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|------------------|---|-------------|
| <b>Report to</b> | Council   | <b>Item</b> |
|                  | 27 November 2012  |             |
| <b>Report of</b> | Head of citywide services   | <b>8</b>    |
| <b>Subject</b>   | Police Reform and Social Responsibility Act 2011: -<br>Early Morning Restriction Orders and Late Night Levy |             |

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## **Purpose**

To consider the Licensing committee's recommendations to introduce an early morning restriction order and not to introduce, at this time, a late night levy.

## **Recommendation**

1. To advertise in accordance with section 172B(1)(a) of the Police Reform and Social Responsibility Act 2011 the introduction of an Early Morning Restriction Order, to be prefaced by a yes/no question asking whether the principle of Early Morning Restriction Orders is supported, and if yes to indicate the preferred option, namely to introduce either:
  - (a) an Early Morning Restriction Order (EMRO) to prohibit the sale of alcohol between the hours of 03:00 and 06:00, Monday to Sunday in respect of the whole of the licensing authority area, with the exception of the area currently designated by the council as the Late Night Activity Zone (LNAZ) within which the sale of alcohol will be prohibited between the hours of 03:00 and 06:00 Monday to Friday and 04:00 and 06:00 on Saturdays and Sundays;
  - (b) an EMRO to prohibit the sale of alcohol between the hours of 02:30 and 06:00, Monday to Sunday in respect of the whole of the licensing authority area, with the exception of the area currently designated by the council as the Late Night Activity Zone (LNAZ) within which the sale of alcohol will be prohibited between the hours of 02:30 and 06:00 Monday to Friday and 03:30 and 06:00 on Saturdays and Sundays.
2. Not to introduce at this time a late night levy as defined in the Police Reform and Social Responsibility Act 2011.

## **Corporate and service priorities**

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

## **Financial implications**

Advertising costs to be met from existing budget.

Ward/s: All wards

Cabinet member: Councillor Driver – Environment and neighbourhoods

**Contact officers**

Ian Streeter, licensing manager

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**Background documents**

None

## **Report**

1. On 25 October 2012 Licensing committee considered a report concerning new powers given to licensing authorities under The Police Reform and Social Responsibility Act 2011 (the Act) in relation to Early Morning Restriction Orders (EMROs) and the Late Night Levy.
2. Since the report was considered revised guidance has been issued by the Home Office under section 182 of the Licensing Act 2003 which includes a chapter concerning EMROs.

## **Early Morning Restriction Orders**

3. The Police Reform and Social Responsibility Act 2011 (the Act) gives a licensing authority the power to make an early morning restriction order (EMRO) if it considers it appropriate for the promotion of the licensing objectives. An EMRO restricts the sale of alcohol in a particular area for a specified period between the hours of midnight and 6.00 a.m.
4. An EMRO may provide that it is to apply :
  - a) In relation to the same period of every day on which the order is to apply, or in relation to different periods of different days;
  - b) Every day or only on particular days (for example, particular days of the week or year)
  - c) In relation to the whole or part of a licensing authority's area; or
  - d) For a limited or unlimited period.
5. Each individual EMRO must specify:
  - a) The days on which it is to apply and the period of those days;
  - b) The area in relation to which it applies;
  - c) If it is to apply for a limited period, that period; and
  - d) The date from which it is to apply.
6. A licensing authority proposing to make an EMRO must:
  - a) Advertise the proposed order in the prescribed manner; and
  - b) Hold a hearing to consider any relevant representations, unless the authority and each person who has made such representations agree that a hearing is unnecessary.
7. If an EMRO is made then existing premises licences and club premises certificates granted by the authority, and temporary event notices given to the authority, do not have effect to the extent that they authorise the sale of alcohol or the supply to club members during the period specified in the EMRO.

## Late Night Levy

8. The Act enables licensing authorities to determine that “the late night levy requirement” (late night levy) is to apply in its area. The late night levy must apply to the whole of the licensing authority area and is payable by the holder of a “relevant late night authorisation”.
9. A “relevant late night authorisation” means a premises licence or club premises certificate which is granted by the authority and authorises the supply of alcohol at a time or times during the late night supply period (levy period) on one or more days in the related payment year. The levy period must begin at or after midnight and end at or before 6.00 a.m.
10. If the late night levy is introduced, all licensed premises which are authorised to supply alcohol in the levy period will be affected. Premises that do not wish to operate in the levy period will be able to make a free minor variation to their licence before the levy is introduced.
11. The amount of the late night levy will be set at a national level. The charge is calculated according to rateable value. This system applies to the existing licence fee and the levy charge will be collected alongside the annual licence fee. The following charges will apply to the levy:

| <b>Rateable Value Bands (based on the existing fee bands)</b> | <b>A<br/>No<br/>rateable<br/>value to<br/>£4,300</b> | <b>B<br/>£4,301<br/>to<br/>£33,000</b> | <b>C<br/>£33,001<br/>to<br/>£87,000</b> | <b>D<br/>£87,001<br/>to<br/>£125,000</b> | <b>E<br/>£125,001<br/>and<br/>above</b> | <b>D x 2<br/>Multiplier<br/>applies to<br/>premises<br/>in category<br/>D that<br/>primarily<br/>or<br/>exclusively<br/>sell<br/>alcohol</b> | <b>E x 3<br/>Multiplier<br/>applies to<br/>premises<br/>in category<br/>E that<br/>primarily<br/>or<br/>exclusively<br/>sell<br/>alcohol</b> |
|---|--|--|---|--|---|--|--|
| Annual<br>levy<br>charge                                      | £299   | £768                                   | £1,259                                  | £1,365                                   | £1,493                                  | £2,730   | £4,440   |

12. Licensing authorities will have a discretion to offer an exemption from the levy to the following categories of premises and schemes:
  - a) Premises with overnight accommodation
  - b) Theatres and cinemas
  - c) Bingo halls
  - d) Community Amateur Sports Clubs ('CASCs')
  - e) Community premises
  - f) Country village pubs
  - g) Business Improvement Districts ('BIDs')

Premises will have to meet specific criteria to be considered for these exemptions. Licensing authorities will also have the discretion to exempt premises that only open late on New Year's Eve. Guidance on exemptions will be published on the Home Office's website in October 2012.

13. Licensing authorities will have the discretion to offer a 30% reduction from the levy to premises that are either a member of a best practice scheme (the scheme must fulfil specific criteria), or in receipt of Small Business Rate Relief and have a rateable value of less than £12,000. Guidance on reductions will also be published on the Home Office's website in October 2012.
14. The police will receive at least 70% of the net levy revenue. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. There will be restrictions on the types of services that licensing authorities can fund with the levy revenue to ensure that levy is spent on tackling alcohol-related crime and disorder and services connected to the management of the night-time economy. The licensing authority will be able to deduct permitted administration, collection and enforcement costs from the gross levy revenue.
15. A licensing authority proposing to introduce the late night levy within its area must, as prescribed by regulations, consult the following about the proposal –
  - a) The relevant local policing body;
  - b) The relevant chief officer of police;
  - c) Holders of relevant late night authorisations;
  - d) Any other persons prescribed by the regulations.
16. Regulations will also require the licensing authority to publish a notice of any decisions made.

### **Police representations**

17. Attached at appendix A to the report is the response from Superintendent Paul Sanford of the Norfolk Constabulary to the new powers contained in the Act in respect of EMROs and the Late Night Levy. Superintendent Sanford and Chief Inspector Tempest have previously given a presentation to Licensing committee members on policing the night time economy (NTE) and will attend council for this item.
18. Superintendent Sanford's response outlines the background to the Norwich NTE and the current position within the NTE; analyses the impact that premises licences with extended hours have had on crime in the NTE; the costs of and location of crime linked to the NTE; and the police recommendations to the powers available under the Act.
19. The two EMRO options proposed by Superintendent Sanford to be advertised in accordance with the statutory requirements are those contained in the recommendation to council. The area referred to in the recommendation as "currently designated by the council as the Late Night Activity Zone (LNAZ)" is shown in the plan attached at appendix B to the report.

20. In his summary of the police recommendations in relation to EMROs, Superintendent Sanford has included the following:
- a) The later EMRO in the LNAZ is reviewed in the event of increase in crime and / or disorder.
  - b) Existing premises outside the Police defined NTE area are allowed an exemption to the EMRO if they can evidence no recent history of crime and / or disorder and appropriate management.
  - c) The decision to exempt a premise from the EMRO would be reviewed in the event of increases in crime and / or disorder associated with the venue.
21. It should be noted that any changes proposed to an existing EMRO can only be implemented if the amendments are considered appropriate for the promotion of the licensing objectives (i.e. the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm) and an amended EMRO will have to be advertised and a hearing held to consider any relevant representations.
22. Insofar as the late night levy is concerned, the police, in their summary of recommendations, have not requested that the levy be applied in Norwich. However, they have stated that the decision not to apply a levy is re-considered in the event of increases in alcohol related crime and / or disorder.
23. When deciding whether the late night levy is to apply in its area, a licensing authority must consider –
- a) The costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 06:00, and
  - b) having regard to those costs, the desirability of raising revenue to be applied in accordance with section 131 of the Act (application of net amount of levy payments).

### **Additional information**

24. In a report commissioned by the council in July 2011, incidents of anti-social behaviour (ASB) reported to and recorded by Norfolk Constabulary and the City council for the twelve month period to 31 March 2011 were analysed. Out of the eight categories of ASB contained in the report, the category of drunk or rowdy behaviour dominated the instances of ASB reported to the police at 40% of the total incidents. The combined reports of drunk or rowdy behaviour to both the police and council were the highest out of the eight categories accounting for 24% of the total incidents reported.
25. The report also established that drunk or rowdy behaviour is the most reported issue for police in each of the council's four neighbourhood management areas, with the most serious 'geographic hotspot' lying squarely across the city centre from West to East.

