

<b>Report to</b>	Licensing sub committee 20 May 2014	<b>Item</b>
<b>Report of</b>	Head of citywide services Licensing Act 2003:	<b>4</b>
<b>Subject</b>	Application for variation of a Premises Licence – The Georgian Townhouse 32-34 Unthank Road Norwich NR2 2RB	

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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 for the variation of a premises licence in respect of The Georgian Townhouse 32-34 Unthank Road Norwich NR2 2RB following the receipt of relevant representations.

## **Recommendation**

That members determine the application for the variation of a premises licence in respect of The Georgian Townhouse 32-34 Unthank Road Norwich NR2 2RB 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.

## **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**

None.

Ward/s: All wards

Cabinet member: Councillor Stonard – Environment, development and transport

## **Contact officers**

Ian Streeter, licensing manager

01603 212439

## **Background documents**

None

# Report

## Background

1. The applicant is The City Pub Company (East) PLC 9 Phene Street London SW3 5NY.

## Variation application

2. The application is seeking to:
  - vary the start of the opening hours of the premises from 11:00 to 08:00;
  - allow licensable activities from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day;
  - allow licensable activities for residents and their bona fide guests 24 hours a day seven days a week;
  - remove condition 15 of Annex 2 to the licence, namely "Staff will be aware of where children are, and they will be kept away from bar areas, the kitchen and other restricted areas";
  - alter the name of the premises to The Georgian Townhouse; and
  - vary the layout of the premises as a result of refurbishment.;
3. The tables below show the licensable activity the applicant is seeking to vary and the timings permitted under the existing premises licence and the proposed amended hours contained in the variation application. There are two tables: the first is in relation to residents of the premises and their bona fide guests and the second relates to non-residents.

### Residents and bona fide guests

<b>the sale by retail of alcohol (activity takes place both indoor and outdoor for consumption on and off the premises)</b>	<b>Hours permitted under existing premises licence</b>	<b>Hours proposed in variation application</b>
Monday	11:00 – 00:00	00:00 – 00:00
Tuesday	11:00 – 00:00	00:00 – 00:00
Wednesday	11:00 – 00:00	00:00 – 00:00
Thursday	11:00 – 00:00	00:00 – 00:00
Friday	11:00 – 00:00	00:00 – 00:00

Saturday	11:00 – 00:00	00:00 – 00:00
Sunday	11:00 – 22:30	00:00 – 00:00

**\*New Year's Eve:** From the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day.

#### **Non-residents**

<b>the sale by retail of alcohol (activity takes place both indoor and outdoor for consumption on and off the premises)</b>	<b>Hours permitted under existing premises licence</b>	<b>Hours proposed in variation application</b>
Monday	11:00 – 00:00	11:00 – 00:00
Tuesday	11:00 – 00:00	11:00 – 00:00
Wednesday	11:00 – 00:00	11:00 – 00:00
Thursday	11:00 – 00:00	11:00 – 00:00
Friday	11:00 – 00:00	11:00 – 00:00
Saturday	11:00 – 00:00	11:00 – 00:00
Sunday	11:00 – 22:30	11:00 – 22:30

**\*New Year's Eve:** From the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day.

4. The opening hours of the premises are:

#### **Residents and bona fide guests**

<b>Hours premises are open to the public</b>	<b>Hours permitted under existing premises licence</b>	<b>Hours proposed in variation application</b>
Monday	11:00 – 00:00	00:00 – 00:00
Tuesday	11:00 – 00:00	00:00 – 00:00
Wednesday	11:00 – 00:00	00:00 – 00:00
Thursday	11:00 – 00:00	00:00 – 05:00

Friday	11:00 – 00:00	00:00 – 05:00
Saturday	11:00 – 00:00	00:00 – 05:00
Sunday	11:00 – 00:00	00:00 – 00:00

**\*New Year's Eve:** From the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day.

### **Non-residents**

<b>Hours premises are open to the public</b>	<b>Hours permitted under existing premises licence</b>	<b>Hours proposed in variation application</b>
Monday	11:00 – 00:00	08:00 – 00:00
Tuesday	11:00 – 00:00	08:00 – 00:00
Wednesday	11:00 – 00:00	08:00 – 00:00
Thursday	11:00 – 00:00	08:00 – 00:00
Friday	11:00 – 00:00	08:00 – 00:00
Saturday	11:00 – 00:00	08:00 – 00:00
Sunday	11:00 – 00:00	08:00 – 00:00

**\*New Year's Eve:** From the end of the permitted hours on New Year's Eve to the start of the permitted hours on the following day.

5. A copy of the current premises licence is attached to the report at appendix A and at appendix B is a copy of the revised layout plan.
6. The licence holder is not proposing any additional steps to promote the licensing objectives as a result of the proposed variation, apart from the condition agreed with the council's environmental protection team, namely:
  - the garden will not be used for licensable activities between the hours of 23:00 and 07:00.

### **Relevant representations**

7. The responses from the Responsible Authorities are as follows:

Police – no relevant representations received.

Environmental Protection – no relevant representations received.

Fire Officer – no relevant representations received.

Planning Officer – no relevant representations received.

Area Child Protection Committee – no relevant representations received.

Trading Standards – no relevant representations received.

