

# Statement of Licensing Policy

## Sections relevant to application

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### **2. LICENSING OBJECTIVES**

2.1 The Act requires the Council to carry out its licensing function so as to promote the four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm.

2.2 Accordingly, the Council has prepared its statement of licensing policy in accordance with these objectives.

2.3 Each of the licensing objectives is of equal importance for the purposes of this policy.

2.4 This policy statement is designed to deal with matters within the control of the licensee. It focuses on the premises in which each business is carried on and the effect that has on members of the public living, working or engaged in normal activity in the vicinity.

2.5 Licensing law is not envisaged by the Licensing Authority as a mechanism to control antisocial behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. Therefore any terms and conditions imposed will be focused on matters within the control of individual Licensees and others granted relevant permissions.

These matters will centre on the premises and places used for licensable activities and in the vicinity of the places.

2.6 The Licensing Authority considers that every holder of a licence, certificate or permission and designated premises supervisor is responsible for minimising the impact of their activities and anti-social behaviour by their customers within the vicinity of their premises.

### **7. LICENSING HOURS**

7.1 The policy recognises that longer (more flexible) licensing hours can contribute to easing crime and disorder problems by ensuring that concentrations of customers leaving premises simultaneously are avoided thus helping to reduce friction at taxi ranks, private hire offices, fast food outlets etc.

7.2 Individual applications will be considered on their merits and in general terms a flexible approach will be adopted. Fixed predetermined closing times for particular areas will not form part of the policy and restrictions on trading hours will be considered only where necessary to meet the licensing objectives. The four licensing objectives will be paramount considerations at all times.

7.3 The Licensing Authority, however, considers that the risk to disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning as

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the ambient noise levels will be lower. The Licensing Authority may impose stricter conditions with regard to noise control in areas which have denser residential accommodation but each premises will be considered on its individual merits.

7.4 The Licensing Authority recognises that in principle shops, stores off licences and supermarkets selling alcohol should generally be permitted to match the hours during which they sell alcohol with their normal trading hours except where relevant representations have identified a particular outlet as a focus for disorder and disturbance. In such circumstances, the Licensing Authority may consider it necessary and /or appropriate to impose limitations on opening hours as one mechanism of combating such problems.

7.5 The Licensing Authority also recognises the principle of 24 hour opening of all licensed premises. However, it considers that longer opening hours may be more acceptable in commercial areas with high levels of public transport. The grant of a licence, will in all cases be dependent on the impact of an activity in relation to the licensing objectives.

7.6 Where relevant representations are received, the Licensing Authority may have regard to the following where relevant (though this is a non-exhaustive list);

- the nature of the area where the premises are located (e.g. commercial, residential)
- arrangements to ensure adequate availability of taxis and private hire vehicles, public transport.
- whether appropriate car parking is readily accessible to premises and whether the use/parking of vehicles would cause a demonstrable adverse impact on the amenity of residents.
- whether the licensable activities are likely to cause adverse impact especially on local residents and whether appropriate measures will be put in place to prevent any adverse impact
- in relation to the grant of a new premises licence whether the premises will give rise to a negative cumulative impact on one or more of the licensing objectives In assessing the impact of the activity proposed the Licensing Authority may consider a number of factors inter alia,
- the type and scale of activity, the number and nature of clientele likely to attend.
- the levels of noise from the premises, which may be acceptable later in the evening.
- the proposed hours of operation
- the levels of public transport accessibility for customers and the likely means of public or private transport that will be used, access to private hire/taxi's
- the means of access to the premises e.g. whether on principal pedestrian routes.
- the level of car parking demand on surrounding residential streets and its effect on local residents, and movement of traffic.
- the cumulative impact of licensed premises in an area and scope for mitigation.
- frequency of the activity.

Operating Schedules (see section 28) will be required and will set out the measures to be taken to ensure that the licensing objectives are addressed. Applicants are also referred paragraph 6.6.

### **13. PREVENTION OF PUBLIC NUISANCE**

13.1 Licensed premises have significant potential to adversely impact on communities through public nuisances arising from their operation.

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13.2 The Licensing Authority is aware of the importance of the licensed trade to the local economy as well as in cultural and social terms. The Licensing Authority is also concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.

‘Vicinity’ is not defined in the Act or Guidance issued by the Secretary of State. Whether or not incidents can be regarded as ‘in the vicinity’ of licensed premises is a question of fact and will depend on the particular circumstances of the case.

13.3 The Licensing Authority will interpret ‘public nuisance’ in its widest sense and include such matters as **noise emanating from the premises**, light, litter, **odour** and anti-social behaviour where these matters impact on those living or working in an area.