26. Attached at appendix C to the report is a summary of complaints dating from 2006 which have been received by the environmental protection team in respect of premises licensed under the Licensing Act 2003 and that fall outside the LNAZ.
27. A copy of a letter received by the council's Public Protection manager from a resident within the licensing authority's area requesting that the council consider EMROs is attached at appendix D to the report. A factsheet issued by the Home Office indicates that the introduction of an EMRO could be suggested by the public or the Police and Crime Commissioner.

### **Licensing Act 2003: Section 182 - Guidance to licensing authorities**

28. Revised guidance to licensing authorities was issued by the Home Office on 31 October 2012, which included a new chapter covering EMROs. The content of this chapter is reproduced in appendix E to the report.
29. In summary the guidance on EMROs states:
- a) If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO.
  - b) The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of "days" means a period made up of any days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:
    - i. holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
    - ii. premises users in relation to TENs to which the proposed EMRO would apply;
    - iii. those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.
  - c) Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:
    - i. be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
    - ii. be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;

- iii. be received within the deadline; and
  - iv. if made by a person other than a responsible authority, not be frivolous or vexatious. Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious.
- d) If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.
- e) If the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision.

## Summary

30. A request to introduce an EMRO has been received from the police and a local resident. Evidence to support the introduction of an EMRO is contained in the police submissions at appendix A and in the reports referred to in paragraphs 24 - 26 of the report. The police will be attending the meeting to answer any questions that may arise from their submissions.
31. Before proposing to make an EMRO, a licensing authority has to identify that there is a problem in a specific area attributable to the supply of alcohol and, that it is satisfied that there is sufficient evidence to demonstrate that introducing an EMRO is appropriate for the promotion of the licensing objectives.
32. If an EMRO is proposed the following matters will need to be determined:
- d) the days (and periods on those days) on which the EMRO would apply;
  - e) the area to which the EMRO would apply;
  - f) the period for which the EMRO would apply (if it is a finite period); and
  - g) the date from which the proposed EMRO would apply.
33. A proposed EMRO must be advertised and any representations received must be considered at a hearing(s) held by the licensing authority. If the licensing authority is satisfied that the proposed EMRO is appropriate for the promotion of the licensing objectives, its determination must then be put to council for a final decision.
34. At this stage, the police have not requested that a Late Night Levy be applied in Norwich, but in the event of increases in alcohol related crime and / or disorder they may ask for this decision to be re-considered.



### 16. Early morning alcohol restriction orders

#### GENERAL

16.1 This chapter provides guidance to licensing authorities about Early Morning Alcohol Restriction Orders (“EMROs”). The power conferred on licensing authorities to make, vary or revoke an EMRO is set out in sections 172A to 172E of the 2003 Act. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

16.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

#### 16.3 An EMRO:

- a) • applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
- b) • applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
- c) • applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
- d) • applies to the whole or any part of the licensing authority’s area;
- e) • will not apply to any premises on New Year’s Eve (defined as 12am to 6am on 1 January every year);
- f) • will not apply to the supply of alcohol to residents by accommodation providers between 12 am and 6am, provided the alcohol is sold through mini-bars and/or room service; and
- g) • will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

#### THE EMRO PROCESS

16.4 An EMRO can apply to the whole or part of the licensing authority’s area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.

16.5 If the licensing authority already has a Cumulative Impact Policy (“CIP”) in its Licensing Policy Statement, it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

## **EVIDENCE**

16.6 The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

16.7 When establishing its evidence base, a licensing authority may wish to consider the approach set out in paragraphs 13.23 to 13.26 of this Guidance which includes indicative types of evidence, although this should not be considered an exhaustive list of the types of evidence which may be relevant.

## **INTRODUCING AN EMRO**

16.8 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. As set out in paragraphs 9.38-9.40 of this Guidance, when determining whether a step is appropriate to promote the licensing objectives, a licensing authority is not required to decide that no lesser step will achieve the aim, but should consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives. Other measures that could be taken instead of making an EMRO might include:

- a) • introducing a CIP;
- b) • reviewing licences of specific problem premises;
- c) • encouraging the creation of business-led best practice schemes in the area; and
- d) • using other mechanisms such as those set out in paragraph [13.39] of this Guidance.

16.9 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:

- a) • the days (and periods on those days) on which the EMRO would apply;
- b) • the area to which the EMRO would apply;
- c) • the period for which the EMRO would apply (if it is a finite period); and
- d) • the date from which the proposed EMRO would apply.

In relation to the date when it plans to introduce the EMRO, the licensing authority should note that this may change when it is specified in the final order.

## **ADVERTISING AN EMRO**

16.10 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of “days” means a period made up of any days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:

- a) • holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
- b) • premises users in relation to TENs to which the proposed EMRO would apply;
- c) • those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.

16.11 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.

16.12 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

## **REPRESENTATIONS**

16.13 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:

- a) • be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
- b) • be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;
- c) • be received within the deadline; and
- d) • if made by a person other than a responsible authority, not be frivolous or vexatious. Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious.

Representations can be made in relation to any aspect of the proposed EMRO. If a licensing authority decides that a representation is not relevant, it should consider informing the person who has made that representation.

16.14 Responsible authorities may wish to make representations, as may affected persons (as set out in the above paragraph).

16.15 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:

- a) • residents;
- b) • employees of affected businesses;
- c) • owners and employees of businesses outside the proposed EMRO area; and
- d) • users of the late night economy.

## HEARINGS

16.16 If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.

16.17 Licensing authorities should be familiar with the hearing process as it has similarities with other processes under the 2003 Act. Further guidance on hearings can be found in Chapter 9 of this Guidance (paragraphs 9.27 to 9.37). However, licensing authorities should note the following key points in relation to a hearing about a proposed EMRO:

- a) • the hearing must be commenced within 30 working days, beginning with the day after the end of the period during which representations may be made;
- b) • the hearing do not have to take place on consecutive working days, if an authority considers this to be necessary to enable it to consider any of the representations made by a party or if it considers it to be in the public interest;
- c) • a licensing authority must give its determination within 10 working days of the conclusion of the hearing; and
- d) • the authority is not required to notify those making representations of its determination so that the determination may be put before the full council of the authority to decide whether or not to make the EMRO.

16.18 The licensing authority will determine the manner in which the hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. If a licensing authority determines that a representation is frivolous or vexatious, it must notify in writing the person who made the representation.

16.19 As a result of the hearing, the licensing authority has three options:

- a) • to decide that the proposed EMRO is appropriate for promotion of the licensing objectives;
- b) • to decide that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
- c) • to decide that the proposed EMRO should be modified. In this case, if the authority proposes that the modified EMRO should differ from the initial proposal in relation to the area specified, any day not in the initial proposal or the period of any day specified, the authority should advertise what is in effect a new proposal to make an EMRO in the manner described above, so that further representations are capable of being made.

## **FINAL EMRO**

16.20 If the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision.

16.21 The matters set out in the final order must be no different from the matters set out in the proposal to make the order, subject to the caveat described above in paragraph 16.18. The order must be set out in the prescribed form and contain the prescribed content.

16.22 No later than 7 days after the day on which the EMRO is made, the licensing authority must send a notice to all affected persons of the EMRO, and make the order available for at least 28 days on its website and by displaying a notice in the EMRO area. A licensing authority should retain details of the EMRO on its website for as long as the EMRO is in force. It is recommended that the licensing authority advises neighbouring licensing authorities and the Secretary of State that the order has been made, the nature of the order and when (and for how long) it will take effect.

16.23 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it. The licensing authority should consider setting out its policy in relation to reviewing EMROs (if any) in its statement of licensing policy.

16.24 The variation or revocation of an order requires the licensing authority to undertake the same process as that which applied on its introduction; that is after gathering the appropriate evidence, it advertises its new EMRO proposal, following the process set out above so that those affected and anyone else can make representations.

16.25 If an order applies for a finite period, the order will cease to apply on its last day. If the licensing authority wishes to introduce a further (new) EMRO, it must follow the full process for proposing a new EMRO.

16.26 Licensing authorities should update their statement of licensing policy (in accordance with section 5 of the 2003 Act) to include reference to the EMRO as soon as reasonably possible.

## **EXCEPTIONS TO AN EMRO**

16.27 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration. The supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation will also not be subject to an EMRO.

## **ENFORCEMENT OF EMROS**

16.28 The supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act. Moreover, it may result in a closure notice being served on the premises under section 19 of the Criminal Justice and Police Act 2001 as a precursor to an application for a closure order under section 21 of that Act. This may alternatively, result in the licence being reviewed on crime prevention grounds. Further information on reviews can be found in Chapter 11 of this Guidance.

16.29 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.

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| <b>Report author to complete</b> |  |
| <b>Committee:</b>                | Council  |
| <b>Committee date:</b>           | 27 November 2012   |
| <b>Head of service:</b>          | Head of citywide services  |
| <b>Report subject:</b>           | Police Reform and Social Responsibility Act 2011: -<br>Early Morning Restriction Orders and Late Night Levy  |
| <b>Date assessed:</b>            | 19.11.12   |
| <b>Description:</b>              | To consider the Licensing committee's recommendations to introduce an Early Morning Restriction Order and not to introduce, at this time, a Late Night Levy. |

|   | Impact                              |                                     |                                     |  |
|---|-------------------------------------|-------------------------------------|-------------------------------------|--|
| Economic<br>(please add an 'x' as appropriate)                                | Neutral                             | Positive                            | Negative                            | Comments   |
| Finance (value for money)   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |  |
| Other departments and services<br>e.g. office facilities, customer<br>contact | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |  |
| ICT services  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |  |
| Economic development  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |  |
| Financial inclusion   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |  |
| Social<br>(please add an 'x' as appropriate)                                  | Neutral                             | Positive                            | Negative                            | Comments   |
| Safeguarding children and adults  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |  |
| <u>S17 crime and disorder act 1998</u>  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | The representation from the police demonstrates that since the introduction of late night opening there has been increase in disorder after 3am in the night time economy and the introduction of an EMRO could lead to a reduction in crime and disorder. |
| Human Rights Act 1998   | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Article 1 Protocol 1 ECHR: It is arguable that an EMRO interferes with the freedom to use a premises licence, which is a possession, so that the test as to whether to introduce an EMRO becomes one of necessity.   |
| Health and well being   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |  |



|  |                                     |                                     |                          |   |
|--|-------------------------------------|-------------------------------------|--------------------------|---|
|  | Impact                              |                                     |                          |   |
| Equality and diversity<br>(please add an 'x' as appropriate) | Neutral                             | Positive                            | Negative                 | Comments  |
| Relations between groups<br>(cohesion)                       | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |
| Eliminating discrimination & harassment                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |
| Advancing equality of opportunity                            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |
| Environmental<br>(please add an 'x' as appropriate)          | Neutral                             | Positive                            | Negative                 | Comments  |
| Transportation   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |
| Natural and built environment                                | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |
| Waste minimisation & resource use                            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |
| Pollution  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | The introduction of an EMRO to reduce the time for sales of alcohol in the early hours of the morning may reduce the impact on those residents who suffer disturbance from users of the night time economy. |
| Sustainable procurement                                      | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |
| Energy and climate change                                    | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |
| (Please add an 'x' as appropriate)                           | Neutral                             | Positive                            | Negative                 | Comments  |
| Risk management  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |   |

**Recommendations from impact assessment**

**Positive**

Following the positive results of an agreement with premises on Prince of Wales Road to restrict the latest sale of alcohol to 4am, the potential benefits of introducing an EMRO should have a similar effect in terms of crime and disorder reduction.