Primary Care Trust – no relevant representations received.

8. Relevant representations have been received in respect of the application with concerns which primarily appear to relate to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. Copies of the representations are attached as appendix C to the report
9. A site map of the area identifying the application premises in relation to the relevant representation party address will be available at the meeting.

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

10. Attached at appendix D are the elements of the City Council's local Licensing Policy which are considered to have a bearing upon the application:

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

11. Attached at appendix E are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

### **Summary**

12. In determining the application with a view to promoting the licensing objectives the Sub-Committee must give appropriate weight to:
  - the steps that are appropriate to promote 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);
  - the representations (including supporting information) presented by all the parties;
  - the guidance issued under Section 182 of the Licensing Act 2003 (National Guidance); and
  - the Council's own statement of licensing policy.
13. The Sub-Committee must take such of the following steps as it considers appropriate 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

14. 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 appropriate in order to promote the licensing objectives.
15. The representations received appear primarily to relate to issues that fall under the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The sub-committee is directed to paragraphs 20 and 24 of the local licensing policy at appendix E which contain examples of factors that impact on the licensing objectives 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.
16. The Sub-Committee is also reminded of the contents of appendices 2, 3, 4 and 5 of the local licensing policy (not re-produced in this report) which contain pools of model conditions relating to the four licensing objectives.



**Premises Licence Summary**

**Premises Licence Number**

14/00151/PREM

**Premises Details**

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

The Georgian House Hotel  
32 - 34 Unthank Road  
Norwich  
Norfolk  
NR2 2RB

**Telephone number**

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

Not applicable

**Licensable activities authorised by the licence.**

Sale by Retail of Alcohol - Activity takes place both indoors and outdoors

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

Sale by Retail of Alcohol	Sunday	11:00 - 22:30
Sale by Retail of Alcohol	Monday to Saturday	11:00 - 00:00

**The opening hours of the premises**

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 00:00
Saturday	11:00 - 00:00
Sunday	11:00 - 00:00

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

Alcohol is supplied for consumption both on and off the Premise

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

The City Pub Company (East) Plc  
1st Floor  
15 Young Street  
London  
W8 5EH

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

Registered Business Number                      07814568

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

Mr Rupert James Lindsay Clark

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



## **Annex 1 – Mandatory conditions**

- 1 No supply of alcohol may be made under a premises licence -
  - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

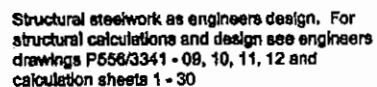
## **Annex 2 – Conditions consistent with the Operating Schedule**

- 1 **General - all four licensing objectives**
- 2 There will be trained staff on duty 24 hours daily.
- 3 **The Prevention of Crime and Disorder**
- 4 The premises will have CCTV in operation.
- 5 External doors will be locked at closing time to the public.
- 6 **Public Safety**
- 7 Risk assessments will be undertaken.
- 8 There will be fire training
- 9 The premises will have signage for fire escape routes.
- 10 **The Prevention of Public Nuisance**
- 11 Staff will be trained to be aware of customers and of their responsibilities re excess of alcohol consumption by customers
- 12 Deliveries will not take place before 07:00 am.
- 13 The bar will be closed to the public from midnight.
- 14 **The Protection of Children From Harm**
- 15 Staff will be aware of where children are, and they will be kept away from bar areas, the kitchen and other restricted areas.

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

- 1 The Licence holder shall provide clear and legible notices displayed at exits and in the car park areas requesting patrons to leave the premises having regard to the needs of local residents, in particular emphasising the need to refrain from shouting and slamming car doors. The sounding of car horns must also be discouraged.
- 2 The Licence holder shall remove to a safe place all empty glass drinking vessels and glass bottles.
- 3 The Licence holder shall require suitable proof of age evidence from any person who appears to be under the age of 18 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises.

## **Annex 4 – Plans**



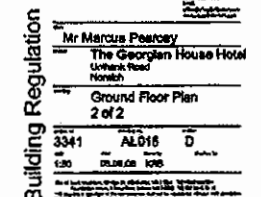
All door opening furniture, door frames/architraves, leading edges of non-sec closing doors, ramp handrails and front plates to all sockets switches, outlets and controls to be visually contrasting to their surroundings in order to provide compliance with Approved Document Part M of the building regulations: Access To and Use of Buildings: 2004

