

# NORWICH CITY COUNCIL

## Report for Resolution

**Report To** Licensing sub-committee  
1 April 2011

**3**

**Report of** Head of citywide services

**Subject** Licensing Act 2003:  
Application to vary a premises licence -  
Piccolo's 74 Prince of Wales Road Norwich NR1 1NJ

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### **Purpose**

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider the application to vary a Premises Licence in respect of Piccolo's 74 Prince of Wales Road Norwich NR1 1NJ following the receipt of a Responsible Authority representation.

### **Recommendation**

That Members determine the application to vary a Premises Licence in respect of Piccolo's 74 Prince of Wales Road Norwich NR1 1NJ in accordance with the:

Licensing Act 2003;  
Guidance issued under Section 182 of the Licensing Act 2003; and  
Norwich City Council Statement of Licensing Policy.

### **Financial Consequences**

The financial consequences for this report are nil.

### **Corporate Objective/Service Plan Priority**

The report helps to achieve the service plan priority of protecting the interests of the public through the administration of the licensing function.

### **Contact Officer**

**Ian Streeter**

**Phone No 212439**

### Background Documents

The Licensing Act 2003  
Guidance issued under Section 182 of the Licensing Act 2003  
Norwich City Council Statement of Licensing Policy

## 1.0 The Application

- 1.1 The applicant is Babak Ahmadi of Piccolo's 74 Prince of Wales Road Norwich NR1 1NJ.
- 1.2 The premises currently hold a premises licence authorising the licensable activity of late night refreshment only. The premises licence summary is attached to the report as Appendix A.
- 1.3 The conditions attached to the current premises licence are attached as Appendix B.
- 1.4 Late night refreshment is licensable between the hours of 2300 and 0500. The application seeks to increase the hours for late night refreshment and the hours the premises are open to the public, as shown in the tables below:

- Late night refreshment – to amend the hours as shown:

	Existing hours	Proposed hours
Sunday	23:00 – 00:00	23:00 – 05:00
Monday	23:00 – 03:00	23:00 – 05:00
Tuesday	23:00 – 03:00	23:00 – 05:00
Wednesday	23:00 – 03:00	23:00 – 05:00
Thursday	23:00 – 03:00	23:00 – 05:00
Friday	23:00 – 03:00	23:00 – 05:00
Saturday	23:00 – 03:00	23:00 – 05:00

- Hours premises are open to the public – to amend the hours as shown:

	Existing hours	Proposed hours
Sunday	08:00 – 03:00	12:00 – 00:00
Monday	08:00 – 03:00	12:00 – 00:00
Tuesday	08:00 – 03:00	12:00 – 00:00
Wednesday	08:00 – 03:00	12:00 – 00:00
Thursday	08:00 – 03:00	12:00 – 00:00
Friday	08:00 – 03:00	12:00 – 00:00
Saturday	08:00 – 03:00	12:00 – 00:00

## 2. Relevant Representations

- 2.1 The responses from the Responsible Authorities are as follows:
  - Police – Representations received (attached at Appendix C).
  - Environmental Services – No representations.

- Fire Officer – No representations.
- Planning Officer – No representations.
- Area Child Protection Committee – No representations.
- Trading Standards – No representations.

2.2 A site map of the area identifying the application premises is attached as Appendix D.

### **3.0 Norwich City Council Statement of Licensing Policy**

3.1 Attached at Appendix E are the elements of the City Council's local Licensing Policy which are considered to have a bearing upon the application.

### **4.0 National Guidance (issued under section 182 of the Licensing Act 2003)**

4.1 Attached at Appendix F are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

### **5.0 Summary**

5.1 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

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

5.2 In making its decision, the Sub-Committee is also obliged to have regard to guidance issued under Section 182 of the Licensing Act 2003 (National Guidance) and the Council's own local licensing policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.