**Negative**

**Neutral**

**Issues**

## **Norwich Police response to proposed use of new powers available in the Police Reform and Social Responsibility Act 2011**

### *Introduction*

The Police Reform and Social Responsibility Act 2011 allows The Licensing Authority to make use of two measures aimed at reducing late night alcohol related disorder: Early Morning Restriction Orders ("EMROs") and Late Night Levy's ("The Levy"). I have been asked to consider the appropriateness and benefits of Norwich City Council utilising these regulations to address on-going problems with disorder in the Norwich Night Time Economy (NTE).

An EMRO is a power introduced by the previous Government (which has not yet been commenced) which, under existing provisions, would enable licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 3am and 6am on all or some days. The 2011 Act amends existing provisions to allow EMROs to be applied more flexibly between midnight and 6am. Licensing authorities will be able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives.

The levy will allow licensing authorities to raise a contribution from late-opening alcohol retailers towards policing the late night economy. It will be a local power that licensing authorities can choose whether to adopt for their areas. The licensing authority will also choose the period during which the levy applies, between midnight and 6am on each night. Non-exempt premises licensed to supply alcohol in this period will be required to pay the levy.

Changes in regulations will also allow Licensing Authorities to apply full cost recovery providing the ability to set their own fees for licensing regulation costs. This change will allow the Authority to include direct costs when they calculate fees which will include:

- Processing costs and general administration
- Costs of representations by licensing, environmental health, health and safety, trading standards

- Meeting costs
- Costs of enforcement

Taken together, these changes are very significant and it is believed that the decision to implement any of the new regulations should be considered together to achieve the appropriate balance between reducing crime and disorder, enhancing safety and controlling the social / economic impact.

### *Norwich Night Time Economy (NTE)*

The 2003 Licensing Act led to the de-regulation of licensing law. Amongst many changes to Licensing Laws, the headline was a relaxation of closing times for licensed premises introducing the opportunity for late night drinking. The Act was intended to promote four fundamental licensing objectives:

- a) the prevention of crime and disorder;
- b) public safety;
- c) the prevention of public nuisance; and
- d) the protection of children from harm.

From 2005, licensed premises across the Country were able to apply for later licenses, but it was not until August 2009, that establishments in Norwich began to open beyond 4am. A limited market is believed to be the reason for this slow uptake and it is our belief that it has only been other subsequent changes to the Norwich NTE that have caused clubs and bars to consider later opening as a viable option. These subsequent changes include the provision of low cost hotels adjacent to the NTE, the marketing of Norwich as a Stag / Hen party destination, the decline of the NTE elsewhere in the region, an alternative offer with less nightclubs (where dancing is the main offer) to more bars (where drinking is the main offer) and other adult entertainment (i.e. strip bars).

The August 2009 date is significant for the purposes of this paper. The Police are better able to understand the impact of late night entertainment in the Norwich NTE if comparisons of crime and disorder levels are made before and after this date.

In the period before August 2009, the Norwich NTE had a different profile to that which it has now. It was the case that a smaller number of large clubs dominated the late night offer with the public using a number of pubs and bars prior to club entry. The Police previously experienced peaks of disorder as the public moved from pub to club and when the larger clubs closed simultaneously. This bottleneck effect was not unique to Norwich and removal of this flashpoint was one of the intended consequences of the 2003 act. The Policing operation before 2009 was much smaller than it is now. The earlier closure of the licensed premises allowed officers to return to patrolling the rest of the City much sooner than they are able to now – an issue this paper will return to later.

In the period that followed August 2009 a number of premises began to open later into the evening. It appeared that the movement of one establishment to later hours of opening caused others to follow suit so as to avoid giving a rival premises competitive advantage. Norwich now has around 55 premises that open beyond midnight and has become a seven day a week destination. These later hours have led to a trend of people arriving later to the NTE having 'pre-loaded' with drinks at home. Pre-loading typically occurs within the younger group who are at the greatest risk of subsequent harm through assault or injury. It is common for my officers to find persons who are drunk before they have entered a club / bar in the NTE. This issue of 'pre-loading' has been identified nationally as a consequence of later opening hours but is supported in Norwich by the new provision of four off-licenses in the NTE, two of which open to 4am.

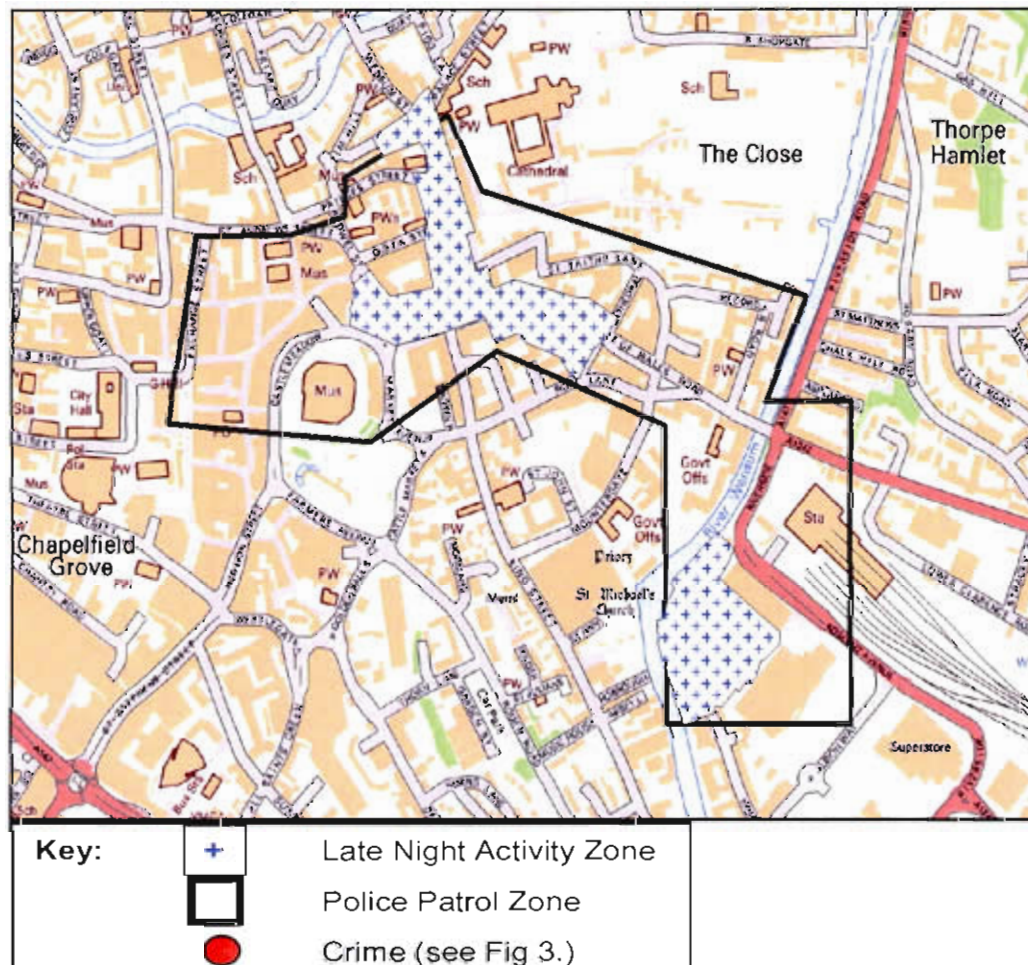
Norwich's NTE now has a national reputation and is a popular destination for stag / hen weekends or visits from social groups. The availability of cheap hotels and the decline of the NTE in other towns and cities have all contributed towards Norwich attracting crowds of over 12,000 people on peak nights. Whilst Prince Of Wales Road is the hotspot for the NTE, many bars outside of the Council defined late night activity zone open into the early morning. This has caused a persistent level of complaints about noise and nuisance from those living or working nearby and also serves to stretch the Police resources over a wider area which subsequently dilutes our presence. It is our view that the late night entertainment can be best managed if it is concentrated into one area. Doing so minimizes impact upon the local community and greatly assists the efforts of the police and other emergency services.

The growth in the NTE that has been described above has made it necessary for the Police to increase the resources they deploy each week in the NTE. We now direct an additional 12,000 police officer hours per year to the NTE compared to pre 2009. These officers are abstracted from other duties and their deployment on NTE duties represents a reduction in the amount of time being spent patrolling elsewhere. The figure of 12,000 hours does not include the significant number of patrols undertaken by the Special Constabulary in the NTE or the work of our dedicated Licensing Team who work with Licensees to try and achieve the licensing objectives.