**Building Regulation**

Mr Marcus Paareoy  
The Georgian House Hotel  
Unthank Road  
Northwich

Ground Floor Plan  
1 of 2

3341 AL015 L  
1:50 16.08.2008



## Building Regulation

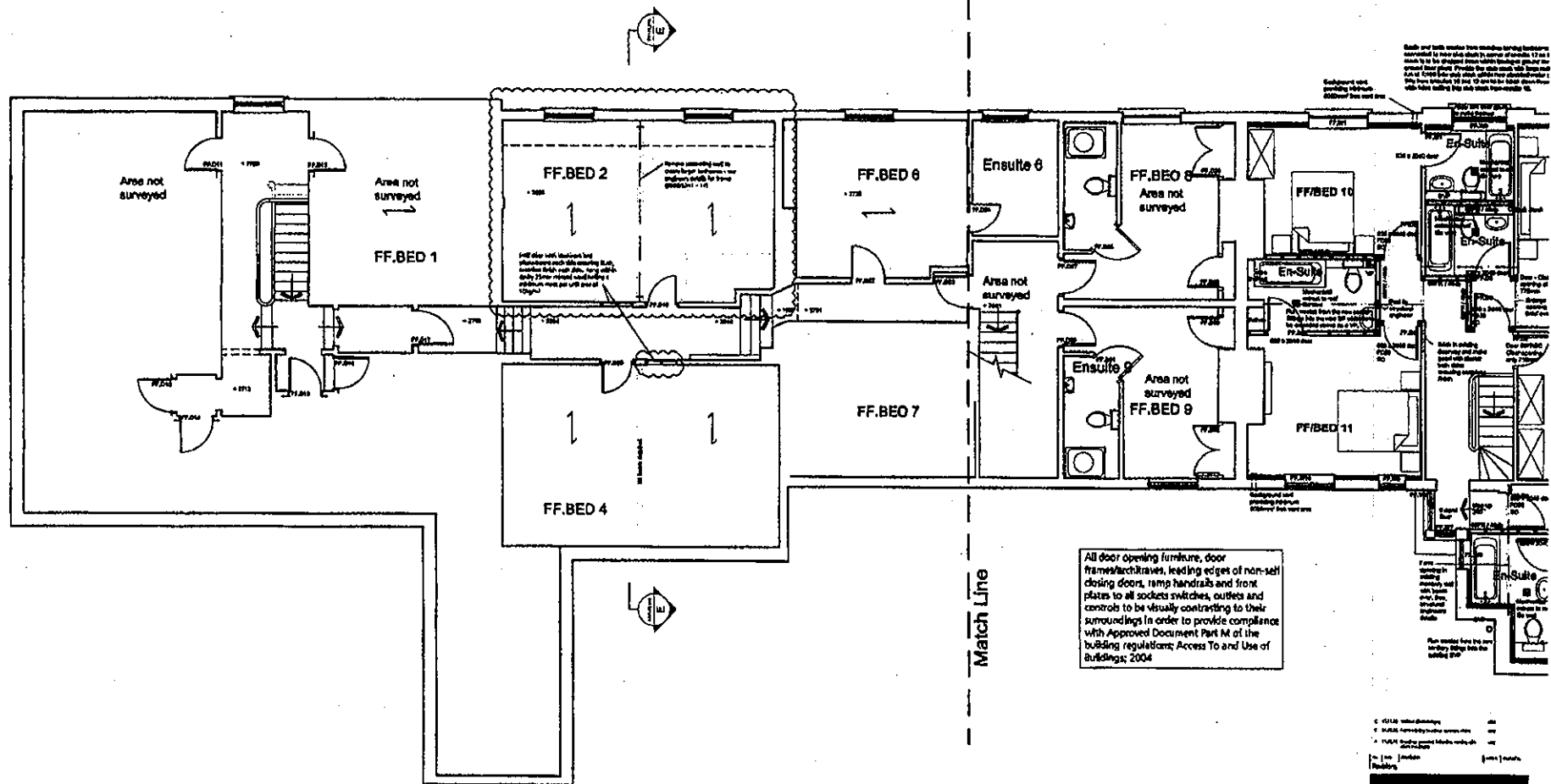
Structural steelwork as engineers design. For structural calculations and design see engineers' drawings P558/3341 - 09, 10, 11, 12 and calculation sheets 1 - 30

B.Reg Application ref. FP/2006/0271/

B.Reg Application ref. FP/2006/0197/

Numbers 32 - 34 Unthank Road

Number 30 Unthank Road



All door opening furniture, door frames/architraves, leading edges of non-slip closing doors, ramp handrails and front plates to all sockets switches, outlets and controls to be visually contrasting to their surroundings in order to provide compliance with Approved Document Part M of the building regulations; Access To and Use of Buildings; 2004

Structural steelwork as engineers design. For structural calculations and design see engineers drawings P558/3341 - 09, 10, 11, 12 and calculation sheets 1 - 30