5.3 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- Grant the application as asked;
- Modify the conditions of the licence by altering or omitting or adding to them;
- Reject the whole or part of the application

5.4 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it

desirable to do so. It must actually be necessary in order to promote the licensing objectives.

5.5 The representations received from the Responsible Authority relate to issues that fall under the licensing objective of the prevention of crime and disorder. The Sub-Committee is directed to paragraph 20 of the local licensing policy at Appendix E which contain examples of factors that impact on the licensing objective of the prevention of crime and disorder that the applicant could consider when addressing these issues. These paragraphs also contains examples of control measures that may be taken into account in operating schedules having regard to the type of premises and/or the licensable activities.

5.6 Paragraph 13.41 of the national guidance states licensing hours should not inhibit the development of evening and night-time local economies, and that providing consumers with a greater choice and flexibility is an important consideration. However, this should always be carefully balanced against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet. The national guidance also states at paragraph 10.20 that there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.

The Sub-Committee is also directed to paragraph 30.7 of the local licensing policy, which states that consideration will always be given to an applicant's individual case and if the matter of trading hours has been raised in a representation, the council will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises.

The Committee must decide whether there is a strong enough case for the restriction of licensing hours, based on the representation made, to promote the licensing objectives.

5.7 The Sub-Committee is also reminded of the contents of appendix 2 of the local licensing policy (not re-produced in this report) which contains a pool of model conditions relating to the prevention of crime and disorder.

# APPENDIX A



NORWICH  
City Council

## Premises Licence Summary

**Premises Licence Number**

**11/00303/PREM**

### Premises Details

**Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

Piccolos  
74 Prince Of Wales Road  
Norwich  
Norfolk  
NR1 1NJ

**Telephone number** 01603 631163

**Where the licence is time limited the dates**

Not applicable

**Licensable activities authorised by the licence.**

Late Night Refreshment - Activity takes place indoors

**The times the licence authorises the carrying out of licensable activities**

Late Night Refreshment	Sunday	23:00 - 00:00
Late Night Refreshment	Monday to Saturday	23:00 - 03:00

**The opening hours of the premises**

Monday	08:00 - 03:00
Tuesday	08:00 - 03:00
Wednesday	08:00 - 03:00
Thursday	08:00 - 03:00
Friday	08:00 - 03:00
Saturday	08:00 - 03:00
Sunday	08:00 - 00:00

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

**Name, (registered) address of holder of premises licence**

Mr Babak Ahmadi  
Piccolos  
74 Prince Of Wales Road  
Norwich  
NR1 1NJ

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

**Name, designated premises supervisor where the premises licence authorises for the supply of alcohol**

**State whether access to the premises by children is restricted or prohibited**

# APPENDIX B

## Annex 2 – Conditions consistent with the Operating Schedule

1     **General - all four licensing objectives**

2     The licence holder will become a member of the Norwich Licensing Forum and attend at least 3 meetings a year.

3     **The Prevention of Crime and Disorder**

4     The licence holder will have CCTV installed inside the premises.

5     Sufficient staff will be on the premises to be able to monitor the behaviour of customers whilst inside and to take action to alert the police if problems escalate. A minimum of 4 staff will be present on Friday and Saturday.

6     **Public Safety**

7     Electrical and fire safety equipment will be checked at regular intervals.

8     The customer area will be kept clean and dry at all times.

9     **The Prevention of Public Nuisance**

10    All deliveries will be during the daytime.

11    Any background music will not be loud.

12    Regular inspections will be carried out immediately outside the premises, and any litter found will be cleared away.