### *Crime and Disorder in the Norwich NTE*

This report will now present analysis on the impact that extended licenses have had on crime in Norwich NTE. The data used considers crime and incident levels before and after August 2009 for the reasons stated above.

The Constabulary has geographically defined the NTE based upon crime and incident data. This area differs significantly to the Council Late Night Activity Zone upon which planning decisions are based. For the purposes of this report the Crime data relates to incidents that have taken place solely in the Constabulary NTE area as displayed below.





| CRIME IN THE NORWICH NIGHT TIME ECONOMY 21:00 – 00:00 |                          |                          |            |                          |
|---|--------------------------|--------------------------|------------|--------------------------|
|   | 02/2007<br>to<br>07/2009 | 08/2009<br>to<br>01/2012 | Difference | Percentage<br>Difference |
| Priority  | 113                      | 76                       | -37        | -32.7%                   |

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|                        |     |     |     |        |
|------------------------|-----|-----|-----|--------|
| Violence               |     |     |     |        |
| Theft Other            | 207 | 148 | -59 | -28.5% |
| Volume Criminal Damage | 39  | 43  | 4   | 10.3%  |
| Volume Violence        | 40  | 49  | 9   | 22.5%  |

Table 2: Norwich NTE crime 21:00-00:00

| CRIME IN THE NORWICH NIGHT TIME ECONOMY 00:00 – 03:00 |                          |                          |            |                          |
|---|--------------------------|--------------------------|------------|--------------------------|
|   | 02/2007<br>to<br>07/2009 | 08/2009<br>to<br>01/2012 | Difference | Percentage<br>Difference |
| Priority Violence                                     | 368                      | 367                      | -1         | -0.3%                    |
| Theft Other   | 374                      | 374                      | 0          | 0.0%                     |
| Volume Criminal Damage                                | 94                       | 88                       | -6         | -6.4%                    |
| Volume Violence                                       | 105                      | 145                      | 40         | 38.1%                    |

Table 3: Norwich NTE crime 00:00-03:00

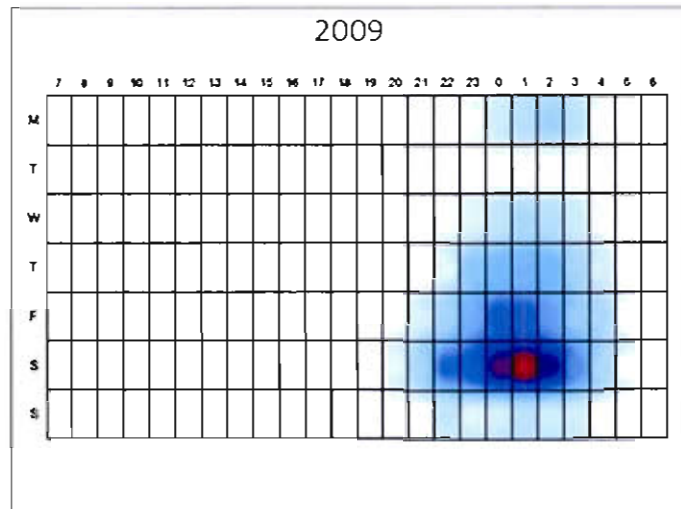
| CRIME IN THE NORWICH NIGHT TIME ECONOMY 03:00 – 06:00 |                          |                          |            |                          |
|---|--------------------------|--------------------------|------------|--------------------------|
|   | 02/2007<br>to<br>07/2009 | 08/2009<br>to<br>01/2012 | Difference | Percentage<br>Difference |
| Priority Violence                                     | 76                       | 173                      | 97         | 127.6%                   |
| Theft Other   | 84                       | 178                      | 94         | 111.9%                   |
| Volume Criminal Damage                                | 26                       | 58                       | 32         | 123.1%                   |
| Volume Violence                                       | 31                       | 96                       | 65         | 209.7%                   |

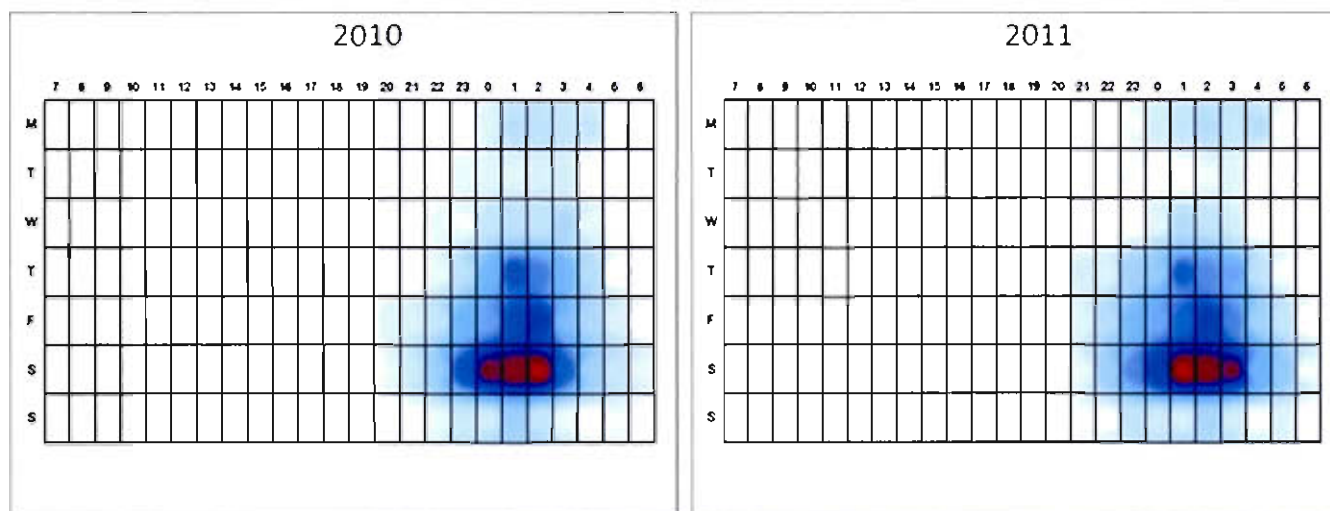
Table4: Norwich NTE crime 03:00-06:

The Licensing Act changes have coincided with a growth in the NTE during weekdays. Friday and Saturday nights account for just 55% of all crime in the NTE with Thursday evenings getting increasingly close to the same level of demand as Friday evenings. The charts below display the peak times and days of the week for crime in the Night Time Economy.



## PROTECT





Crime in the NTE is consistent throughout the year. There is little seasonal variation with only New Years Eve, and Bank Holiday weekends typically showing crime levels above the norm.

### The Cost of Crime Linked to the Night Time Economy

Using a Home Office 'cost of crime' calculator, analysts are able to estimate the cost of responding to the crime that occurs in the Norwich NTE. The below table demonstrates the costs to three groups; the Police, all criminal justice agencies and whole societal cost. The table considers Norwich's NTE between August 2008 and January 2012, based on the Home Office method. Not all crime types are included.

|                          | 08/2009 to 01/2012 | Est. police cost in response | Est. total CJS cost in response | Est. global cost to society |
|--------------------------|--------------------|------------------------------|---------------------------------|-----------------------------|
| Burglary Dwelling        | 10                 | £15,124                      | £29,854                         | £85,806                     |
| Burglary Non-Dwelling    | 22                 | £14,120                      | £28,828                         | £158,846                    |
| Violence                 | 906                | £1,122,522                   | £2,605,538                      | £15,130,037                 |
| Robbery                  | 14                 | £54,280                      | £160,799                        | £450,187                    |
| Theft from Motor Vehicle | 8                  | £829                         | £1,337                          | £22,938                     |
| Theft of Motor Vehicle   | 5                  | £580                         | £1,425                          | £29,632                     |
| Sexual Offences          | 26                 | £245,909                     | £532,158                        | £5,072,763                  |
| Criminal Damage          | 189                | £73,715                      | £122,212                        | £839,965                    |
| <b>Total</b>             |                    | <b>£1,527,079</b>            | <b>£3,482,151</b>               | <b>£21,790,174</b>          |

Table 7. Cost of crimes linked to Norwich's NTE.

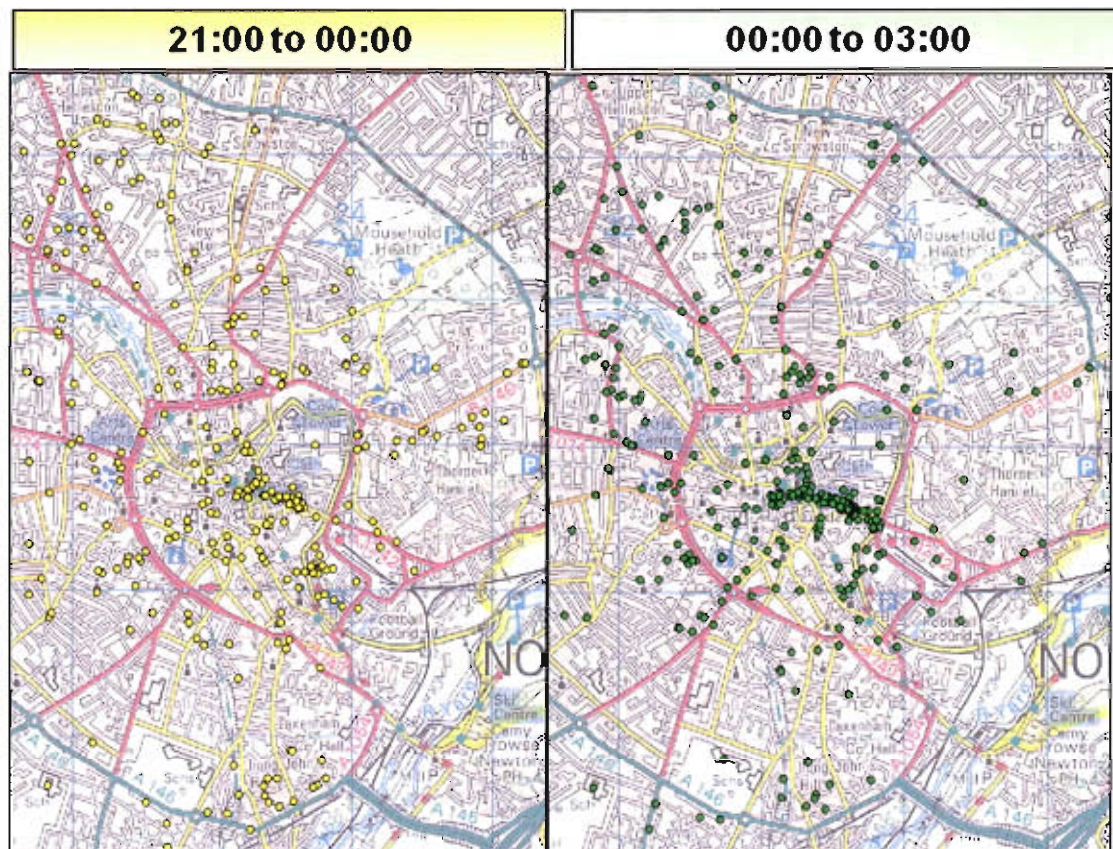
It should be noted that the above table only considers the policing costs of responding to crime. It does not include the Police response to reports of anti-social behaviour or the cost of preventive work or patrols which prevent disorder from occurring. It is estimated that 48,000 officer hours per year are spent patrolling the Norwich NTE. The later hours of opening and increased midweek trade cause this figure to be 12,000 officer hours per year higher than the period before late night licences.