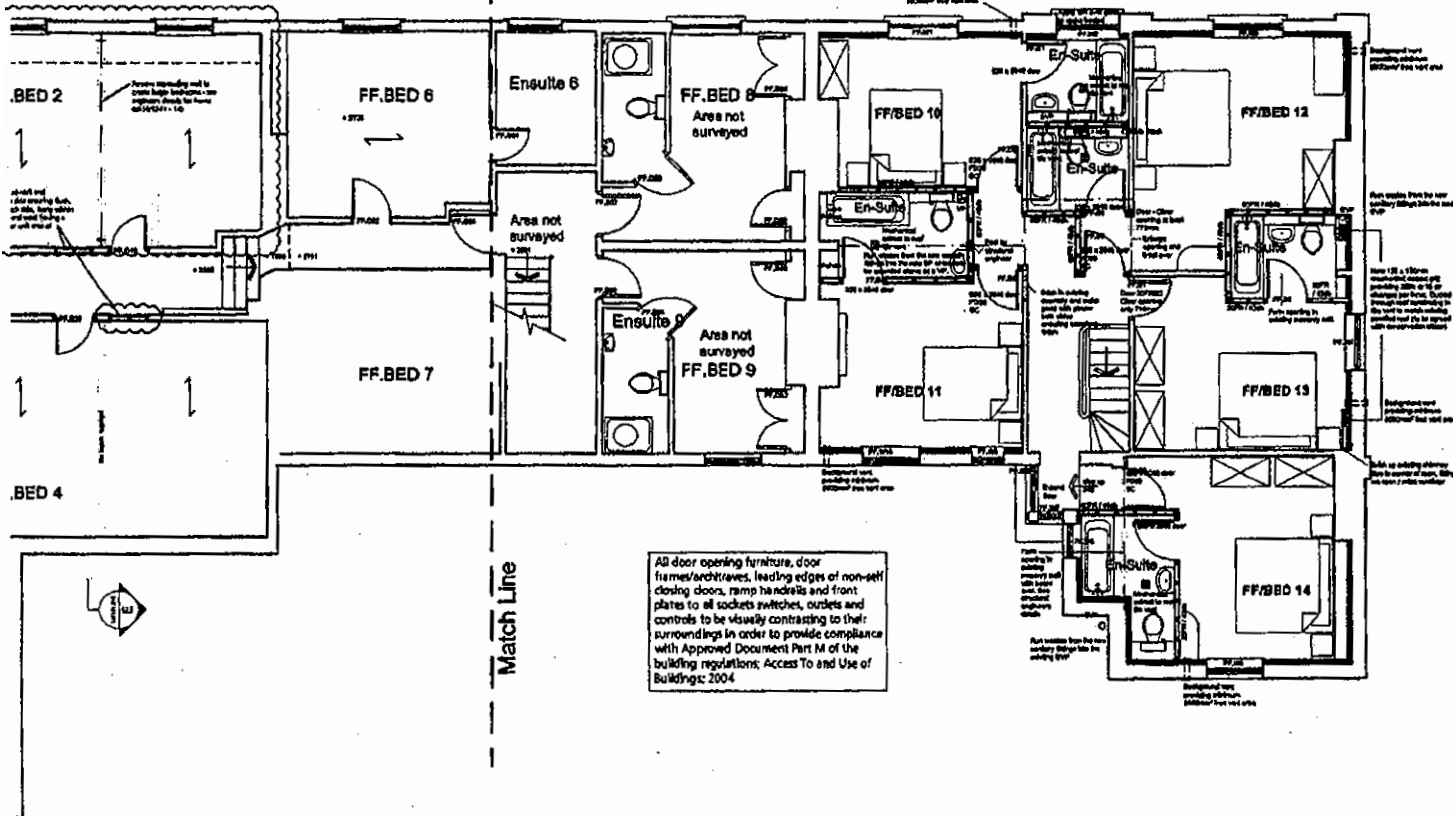
THIS DRAWING  
SUPERSEDES DRAWINGS  
3341/AL002

Building Regulation

Mr Marcus Peatrosy		
The Georgian House Hotel		
Unthank Road		
Norwich		
1 of 2		
3341	AL017	C
1:20	14.08.06	100

**B.Reg Application ref. FP/2006/0197/**

• Number 30 Unthank Road



Structural steelwork as engineers design. For structural calculations and design see engineers drawings P558/3341 - 09, 10, 11, 12 and calculation sheets 1 - 30

THIS DRAWING  
SUPERSEDES DRAWINGS  
3341/AL001 AND AL011

C. 15-1, 10-100	100
D. 15-1, 10-100	100
E. 15-1, 10-100	100

**Building Regulation**

Mr Marcus Pearcey  
The Georgian House Hotel  
Unthank Road  
Norwich

First Floor Plan  
2 of 2

3341 ALO18 B  
1250 06.08.06 1028

On 06.08.2006, the City of Norwich Building Control Department issued a Building Regulation approval for the proposed works to the building at 3341 ALO18 B, 1250 06.08.06 1028.





### Extent of Boundary

CORPORATE RESOURCES

11 APR 2014

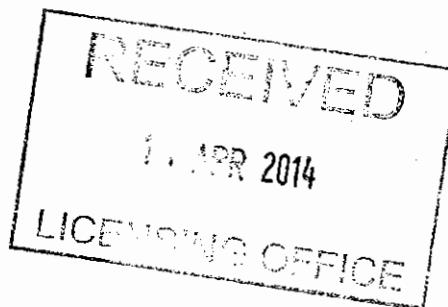
POST ROOM

50 CLARENDON ROAD NORWICH NR2 2PW

APPENDIX  
C

10th April 2014

Norwich City Council, Licensing Section,  
City Hall, St Peter Street, NORWICH NR2 1NH



Dear Sir,

**THE GEORGIAN HOUSE HOTEL 32-34 UNTHANK ROAD NORWICH NR2 2RB  
PREMISES LICENCE NUMBER 14/00151/PREM**

This hotel was closed at the end of 2013 and has been acquired by City Pub Company (East) plc ("City Pub"). Planning permission was obtained recently for certain works to the hotel which are currently being carried out.

The application to the Licensing Department of the Council by City Pub appears to apply for the variation of the existing licence granted to the original owner who ran a hotel at the premises.

