Nicola Cooper

Sent: 23 June 2021 09:35

To: Fear, Brad

Subject: RE: REPRESENTATIONS - Stokrotka, 5a East Reach, Taunt TA1 3EN

Hi Brad

Yes please can you let Claire Rendell know that both myself and Andrew Gloyn will be attending the hearing.

Many thanks

Nicola Cooper 8820 PLPQ ABII Dip CII
Area Licensing Practitioner – Taunton & West Somerset

Licensing | Avon and Somerset Police