It is the Police's view that this huge investment prevents a significant amount of crime and that a reduced level of resourcing would result in a considerable crime rise. The Police view is that their approach to the NTE masks many of the challenges and problems that the NTE presents.

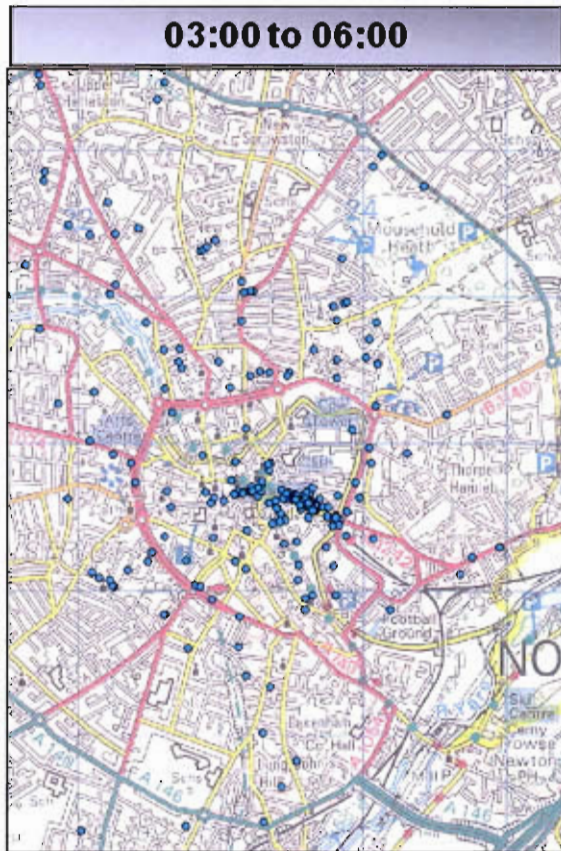
It can be concluded that late night opening has led to higher crime, notably in the period beyond 3am. This crime increase is not a displacement from earlier in the evening but an addition to the crime that has always occurred before 3am.

### *Crime Location*

The crime connected to the NTE is not restricted to the areas immediately outside bars, clubs and takeaways. A significant amount of crime occurs as the public makes their way home causing those in residential areas to be victims of noise nuisance and crime (notably damage offences). Analysts have been able to map crime associated with the NTE in the below diagrams. Crime typically clusters on the main pedestrian routes out of the City Centre:







The Police conclude that whilst crime and disorder associated to the NTE is at its peak in the City Centre, those living in residential areas throughout the City have also been found to experience the consequences of later licences.

### *Police Recommendations*

The Police are very aware that the powers available under the Police Reform and Social Responsibility Act 2011 are significant and should not be used without justification. We are mindful that the NTE brings many benefits to the City, making it appropriate that any recommendations made are proportionate and necessary to reduce the risk of harm.

This report has largely focused upon crime levels in the Norwich NTE, but it should be noted that the NTE represents one of the greatest risk areas for the Constabulary. It is the case that a death occurs in the NTE with the frequency of less than every 18 months. Causes of these events range from homicide, accident, traffic collision or overdose. Increasing the safety of the NTE is a key priority for the Police for reasons greater than just crime levels.

In an effort to reduce violence in the NTE, the Constabulary and partners have put in place many measures to improve safety:

- We have increased the number of officers on patrols by 12,000 hours per year.
- We have established a dedicated licensing team which works full time to improve standards in licensed premises.
- We have worked with the trade to establish a Best Bar None Scheme aimed at increasing safety in the NTE.

- We have held large scale operations called 'Impact Nights' where up to 80 officers work on peak nights to enforce a 'zero tolerance' approach to disorderly behaviour and crime.
- We have produced advice material advising young person about the dangers of binge drinking.
- We have carried out test purchase operations in bars to detect underage sales of alcohol.
- We have carried out multi-agency visits with partners to improve standards inside premises.
- We have deployed overt CCTV vans to detect violent offences and deter offences.
- We have recently applied for a licence review resulting in the closure of one bar due to poor management.
- We have carried out drugs operations both through passive drugs dogs and using drug tracking devices as conditions of entry at clubs.
- We have banned troublesome customers from the NTE through Anti-Social Behaviour Orders and use of bail conditions.
- We have worked with bars to improve safety by putting in place measures such as plastic glasses and CCTV reviews.
- We have worked in partnership with other groups such as the SOS bus and Street Pastors to make the NTE safer.
- We have advised hotels in the NTE on how to reduce disorder and set up intelligence sharing arrangements.

The above measures have been successful in restricting the amount of crime in the NTE but injury and risk of harm still continues into the early hours. The Police believe that they have used a wide variety of measures to achieve the licensing objectives, working on their own and with the licensing trade. However, crime and disorder beyond 3am remains at an unacceptable level and we believe it is appropriate to consider the Levy and EMRO powers to address this problem.

It has been known for some time that the Levy and EMRO powers would be in place this year. The constabulary can see particular advantage in the EMRO as a means of reducing late night violence. It is always our intention to work with the NTE to reduce violent crime and therefore this summer (with the agreement of NCC Licensing Committee) the Police began to advise late night premises about the new powers and commence a process of informal consultation.

That Informal consultation started with a joint letter being sent by The Chief Executive of Norwich City Council and the Chief Constable of Norfolk Constabulary to all licensees in the City. The letter (in appendix 2) advised licence holders on the new powers (Levy and EMRO) that will soon be available and the current challenges with late night violence in Norwich. Only one response was received from Licensees in response to the letter.

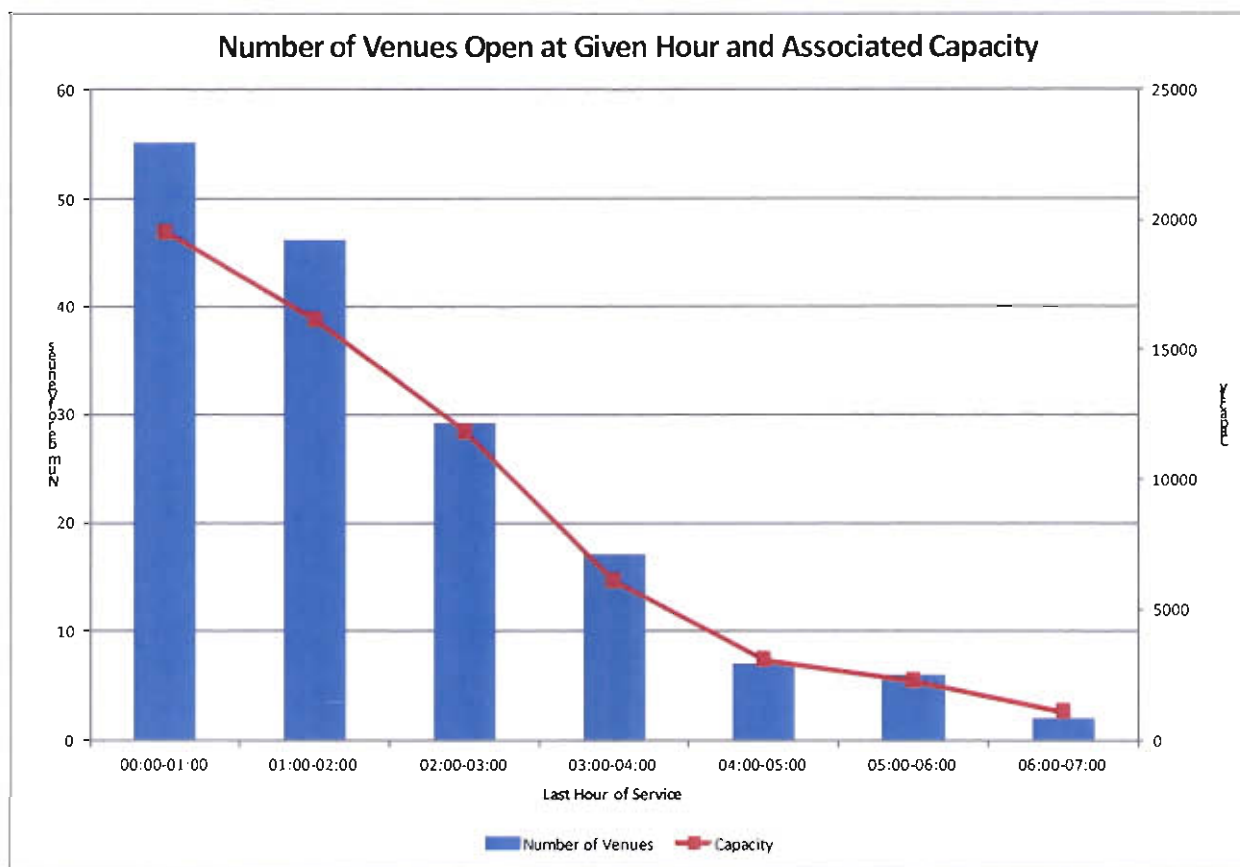
A series of meetings were held with licensees aimed at increasing their awareness of the new powers and ascertaining if they could further help to reduce late night disorder. The result of this process was an agreement from all clubs on Prince Of Wales Road with a licence later than 4am to bring forward the time for last sale of alcohol to 4am starting the first weekend of August 2012. The conversations with the late night clubs revealed a very limited market after 03:30hr with most clubs making no profit beyond 4am. Many

licensees reported only staying open to ensure that other clubs that also opened later did not get a competitive advantage earlier in the night when profits are achieved.