13    Takeaway packaging will include the name of the business.

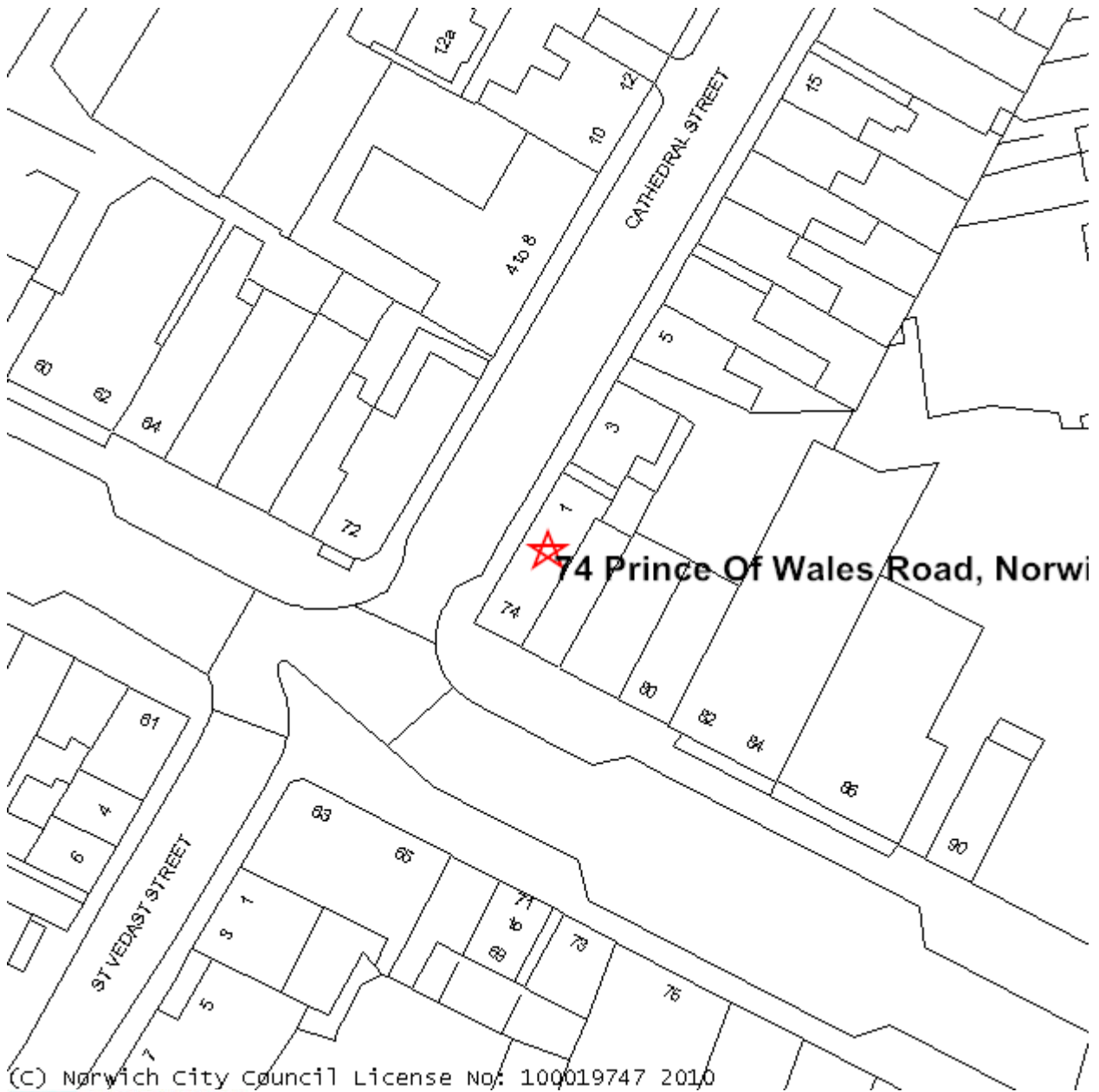
# APPENDIX D

Piccolo's 74 Prince of Wales Road

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# APPENDIX E

## Local Policy considerations

- 1.0 Introduction
- 1.4 The 2003 Act requires the Council to carry out its various licensing functions so as to promote the four licensing objectives. These are:
- The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance
  - The Protection of Children from Harm
- 1.5 The 2003 Act also requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.
- 2.0 Consultation and Links to other Policies and Strategies
- 2.7 So far as possible, the Council will avoid duplication with other regulatory regimes, and will not to use its powers under the Licensing Act 2003 to achieve outcomes that can be achieved by other legislation and other enforcement agencies.
- 3.0 Applications for Licences
- 3.2 Applicants must address the four licensing objectives in their operational plan. The operating plan must have regard to the nature of the area where the premises are situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. The operating schedule must demonstrate how the premises will be "good neighbours" both to residents and to other venues and businesses.**
- 3.3 Applicants must provide evidence that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style, location and characteristics of their premises and activities. They must also also indicate if additional measures will be taken on an occasional or specific basis, such as when a special event or promotion is planned, which is, for example, likely to attract larger audiences.**
- 4.0 Representations
- 4.1 "Responsible Authorities" will be asked to consider all applications and to make representations to the Council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be

regarded as contentious. Representations must be evidentially based and the organisation should attend any hearing when the application is being considered.

4.2 The Council will consider all representations from any “Interested Party”, or their representative, which should preferably be evidentially based and supported by attendance at any hearing at which the application is being considered.

4.3 A representation, will only be accepted by the Council if it is ‘relevant’, in that it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representations, which are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitious, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the Council.

#### 5.0 Conditions attaching to Licences

5.1 Where relevant representations are made, the Council will make objective judgments as to whether conditions may need to be attached to the premises licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises, and members of the public living, working or engaged in normal activity in the area concerned, and will cover matters that are within the control of individual licensees.