13.4 Activities that involve public entertainment, drinking or eating, have the potential to impact adversely on their surrounding areas due to noise, litter, and odours. There is also the potential for disturbance caused by those attending licensable activities. Late at night the impact of licensed activities is likely to be more objectionable to residents living close to a licensed activity, as the ambient noise levels are often lower so noise disturbance becomes more noticeable.

13.5 The policy allows for later opening hours except where there will be an adverse impact on the licensing objectives. In general the Licensing Authority will expect more comprehensive measures to be proposed at late night venues and/or where there has been a history of public nuisance.

13.6 On receipt of relevant representations, the Licensing Authority will assess the likelihood of it causing an adverse impact, by generally considering the following factors where relevant:

- the location of the premises (in particular proximity to residential and other noise sensitive premises, e.g. hospitals, nursing homes, hospices and places of worship).
- the type of activities, the number and nature of clientele likely to attend at the time of the application
- the proposed hours of operation
- levels of public transport accessibility for customers either arriving or leaving the premises (including taxis and private hire)
- means of access to premises (whether on principal pedestrian routes)
- the level of car parking demand on any surrounding residential streets and its effect on local residents
- the cumulative impact on licensed premises in an area
- the scope for mitigating an impact i.e. CCTV, door supervisors
- the frequency of an activity
- the design and layout of the premises
- measures taken or proposed to be taken to prevent noise or vibration escaping from the premises e.g. sound proofing, air conditioning and sound limitation devices.
- measures taken to prevent unreasonable disturbance by customers/staff arriving and leaving the premises, goods deliveries etc.
- measures taken to lessen the impact of parking in the vicinity.

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- control of operating hours for all or parts of the premises (e.g. gardens, last admission times and 'wind down' periods).
- measures to be taken to prevent drunkenness on the premises
- measures to ensure collection and disposal of litter and waste outside their premises.

13.7 The Licensing Authority when considering an application will take into account previous substantiated nuisance complaints particularly when a statutory notice has been served. Applicants may wish to have regard to the Good Practice Guide on the Control of Noise from Pubs & Clubs produced by the Institute of Acoustics and the British Beer and Pub Association

13.8 On receipt of relevant representations, the Licensing Authority, where it considers it necessary and/or appropriate may attach conditions to a licence to prevent public nuisance including those drawn from the Model Pool of Conditions - see Appendix 3. In particular, it may attach a condition requiring the use of door supervisors licensed by the Security Industry Authority.

13.9 The Licensing Authority requires Operating Schedules, where relevant to satisfactorily address the issue of public nuisance.

13.10 The Licensing Authority would also recommend applicants highlight local public transport links and taxi and private hire services within their premises, (including agreeing arrangements with nominated taxi and private hire firms for dropping off and collecting customers).

13.11 The Licensing Authority, will in accordance with the Guidance, focus on matters within the control of the individual Licence holder. The Licensing Authority accepts that the difficulty that a licence holders has in preventing anti-social behaviour by individuals once they are beyond the direct control of the Licence holder. However, the licensing objection of preventing public nuisance will not be achieved if customers from a premises regularly conduct themselves in an anti-social manner to the detriment of local residents or businesses. In addition, the Council has a duty to do all it can to prevent crime and disorder in the Borough under the Crime & Disorder Act 1998.

13.12 The Licensing Authority's aim is to achieve a balanced approach to these difficult issues.

### **15. PLANNING CONTROL**

15.1 Care will be taken to ensure that there is a separation of the planning and licensing regimes and that licensing applications should not be a re-run of the planning application.

15.2 Planning permission is usually required for the establishment of new premises and the change of use of premises.

15.3 In some cases where an application is made for a licence the planning use will already be authorised by a previous planning permission or because the premises has a long-standing lawful use. Therefore a new application is often not required. However, the following points must be made:

- Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

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- The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- The granting by a licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

15.4 In general, the Licensing Authority acknowledges that applicants may seek a provisional statement without having first obtained planning permission. The Licensing Authority will issue Provisional statements in accordance with the Act.

15.5 The Licensing Authority will ensure that reports are sent from the Licensing Act 2003 Committee to the Development Control Committee and Head of Planning services advising them of the situation regarding licensed premises in the Borough, including the general impact of alcohol related crime and disorder to assist them in their decision making.

### **40. RELEVANT, FRIVOLOUS VEXATIOUS REPRESENTATIONS**

40.1 A representation is only 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. A representation that fails to do so is not 'relevant' for the purposes of the 2003 Act.

A relevant representation also has to be made by an interested party or responsible authority, see Appendix for glossary of terms.

40.2 It will be for the Licensing Authority to determine whether any representation by an interested party is frivolous or vexatious. The decision as to determining whether a representation is relevant, frivolous or vexatious has been delegated to an Officer of the Council in accordance with the Guidance.

40.3 The decision will be made on the basis of what might ordinarily be considered to be vexatious or frivolous. An interested party may challenge a decision to reject their representation on these grounds by way of judicial review.