During the month of August 2012, no violent crimes were recorded in the NTE after 04:00hr.

Officers working in the NTE have reported positive benefits from the earlier closures finding that the public order operation does finish earlier with the City returning to normality much sooner. It is the Police's belief that this earlier closure will have a long term benefit in terms of crime and disorder reduction and that it represents good evidence of the potential benefits of an EMRO.

It is the case that a relatively small number of premises open beyond 3am. The bar graph below shows the number of premises open throughout Norwich by hour of the day with the line demonstrating the overall capacity of these premises taken from fire risk assessments<sup>1</sup>:



The graph demonstrates the limited market for late night entertainment causing the police to conclude that it is a small number of people who stay out late that commit a disproportionate amount of crime and disorder.

The voluntary reduction in hours has shown promising early signs, and it is the Police's view that an hour should be set for last time of opening to reinforce this position. We find

<sup>1</sup> Note – the graph was prepared before August 2012 when all clubs on Prince Of Wales Rd voluntarily agreed to close by 4am

that the NTE has grown too close to the Day Time Economy (DTE) and we can evidence where, for example, commuters heading towards Norwich Station have shared the streets with person exiting clubs in a disorderly manner. We also know that local residents living close to the NTE still suffer considerable disturbance and believe that an earlier end to the evening would enhance their quality of life. As evidence of this last point, we have attached in the appendix recent comments made by residents of Stuart Gardens concerning a planning application for the change of use of a business premises to a food and drinking establishment. It is our view that the comments paint a picture of the problems encountered when living near the NTE.

The evidence presented earlier in this paper clearly demonstrated an increase in disorder after 3am since the introduction of late night opening. We believe that this alone provides sufficient justification for the Council to consult on a 3am EMRO for the NTE. We believe that 3am closure is proportionate to the scale of the problems encountered in the NTE and that the success of voluntary closure provides an evidence base to show the impact that earlier closure can bring.

One of the intentions of the 2003 Licensing Act was to reduce the bottlenecks which occurred on peak nights (Friday & Saturday) at 2am when clubs all closed at the same time with disorder often resulting. The Police believe that the 2003 Act was successful in achieving this aim and believe that setting an earlier EMRO might be counterproductive. There are clear advantages to a staggered closing time on peak nights as it assists dispersal and spreads the demand on other services, in particular taxis. Staggered closing time would occur naturally if the EMRO is set at the right time.

However, the Police do believe that a staggered dispersal can occur in a controlled manner through the application of more than one EMRO on peak nights (Friday & Saturday). For the purposes of planning, the Council identify a Late Night Activity Zone (LNAZ) which covers areas of Prince of Wales Road and the Riverside Development. The Police believe that a later EMRO on peak nights in the LNAZ complemented with an earlier EMRO elsewhere would both assist dispersal, help the Police and other emergency services manage demand, and contain the impact of the NTE. It is currently the case that the NTE has expanded far outside the LNAZ resulting in crossover with the residential and retail sector. The Police believe that this recommendation would help prevent this displacement and reduce the impact.

The Police therefore recommend this approach proposing that the following options go forward to consultation:

- a. EMRO of 3am with later EMRO of 4am in LNAZ on peak nights (Friday and Saturday)
- b. EMRO of 2:30am with later EMRO of 3:30am in LNAZ on peak nights (Friday and Saturday)

The Police believe it is important that there is a one hour gap between the two EMRO times to allow for full dispersal to occur. This will allow the police to concentrate their resources in the right place and provide adequate time for crowds to clear.

The Police believe that the later EMRO in the LNAZ is an appropriate concession for those premises that typically open later and have already worked with the Police to voluntarily

reduce their hours. However, the Police would recommend that the later EMRO is subject to review in the event of any future increases in crime and disorder.

In making the above recommendations the Police are mindful that the proposals could have an economic impact. However, our evidence suggests only a limited market would be affected and that our recommendations are late enough to allow the NTE to continue to thrive. However, as a means of supporting the NTE, we are not recommending at this stage that an application is made for a Late Night Levy. We believe that the negative costs of the NTE will reduce significantly if the above EMRO is applied. We therefore will not be recommending that a Levy is applied to ensure that our application of all the new powers when taken as a whole is proportionate. We would however note at this stage that the Police would consider recommending a levy at a later date should alcohol related crime and disorder increase in the City at any later time. We hope that we would be able to work with licensed premises to prevent such rises in disorder from occurring.

The Police are aware of a small number of premises outside the police defined NTE with late hours of opening. The Police believe that the use of an EMRO at these locations would not be justified where the venues have no recent history of crime and /or disorder. The Police believe that premises should be allowed to apply for an exemption under the understanding that the EMRO could be reinstated if crime and /or disorder at the venue increase. The Police believe that this exemption should only be offered to existing licence holders to prevent growth of the NTE outside the existing police defined NTE zone.

#### *Summary of Police Recommendations:*

- Consultation takes place on two EMRO options:
  - a. EMRO of 3am with later EMRO of 4am in LNAZ on peak nights
  - b. EMRO of 2:30am with later EMRO of 3:30am in LNAZ on peak nights
- The later EMRO in the LNAZ is reviewed in the event of increases in crime and / or disorder.
- No levy is applied in Norwich.
- The decision not to apply a levy is re-considered in the event of increases in alcohol related crime and / or disorder.
- Existing premises outside the Police defined NTE area are allowed an exemption to the EMRO if they can evidence no recent history of crime and / or disorder and appropriate management.
- The decision to exempt a premise from the EMRO would be reviewed in the event of increases in crime and /or disorder associated with the venue.

The Police believe that these recommendations will promote the following licensing objectives:

- a) the prevention of crime and disorder;
- b) public safety;
- c) the prevention of public nuisance



PROTECT

Superintendent Paul Sanford  
7<sup>th</sup> October 2012

*Appendix 1-Comments from residents opposed to planning application 12/01348/F | Change of use of ground floor of building from offices (Class B1a) to shop (Class A1), office (Class A2), food and drink (Class A3) and drinking establishment (Class A4). | 102 Prince Of Wales Road Norwich NR1 1NY*

**Comment submitted Mon 17 Sep 2012**

**Comment submitted Wed 12 Sep 2012**

I wish to support and add to residents' comments on the above planning application. Residents are unanimously opposed to extending the late night activities, based on their unpleasant experiences, some of which they are too polite to describe. Living in the City Centre carries an expectation of noise, and residents expect this - However almost every one of the residents who have spoken to me have much worse to report than mere noise, and I was concerned enough to spend 2 nights watching, one with residents in Cathedral Street and Stuart Gardens, one with police. Even on a wet night I saw many people urinating in gardens, alleyways and doorways, and vomiting on pavements and passages in Prince of Wales Road and surrounding residential streets. Smell could not be ignored, and is detrimental to the character of the area and the wellbeing of residents and visitors alike. Police had to intervene to prevent fights on several occasions, and were stretched to be able to see each other, and the public over the length of the area, which would be extended if this application were accepted. Many people have told me they do not go out at night because of harassment, gateways blocked by groups of people who sometimes laugh and/or refuse to move when asked. Some who work shifts dread their journey home at weekends. Others have talked about dodging pools of vomit when they go out on Sunday morning, and about their gardens being used as toilets by both men and women, with excrement and condoms, frequently and needles occasionally left behind as evidence. In one case a resident described finding their door and door-handles smeared with excrement. If it is unpleasant to find these the next day, the committee can no doubt imagine possible scenes of how these might appear, and what residents might face, should they wish to exercise their human right free movement, eg to go out at night. Early closing helps the police, and some residents consider it an improvement, however others say it just gets people out on the streets sooner. All agree that it is numbers of people and dispersion of police that makes the difference. Some would add that the lack of toilets is a factor, and would ask that clubs provide toilets for people club-hopping as well as those on their premises. Some noted that when people are required to leave clubs, for example because they are acting aggressively, they leave by back doors, not onto heavily policed Prince of Wales Road, but the barely policed side streets near their homes. This specific application would potentially increase the numbers of people on the residential streets going to and from clubs, including the small proportion who behave appallingly. Stretch the area that the police need to keep under intensive observation on Prince of Wales Road itself. Bring the zone closer to the retirement homes in Recorder Road. Overlook/exit directly in front of Stuart Gardens residents. It is inappropriate and I urge you to reject it.

**(Objects)**

**Comment submitted Wed 12 Sep 2012**

On behalf of Alan Boswell Insurance Brokers Ltd, 100 Prince of Wales Road.

**(Objects)**

**Comment submitted Tue 11 Sep 2012**

I have a flat in Stuart Gardens which backs onto 102 Prince of Wales Rd and am very concerned that this application, if allowed, will create even more distress for the long suffering residents of Stuart Gardens and surrounding streets. At present the residents are bombarded every weekend with drunken abuse, noise, anti-social behavior until 4am at least from Mercy night club and the rest on Prince of Wales Rd. In spite of constant complaints to the council and police, nothing has changed and the granting of yet one more late night drinking license would be sheer madness. There are at present 21 drinking/night clubs and 17 fast food outlets and off-licenses between King St and the river. One more would be madness and totally unnecessary. These night clubs with the attendant loutish behavior are already having a negative effect on the value of residential properties. Please consider the residents and do not allow this application.