5.2 All applications will be considered on an individual basis and any condition attached to such a licence, will be tailored to each individual premises, in order to avoid the imposition of disproportionate or burdensome conditions on those premises. Therefore, mandatory conditions, will only be imposed where they are necessary for the promotion of the licensing objectives.

#### 8.0 The Impact of Licensed Premises

8.1 When considering whether any licensed activity should be permitted, and a relevant representation has been received, the likelihood of it causing unacceptable adverse impact will be assessed by taking into account relevant matters including:

- the type of use, the number of customers likely to attend the premises and the type of customers at the time of the application;
- the proposed hours of operation;
- the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;

- the means of access to the premises including the location of customer entrances and exits;
- the provision of toilet facilities;
- the frequency of the licensable activity.

With any adverse impact it may be possible to take steps to mitigate or prevent the impact and if such measures are reliable an activity may be licensed.

### 13.0 Management of Licensed Premises

**13.2 There must be proper management arrangements in place in all licensed premises, whether or not alcohol is sold or not, which will ensure there is an appropriate number of responsible, trained/instructed persons at the premises to provide the proper management of the premises, the activities taking place and compliance with all statutory responsibilities and the terms and conditions of the premises licence.**

## **LICENSING OBJECTIVES**

### 20.0 Objective - Prevention of Crime and Disorder

20.1 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the city council, and others, to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

20.2 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the licensable activities at those premises.**

20.3 When addressing the issue of crime and disorder, the applicant should demonstrate that all those factors that impact on crime and disorder have been considered. These include:

- underage drinking
- drunkenness on premises
- public drunkenness
- keeping illegal activity like drug taking and dealing, offensive weapons and sales of contraband or stolen goods away from the premises
- preventing disorderly and potentially violent behaviour on and outside the premises

- reducing antisocial behaviour and disorder inside and outside the premises
- litter
- unauthorised advertising
- protecting people and property from theft, vandalism and assault
- guard against glasses and bottles being used as weapons or causing accidents.