It wishes to vary the opening hours from 11.00 to 08.00, remove the condition allowing licensable activities to residents and their bona fide guests 24 hours a day seven days a week, and vary the layout of the premises as a result of a general refurbishment. It appears therefore if the application is approved that City Pub will be able to carry on licensable activities to all comers throughout the day, operating the premises as a public house and not a hotel for which the existing licence was granted.

It would appear that City Pub plans to change the use of the premises from that of a hotel to a public house as it advertises on its website ([www.citypubcompanyeast.com](http://www.citypubcompanyeast.com)) that "the premises are under new management and will include a large bar and lounge, a delightful restaurant and beautiful landscaped garden (perfect for weddings). It plans to have function and meeting rooms, an outside childrens play area and a gymnasium, opening in the Spring of 2014."

It should be noted that the website makes no mention of the operation of a hotel on the premises. No doubt the Planning Department will consider if the planned changes necessitate an application for a change of user.

We object to the application for the variation of the existing licence granted when the premises were used a hotel. The premises are in a residential area and immediately opposite an Addiction clinic, a YMCA hostel and offices. It could well encourage crime and disorder and cause nuisance to the local community in an area which has been immune from the worst effects of the late night drink culture experienced in other parts of the City which cause such pressure on the Police and Medical services.

Yours faithfully

cc Norwich Corporation Planning Department & The Norwich Society



61 Mount Pleasant,  
Norwich NR2 2DQ.

15 April, 2014

Dear Sir or Madam,

**Re: The Georgian Townhouse, 32-4 Unthank Road, Norwich NR2 2RB**  
**application for a 24 hour a day, 7 day a week licence to serve alcohol to**  
**residents and their guests**

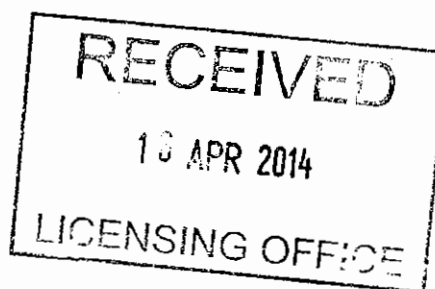
This business is located in a residential area where people need to sleep and conduct their lives in peace and safety, especially at night.

We, therefore, object to the application unless there is a clause saying it must close its outside areas to residents and their guests between 11.00 pm and 11.00 am and that drinking must be contained inside the building during those hours.

We would also ask the licensing committee to take into account when considering this application that there is already a problem in this area with drunkenness and anti-social behaviour associated with the MJB hotels which the police and council are trying to stop.

Thank you for your attention to this matter.

Yours faithfully,



Ross and Susan Winston

Licensing Officer,  
Norwich City Council,  
City Hall,  
St. Peter's Street,  
Norwich NR2 1NH.

**Bennett, Rachel**

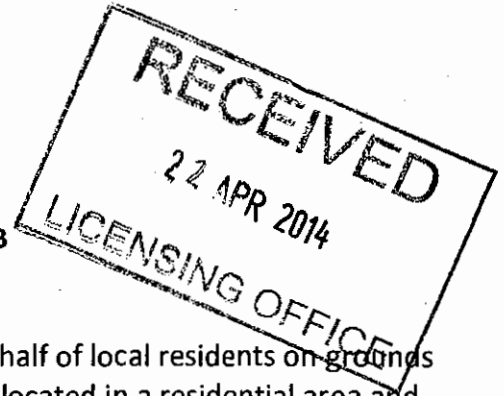
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**From:**  
**Sent:** 22 April 2014 12:01  
**To:** Licensing  
**Subject:** Application to Vary Premises Licence - 14/00151/PREM Georgian House Hotel  
32-34 Unthank Road

**For the attention of Licensing Office at Norwich City Council**

Dear Licensing,

**Re. The Georgian House Hotel 32 – 34 Unthank Road Norwich NR2 2RB**  
**Premises Licence Variation – 14/00565/PREM**



As a City Councillor for Nelson ward, I wish to record my concern on behalf of local residents on grounds of the objective of Preventing Public Nuisance given that the building is located in a residential area and opposite an alcohol and drug addiction clinic .

Also, the application to vary the premises licence is ambiguous in view of some uncertainty over the main use of the premises as a hotel. Consequently, it is difficult to comment on how the proposal might impact upon the licensing objectives.

The current licence (permitted opening hours are everyday from 08.00 to 11.00) applies to the premises for use as a hotel for residents and their guests. The hotel recently closed.

The website for the new owner, City Pub Company East, describes "new activities planned at the Georgian House, Norwich" as follows:

*"Georgian House is now under new ownership and we have exciting plans for the future!. This will include a large bar and lounge, a delightful restaurant, and beautiful landscaped garden (which will be perfect for weddings!). We are also planning to have function and meeting rooms, an outside childrens' play area and a gymnasium. We look forward to the new Georgian House being completed by the Spring of 2014"*

This description appears to suggest that the hotel function will be less important in future and that the building will operate more as a pub and restaurant and venue for non-residents.

In this context, the proposal for a 24 hour licence 7 days a week is of some concern in relation to the objective to prevent public nuisance.

The application states:

*"The applicant seeks to vary the start of opening hours from 11.00 to 8.00, allow licensable activities from the end of the permitted hours on New year's Eve to the start of the permitted hours on the following day, allow licensable activities for residents and their bona fide guests 24 hours a day seven days a week, remove a condition, change the registered office address of the City Pub Company (East) plc, alter the name of the premises to 'The Georgian Townhouse' and vary the layout of the premises as a result of general refurbishment".*

# APPENDIX D

## 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. As an example, the council will not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005.

### 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 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" (see Appendix 7) 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. Representations can be made in opposition to, or in support of, an application.

- 4.2 The council will consider all representations from any “Interested Party” (see Appendix 7), 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’, ie it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representations, that 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 appropriate 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

- 13.1 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a premises supervisor must be designated (designated premises supervisor) and such person must be in possession of a current personal licence. The licensing authority will normally expect the designated premises supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the licensing authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.
- 13.2 The act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times and have a duty to comply with the terms of the licensing act and any conditions, including the matters set out in the premises' operating schedule, in order to promote the licensing objectives. To that end, the licensing authority will be mindful of the guidance issued by the secretary of state, which recommends that a personal licence holder/DPS gives specific written authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the act and the designated premises supervisor/personal licence holder remain ultimately responsible for ensuring compliance with the act and licensing conditions, this action could assist in demonstrating due diligence should any issues arise with regard to enforcement.

**The licensing authority will therefore expect that where the personal licence holder/DPS does not have the premises under their immediate day to day control, written authorisations will be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the licensing authority or the police upon request.**

## **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 Anti-social 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;



Adoption of best practice guidance e.g. 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;

Acceptance of accredited 'proof of age' cards e.g. 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 i.e. Operation Enterprise Drug and Weapon Amnesty Safe's;

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;

Membership of local 'Pubwatch' schemes or similar accreditation schemes or organizations ie Operation Enterprise;

Responsible advertising;

Distribution of promotional leaflets, posters etc;

Drug Seizure Kits (available from Norfolk Police Operation Enterprise);

Member of the 'NiteLink' 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 2-3 hours before licensable activities finish;

## 22. Objective – public safety

- 22.1 The safety of any person visiting or working in licensed premises must not be compromised. **Applicants are expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and the licensable activities for which the licence is being sought.**
- 22.2 Applicants must ensure that they carry out their responsibilities under the Regulatory Reform (Fire Safety) Order 2005 and liaise with the Norfolk Fire and Rescue Service where necessary. Further information is available from

<http://www.norfolkfireservice.gov.uk/firesafetyinbusinesspremises.html>

22.3 Also when addressing the issue of public safety, an applicant must demonstrate that they have considered other public safety issues.

These include:

- the age, design and layout of the premises
- the nature of the licensable activities to be provided, in particular the sale or supply of alcohol and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- customer profile (eg age, disability)
- the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc
- the safety of electrically powered equipment brought onto their premises
- having public liability insurance.

22.4 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 activities:

- suitable and sufficient risk assessments
- effective and responsible management of premises
- provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- effective management of number of patrons within different parts of the premises
- determine sensible occupancy limits according to the nature of the premises and activities being carried out
- impose occupancy limits rigorously, employing registered doorstaff as necessary. In order to manage occupancy effectively, consider automated systems like electronic door counters
- appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- adoption of best practice guidance (eg Guide to Fire Precautions in Existing Places of Entertainment and Like Premises (further advice can be obtained from the Norfolk
- Fire Service on 01603 810351 [www.norfolkfireservice.gov.uk](http://www.norfolkfireservice.gov.uk) The Event Safety Guide, Safety in Pubs published by the BBPA)
- provision of effective CCTV in and around premises
- provision of toughened or plastic drinking vessels
- implementation of crowd management measures
- the provision of suitable electrical cut outs for use with electrical appliances which are brought onto the premises (such as amplifiers, microphones etc). Such cut-outs should be of a residual current device with a rated tripping current of 30ma in 30 milliseconds (applicants should have regard to HSE Publication INDG 24 7 Electrical safety for entertainers)
- proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety.

## 24.0 Objective - prevention of public nuisance

- 24.1 Licensed premises can potentially have a significantly adverse impact on communities through public nuisances that arise from their operation. The amenity of residents and occupiers of other businesses should be maintained and protected from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.
- 24.2 Public nuisance will be interpreted in its widest sense, and will take it to include such issues as noise, light, odour, litter and antisocial behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 24.3 Applicants should be aware that stricter conditions, including controls on licensing hours for all or some licensable activities will be applied, where licensed premises are in residential areas or where their activities may impact on residents or other business premises, and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures to prevent public nuisance, may be suitable for longer opening hours.
- 24.4 The council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons such as disturbance or disorder attributable to the location and/or the premises, and relevant representations have been made.
- 24.5 The council believe that the impact a licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open, and the times when licensable activities are taking place. Consequently, the council has adopted a policy on hours of trading, (section E) and in so doing, has given full consideration to the secretary of state's guidance on hours of trading.
- 24.6 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 prevent public nuisance, relevant to the individual style and characteristics of their premises and events. For example, the increasing business requirement for licence holders to provide live or recorded music in premises where this has not previously been the case is especially pertinent, and should be fully assessed on the application.**
- 24.7 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship
  - the hours of opening, particularly between 11pm and 7am

- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport
- wind down period between the end of the licensable activities and closure of the premises
- last admission time
- preventing litter and refuse becoming an eyesore
- consideration of local residents that they are not upset by loud or persistent noise or by excessive light
- preventing cars attending an event or premises from causing a noise nuisance and congestion, and from taking up local people's parking spaces
- avoid early morning or late night refuse collections
- avoiding emptying bins into skips, especially if they contain glass, either late at night or early in the morning
- customers eating, drinking or smoking in open air areas (for example beer gardens/forecourts and other open areas adjacent to the premises).

24.8 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 activities:

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, eg to ensure customers leave quietly.
- Fit prominent signs requesting that customers respect local residents and leave quietly.
- Control of operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries ie not too early in the morning.
- Adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting.
- Management arrangements for collection and disposal of waste, empty bottles etc.
- Effective ventilation systems to prevent the emission of unwanted odours.
- Take away packaging to include the name and address of the premises on it.
- Capacity levels for fast food outlets.
- Introduce a chill out area with coffee and mellow music where customers can settle before leaving.

- Introduce a closed door policy, with attendance prohibited for new customers 2 to 3 hours before licensable activities finish.

To address issues arising from customers smoking, eating and drinking in outdoor areas and on the highway outside the premises could include signage asking customers to keep noise to a minimum when using outdoor areas; restrictions on the numbers of customers permitted in certain outside areas and/or at certain times; and use of door-staff and employees to monitor possible public nuisance issues.

## 26. Objective – protection of children from harm

- 26.1 The council will consult with the appropriate area child protection committee for consideration of all applications for licences.
- 26.2 With a view to the promotion of the licensing objective relating to the protection of children from harm the council will work closely with the police and trading standards authority to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol products to children (for Minor Sales Major Consequences information please contact trading standards on 0844 800 8013 [trading.standards@norfolk.gov.uk](mailto:trading.standards@norfolk.gov.uk)).
- 26.3 Applicants should be aware that the protection of children from harm includes the protection of children from moral, psychological and physical harm and this includes the protection of children from exposure to strong language, sexual expletives and gambling. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and their lack of understanding of danger.
- 26.4 There should be no presumption of giving children access nor any presumption of preventing their access to licensed premises. Where no licensing restriction is necessary, the admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 26.5 Applicants must ensure that children will not be allowed access into premises when licensable activities involving eg topless female bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. The council has given particular consideration to the types of entertainment referred to above, and has included within this policy their expectations of applicants in section A, paragraph 17.
- 26.6 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 protect children from harm, relevant to the individual style and characteristics of their premises and the licensable activities for which a licence is being sought.**
- 26.7 While children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can

anticipate every situation. **When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that may particularly impact on harm to children have been considered.** These include:

- where entertainment or services of an adult or sexual nature are commonly or regularly provided
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- where there has been a known association with drug taking or dealing
- where there is a strong element of gambling on the premises
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

26.8 The council commends the Portman Group code of practice on the naming, packaging and promotion of alcoholic drinks. The code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older. **The council will expect all licensees to agree not to replenish their stocks following notification of a retailer alert bulletin by the Portman Group in relation to any product that is in breach of that code. Commitment to that code should be included in operating schedules.**

26.9 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises.
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
- Adoption of best practice guidance (eg Minor Sales Major Consequences).
- Ensure that all drinks containers carry a price tag or other sticker that identifies your premises. This will be a useful tool for working with authorities to tackle underage drinking if problems arise.
- Limitations on the hours when children may be present, in all or parts of the premises.
- Limitations or exclusions by age when certain activities are taking place.
- Imposition of requirements for children to be accompanied by an adult.
- Train staff to deal with – and be vigilant about – potentially harmful situations, eg children in the presence of adults who are excessively drunk.
- Acceptance of accredited proof of age cards and/or new type driving licences with photographs, or passports.
- Measures to ensure children do not purchase, acquire or consume alcohol.
- Measures to ensure children are not exposed to incidences of violence or disorder.

These examples can be adopted in any combination.

**26.10 In the case of film exhibitions, licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act should implement measures that restrict children from viewing restricted films classified according to the recommendations of the British Board of Film Classification or the council.**

26.11 In premises where there may be children unaccompanied by adults any supervisors must have undergone appropriate checks through the Criminal Records Bureau.

## **SECTION E - Hours of Trading**

30.2 In determining its policy on the hours of trading, the council has given full consideration to those parts of the secretary of state's guidance to the act which relate to hours of trading.

"Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested."

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 E**

## **National Guidance**

**(issued under section 182 of the Licensing Act 2003)**

### **CRIME AND DISORDER**

2.1 The steps any licence holder or club might take to prevent crime and disorder are as varied as the premises or clubs where licensable activities take place. Licensing authorities should therefore look to the police as the main source of advice on these matters. They should also seek to involve the local Community Safety Partnership (CSP).

2.4 The essential purpose of the licence or certificate in this context is to regulate behaviour on and access to premises where this relates to licensable activities and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff or agents, but can directly impact on the behaviour of customers on, or in the immediate vicinity of, the premises as they seek to enter or leave. Examples of measures which may encourage swift and effective dispersal from licensed premises include quietening down periods at the end of the night, security training in reminding patrons to leave quietly and signage on the premises reminding people of this.

2.5 Licence conditions should not replicate offences that are set out in the 2003 Act or other legislation. For example, a condition that states that a licence holder shall not permit drunkenness and disorderly behaviour on the premises would be superfluous because this is already a criminal offence. A condition that states that a licence holder shall not permit the sale of controlled drugs on the premises would be similarly superfluous.

2.6 Conditions are best targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.7 Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.8 Radio links and ring-round phone systems allow managers of premises and clubs to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises. The inclusion of



these systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises.

2.9 However, while this may be appropriate and effective in certain parts of a licensing authority's area, it may be less effective or even inappropriate in others. Licensing authorities must remember that only appropriate conditions, which are within the control of the licence holder or club, may be imposed.

2.10 A condition must also be capable of being met. For example, while beer glasses may be available in toughened glass, wine glasses may not. Licensing authorities should carefully consider conditions of this kind to ensure that they are not only appropriate but both practical and achievable. Further guidance on determining whether a condition is appropriate is given in Chapter 10 of this guidance.

2.16 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will", is encouraged. Conditions on licences must:

- be precise and enforceable;
- be unambiguous;
- not duplicate other statutory provisions;
- be clear in what they intend to achieve; and,
- be appropriate, proportionate and justifiable.

## **PUBLIC SAFETY**

2.17 As a part of their duties under the 2003 Act, licence holders have a responsibility to ensure the safety of those using their premises. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.18 A number of matters should be considered in relation to public safety. These may include:

- Fire safety (see paragraphs 2.20 – 2.23);
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.8 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);

- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.11, 2.28 to 2.30, Chapter 10 and 10.41 and 10.42.
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.6 above, this may also assist with promoting the crime and disorder objective).

2.19 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.36 to 8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

## **FIRE SAFETY – SPECIAL PROVISIONS IN RESPECT OF LICENSED PREMISES**

2.20 The Regulatory Reform (Fire Safety) Order 2005 (the 2005 Order) came into force on 1 October 2006 and applies to practically all non-domestic premises. Under it, a ‘responsible person’ (usually the employer, owner or occupier) is required to carry out a fire risk assessment and put in place suitable and sufficient fire precautions to ensure that the risk to life in the event of a fire is minimised.

2.21 To help ‘responsible persons’ comply with the 2005 Order, the Department for Communities and Local Government (DCLG) makes available a range of technical guidance which explains the risk assessment process and offers detailed practical advice on the range of fire safety measures which will need to be considered to deliver compliance. This, along with information on the law, is available on the DCLG website at: [www.communities.gov.uk/firesafety](http://www.communities.gov.uk/firesafety).

2.22 The 2005 Order contains special provisions for consultation between the enforcing authority and the licensing authority in respect of licensed premises. These require the licensing authority to give the enforcing authority the opportunity to make representations before issuing a licence. Once a licence is issued, the enforcing authority is required to notify the licensing authority of any enforcement action that it takes in relation to premises which have been licensed. These provisions do not apply in the limited circumstances (i.e. designated sports stands) where the licensing authority and the enforcing authority are the same.

2.23 A licence issued by the licensing authority cannot impose any term, condition or restriction relating to fire safety. Fire safety needs to be considered by the responsible person as part of the risk assessment process required by the 2005 Order and enforced by local fire and rescue authorities. In the case of licensed premises, and irrespective of the number of employees on it, the responsible person is required by the 2005 Order to keep a record of the significant findings of their fire safety risk assessment.

## **PUBLIC NUISANCE**

2.33 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be

disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.34 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.

2.35 Conditions relating to noise nuisance will normally concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.36 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.37 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.

2.38 Measures to control light pollution will also require careful thought. Bright lighting outside premises considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.39 In the context of preventing public nuisance, it is again essential that conditions are focused on measures within the direct control of the licence holder or club. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives. However, premises should have adequate dispersal policies (where appropriate) in place to ensure that customers leave the premises promptly and with minimal disruption to those in the surrounding area.

2.40 Beyond the immediate area surrounding the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

## **PROTECTION OF CHILDREN FROM HARM**

2.41 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated with alcohol but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).

2.42 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

2.43 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm.

2.44 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

2.45 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

2.46 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;
- restrictions on the presence of children under certain ages when particular specified activities are taking place;
- restrictions on the parts of the premises to which children may have access;
- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

## **PROPOSED CONDITIONS**

10.6 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they 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 during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

10.7 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. Proper liaison may avoid the need for representations.

10.8 Conditions should be appropriate, proportionate and justifiable in meeting the licensing objectives. They should be written in a prescriptive format and be readily understood and enforceable.

10.9 It is also not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention. Conditions should be appropriate for the promotion of the licensing objectives and easily enforceable.

## **CONSISTENCY WITH STEPS DESCRIBED IN OPERATING SCHEDULE**

10.10 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.

10.11 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

## **IMPOSED CONDITIONS**

10.12 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

10.13 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

## **Proportionality**

10.14 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.

10.15 Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives. Consideration should also be given to wider issues such as conditions already in place that address the potential negative impact on the promotion of the licensing objectives and the track record of the business. The physical safety of those attending such events should remain a primary objective.

## **THE NEED FOR LICENSED PREMISES**

13.18 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.