(Objects)

***Comment submitted Mon 10 Sep 2012***

(Objects)

***Comment submitted Thu 06 Sep 2012***

We have now lived in Lovelstaithe for 12 years and objected to both Mercy and Tescos obtaining a liquor licence. Since moving here we are now virtually the only ungated development in Recorder Road which allows the Prince of Wales Road drunks to use our development as a local lavatory. We have given up complaining as it gets us absolutely nowhere other than becoming even more frustrated. We totally object to yet another licenced premises being allowed so near to residential properties. Does Norwich City Licencing Committee have such little regard for the local residents of POW Road? I think the answer must be yes.

(Objects)

***Comment submitted Thu 06 Sep 2012***

(Objects)

***Comment submitted Thu 06 Sep 2012***

(Objects)

***Comment submitted Thu 06 Sep 2012***

(Objects)

***Comment submitted Fri 31 Aug 2012***

We only recently moved to Stuart Gardens from Essex, and were completely unaware that what looked like a quiet, pleasant residential block of flats turned into a living nightmare at night. It is almost impossible to describe the volume of noise coming out of the MERCY nightclub - a steady and non-stop deafening thumping bass that penetrates our flat so that it is impossible to get away from it. Some nights it goes on till after 4.00 a.m. On top of this we have to deal with the yelling and raucous behaviour of drunken clubbers throughout the night, who stagger out to vomit, urinate against someone's front door, and yell. I have witnessed this behaviour when looking out of the window at 2.30 a.m. to see who is making the noise. The next morning there is disgusting debris everywhere, including broken glass, pools of vomit and empty cans. I notice that sometimes a street cleaning vehicle appears early to clean up, but what cost to the taxpayer for this? And what cost to residents' health and well-being when they are unable to get regular decent sleep? Please do not inflict yet another drinking establishment on or near the Prince of Wales Rd. No resident should have to put up with the public nuisance and noise pollution created by these places. We were attracted to Norwich because of its reputation for being a green city, for its art and culture, and for its consideration towards its residents. Please do something significant to improve the quality of life for people in Stuart Gardens and other homes near Prince of Wales Road by not granting further licences for drinking establishments, and by controlling the serious anti-social problems and noise pollution that already exist.

(Objects)

***Comment submitted Mon 27 Aug 2012***

As a resident on one of the roads leading onto Prince of Wales road, I think it is a very bad idea to open yet another nightclub. The noise disturbance of the existing clubs themselves and more of the drunken people coming out of them is enough. The police have their hands full with the part down the road and this club would be located just outside the main zone which would mean making the clubbing area even bigger.

**(Objects)*****Comment submitted Sat 25 Aug 2012***

I think that this is a dreadful idea. There are plenty of bars and night clubs on Prince of Wales road. I live on one of the streets coming off Prince of Wales Road and unfortunately cannot afford to move. the noise and the disturbance that comes from Prince of Wales road is dreadful!! I do not think that a new bar is needed to contribute. Our normal weekends consist of things posted through our door - including poo, constant fighting, shouting, people being sick outside our door, weeing up our wall, takeaways thrown on our windows and we have even had a smashed window from a drunk person who fell through it! Another reason is surely the cost to the tax payer for more police. The police have been incredible when we have had to deal with then re: the effects of the drunks on Prince of Wales but i do feel that they are wasted acting as doormen to control the effects of drinking on the prince of Wales road. I have owned bars myself and understand the business side but it is not in the correct area as there is a residential behind it!! Also I often walk into town on a Saturday or Sunday and have to walk over litter and sick outside bars that havent cleaned up!

**(Objects)*****Comment submitted Mon 20 Aug 2012***

No. No. No. I strongly object to this planning application. Prince of Wales Road does not need another bar or nightclub - it already has too many. The street and it's surrounding residential area already have huge problems with anti-social behaviour and the noise from night time economy businesses and drunks. Another drinking establishment will not help, it will just create more noise and more drunks. I live in Stuart Gardens which is directly behind this building. I already have to put up with the "clubbers" and "drinkers" of Prince of Wales Road using my garden and the car park of my home as a convenient place to vomit, urinate and defecate (yes, I have seen a drunk take a poo in the my front garden - not a sight you quickly forget). It is a handy place for these drunken, noisy and often argumentative strangers to sit around drinking cheap wine and strong cider, or take drugs (hiding behind the cars in the car park). I particularly dislike being woken in the night by people having loud, drunken sex underneath my bedroom window. I shouldn't have to see/hear or deal with this. These factors directly impact the value of my property and the quality of my life, and the lives of my fellow residents - many of whom are elderly, or couples with young children. The council seem to be willfully ignorant of the problems they have created by granting drinks licenses to every property on Prince of Wales Road and the police seem to be woefully inadequate at dealing with the fallout. Please have a thought for the residents of the area surrounding Prince of Wales Road who don't need any more night-time noise or drunken disturbances.

**(Objects)*****Comment submitted Sat 18 Aug 2012***

We live in Stuart Gardens behind this building. We already have major trouble and harassment from the revellers using all the other bars and clubs on Prince of Wales Road over the weekend. We get a constant stream of drunks using where we live as a toilet, meeting area for illicit drinking (many we suspect under-age), shouting, fighting, vomiting and for sex. We have reported it to the council and police many times to no effect. So the idea of yet another club/bar right next to us is not a good situation. We already have to deal with the bass rumble from the other clubs close by. It really is time that people realised this is a residential area and that the residents also deserve to be looked after and protected from/during the night time economy. Currently we get next to no support and I am tired of having to call the police most weekends. This road does not require another drinking establishment and it shows a terrible lack of imagination. We should be looking at regenerating this area back to a day time economy so the businesses that have left due to the appalling circumstances currently, can come back and improve the area for all. Please can we the residents (many of whom are elderly and afraid to go out) have some consideration?

**(Objects)*****Comment submitted Mon 27 Aug 2012***

We are residents of Stuart Gardens and already have our lives unacceptably disturbed by the noise coming from the Mercy club in Prince of Wales Road well into the early hours of the morning, followed by the shouting coming from those leaving - not to mention the trail of broken glass, litter and vomit in St Faith's Lane the following day.

The last thing the area needs is another "drinking establishment" and we very strongly oppose the application. The Council should not be prepared to see Prince of Wales Road turn into an unbroken chain of bars, clubs and fast food joints - apart from it being the main introduction to the city for those coming from the train, it backs onto an intensively occupied residential zone whose occupants deserve much greater consideration than was shown when the current level of development in Prince of Wales Road was approved.

**(Objects)**

***Comment submitted Fri 31 Aug 2012***

***Comment submitted Sat 25 Aug 2012***

I reside at Stuart Gardens just behind this building and DON'T SUPPORT this proposal for this new bar/club on Prince Of Wales Road, particularly one in such close proximity to my home. We are already have been facing very high noise pollution, anti social behavior, highly intoxicated people all round our RESIDENTIAL premises; especially Friday, Saturday & Sunday we see intoxicated boys-girls using Stuart Garden premises: (where we live) as a toilet, illicit drinking, shouting, fighting, vomiting. Please help avoid this nuisance by not permitting this new bar application please... Its very frightening to go out of house during late night if you can imagine all this. I would like to request you to please help us by not permitting this bar Application: 12/01348/F ; 102 Prince Of Wales Road Norwich NR1 1NY and as a resident close to this Location I personally strongly oppose this proposal.

**(Objects)**

***Comment submitted Sat 18 Aug 2012***

I live at Stuart Gardens just behind this building and would definitely object to there being yet another bar/club on Prince Of Wales Road, particularly one in such close proximity to my home. The residents here already have to cope with a constant stream of drunken clubbers shouting, urinating and vomiting outside of our homes. Also the volume of music from the existing clubs is completely intrusive; for example, the thudding bass is audible in my living room over the sounds of my television. I have already complained verbally to the owner of Mercy about this and will shortly be doing so again in writing. The prospect of another club adding to all of these problems is something I would object to in the strongest terms. I am actually currently trying to sell my flat but am even finding the nearby clubs an obstacle to this. The majority of people viewing my flat in the last six months have had the same comment - it's a nice place but the proximity to the bars and clubs of Prince Of Wales Road is very off-putting. This has a direct impact on the values of our flats, as reducing the price is the only way to mitigate the location becoming less desirable. So not only are the bars and clubs making Stuart Gardens an unpleasant place to live, they are also making it a difficult place to move away from. The residents of Stuart Gardens, some of whom are elderly or have young families, deserve to have a decent place to live; and they also deserve to have confidence that the value of their property is not being constantly eroded by the encroaching night-life.

*Appendix 2: Letter from the Chief Executive of Norwich City Council and the Chief Constable of Norfolk Police to Norwich Licensees.*



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## **Changes to the Licensing Act 2003 – how will these affect your business?**

Dear Licensee

As the Chief Constable of Norfolk Police and the Chief Executive of Norwich City Council, we have a responsibility for making sure that the night time economy of Norwich is thriving and safe.

The city has a good reputation as a top destination and one of the most popular night time economies in the region. The forthcoming changes in the licensing law give us an opportunity to work with you to improve our approach so that visitors to the city can continue to have an enjoyable night out with minimum disruption for our residents and maximum safety for themselves.

**These changes will affect you and your business and we want to be sure that you understand the implications of them.**

Previously, licensing legislation changed radically in November 2005 when de-regulation moved the responsibility for licensing from the Magistrates Court system to the local authorities and introduced a relaxation of the licensing hours.

However, these changes have led to good and bad consequences for alcohol related crime and disorder:

- The bottlenecks to enter licensed premises previously seen between 10.30 and 11pm have eased and this is good news as it was the peak time for assaults and disorder with flashpoints in and around the queues.
- The changes also resulted in a few venues choosing to amend their premises license thereby staying open later into the morning. The bad news from this change is the increase in calls for Police support as the residue from the night's activities now continues beyond 6am on Saturdays and Sundays.

Although there are only in the region of 200 customers leaving these premises after 6 am this means that there is no longer a gap between the end of the night time economy entertainment and the beginning of the daytime economy the following day.

The legislation now proposed will re-balance the provisions of the Licensing Act as it has been acknowledged that the four licensing objectives place considerable demands on the resources of the Police and partner agencies to manage the night-time economy beyond 3 am.





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Without the current dedicated service after 3 am, there would be a serious deterioration in the quality of life for the citizens of Norwich including an escalation of the number of victims of alcohol related assaults, potentially more serious injuries, and even fatalities. As lead agencies in Norfolk Community Safety Partnership we will make sure that we do not return to the former situation in the city where this type of crime and disorder was more frequent and widespread.

The proposed changes in the Licensing Act will allow the licensing authority to:

- 1 Apply a Late Night Levy to those premises that benefit from trading alcohol in a safe late-night economy to offset the extra costs generated for the Police and local authority and;
- 2 Restrict the sale of alcohol in the whole or part of their area for any specified period between midnight and 6 am. This applies to premises licences, club premises certificates and temporary event notices. This legislation is likely to come into force later this year.

In advance of this legislation being introduced we have undertaken analysis of the crime data and this clearly shows that alcohol related crime significantly increases after 3am on Saturday and Sunday mornings and this is perpetrated by a small number of late night revellers.

The impact of this crime in relation to the victims, cost to society and the provision of the dedicated policing is the evidence that we will use to justify the use of both a late night levy and early morning restriction orders.

In preparation for the forthcoming change in the management of the night-time economy area we would like you to consider your position in this.

We believe that by working together the application of the late night levy and the early morning restriction orders can be focussed on supporting the dedicated policing necessary and controlling the area where the main entertainment zone is based.

**We would like you to consider voluntarily reducing your operating hours** which would effectively regulate the Norwich night-time economy, provide a marked gap between daytime and night time activity and allow the Police and local authority services to concentrate their efforts to improve and maintain a more manageable environment. **I confirm that the licensing authority will make this change to your premises license free of charge.**







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Finally, there have been discussions about how and where the main entertainment zone should fit into the whole of the city environment with a growing consensus that Prince of Wales Road should be retained as the late night zone with the areas immediately surrounding this road having an earlier economy.

**Therefore, as a general principle, the further a licensed premise is from the main entertainment zone, the earlier the termination time for the sale of alcohol specified on the premises license should be. Overall this may mean three zones within the city boundary each with a different termination time for the sale of alcohol.**

Chief Inspector Gavin Tempest has led on Norfolk 'Nightsafe' initiative for some years now and we asked Gavin to make contact with premises license holders' starting with those opening the latest first to elaborate on our position and intentions and thereby starting a dialogue so that you have the opportunity to be part of the solution. Some good progress has already been made with operators on Prince of Wales Road voluntarily changing their Licences so that the latest sale of alcohol will be 4am.

Our hope is that we can expand on the work already undertaken and build on the current achievements with you to overcome the problems highlighted in this letter and maintain a vibrant night-time economy which is thriving and safe.

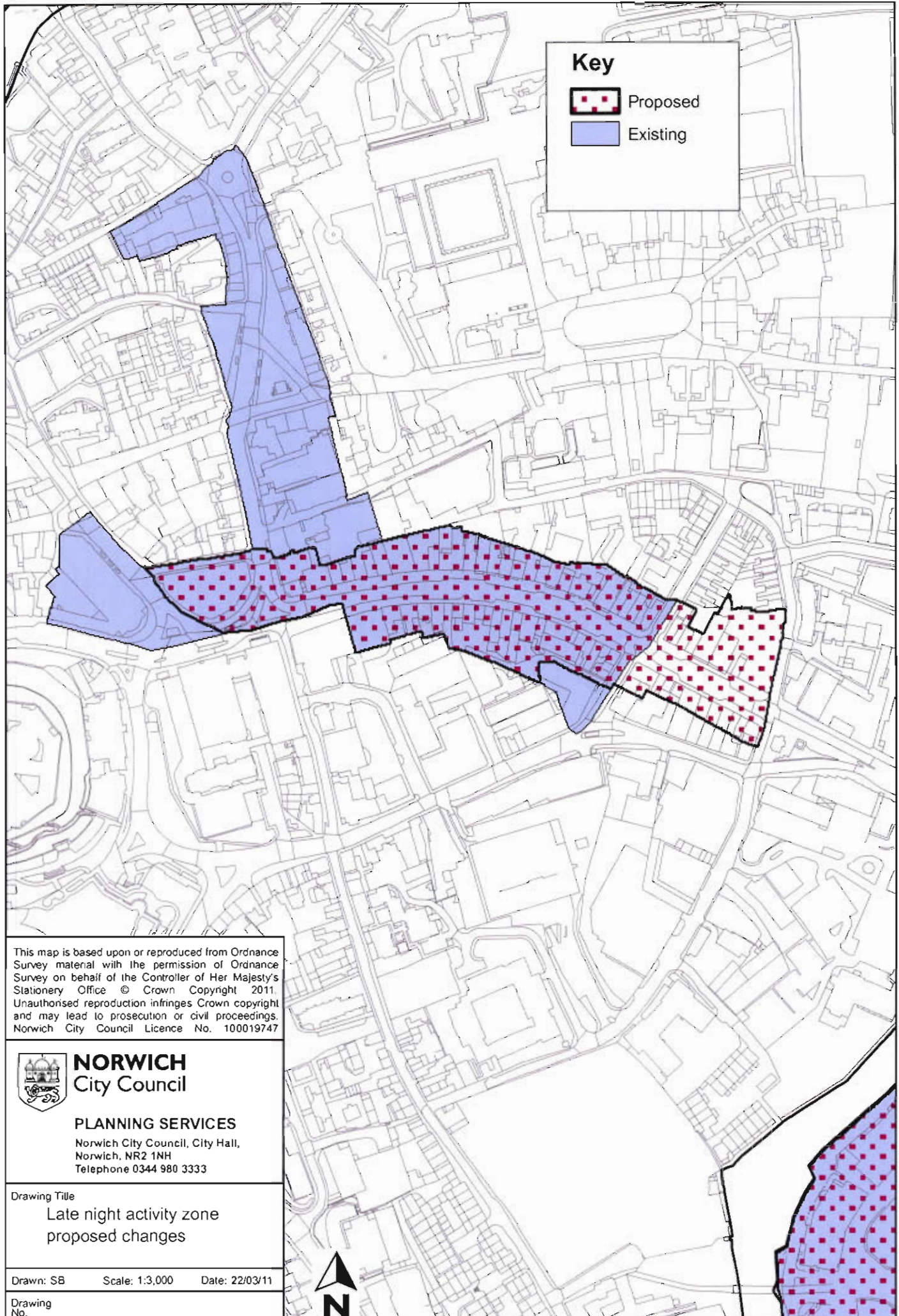
**Formal consultation will take place later in the year however, if you would like to find out more on the above proposal in the meantime please Gavin on 01603 276098.**

**Many thanks for your help and co-operation.**

**Phil Gormley**  
Chief Constable Norfolk Constabulary

**Laura McGillivray**  
Chief Executive Norwich City Council





## Environmental Protection

| Premises and Address                     | Date of Event | Time of Event  | Brief Circumstances   |
|--|---------------|----------------|---|
| Bread and Cheese, Public House           | 08/11/2011    | 00:00-03:00    | Regular lock in passed closing                                  |
| Bread and Cheese, Public House           | 03/01/2012    | 20:00-01:00    | Nuisance, patrons drinking on the street                        |
| Marlboro Arms, 43 Spencer Street         | 07/08 - 06/10 | 03:00 - 06:00  | Music in pub, people inside/outside making noise, shouting etc. |
| Hot Hut Takeaway, 73 Grove Road          | 30/06 - 01/07 | 02:00 - 03:00  | Trading outside licensed hours - neighbours complaint           |
| Anatolian Café, 121 Magdalen Street      | 27/09/2012    | 00:00-05:30    | Hosts unlicensed gambling activities, in particular Fri/Sat     |
| Knowhere' 1 Queen Street                 | 07/11/11      | 04:00          | Loud music until 04:00 am                                       |
| Bar Tapas 18-20 Exchange Street          | 28/01/11      | 03:00          | Loud music, shouting, rowdy behaviour                           |
| The Wildman PH, 29 Bedford Street        | 22/02/11      | 02:00 to 03:00 | Loud music  |
| The Kimberley Arms, 9 Trory Street       | 02/10/11      | 02:15 to 04:00 | People outside premises, rowdy behaviour                        |
| Catherine Wheel PH, 61 St. Augustines St | 11/09/11      | 05:15          | People outside premises, rowdy behaviour                        |
| Karma Kafe, 18 Bedford Street            | 01/10/11      | 04:00          | Loud noisy, rowdy people  |

APPENDIX  
D

24 Newmarket Road, Norwich NR2 2LA

Michael Stephenson,  
Public Protection Manager,  
City Hall,  
Norwich NR2 1HN

Dear Mr Stephenson,

4<sup>th</sup> August, 2012

Early Morning Restriction Orders (EMROs)

I understand from a Home Office circular that EMROs, which become available in October, enable the Licensing Authority to consider invoking such Orders provided it has received a suggestion from a member of the public or the Police and Crime Commissioner (who won't be in place until November).

It is apparent from the comments attributed to Superintendent Paul Sanford in the EDP on Friday 3rd August that a consequence of implementation of the Licensing Act 2003 has been an increase in disorder and crime late at night, particularly between 3am and 6am, with the extra deployment of police proving necessary.

Moreover, in the Police Reform and Social Responsibility Act 2011, Parliament has recognised that the imbalance between the implementation of the licensing objectives under the 2003 Act and the rights of local residents needs to be rebalanced.

I request the Licensing Authority consider EMROs, not only in the designated Night Time Economy (NTE) areas, but throughout the City.

The fact that some areas are designated NTE areas should not be allowed to detract from the fact that residents in those areas are afflicted by NTE noise and disorder.

Yours sincerely,

Tim Townshend