20.4 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or licensable activities:

- effective and responsible management of premises
- training and supervision of staff
- employ sufficient numbers of staff to keep numbers down of people awaiting service
- provide sufficient seating for customers
- patrols of staff around the premises
- ensure sufficient lighting and visibility, removing obstructions if necessary, to discourage illegal activity
- introduce an entry policy – making people aware of it – and apply it consistently and fairly
- implement a search policy to prevent drugs, offensive weapons etc being brought onto the premises
- implement effective management of entrance queues – incorporating barriers if necessary (separate permission under the Highways Act 1980 may be required)
- adoption of best practice guidance eg safer clubbing, the national alcohol harm reduction strategy toolkit, minor sales major consequences, clubbing against racism and other voluntary codes of practice, including those relating to drinks promotions e.g. The point of sale promotions published by the British Beer and Pub Association (BBPA), security in design published by BBPA and Drugs and Pubs, published by BBPA
- adoption of challenge 21 and the acceptance of accredited proof of age cards eg Portman proof of age cards, Citizencard, Connexions Card and/or new type driving licences with photographs, or passports
- provision of effective CCTV in and around premises
- employment of security industry authority licensed door staff to manage the door and minimize disorder
- ensure glasses are collected on an on going basis, make regular inspections for broken glass and clear up
- provision of toughened or plastic drinking vessels and bottles
- provision of bottle bins inside the premises and near exits
- provision of secure, deposit boxes for confiscated items ie drug and weapon amnesty safes
- information displayed for staff and customers on drug awareness including the spiking of drinks with drugs

- provision of litterbins and other security measures, such as lighting, outside premises
- attendance at the monthly meetings of the Norwich City Licensing Forum
- responsible advertising
- distribution of promotional leaflets, posters etc.
- drug seizure kits (available from Norfolk police operation enterprise)
- member of a recognised radio scheme
- working in partnership with the SOS bus scheme
- ban known offenders and share information with other licensed premises in the area
- implement a dispersal policy
- introduce a closed door policy, with attendance prohibited for new customers 2 to 3 hours before licensable activities finish
- Providing information to customers and staff (including contact telephone numbers) regarding safer options available for travelling home late at night – including night buses, licensed taxis and private hire (mini-cabs).

### SECTION E - Hours of Trading

30.7 Consideration will always be given to an applicant's individual case and if the matter of trading hours has been raised in a representation, the council will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises. It is however, unlikely that statements such as the premises being well-managed, or that the applicant is of good character or that the style of the premises is intended and likely to attract a discerning clientele, will alone be sufficient to demonstrate that restrictions on hours of trading should not be applied.

# APPENDIX F

## National Guidance (issued under section 182 of the Licensing Act 2003)

### Proposed Conditions

10.7 The conditions that are necessary for the promotion of the licensing objectives should emerge initially from a prospective licensee's or certificate holder's risk assessment which applicants and clubs should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule which must also set out the proposed hours of opening.

10.8 In order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when schedules are being prepared. This would allow for proper liaison before representations prove necessary

### Imposed Conditions

10.11 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions must also be expressed in unequivocal and unambiguous terms to avoid legal dispute.

10.12 It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.

### Proportionality

10.13 The Act requires that licensing conditions should be tailored to the size, style, characteristics and activities taking place at the premises concerned. This rules out standardised conditions which ignore these individual aspects. It is important that conditions are proportionate and properly recognise significant differences between venues. For example, charities, community groups, voluntary groups, churches, schools and hospitals which host smaller events and festivals will not usually be pursuing these events commercially with a view to profit and will inevitably operate within limited resources.

### Hours of trading

10.19 In some town and city centre areas where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may arise outside or some distance from licensed

premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport, which may in turn lead to conflict, disorder and anti-social behaviour. In some circumstances, flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises.

10.20 However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.

#### Fundamental principles

13.16 "...licensing is about regulating licensable activities on licensed premises...and the conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity."

13.17 "...whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case."

13.18 "...licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises."

#### Standardised Conditions

13.20 "...statements of policy should make it clear that a key concept underscoring the 2003 Act is for conditions to be tailored to the specific premises concerned. This effectively rules out standardised conditions...However, it is acceptable for licensing authorities to draw attention in their statements of policy to pools of conditions which applicants and others may draw on as appropriate."

#### Licensing Hours

13.41 "...the Government wants to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time economies...providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet."